

U.S. Department of Housing and Urban Development

Program Office: Housing

Funding Opportunity Title: Multifamily Energy and Water Conservation Pay For Success Pilot (MFH-P4S)

Announcement Type: Initial

Funding Opportunity Number: FR-6200-N-36

Primary CFDA Number: 14.329

Due Date for Applications:

Overview

For Further Information Regarding this NOFA: Please direct questions regarding the specific program requirements of this Program Notice of Funding Availability (NOFA) to the agency contact identified in Section VII.

OMB Approval Number(s): 2502-0613, 2502-0118, 2506-0177, 2501-0017, 2539-0009, 2535-0113, 2502-0555.

I. Funding Opportunity Description.

A. Program Description.

1. Purpose

a. Background

i. HUD's Energy Efficiency Goals

HUD spends an estimated \$6.9 billion annually to cover the costs of utilities in its public and assisted housing programs. The agency is committed to creating energy-efficient, water-efficient, and healthy housing as part of a broader effort to foster the development of inclusive, sustainable, and resilient communities. Investments in energy-efficiency and water-efficiency pay dividends by improving occupant comfort, reducing tenant turnover, stabilizing operating costs, alleviating taxpayer burden, preserving affordable housing, ensuring disaster resilience, and mitigating climate change. The Office of Multifamily Housing Programs in HUD's Office of Housing has taken a number of steps to encourage greater energy and water efficiency in multifamily housing. Examples of these efforts include establishing incentives to participate in the Better Buildings Challenge, updating and standardizing HUD's utility allowance methodology, and lowering annual multifamily insurance premiums for properties that meet certain energy efficiency standards.

ii. Piloting a New Model for Financing Energy and Water Conservation Improvements in HUD-assisted Multifamily Housing

Multifamily EWC retrofits are generally complex and difficult to finance. Barriers include split incentives between building owners and tenants; inadequate access to financing; and the overarching challenge of underwriting projected utility savings given the uniqueness of each multifamily property. Properties participating in HUD multifamily rental assistance or insurance programs bring an additional layer of complexity. Some HUD properties are prohibited from incurring debt, ownership structures for properties constructed using the Low-Income Housing Tax Credit program are complex, and the various stakeholders' interests in EWC are not aligned, making obtaining all necessary approvals problematic. Moreover, HUD rental subsidies typically cover 100% of projected utility costs and are adjusted annually to account for changes in consumption, so savings may accrue to HUD rather than the owner or tenant. Lastly, HUD does not currently have any funding targeted specifically to EWC retrofits within the multifamily assisted portfolio (HUD's Energy Performance Contracting program is only available to Public Housing Authorities).

This pilot seeks to provide proof of concept for a new approach to financing EWC retrofits in HUD-assisted multifamily housing that will attempt to solve for all of these barriers. It will utilize a Pay For Success model: a form of performance-based contracting in which payment for service delivery is tied to performance targets for measurable outcomes. This approach has typically been used to test or expand innovative preventative social interventions; the payor—typically a governmental entity—contracts with an independent third party (referred to as the Intermediary) to provide services that will lead to a sought-after outcome, e.g. reducing recidivism in a specific reentry population or teen pregnancy prevention. These interventions have been designed to address complex, under-resourced problems by leveraging the expertise, agility, and financial wherewithal of the private sector.

Intermediaries are responsible for securing all funding necessary for program execution. Since the outcome performance targets that trigger payments may take several years to materialize and be verified (by an Independent Evaluator engaged by the Intermediary), financing may be required to fund the intervention. For this pilot, the key outcome is the utility savings that begin to accrue once retrofits are completed, which creates a fairly predictable funding stream that can enable the Intermediary to access financing for the up-front costs of EWC retrofits. This pilot is the first attempt at using the savings resulting from EWC measures to pay debt service on PFS financing. PFS is one of several innovative approaches—including Property Assessed Clean Energy and On-Bill Repayment—seeking to overcome these challenges and establish new models for funding EWC retrofits.

b. Program Summary

HUD is authorized to execute budget-neutral, performance-based agreements with third-party Intermediaries who will design and implement energy and water conservation (EWC) programs targeted to certain HUD-assisted multifamily properties. This pilot program operates under a pay for success (PFS) programmatic framework.

Utility costs constitute a significant proportion of operating expenses for any dwelling. Energy- and water-efficient equipment—e.g. boilers, air conditioning, low-flow toilets—and building retrofit measures—e.g. insulation and replacement windows—all lower costs by reducing demand at the unit or/property level. Building and equipment technology has gotten increasingly effective in recent years at lowering energy and water demand, but the HUD-assisted multifamily property portfolio has faced challenges in accessing these technological advances due primarily to the lack of funds for the necessary upfront investment. This PFS Pilot will test the feasibility of using a private-sector, pay-for-performance finance model in this high-need portfolio.

The Statute allows for up to 20,000 units to participate in the PFS Pilot, constituting approximately 200 to 300 properties. HUD anticipates selecting three to five Intermediaries. The Statute also requires HUD to retrofit properties in the widest possible geographic range. HUD will select Intermediaries under this Notice of Funding Availability and execute agreements with them. Beginning with their selection, Intermediaries will engage Investors for funding (as needed); engage independent third-party evaluators to verify utility savings and payment calculations; recruit and enter into contracts with Owners; and perform necessary due diligence to select the appropriate retrofits at specific properties. Intermediaries will work with Owners to execute retrofits which will result in energy and water savings to Owners and/or tenants. Because it subsidizes utility costs, savings will ultimately accrue to HUD, which will then apply them toward performance payments to the Intermediaries.

c. Program Objectives

HUD's Office of Multifamily Housing Programs (MF) seeks to evaluate the viability and effectiveness of PFS as a model for financing and delivering EWC retrofits in the HUD-assisted multifamily housing portfolio.

Specific program objectives:

- i. Execute a pilot for a budget-neutral, pay-from-savings EWC retrofit program that utilizes a PFS financing model that benefits up to 20,000 units of HUD-assisted multifamily housing.
- ii. Achieve measurable and significant utility savings in the multifamily assisted portfolio as a result of EWC retrofits.
- iii. Evaluate the effectiveness of EWC retrofits overseen by Intermediaries with particular focus on the retention of reduced levels of utility consumption in the years following the installation of these measures.
- iv. Identify best practices in order to assess the feasibility of expanding and replicating this approach given the characteristics of HUD-assisted multifamily housing, HUD's statutory and regulatory framework, and the resources available to both HUD and Owners to address EWC retrofits.

2. Changes from Previous NOFA.

N/A

3. Definitions.

a. Standard Definitions

Authorized Organization Representative (AOR) is the person authorized to submit applications on behalf of the organization via Grants.gov. The AOR is authorized by the E-Biz point of contact in the System for Award Management. The AOR is listed in item 21 on the SF-424.

Award, as used in this NOFA means a federal, grant, cooperative agreement, loan, or loan guarantee.

Catalog of Federal Domestic Assistance (CFDA) is a directory of the various Federal listings, projects, services and activities offering financial and non-financial assistance and benefits to the American public. CFDA Number is the unique number assigned to each program, project, service or activity listed in the Catalog of Federal Domestic Assistance (CFDA).

Consolidated Plan is a document developed by states and local jurisdictions. This plan is completed by engaging in a participatory process to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions with funding from formula grant programs. (See 24 CFR part 91 for more information about the Consolidated Plan and related Annual Action Plan).

Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this NOFA does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward (See 2 CFR 200.22.)

Contractor means an entity receiving a contract.

Deficiency is information missing or omitted within a submitted application. Deficiencies typically involve missing documents, information on a form, or some other type of unsatisfied information requirement (e.g., an unsigned form, unchecked box, etc.). Depending on specific criteria, deficiencies may be either curable or non-curable.

- Curable Deficiency – Applicants may correct a curable deficiency with timely action.

To be curable the deficiency must:

Not be a threshold requirement, except for documentation of applicant eligibility;

Not influence how an applicant is ranked or scored versus other applicants; and

Be able to be remedied within the time frame specified in the notice of deficiency.

- Non-Curable Deficiency – An applicant cannot correct a non-curable deficiency after the submission deadline.

Non-curable deficiencies are deficiencies if corrected would change an applicant's score or rank versus other applicants.

Non-curable deficiencies may result in an application being marked ineligible, or otherwise adversely affect an application's score and final determination.

DUNS Number is the nine-digit identification number assigned to a business or organization by Dun & Bradstreet and provides a means of identifying business entities on a location-specific basis. Requests for a DUNS number can be made by visiting the Online DUNS Request Portal.

Eligibility requirements are mandatory requirements for an application to be eligible for funding. Deficiencies in meeting an eligibility requirement may be categorized as either curable or non-curable.

Federal Awardee Performance and Integrity Information System (FAPIIS) is a database that has been established to track contractor misconduct and performance.

Grants.gov is the website serving as the Federal government's central portal for searching and applying for federal financial assistance throughout the Federal government. Registration in Grants.gov is required for submission of applications to prospective agencies.

NOTE: Passwords expire every 60 days. Accounts inactive for 1 year or more result in removal of all account roles. For more account management information, review the [Applicant FAQs](#) contained on the grants.gov web page.

Non-Federal Entity means a state, local government, Indian tribe, institution of higher education (IHE), or non-profit organization carrying out a Federal award as a recipient or subrecipient.

Point of Contact (POC) is the person who may be contacted with questions about the application submitted by the AOR. The point of contact is listed in item 8F on the SF424.

Promise Zones are federally-designated, high-poverty urban, rural and tribal communities where the Federal government will partner with and invest in communities to accomplish these goals: create jobs, leverage private investment, increase economic activity, expand educational opportunities, and reduce violent crime.

Promotores/Promotoras are Spanish-speaking Community Health Workers who work in their communities to reduce barriers to health services and make health care systems more responsive.

Recipient means a non-Federal entity receiving an award directly from HUD to carry out an activity under a HUD program.

Section 3 Business Concern means a business concern (1) 51 percent or more owned by Section 3 residents; or (2) of which at least 30 percent of permanent, full-time employees are currently Section 3 residents, or were Section 3 residents within three years of the date of first employment with the business concern; or (3) provides evidence of a commitment to subcontract over 25 percent of the dollar award of all subcontracts to be awarded to business concerns meeting the qualifications in this definition.

Section 3 Residents means: 1) Public housing residents; or 2) Low and very-low income persons, as defined in 24 CFR 135.5, who live in the metropolitan area or non-metropolitan county where Section 3 covered assistance is expended.

Standard Form 424 (SF424) Application for Federal Assistance Programs, required by discretionary grant programs.

Subaward means an award provided by a recipient to a subrecipient for the subrecipient to carry out part of a Federal award received by the recipient. It does not include payments to a contractor or payments to an individual's beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the recipient considers a contract.

Subrecipient means a non-Federal entity receiving a subaward from a recipient to carry out part of a HUD program; but does not include an individual's beneficiary of such program.

A subrecipient may also receive other Federal awards directly from a Federal awarding agency (including HUD).

System for Award Management (SAM), is an official website of the U.S. government. You can access the website at Sam.gov. There is no cost to use SAM. SAM is the official U.S. Government system that consolidated the capabilities of Central Contractor Registry (CCR), Excluded Parties List System (EPLS) and the Online Representations and Certifications Application (ORCA). Registration with Sam.gov is required for submission of applications via Grants.gov.

Threshold Requirement – Threshold requirements are a type of eligibility requirement. Threshold requirements must be met for an application to be reviewed. Threshold requirements are not curable, except for documentation of applicant eligibility. Threshold requirements are listed in Section III.C. of this NOFA.

Applicants must ensure their application package addresses threshold requirements. Please check your application carefully!

4. Program Definitions

a. **Baseline.** Pre-retrofit annual energy and water consumption, normalized to account for weather and occupancy. The amount of performance payments will be based on the difference between this normalized consumption baseline and normalized consumption in any given year following completion of retrofits.

b. **Cooperative Agreement.** The agreement between HUD and an Intermediary governing the Intermediary's role in the PFS Pilot (see Section II.E.).

c. **Eligible Property.** A HUD-assisted multifamily property eligible for participation in the PFS Pilot per Section VIII.A.1.

d. **EWC.** Energy and water conservation.

e. **HUD.** The U.S. Department of Housing and Urban Development.

f. **Independent Evaluators** are individuals or entities responsible for verifying that requested payments from HUD under the Cooperative Agreements for savings achieved as a result of EWC retrofits completed by the Intermediary have been calculated in accordance with the payment protocol contained in the Cooperative Agreement. This verification must be based on data obtained from sources other than the Intermediary, such as the owner, tenants, or utility providers. Independent Evaluators are prohibited from having real or apparent conflicts of interest involving the Intermediaries or participating property owners. Independent Evaluators are prohibited from having any financial stake in the outcome of the program. Intermediaries will be responsible for selecting and retaining the services of Independent Evaluators meeting the qualifications prescribed by HUD. Intermediaries shall bear all costs of the Independent Evaluators' services.

g. **Intermediary.** A third-party entity who will design and implement an energy and water conservation (EWC) program targeted to certain HUD-assisted multifamily properties. Intermediaries will be repaid from utility savings to HUD associated with EWC retrofits completed under the program and be responsible for upfront costs related to program administration, retrofit design and installation, measurement and verification, and any other activities required for successful program implementation. Successful applicants responding to this Notice of Funding Availability (NOFA) will serve as Intermediaries.

h. **Investors.** Intermediaries may recruit Investors to provide the up-front funding necessary to implement the Pilot; they may be paid debt service by the Intermediaries that includes a rate of return. Investors may be financial institutions, philanthropies, or other entities or individuals.

i. **Management Agent.** The party responsible for managing an Eligible Property.

j. **NOFA.** Notice of Funding Availability.

k. **Normalization.** Analytical techniques for accounting for the effects of weather and occupancy on utility consumption (see Section VIII.E.2.c.).

l. **Partner.** Entities other than the applicant identified as having a core management, oversight, or implementation role in the applicant's proposed approach.

m. **Payment Period.** As described in Section VIII.E.3.

n. **Performance Payment.** Payments by HUD to Intermediaries based on the amount of savings realized by HUD as a result of EWC retrofits performed under the Pilot. See Section VIII.E.

o. **Property Owners.** Owners of properties participating in programs identified as eligible in the Statute may choose to participate in this pilot if their properties meet certain minimum participation requirements (described in Section VIII.A.2.). If necessary, Owners may enter into PFS contracts with Intermediaries specifying responsibilities during the Pilot, which may include: working with the Intermediary to develop an SOW for EWC retrofits, providing property access during the retrofit design and installation, assisting with reporting requirements, and/or working with Intermediaries to maintain the performance of EWC retrofits so that utility savings continue to be achieved long-term.

p. **PFS Contract.** An agreement in a form developed by each Intermediary and executed by each Owner and an Intermediary governing their relationship under the PFS Pilot as described in Section VIII.C.

q. **PFS Statute.** Title LXXXI of the Fixing America's Surface Transportation Act, 2015 (Public Law 114-94). See Section I.B.

r. **Pay for Success (PFS).** A form of performance-based contracting in which payment for service delivery is tied to performance targets for measurable outcomes.

s. **Reserve for Replacement (RfR).** A type of property-level reserves account which holds funds to pay for future capital needs and is controlled by HUD.

t. **Scope of Work (SOW).** As described in Section VIII.D.2.a.

u. **Service Providers.** Applicants must identify the party or parties responsible for all program management and oversight functions identified in their proposed work plan. However, entities involved only in program execution—including pre-construction, scoping/architecture, EWC measure installation, and post-installation behavioral programs (e.g. tenant education)—may be identified by the Intermediaries after they are selected. Intermediaries will describe their criteria for selecting and credentialing service providers.

5. Web Resources

The resources indicated provide details for the application process

- [Affirmatively Furthering Fair Housing](#)
- [Code of Conduct list](#)
- [Do Not Pay](#)
- [Dun & Bradstreet](#)
- [Request a DUNS Number](#)
- [Equal Participation of Faith-Based Organizations](#)
- [Federal Awardee Performance and Integrity Information System](#)
- [Federal Subaward Reporting System\) FSRs](#)
- [Grants.gov](#)
- [Grants.gov support](#)
- [Healthy Homes Strategic Plan](#)
- [Healthy Housing Reference Manual](#)
- [HUD Funds available](#)
- [HUD's Strategic Plan](#)
- [HUD Grants](#)
- [NOFA webcasts](#)
- [Procurement of recovered materials](#)
- [Promise Zones](#)
- [Section 3 Business Registry](#)
- [State Point of Contact List](#)
- [System for Award Management \(SAM\)](#)
- [Real Property Acquisition and Relocation](#)
- [USASpending](#)

B. Authority.

Title LXXXI of the Fixing America's Surface Transportation Act, 2015 (Public Law 114-94, "Statute"), enacted December 4, 2015, authorizes HUD to execute budget-neutral, performance-based agreements with Intermediaries who will carry out energy and water conservation (EWC) improvements in HUD-assisted multifamily properties participating in the following programs: (1) the project-based rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), other than assistance provided under section 8(o) of that Act; (2) the supportive housing for the elderly program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q); or (3) the supportive housing for persons with disabilities program under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(d)(2)).

The Statute authorizes HUD to execute performance-based agreements in fiscal years 2016 through 2019 covering up to 20,000 units in eligible properties. HUD is responsible for submitting annual program evaluation reports to Congress for the duration of the Pilot.

II. Award Information.

A. Available Funds

Funding of up to \$1 is available through this NOFA.

Additional funds may become available for award under this NOFA as a result of HUD's efforts to recapture unused funds, use carryover funds, or because of the availability of additional appropriated funds. Use of these funds is subject to statutory constraints. All awards are subject to the applicable funding restrictions contained in this NOFA.

Note that although this program is being competed through a NOFA, there are no new grants or loans created by this program; payments will be made from existing appropriations subject to the availability of funds. HUD may use any funds appropriated for the renewal of contracts for programs listed as eligible in the program authorization to carry out the PFS Pilot.

All awards are subject to the applicable funding restrictions contained in this NOFA.

B. Number of Awards.

HUD expects to make approximately 3 awards from the funds available under this NOFA.

HUD expects to select up to four applicants to serve as Intermediaries under this program. HUD reserves the right to reject all applications or to exceed five awards.

C. Minimum/Maximum Award Information

All payments to Intermediaries will be based on utility savings to HUD that result from energy and water consumption reductions associated with retrofits performed under the program. The amount of utility savings will be calculated in accordance with the payment calculation protocol set forth in the Cooperative Agreements between HUD and the Intermediaries and contingent on the availability of appropriations.

An independent third-party evaluator (Independent Evaluator) will establish a weather-normalized and occupancy-normalized utility consumption baseline for owner- and tenant-paid utilities before the installation of the retrofits. Consumption savings will be determined by calculating the difference between the normalized consumption baseline and normalized actual consumption for a given period of time subsequent to the completion of retrofits. This consumption delta will then be multiplied by the effective utility rate for that time period to ascertain cost savings. HUD will pay the Intermediaries 99 percent of the calculated savings following the completion of the retrofits through the end of the period of performance for each property, up to the maximum amount stated in Section VIII.E.2.g. (See Section VIII.E.2. for further detail.) Note that costs to the Intermediary will have no bearing on the amount of payments, applicants need not submit information about indirect cost rates as provided in Section IV.F.

Estimated Total Funding:	\$1
Minimum Award Amount:	\$1 Per Project Period
Maximum Award Amount:	\$1 Per Project Period

D. Period of Performance

HUD will enter into a separate Cooperative Agreement with each Intermediary for each property being retrofit under this program which will allow for each project to have a unique period of performance of up to twelve years.

Estimated Project Start Date:	08/01/2018
Estimated Project End Date:	07/31/2030
Length of Project Periods:	Other
Length of Project Periods Explanation of Other:	Not applicable.

E. Type of Funding Instrument.

Funding Instrument Type:	Cooperative Agreement
--------------------------	-----------------------

HUD will issue award letters to successful applicants under this NOFA notifying them of their selection as Intermediaries for this program. HUD will then execute Cooperative Agreements with

Intermediaries for each property retrofit that they will retrofit under this program cumulatively representing no more than the total number of units allocated to each Intermediary in their award letter. The statutory deadline for HUD to enter into these agreements with Intermediaries is September 30, 2019.

The Cooperative Agreements will detail the tasks the Intermediaries must carry out to implement the PFS Pilot, and the legal relationship between HUD and the Intermediaries. All Cooperative Agreements will be largely standardized and cover all program requirements, policies, and procedures. The Cooperative Agreement will also specify the maximum number of units each Intermediary may contract with and any recruiting approach (for properties/ Owners) that the Intermediary and HUD agree upon.

To give applicants a more detailed understanding of key provisions, HUD is including model Cooperative Agreement language as supporting documentation to this NOFA. Note though that the exact language in any given Cooperative Agreement will reflect the specific characteristics of the project and units it covers. As PFS Contracts are executed by Intermediaries and Owners they will be added as exhibits to the Cooperative Agreement.

For the duration of the Cooperative Agreements, HUD will make payments to the Intermediary based on accrued utility cost savings, collect data on the program's performance, and conduct ongoing program monitoring and evaluation. Cooperative Agreements will be administered by HUD's Office of Multifamily Housing Programs, which will have oversight of the Intermediaries, ensuring compliance with all included provisions and authorizing payments when and if required conditions are met.

III. Eligibility Information.

A. Eligible Applicants.

Unrestricted (i.e., open to any type of entity above), subject to any clarification in text field entitled "Additional Information on Eligibility."

Any type of organization may respond to this NOFA. Intermediaries will be required to submit HUD Previous Participation Certification (Form 2530) through the Active Partners Performance System (APPS).

B. Cost Sharing

This Program does not require cost sharing, matching or leveraging.

C. Threshold Requirements.

Applicants who fail to meet any of the following threshold eligibility requirements will be deemed ineligible. Applications from ineligible applicants will not be evaluated.

1. Timely Submission of Applications – Applications submitted after the deadline stated within this NOFA that do not meet the requirements of the grace period policy will be marked late. Late applications are ineligible and will not be considered for funding. See also Section IV Application and Submission Information, part D. Application Submission Dates and Times

a. Required Forms. Required forms are enumerated in Section IV.B.1. of this NOFA.

b. Executive Summary. The applicant must submit an executive summary of no more than four pages which contains the following information:

- i. Overview of program parameters: size and geographical dispersion of proposed portfolio (units and projects), projected sources of funding with amounts;
- ii. Program description and activities to be performed by the applicant and timeline with major project milestones; and

iii. Required experience and qualifications possessed by applicants and identified partners and service providers.

D. Statutory and Regulatory Requirements Affecting Eligibility

Eligibility Requirements for Applicants of HUD's Grants Programs

The following requirements affect applicant eligibility. Detailed information on each requirement is posted on HUD's Funding Opportunities Page ([click here](#)).

Outstanding Delinquent Federal Debts

Debarments and/or Suspensions

Pre-selection Review of Performance

Sufficiency of Financial Management System

False Statements

Mandatory Disclosure Requirement

Prohibition Against Lobbying Activities

Equal Participation of Faith-Based Organizations in HUD Programs and Activities

E. Program Specific Requirements.

Entities applying to serve as Intermediaries will be evaluated based on their response to the Rating Factors (Section V.B.2.). Applicants must demonstrate significant experience directly or indirectly through partners related to financing and operating properties participating in programs eligible for this Pilot as well as all aspects of running energy and water conservation programs – including management and operations, oversight, and raising capital.

Intermediaries for this program will be selected through this NOFA competition. Applicants will describe their approach to meeting HUD's program objectives. Intermediaries will undertake all activities required for pilot implementation, including: recruiting property owners to participate, credentialing Service Providers (e.g. energy contractors) who will help design and install EWC measures, and oversight of Independent Evaluators. Intermediaries may if necessary enter into contracts (PFS Contracts) with owners of participating properties, provided these PFS contracts do not violate any of the terms of the Intermediary's Cooperative agreement with HUD. Applicants will also identify any partnering organizations and sub-contractors that have been identified at the time of the application; upon award, selected applicants may make necessary arrangements—e.g. forming an LLC or other corporate structure—with partnering organizations.

F. Criteria for Beneficiaries.

IV.A. Obtaining an Application Package.

A. Obtaining an Application Package.

Instructions for Applicants.

You must download both the Application Instruction and the Application Package from Grants.gov. To ensure you are using the correct Application Package and Application Instructions, you must verify the CFDA Number and CFDA Description on the first page of the Application Package, and the Opportunity Title and the Funding Opportunity Number match the Program and NOFA to which you are applying.

The Application Package contains the Adobe forms created by Grants.gov. The Instruction Download contains official copies of the NOFA, and forms necessary for a complete application. The Instruction Download may include Microsoft Word, Microsoft Excel and additional documents.

An applicant demonstrating good cause may request a waiver from the requirement for electronic submission. For example, a lack of available Internet access in the geographic area in which your business offices are located. Lack of SAM registration or valid DUNS is not deemed good cause. If you cannot submit your application electronically, you must ask in writing for a waiver of the electronic grant submission requirements. HUD will not grant a waiver if HUD does not receive your written request at least 15 days before the application deadline or if you do not demonstrate good cause. An email request sent 15 days before the application will also be considered. If HUD waives the requirement, HUD must receive your paper application or email request before the deadline of this NOFA. To request a waiver and receive a paper copy of the application materials, you must contact:

Name: Josh Geyer

Email: MFHPFS@HUD.GOV

HUD Organization:

Street:

City:

State:

Zip:

IV.B. Content and Form of Application Submission.

B. Content and Form of Application Submission.

You must verify boxes 11, 12, and 13 on the SF424 match the NOFA for which you are applying. If they do not match, you have downloaded the wrong Application Instruction and Application Package.

Submission of an application that is otherwise sufficient, under the wrong CFDA and Funding Opportunity Number is a curable deficiency.

1. Content.

Forms for your package include the forms outlined below:

Forms / Assurances / Certifications	Submission Requirement	Notes / Description
SF 424 Application for Federal Assistance		
HUD Applicant Recipient Disclosure Report (HUD) 2880 Applicant/Recipient	HUD will provide instructions to grantees on how the form is to be submitted.	HUD will provide instructions to grantees on how the form is to be submitted.

Disclosure/Update Report

Additionally, your complete application must include the following narratives and non-form attachments.

In response to the Rating Factors (Section V.A.2.), applications will include information pertaining to the applicant's qualifications and those of any partners; a thorough description of their proposed approach to accomplishing the goals and satisfying the program requirements laid out in the NOFA; and an analysis of the key risks involved in carrying out the Pilot and how the Applicants propose to mitigate those risks.

2. Format and Form.

Narratives and other attachments to your application must follow the following format guidelines.

The proposed approach and risk analysis are not to exceed 20 pages. Applicant, Partner, and Service Provider qualifications and personal resumes will not count against the page limit. Applications will be due 60 days after the publication of this NOFA.

IV.C. System for Award Management (SAM) and Dun and Bradstreet Universal Numbering System (DUNS) Number.

C. System for Award Management (SAM) and Dun and Bradstreet Universal Numbering System (DUNS) Number.

1. SAM Registration Requirement

Applicants must be registered with SAM before submitting their application. In addition, applicants must maintain an active SAM registration with current information while they have an active Federal award or an application or plan under consideration by HUD.

2. DUNS Number Requirement.

Applicants must provide a valid DUNS number, registered and active at SAM, in the application. DUNS numbers may be obtained for free from [Dun & Bradstreet](#).

3. Requirement to Register with Grants.gov.

Anyone planning to submit applications on behalf of an organization must register at Grants.gov and be approved by the EBiz Point of Contact in SAM to submit applications for the organization.

Registration for SAM and Grants.gov is a multi-step process and can take four (4) weeks or longer to complete if data issues arise. Applicants without a valid registration cannot submit an application through Grants.gov. Complete registration instructions and guidance are provided at Grants.gov. See also Section IV.B for necessary form and content information.

IV.D. Application Submission Dates and Times.

D. Application Submission Dates and Times.

The application deadline is 11:59:59 p.m. Eastern time on **08/03/2018**. Applications must be received no later than the deadline.

Submit your application to Grants.gov unless a waiver has been issued allowing you to submit your application in paper form. Instructions for submitting your paper application will be contained in the waiver of electronic submission.

“Received by Grants.gov” means the applicant received a confirmation of receipt and an application tracking number from Grants.gov. Then Grants.gov assigns an application tracking number and **date-and time-stamps** each application upon successful receipt by the Grants.gov system. A submission attempt not resulting in confirmation of receipt and an application tracking number is not considered received by Grants.gov.

Applications received by Grants.gov must be validated by Grants.gov to be received by HUD. “Validated by Grants.gov” means the application has been accepted and was not rejected with errors. You can track the status of your application by logging into Grants.gov, selecting “Applicants” from the top navigation, and selecting “Track my application” from the dropdown list. If the application status is “rejected with errors,” you must correct the error(s) and resubmit the application before the 24-hour grace period ends. Applications in “rejected with errors” status after the 24-hour grace period expires will not be received by HUD. Visit Grants.gov for a complete description of processing steps after submitting an application.

HUD strongly recommends applications be submitted at least **48 hours before the deadline** and during regular business hours to allow enough time to correct errors or overcome other problems.

You can verify the contents of your submitted application to confirm Grants.gov received everything you intended to submit. To verify the contents of your submitted application:

- Log in to Grants.gov.
- Click the Check Application Status link, which appears under the Grant Applications heading in the Applicant Center page. This will take you to the Check Application Status page.
- Enter search criteria and a date range to narrow your search results.
- Click the Search button. To review your search results in Microsoft Excel, click the Export Data button.
- Review the Status column.
- To view more detailed submission information, click the Details link in the Actions column.
- To download the submitted application, click the Download link in the Actions column.

Please make note of the Grants.gov tracking number as it will be needed by the Grants.gov Help Desk if you seek their assistance.

HUD may extend the application deadline for any program if Grants.gov is offline or not available to applicants for at least 24 hours immediately prior to the deadline date, or the system is down for 24 hours or longer and impacts the ability of applicants to cure a submission deficiency within the grace period.

HUD may also extend the application deadline upon request if there is a presidentially-declared disaster in the applicant's area.

If these events occur, HUD will post a notice on its website establishing the new, extended deadline for the affected applicants. HUD will also include the fact of the extension in the program's Notice of Funding Awards required to be published in the [Federal Register](#).

In determining whether to grant a request for an extension based on a presidentially-declared disaster, HUD will consider the totality of the circumstances including the date of an applicant's extension request (how closely it followed the basis for the extension), whether other applicants in the geographic area are similarly affected by the disaster, and how quickly power or services are restored to enable the applicant to submit its application.

PLEASE NOTE: Busy servers, slow processing, or large file sizes, improper registration or password issues are not valid circumstances to extend the deadline dates or the grace period.

1. Amending or Resubmitting an Application.

Before the submission deadline, you may amend a validated application through Grants.gov by resubmitting a revised application containing the new or changed material. The resubmitted application must be received and validated by Grants.gov by the applicable deadline.

If HUD receives an original and a revised application for a single proposal, HUD will evaluate only the last submission received by Grants.gov before the deadline.

2. Grace Period for Grants.gov Submissions.

If your application is received by Grants.gov before the deadline, but is rejected with errors, you have a grace period of 24 hours after the application deadline to submit a corrected, received, and validated application through Grants.gov. The date and time stamp on the Grants.gov system determines the application receipt time. Any application submitted during the grace period not received and validated by Grants.gov will not be considered for funding. There is no grace period for paper applications.

3. Late Applications.

An application received after the NOFA deadline date that does not meet the Grace Period requirements will be marked late and will not be received by HUD for funding consideration. Improper or expired registration and password issues are not causes that allow HUD to accept applications after the deadline.

4. Corrections to Deficient Applications.

HUD will not consider information from applicants after the application deadline. HUD may contact the applicant to clarify other items in its application. HUD will uniformly notify applicants of each curable deficiency. A curable deficiency is an error or oversight that if **corrected** it would not alter, in a positive or negative fashion, the review and rating of the application. See curable deficiency in definitions section. Examples of curable (correctable) deficiencies include inconsistencies in the funding request and failure to submit required certifications. These examples are non-exhaustive.

When HUD identifies a curable deficiency, HUD will notify the authorized representative. The email is the official notification of a curable deficiency. Each applicant must provide accurate email addresses for receipt of these notifications and must monitor their email accounts to determine whether a deficiency notification has been received. The applicant must carefully review the request for cure of deficiency and must provide the response in accordance with the instructions contained in the deficiency notification.

Applicants must email corrections of curable deficiencies to applicationsupport@hud.gov within the time limits specified in the notification. The time allowed to correct deficiencies will not exceed 14 calendar days or be less than 48 hours from the date of the email notification. The start of the cure period will be the date stamp on the email sent from HUD. If the deficiency cure deadline date falls on a Saturday, Sunday, Federal holiday, or on a day when HUD's Headquarters are closed, then the applicant's correction must be received on the next business day HUD Headquarters offices in Washington, DC are open.

The subject line of the email sent to applicationsupport@hud.gov must state: **Technical Cure** and include the Grants.gov application tracking number (e.g., Subject: Technical Cure - GRANT123456). If this information is not included, HUD cannot match the response with the application under review and the application may be rejected due to the deficiency. This only applies to certain programs and responses should be sent to the NOFA specific program.

Corrections to a paper application must be sent in accordance with and to the address indicated in the notification of deficiency. HUD will treat a paper application submitted in accordance with a waiver of electronic application containing the wrong DUNS number as having a curable deficiency. Failure to correct the deficiency and meet the requirement to have a DUNS number and active registration in SAM will render the application ineligible for funding.

5. Authoritative Versions of HUD NOFAs. The version of these NOFAs as posted on Grants.gov are the official documents HUD uses to solicit applications.

IV.E. Intergovernmental Review.

E. Intergovernmental Review.

This program is not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

IV.F. Funding Restrictions.

F. Funding Restrictions.

No funding restrictions are applicable.

Indirect Cost Rate.

Normal indirect cost rules apply. If you intend to charge indirect costs to your award, your application must clearly state the rate and distribution base you intend to use. If you have a Federally negotiated indirect cost rate, your application must also include a letter or other documentation from the cognizant agency showing the approved rate.

Nongovernmental organizations and Indian tribal governments. If you have a Federally negotiated indirect cost rate, your application must clearly state the approved rate and distribution base and must include a letter or other documentation from the cognizant agency showing the approved rate. If you have never received a Federally negotiated indirect cost rate and elect to use the de minimis rate, your application must clearly state you intend to use the de minimis rate of 10% of Modified Total Direct Costs (MTDC). As described in 2 CFR 200.403, costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both. Once an organization elects to use the de minimis rate, the organization must apply this methodology consistently for all Federal awards until the organization chooses to negotiate for a rate, which the organization may apply to do at any time. Documentation of the decision to use the de minimis rate must be retained on file for audit.

State and local governments. If your department or agency unit has a Federally negotiated indirect cost rate, your application must include that rate, the applicable distribution base, and a letter or other documentation from the cognizant agency showing the negotiated rate. If your department or agency unit receives more than \$35 million in federal funding, you may not claim indirect costs until you receive a negotiated rate from your cognizant agency for indirect costs as provided in Appendix VII to 2 CFR part 200.

If your department or agency unit receives no more than \$35 million in federal funding and your department or agency unit has prepared and maintains documentation supporting an indirect rate proposal in accordance with 2 CFR part 200, appendix VII, you may use the rate and distribution base specified in your indirect cost rate proposal. Alternatively, if your department or agency unit receives no more than \$35 million in federal funding and has never received a Federally negotiated indirect cost rate, you may elect to use the de minimis rate of 10% of MTDC. As described in 2 CFR 200.403, costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both. Once elected, the de minimis rate must be applied consistently for all Federal awards until you choose to negotiate for a rate, which you may apply to do at any time. Documentation of the decision to use the de minimis rate must be retained on file for audit.

IV.G. Other Submission Requirements.

G. Other Submission Requirements.

1. Application Certifications and Assurances

By signing the SF424 either through electronic submission or in paper copy submission (for those granted a waiver), applicant affirms certifications and assurances associated with the application are material representations of the facts upon which HUD will rely when making an award to the applicant. If it is later determined the signatory to the application submission knowingly made a false certification or assurance or did not have the authority to make a legally binding commitment for the applicant, the applicant may be subject to criminal prosecution, and HUD may terminate the award to the applicant organization or pursue other available remedies. Each applicant is responsible for including the correct certifications and assurances with its application submission, including those applicable to all applicants, those applicable only to federally-recognized Indian tribes, and those applicable to applicants other than federally-recognized Indian tribes. All program-specific certifications and assurances are included in the program Instructions Download on Grants.gov.

2. Lead Based Paint Requirements

When providing housing assistance funding for purchase, lease, support services, operation, or work that may disturb painted surfaces, of pre-1978 housing, you must comply with the lead-based paint evaluation and hazard reduction requirements of HUD's lead-based paint rules (Lead Disclosure; and Lead Safe Housing (24 CFR part 35)) (2539-0009), and EPA's lead-based paint rules (e.g., Repair, Renovation and Painting; Pre-Renovation Education; and Lead Training and Certification (40 CFR part 745)).

V.A. Review Criteria.

A. Review Criteria.

1. Rating Factors.

Points will be assigned for the three rating factors as detailed in the following sections. Applications will be evaluated based on the quality and completeness of their response to these rating factors. The table below gives the number of points available for each rating factor and sub-factor; the maximum possible score is 100 total points. An applicant must receive a minimum 50 percent of the total score in order to be considered for an award.

Rating Factor	Points	Sub-Factor	Points
1 - Experience and Qualifications	30		
		1.1 - Required Experience	15
		1.2 - Qualifications	15
2- Proposed Approach	55		
		2.1 - Work Plan	20
		2.2 - Property Recruitment	15
		2.3 - Budget Forecast	4

		2.4 - Prospective Funding Sources	12
		2.5 - Timeline	4
3 - Risk Analysis and Mitigation Strategy	15		
	100		

a. Rating Factor 1: Experience and Qualifications

Maximum Points: 30

HUD will evaluate Applicants and identified Partners for the depth and quality of the experience and qualifications they possess relevant to performing each of the tasks required to meet all program requirements and to achieve program objectives.

i. Sub-factor 1.1: Required Experience.

Applicants must demonstrate that they and their Partners possess significant experience in the following areas.

- Financing or operating properties receiving assistance under one or more of the HUD MF assisted housing programs whose participant properties are eligible to participate in the PFS Pilot.
- Raising capital for energy or water conservation improvements from third parties (if applicable).
- Completing or overseeing energy or water conservation programs for multifamily properties, or installing ECW measures, including selection and oversight of contractors; this may include a track-record of overseeing multiple simultaneous projects and experience overseeing projects while with tenants remaining in place.
- Working with the identified partners (if applicable).

ii. Sub-factor 1.2: Additional Qualifications

(a) Other Relevant Experience. Applicants should document the depth and relevance of additional experience that they believe is relevant, such as:

- Experience undertaking any other activities required of the Intermediary and capability of the Applicants to perform as Intermediaries. For those Applicants seeking to service properties widely dispersed geographically, HUD will evaluate the capacity to manage the complexity entailed by operating a program in multiple locations.
- Applicants' capacity to undertake the size and geographic diversity of the Work Plan proposed (Rating Sub-factor 2.1 below) with the availability of staff, team members and Key Personnel, given demands of other work; and
- Experience, if any, performing work in public housing energy performance contracting, HUD's Green Retrofit Program, or HUD's Mark to Market Green Initiative.

(b) Key Personnel. HUD will evaluate individuals proposed to perform each of the following functions for the relevance and length of experience with HUD, HUD-assisted apartments, and EWC retrofits and programs, as well as their capacity to take on this work given other workloads:

- project management,
- capital sourcing,
- property recruitment,

- oversight of SOW development and retrofit implementation, and
- financial administration (including accounting, bookkeeping)

b. Rating Factor 2: Proposed Approach

Maximum Points: 55

In this section, applicants will comprehensively describe their proposed approach to implementing a successful program. HUD will evaluate applicants' responses in terms of thoroughness, coherence, and plausibility of their vision, as well as the degree to which the program as proposed will advance the Program Objectives identified in Section I.A.1.c.

i. Sub-factor 2.1: Work Plan

Applicants will present a comprehensive plan for implementing a successful PFS-financed EWC program under this Pilot. Tasks under this plan may be performed by partners but the Intermediary holds ultimate responsibility for the successful implementation of the work. The plan must address how key tasks will be completed, and by whom, including but not limited to:

- a summary of the strategy for recruiting owners of eligible properties to participate and negotiating and executing PFS Contracts with participating Owners detailed in sub-factor 2.2;
- Selecting and overseeing qualified Service Providers as applicable;
- performing energy and water conservation assessments and generating scopes of work for EWC retrofits;
- performing reserve analysis to assess the benefits and risks of using property-level reserve funds;
- approaches to completing retrofits in occupied apartments;
- purchasing equipment and managing installations;
- monitoring post-retrofit operation at properties and ensuring that corrective actions are taken where necessary;
- collecting data and reporting to HUD; and
- retaining and managing an Independent Evaluator.

ii. Sub-factor 2.2: Property Recruitment

Applicants will describe their recruitment strategy and their prospective portfolio.

(a) Comprehensive recruitment strategy. This may include offering financial incentives to Owners and/or Managing Agents. If so, these expenses must be reflected in the budget forecast.

(b) Characteristics of a desired property portfolio. Applicants will provide estimates of the amount of funding available, a target for total units served, and the number of properties it will recruit for participation. Applicants will also identify preferred property characteristics, e.g. locational preferences, property size, building type, and years of construction. Any information applicants can provide on prospective participants or non-binding letters of intent from Owners indicating interest in participating will strengthen their response to this section. The PFS Pilot statute requires HUD to pursue maximum geographic diversity and HUD reserves the right to select Intermediaries that will provide the most geographic diversity.

iii. Sub-factor 2.3: Budget Forecast

Using HUD Form 424-CBW, Applicants will provide estimated program budgets for two phases: 1) the program initiation period (starting with the applicant's selection as an Intermediary and running through the completion of retrofits in all participating properties) and the remainder of the payback period following the completion of retrofits. Applications will be evaluated according to the completeness and rigor of their analysis. In addition to giving total program cost estimates for all major cost categories applicants must include line items to retain independent evaluators for every project and the cost of capital. Applicants will also provide a narrative justification for these top-line budget numbers.

iv. Sub-factor 2.4: Prospective Funding Sources

These may include funds contributed by the Intermediary itself, third parties such as philanthropic or private investors, and incentives from state or local programs (e.g. demand-reduction incentives, renewables credits, and health incentives related to mildew/mold/pest abatement). Additionally, the Applicant may include the use of property-level reserve funds consistent with the protocol described in this NOFA (Section VIII.D.2.).

Applicants will provide a table giving the amount and percentage of funding from each major source (e.g. internal funds, private investors, property-level reserve funds, incentives) and a narrative that articulates a well-developed strategy for assembling the required funding. More points will be awarded to applicants with firmer commitments and/or more-developed financing strategies.

The percentage of hard costs (given in the forecasted budget in Sub-factor 2.3) projected to be paid for using property-level reserves will determine the maximum number of points that Applicants can be awarded for this sub-factor, as follows:

Percentage of hard costs paid for by reserves	Maximum possible points for sub-factor 2.4
31-50%	4
21-30%	6
11-20%	8
1-10%	10
no reserves used	12

If selected, the level of reserve usage proposed by applicants in this sub-factor will be codified in their Cooperative Agreements with HUD.

v. Sub-factor 2.5: Timeline

Applicants will provide a timeline for all major tasks that includes projected dates for programmatic milestones, including:

- the start of work on retrofits
- successful recruitment of all properties to participate in the program
- 50% and 100% of retrofit projects completed

Applicants should also provide their history of completing similar work on schedule and actions taken when problems have arisen that didn't allow them to meet timeliness goals.

HUD will only consider Applicants that can complete all retrofits within 24 months of entering into their initial Cooperative Agreement with HUD. HUD will evaluate an Applicant's capacity to meet this deadline—which their proposed timeline should reflect—based on all materials included in its application.

c. Rating Factor 3: Risk Analysis and Mitigation Strategy

Maximum Points: 15

The ability of Intermediaries to achieve projected savings at participating HUD-assisted properties will depend on their identification and prudent management of risk and uncertainty (for themselves and their partners) intrinsic to their approach over the entire period of performance. Applicants will provide an analysis of the key risks involved in carrying out the PFS Pilot and their approach to mitigating those risks. These risks could include, for example, uncertainty related to tenant behavior, ongoing property operations and maintenance, and utility price fluctuations. Other risks include operating the project in the first year or more without any payments due to the lag in recruiting owners, performing work, and delivering cost savings data to HUD. HUD will evaluate the

comprehensiveness of the set of risks identified by the applicant and the success potential for of the risk mitigation strategies described.

2. Preference Points.

Preference points are not available for this program.

V.B. Review and Selection Process.

B. Review and Selection Process.

1. Past Performance

In evaluating applications for funding, HUD will take into account an applicant's past performance in managing funds. Items HUD may consider include, but are not limited to:

- a. The ability to account for funds appropriately;
- b. Timely use of funds received from HUD;
- c. Timely submission and quality of reports submitted to HUD;
- d. Meeting program requirements;
- e. Meeting performance targets as established in the grant agreement;
- f. The applicant's organizational capacity, including staffing structures and capabilities;
- g. Time-lines for completion of activities and receipt of promised matching or leveraged funds; and
- h. The number of persons to be served or targeted for assistance.

HUD may reduce scores as specified under V.A. Review Criteria. Each NOFA will specify how past performance will be rated or otherwise used in the determination of award amounts. Whenever possible, HUD will obtain past performance information from staff with the greatest knowledge and understanding of each applicant's performance. If this evaluation results in an adverse finding related to integrity or performance, HUD reserves the right to take any of the remedies provided in Section III.D 1. Pre-selection Review of Performance, above.

2. Assessing Applicant Risk

HUD may impose special conditions on an award as provided under 2 CFR 200.207:

1. Based on HUD's review of the applicant's risk under 2 CFR 200.205;
2. When the applicant or recipient has a history of failure to comply with the general or specific terms and conditions of a Federal Award;
3. When the applicant or recipient fails to meet expected performance goals; and
4. When the applicant or recipient is not otherwise responsible.

Rating Factor 3 directly addresses applicant risk. Applicants will provide an analysis of the key risks involved in carrying out the PFS Pilot and their approach to mitigating those risks. These risks could include, for example, uncertainty related to tenant behavior, ongoing property operations and maintenance, and utility price fluctuations. Other risks include operating the project in the first year or more without any payments due to the lag in recruiting owners, performing work, and delivering cost savings data to HUD.

3. Review Process. HUD will review applications in two phases:

a. Phase 1: Threshold Eligibility Requirements. HUD will review the application to determine whether it meets the threshold eligibility requirements in Section III.D. of this NOFA. Applicants who

fail to meet all of the threshold eligibility requirements (which includes their partners meeting the Civil Rights Threshold) will be deemed ineligible. Applications from ineligible applicants will not be evaluated.

b. Phase 2: Application Scoring. If the application meets all threshold eligibility requirements, HUD will review and score the application using the scoring criteria outlined in Section V.B.2. of this NOFA. After individual reviewers assign a score, each application will be paneled with an additional reviewer for a final score. Applications that do not meet the threshold requirements are automatically ineligible for funding.

4. Selection Process

a. Ranked Order. Once final scores have been assigned, applications will be listed in ranked order.

b. Selection of Successful Applicants. In addition to applicants' rank, HUD will select applicants that maximize the program's geographic diversity. Based on the volume and quality of applications and the size of portfolios being proposed, not all high-scoring Applicants may be selected. A selected applicant may be required to participate in negotiations to determine the number, property size, and locations of properties to be covered by the Cooperative Agreement after HUD has rated and ranked all applications and made selections.

C. Anticipated Announcement and Award Dates.

HUD anticipates being able to complete the review of all eligible applications and select and notify successful applicants by June 1.

VI. Award Administration Information.

A. Award Notices.

Following the evaluation process, HUD will notify successful applicants of their selection for funding. HUD will also notify other applicants, whose applications were received by the deadline, but have not been chosen for award. Notifications will be sent by email to the person listed as the AOR in item 21 of the SF-424.

B. Administrative, National and Department Policy Requirements for HUD recipients

For this NOFA, the following General Administrative Requirements and Terms for HUD Financial Assistance Awards apply. Please [click here](#) to read the detailed description of each applicable requirement.

1. Compliance with Non-discrimination and Other Requirements.

Unless otherwise specified, these non-discrimination and equal opportunity authorities and other requirements apply to all NOFAs. Please read the following requirements carefully as the requirements are different among HUD's programs.

2. Participation in HUD-Sponsored Program Evaluation.

C. Reporting.

HUD requires recipients to submit performance and financial reports under OMB guidance and program instructions.

1. Reporting Requirements and Frequency of Reporting. Applicants should be aware that if the total Federal share of your Federal award includes more than \$ 500,000 over the period of

performance, you may be subject to post award reporting requirements reflected in Appendix XII to Part 200-Award Term and Condition for Recipient Integrity and Performance Matters.

2. Race, Ethnicity and Other Data Reporting. HUD requires recipients that provide HUD-funded program benefits to individuals or families to report data on the race, color, religion, sex, national origin, age, disability, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of HUD programs in order to carry out the Department's responsibilities under the Fair Housing Act, Executive Order 11063, Title VI of the Civil Rights Act of 1964, and Section 562 of the Housing and Community Development Act of 1987. NOFAs may specify the data collection and reporting requirements. Many programs use the Race and Ethnic Data U.S. Department of Housing OMB Approval No. 2535-0113 Reporting Form HUD-27061.

3. Performance Reporting. All HUD funded programs, including this program, require recipients to submit, not less than annually, a report documenting achievement of outcomes under the purpose of the program and the work plan in the award agreement.

D. Debriefing.

For a period of at least 120 days, beginning 30 days after the public announcement of awards under this NOFA, HUD will provide a debriefing related to their application to requesting applicants. A request for debriefing must be made in writing or by email by the authorized official whose signature appears on the SF424 or by his or her successor in office and be submitted to the point of contact in Section VII Agency Contact(s), below. Information provided during a debriefing may include the final score the applicant received for each rating factor, final evaluator comments for each rating factor, and the final assessment indicating the basis upon which funding was approved or denied.

VII. Agency Contacts.

HUD staff will be available to provide clarification on the content of this NOFA.

Questions regarding specific program requirements for this NOFA should be directed to the point of contact listed below.

Name: Josh Geyer
Phone: (415) 489-6418
Email: MFHPFS@HUD.GOV

Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Relay Service at 800-877-8339. Please note that HUD staff cannot assist applicants in preparing their applications.

VIII. Other Information.

1. National Environmental Policy Act.

A Finding of No Significant Impact (FONSI) with respect to the environment has been made for this NOFA in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of

the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for inspection at HUD's Funds Available web page at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/grants/fundsavail.

A. Program Participation for Eligible Multifamily Properties

1. Eligibility Requirements

Potential participants for the PFS Pilot include HUD-assisted multifamily properties participating in the following programs: the project-based rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), other than assistance provided under section 8(o) of that Act as it is a voucher program; the supportive housing for the elderly program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q); and the supportive housing for persons with disabilities program under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(d)(2)).

To be eligible to participate, Owners must provide a certification to HUD that they and the property meet the below requirements. HUD will review certifications for completeness and HUD reserves the right to recover damages from the Owner if the Owner's certification of eligibility was incorrect.

- a.** Owners must be in good standing. Eligibility criteria will include compliance with all business agreements with the Department and project operations must meet HUD standards. HUD's intent is to make the PFS Pilot available to as many properties as possible with HUD retaining the final decision as to eligibility. If there is non-compliance that the Owner believes will be cured through the transaction, the Owner must submit, together with its certification, a statement from the HUD field office with jurisdiction that program participation can reasonably be expected to cure all outstanding non-compliance issues.
- b.** Owners must be in current compliance with all applicable fair housing and civil rights requirements contained in 24 CFR 5.105(a), including the Fair Housing Act and its physical accessibility requirements, Title VI of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and their implementing regulations, and submit a certification of compliance with these requirements.
- c.** The property must have a current 60 or above Real Estate Assessment Center (REAC) Physical Assessment Subsystem (PASS) score.
- d.** The property must have received satisfactory Management and Occupancy Review ratings for its most recent MOR. If the project received a less than satisfactory rating in any section of its last Management and Occupancy Review, the Owner must provide written comments regarding the status of any corrective action in progress, target dates for completing these actions, and any other corrective actions taken.
- e.** The Owner is current in the submission of Annual Financial Statements in the form required by the Department and Monthly Accounting Reports for the prior three-year period and Excess Income Reports for the prior seven-year period, and has resolved all compliance flags, if any. All excess income, regardless of the time frame, owed to the Department must be paid in full prior to execution of the PFS Contract.

2. Participation Requirements

Owners must adhere to the following participation requirements:

- a. Affordability restrictions.** Each property participating must be subject to affordability restrictions codified in a HAP Contract, Use Agreement, or other affordability restriction that terminates no earlier than 17 years after completion of EWC retrofits under the PFS Pilot. For those properties that do not meet this requirement, HUD will provide a Use Agreement to extend affordability and satisfy this requirement.
- b. Owner Agreement Regarding Replacement of Installed Equipment.** Contemporaneously with the execution of the PFS Contract, and as a condition to HUD's agreement to add the PFS Contract

as an exhibit under the Cooperative Agreement, each Owner will provide to HUD its written agreement that so long as the property receives assistance from HUD in any form, when replacing equipment installed under the PFS Pilot it will do so with equipment of equal or better efficiency compared to the components installed in the PFS Pilot.

B. Program Activities

This section is intended to give applicants a more detailed picture of HUD's expectations for the functions Intermediaries will serve and the activities they will begin to undertake once they have been selected. Intermediaries' precise legal obligations will be codified in their Cooperative Agreement with HUD for each property being retrofit under this program.

1. Overview of Intermediary functions

Under Cooperative Agreements with HUD, authorized Intermediaries will perform some or all of the following programmatic functions:

- recruit Owners to participate in the PFS Pilot and identify eligible properties;
- negotiate any fees or other compensation to the Owner and/or Management Agent in consideration for participation in the PFS Pilot;
- execute PFS Contracts with these Owners;
- identify and retain a qualified Independent Evaluator to validate data and payment submissions to HUD;
- establish a pre-retrofit baseline of energy and water usage at each property using the protocol prescribed by HUD in the Cooperative Agreement and confirmed by the Independent Evaluator;
- implement the retrofits;
- track utility savings during the term of the Cooperative Agreement; and
- prepare invoices, obtain the Independent Evaluator's validation, and invoice HUD in accordance with the terms of the Cooperative Agreement for payments due to the Intermediary as a result of energy and water consumption savings generated by the Intermediary's PFS Pilot activities.

2. Environmental Requirements

An environmental review must be performed before funds from any source are committed to a project. HUD maintains documentation of the environmental review in an environmental review record, which describes all proposed activities, evaluates the proposal's potential environmental impacts, and documents compliance with all applicable environmental laws and authorities. (For more information on general environmental review requirements, refer to the [Environmental Review page on the HUD Exchange](#).)

A broad-level (i.e. program-level) environmental review of this program established that it already complies with many environmental laws and authorities. For the small number of laws and authorities that require site-specific analysis, achieving full compliance will require Intermediaries to submit some information to HUD. To streamline this process and minimize the administrative burden on Intermediaries, HUD has created a Site-Specific Environmental Review Form (Part I) specifically for this program (see attachment to this NOFA entitled "Site-Specific Environmental Review - Part 1 of 2 (completed by intermediary)"). For each property being retrofit under this program, the Intermediary will use this form to report on the following:

- High-level description of the project's scope of work
- Whether the property lies within a Coastal Barrier Resource unit
- Whether the property lies within a floodplain and proof of any required flood insurance policies
- Whether the project will destroy or modify a wetland
- Previous uses of the site and other evidence of contamination on or near the site
- Whether any historic preservation policies apply to the site or the building(s)

The form provided provides detailed instructions and links to online resources for the required data. In some cases, a follow-up consultation will be required with HUD environmental review staff. Although

the reporting for each site will be unique, HUD does not expect this process to take more than a few hours total for the vast majority of sites.

3. Third-party Verification of Savings and Payment Amounts

Because the success of a PFS intervention—and thus the payment due to the Intermediary—is determined by the outcome achieved, it is imperative that those outcomes be verified by an Independent Evaluator with no financial stake in those outcomes and no actual or potential conflicts of interest with the Intermediary or Owner. No less than 30 days prior to submission of a Certification of Completion (see Section 5. below), the Intermediary will identify and submit to HUD for approval a proposed Independent Evaluator possessing the experience, qualifications, capacity and independence necessary to perform and provide the work product required by HUD. The minimum qualifications for the Independent Evaluator will be the following:

- Holding at least one of the following qualifications/professional designations:
 - Certification to complete building energy audits by RESNET, BPI, or their training providers;
 - Certified Energy Manager (CEM);
 - State-level equivalent of a certified energy auditor certification;
 - RESNET-certified Home Energy Rater;
 - BPI-Certified Building Analyst; or
 - professional architect or registered professional engineer.
- Agreeing to pursue the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) sustainability certification program, within 12 months of it being available.
- Not being under suspension or debarment by HUD or involved as a defendant in criminal or civil action with HUD.
- Producing reports that are well regarded in the marketplace in terms of content, timeliness and responsiveness.

As a precondition for Performance Payments by HUD to the Intermediary, an Independent Evaluator must provide or validate the following for all participating properties:

- as applicable, sufficient data on utility consumption and rates and utility allowances to establish the pre-retrofit baselines against which future years will be compared
- weather and occupancy normalization of the pre-retrofit baseline
- as applicable, sufficient data on utility consumption and rates and utility allowances and vacancies in the years after the retrofits have been completed

Independent Evaluators will also be required to certify to HUD in writing that each proposed Performance Payment invoiced to HUD by an Intermediary has been calculated in accordance with the payment protocol set forth in the Cooperative Agreement.

All costs and fees to be paid by an Intermediary to an Independent Evaluator shall be negotiated between the parties prior to entering into an agreement. Fees may not in any way be contingent on results of the measurement and analysis to be performed by the Independent Evaluator. All requests for Performance Payments must be accompanied by a certification from an Independent Evaluator to HUD that no conflicts of interest or appearances of conflicts of interest with the Intermediary or to the best of the Independent Evaluator's knowledge with respect to any property or its Owner for which a Performance Payment is requested exist which would preclude the organization or any individual working on the assignment from performing its obligations in a truly independent manner. This certification must remain true and correct throughout the entire period of performance. The Intermediary shall promptly notify HUD should the Intermediary become aware of a conflict or an appearance of conflict by the Independent Evaluator arising at any time during the term of the Cooperative Agreement.

4. Qualification of New Partners

Applicants must specify in their responses to the NOFA whether applicant or partner staff (or some combination) will perform each of the following core functions: project management, capital sources,

oversight of SOW development and retrofit implementation from design through construction, and invoicing HUD. In the event that it becomes necessary to replace a partner entity performing one or more of these core functions, Intermediaries must receive approval of the new partner entity from HUD. In requesting HUD approval for a new partner entity, an Intermediary must submit evidence of the following as applicable to their prospective role:

- prior experience with similar retrofit projects;
- names of key personnel to be assigned to the PFS Pilot and their relevant experience;
- capacity to undertake simultaneously projects of the size proposed by applicant in multiple locations;
- history of completing projects on time;
- history of reducing and maintaining energy and water savings and costs over time;
- prior experience overseeing third-party subcontractors;
- prior experience collaborating with the other parties;
- division of responsibilities among partners and subcontractors; and/or
- proposed budget and financial ability to fund all operational and retrofit costs.

HUD shall approve any replacement Partner that in HUD’s reasonable judgment provides evidence of its ability to perform its role(s) in the PFS Pilot.

5. Documentation and Reporting

Intermediaries shall provide data and reports to HUD as specified in the Cooperative Agreement. Documentation and reporting shall include the following for each participating property.

a. Intermediaries will submit the following documentation to HUD for each property being retrofit:

Program document	Included information
Work Plan	Description of all documentary deliverables and due dates, expectations for periodic consultation with HUD for the purposes of oversight
PFS Contract between the Intermediary and property owner	<ul style="list-style-type: none"> • Specific description of all units being retrofit • Disclosure of any incentive payments from the Intermediary to the Owner or any cost savings on Owner-paid utilities being recovered from the Owner. (See Section C below).
Request for Approval of Independent Evaluator	Description of the proposed Independent Evaluator’s experience, qualifications, and capacity. (If the same Independent Evaluator is being used for other properties being retrofit by the same intermediary, HUD’s previous approval should be included.)
Site-specific environmental review	(see section 2. above)
Certification of Retrofit Completion	<ul style="list-style-type: none"> • List of installed measures with cost information • Weather- and occupancy-normalized pre-retrofit consumption baselines for each affected tenant- and owner-paid utility, and all component data used to calculate those baselines, including utility consumption,

	<p>rates, utility allowances, and climatic and occupancy data, and the calculation methodology used.</p> <ul style="list-style-type: none"> • Weather- and occupancy-normalized post-retrofit consumption projections for each affected tenant- and owner-paid utility, and all component data used to calculate those baselines, including utility consumption, rates, utility allowances, and climatic and occupancy data, and the calculation methodology used. • Recalculated pre-retrofit baseline utility allowances and post-retrofit utility allowances for each unit size/type calculated based on consumption data in b. and c. above. • Recalculated pre-retrofit baseline owner rental subsidy and post-retrofit owner renter for each unit size/type calculated based on b., c., and d. above. • Post-retrofit per-unit annual savings to HUD relative to pre-retrofit baseline
--	--

Invoices for performance payments	<ul style="list-style-type: none"> • Thorough documentation of all calculations contributing to the calculation of the amount being invoiced (as provided in the work plan), and • a written certification by the Independent Evaluator that <ul style="list-style-type: none"> i. the performance payment has been calculated as set forth in this Agreement and ii. no conflict of interest or apparent conflict of interest with the Intermediary or with respect to any property or Owner for which a Performance Payment is requested, which would preclude the IE from performing its obligations in a truly independent manner, exists to the best of its knowledge, before any performance payment can be made.
-----------------------------------	--

b. Until all EWC retrofits under the PFS Pilot are completed, Intermediaries will also submit quarterly reports regarding the status of all properties for which work under the PFS Pilot SOWs remains to be completed. The reports shall summarize the work that has been completed, what remains to be done and the anticipated projected completion date.

c. As this is a pilot program, HUD is very interested in evaluating its effectiveness and efficiency to inform future, larger-scale programs of this type. Moreover, HUD is required by the program's authorizing statute to conduct such an evaluation and submit annual reports to Congress. For these purposes, Intermediaries may be required to work with a program evaluation team and provide relevant information, possibly including (but not limited to) information pertaining to retrofit implementation, program administration, post-retrofit behavioral interventions, and certain fees. HUD anticipates though that Intermediaries' routine submissions (per Section a. above) will suffice for this purpose for the initial phases of the

program, which may enable HUD to defer this additional data collection until Intermediaries have completed some or all of their retrofits.

C. PFS Contracts

The form and content of any PFS Contract that is necessary for the execution of the program being proposed by the applicant shall be negotiated between the parties provided that nothing contained in the PFS Contract will be inconsistent with the terms of the Cooperative Agreement executed by the Intermediary and that certain provisions specified in the Cooperative Agreement, must be included in the PFS Contract.

1. Provisions

The Cooperative Agreement will describe the following required provisions for inclusion in any PFS Contract used by the Intermediary:

- a. Confirmation that the PFS Contract shall terminate on the earlier of its scheduled termination date or the termination of the Intermediary's Cooperative Agreement.
- b. In the event of any inconsistency between the PFS Contract and the Cooperative Agreement, the terms of the Cooperative Agreement shall prevail.
- c. For any property in which the current affordability restrictions expire prior to the seventeenth (17th) anniversary of the execution of the PFS Contract, agreement to extend affordability in accordance with the approach offered in the Cooperative Agreement.
- d. Agreement to provide any utility bills and other energy and water consumption and cost data requested by an Intermediary during the term of the PFS Contract.
- e. Acknowledgement that final decisions regarding the use of the property-level reserves controlled by HUD will be made by HUD in accordance with the protocol set out in the Cooperative Agreement.
- f. A hold harmless and indemnification of HUD with respect to its role in the PFS Pilot including but not limited to the selection of the Intermediary, the development of the scope of work and the operation of all improvements to the property resulting from the PFS Pilot.
- g. So long as the property has a subsidy or mortgage relationship with HUD or the Federal Housing Administration (FHA), agreement to maintain all improvements made under the PFS Pilot in good working order and ensure that any replacement of such improvements results in equal or better energy or water efficiency than the improvements installed under the PFS Pilot.
- h. Confirmation that:
 - HUD has made no representation or warranty to the Owner with respect to the improvements to be installed under the PFS Pilot or their cost or effectiveness.
 - The PFS Contract does not modify or replace any existing agreement between the Owner and HUD or FHA.
 - Except as expressly set forth in the Cooperative Agreement, nothing in the PFS Pilot modifies HUD guidance.
 - Owners shall have no liability to Intermediaries for costs incurred by the Intermediary.
 - The Owner and Intermediary acknowledge that HUD is a third-party beneficiary of the PFS Contract.

2. Payments to Owners and Managing Agents

Intermediaries may but are not obligated to make payments to Owners and Managing agents as consideration for their participation in the PFS Pilot. Any such payments to Owners will be considered Owner funds, not subject to HUD control and need not be deposited in the property's operating account. Funds paid to Management Agents by an Intermediary shall be Agent funds, not subject to HUD control, and need not be paid through the property. Lastly, HUD will utilize pre-existing management fees processes for funds paid to Management Agents by the property for the PFS Pilot.

D. Funding for Program Activities

Note that performance payments will be made to Intermediaries under the terms of the Cooperative Agreements based on actual savings achieved, so Intermediaries will need to fund all programmatic activities for at least the first several years following entering into a Cooperative Agreement with HUD. The Intermediary may provide funding or recruit third-party investors. The Intermediaries' sole source of revenues under the NOFA will be the Performance Payments to be made by HUD.

1. Costs to Intermediaries

All costs associated with application under this NOFA and participation in the PFS Pilot shall be borne solely by the Intermediaries. Intermediary costs are likely to include -- without limitation -- financing costs, due diligence costs, owner recruitment costs, Independent Evaluator fees, any fees and compensation to owners and management agents, hard costs of EWC retrofits (except for those hard costs payable from property reserves as provided in the Cooperative Agreement), costs of providing oversight of EWC retrofit installation, and costs for staff salaries and other overheads.

2. Use of Property-level Reserve Funds

Intermediaries proposing to use property-level reserve funds controlled by HUD—e.g. from the Reserve for Replacement (RfR) accounts—to pay for part of the retrofits must first secure approval from HUD.

a. Limits for use of reserves. Intermediaries may request approval to use property-level reserves for up to 50% of Hard Costs. A “Hard Cost” is defined as the actual cost of an installed retrofit—including labor and equipment and materials--paid to an independent third party for a commonly installed EWC retrofit. HUD will provide a list of pre-approved EWC measures commonly used in HUD’s energy efficiency programs. HUD will also consider allowing the use of reserves on measures that do not appear on the pre-approved list, provided they are consistent with program objectives. Property-level reserves may not be applied to any fees or overhead costs. To satisfy the evaluation portion of the demonstration and to help set policy going forward, Intermediaries that make use of property-level reserves will be expected to provide more detail on their sources and uses of funds once they are selected.

b. Requesting approval for use of Property-Level Reserves. Intermediaries and property owners must assemble and submit to HUD the following documentation in order to request approval for the use of property-level reserve funds.

i. Scopes of Work (SOWs). Intermediaries will work with owners to develop scopes of work. SOWs must include a list of measures to be installed at the property as well as high-level information on sources and uses of funds.

ii. Property Reserve Analysis. Intermediaries will submit a 20-year reserve analysis that demonstrates that the retrofit will leave the property in as good or better financial shape as it would otherwise have been. Intermediaries may use up to \$5,000 of property-level reserve funds toward developing the required reserve analysis.

(a) The reserve analysis must present two scenarios: (1) A Status Quo scenario in which the property does not participate in the Pilot; and (2) A Retrofits scenario in which the property participates in the Pilot with the property-level reserves paying for a portion of the retrofit costs and with the balance being paid by the Intermediary. This Retrofit scenario will have a lower beginning reserve balance but will also have lower annual capital needs because of the Intermediary’s contribution to the cost of the retrofits.

(b) The reserve analysis must be based on a capital needs assessment (CNA) prepared by a CNA professional that is more recent than the later of the date of completion of the most recent major capital improvements to the property or two years prior to the date of the reserve analysis.

iii. Funds Authorization for property-level reserves. (2502-0555) The property owner will submit a Funds Authorization Form (HUD-9250) and otherwise follow standard operating procedure for request of this type. (For more information, see: HUD Handbook 4350.1, Chapter 4, Reserve Funds for Replacements; and Notice H 1999-13, Revised Asset Management Procedures.) The information on the form must reflect the SOW and reserve analysis.

E. Performance Payments

1. Eligible Sources for Payments to Intermediaries

The amount of performance payments Intermediaries receive will be based on energy and water savings associated with retrofits that are realized by HUD. HUD will accrue savings by reducing the portion of rental assistance funds allotted toward reimbursing owners and tenants for utility costs. For savings on tenant-paid utilities, tenant Utility Allowances will be lowered commensurate with the savings being realized by tenants due to EWC measures installed as part of the retrofit.

HUD has no mechanism for adjusting subsidy levels for properties with market-set rents to account for owner utility savings, so performance payments will not include owner utility savings for this property class. However, Intermediaries may independently negotiate separate contracts with Owners that allow Intermediaries to recover some or all of the utility savings accruing to owners of this property class participating in the Pilot while at the same time receiving performance payments for tenant utility savings at those properties. This does not constitute approval or consent of HUD or any other party which may be required under the terms of other, pre-existing agreements.

The sole source of repayment to the Intermediaries and their financing sources will be the Performance Payments paid periodically to the Intermediaries by HUD in accordance with the Cooperative Agreement. Intermediaries are prohibited from taking a security interest or other lien on the fixtures or equipment constituting the EWC retrofits or the real property in which the EWC retrofits are installed.

2. Performance Payment Calculations

Performance payments to intermediaries will be based on the utility cost savings associated with EWC retrofits completed under the program. For all utility types and bill-payers (either tenants or owners), consumption savings will be determined by calculating the difference between a normalized pre-retrofit utility consumption baseline and normalized actual consumption for a given period of time subsequent to the completion of retrofits. This consumption delta will then be multiplied by the effective utility rate for that time period to ascertain cost savings. HUD will realize these savings through commensurate reductions in subsidy payments and then pay Intermediaries 99% of realized savings over the Payment Period. No other payments will be made by HUD related to this program and no other savings such as lower maintenance costs or decreased future expenditures from the Reserve for Replacement will be recognized in the payment formula. All performance payment calculations and consumption data inputs will be validated by an Independent Evaluator.

a. HUD savings from decreases in Owner-Paid Utilities. HUD will accrue cost savings to owner-paid utilities in budget-based properties through reductions in their utility budget line items (which will result in rents being lower than they would have otherwise been).

b. HUD savings from decreases in Tenant-Paid Utilities. For tenant-paid utilities, savings to HUD can be measured directly because Utility Allowances (UAs) for each unit type/bedroom size will be adjusted downward after retrofits are completed, resulting in a decrease in HUD's subsidy by the same amount

c. Normalization Approaches. Weather normalization will be performed consistent with the International Performance Measurement & Verification Protocol (IPMVP), making separate normalization adjustments for heating degree days and cooling degree days. The pre-retrofit baseline will be weather normalized to 30-year average degree days for the location of the property. Consumption will be normalized for occupancy through a linear adjustment to the occupancy-sensitive portion of weather-normalized owner-paid utility consumption.

d. Pre-Retrofit Baselines. For each budget-based property in the PFS Pilot, the Independent Evaluator using a protocol set forth in the Cooperative Agreement shall validate the actual annualized energy and water consumption and costs incurred by the Owner immediately prior to commencement of the EWC retrofits. The amounts of energy and water consumption in the resultant pre-retrofit baseline may vary from the utility line item set out in the property's most recent budget.

For participating properties with retrofits affecting tenant-paid utilities, an Independent Evaluator will use a protocol set forth in the Cooperative Agreement to recalculate the current pre-retrofit UA using the best available data in order to set a baseline UA that best approximates pre-retrofit utility costs. This recalculated UA may vary from the UA in effect as of the date of calculation.

e. Post-Retrofit Consumption and Utility Costs. An Independent Evaluator shall validate the post-retrofit, Owner-paid utility consumption and costs, and the post-retrofit tenant utility allowances, using protocols to be set forth in the Cooperative Agreement.

f. Impact of Changes to the Physical Structure of a Property. In the event of a change in the physical structure of a property during the 12-year period of performance which materially impacts utility usage, the Owner and the Intermediary shall mutually agree upon an equitable modification of the pre-retrofit baseline for Owner-paid utility and/or of the pre-retrofit baseline of tenant utility allowances to reflect the impact of the change on utility usage. An Independent Evaluator shall review the proposed modification and validate its equitability. In the event the Owner and the Intermediary are unable to agree upon a modification, the Independent Evaluator who validated the most recent Performance Payment calculation on the property shall recommend to HUD an equitable modification of the pre-retrofit baseline to be used thereafter in calculating payment.

g. Cap on Payments. Cooperative Agreements will set an absolute cap on performance payments of \$10,000 per unit over the duration of the payment period.

3. Payment Period

HUD will make Performance Payments to the Intermediary based on savings realized by HUD during the Period of Performance for each property following the completion of retrofits at that property. Within one year of retrofit completion, Intermediaries will submit notice to HUD to start the payment period for each property; the notices will include old and new UAs and rents for all unit sizes/types impacted by the retrofit as well as the anticipated date of their first invoice. Irrespective of the timing of retrofit completion and invoice submission, Intermediaries will only be eligible for payments corresponding to savings that actually accrue to HUD, which will begin when Utility Allowances and Rents are adjusted to reflect post-retrofit utility savings.

4. Payment Processing

Intermediaries will submit Performance Payment invoices annually (or more frequently if authorized in the Cooperative Agreement) and be paid on at least an annual basis. Invoices will be accompanied by a signed statement from an Independent Evaluator that confirms that

- the payment is correct having been calculated in accordance with the payment protocol set out in the Cooperative Agreement;
- no adverse changes to the qualifications of the Independent Evaluator have occurred since the last submission from the Independent Evaluator; and
- no set of facts exist which would constitute a conflict of interest or appearance of conflict of interest between the Independent Evaluator and the Intermediary or the Independent Evaluator and the Owners of properties covered by the invoice.

Invoices will also include current utility allowances and rents for all affected units (which were set at the beginning of the billing period using calculated savings and adjusted rents and utility allowances to go into effect the beginning of the next billing period (for invoices that coincide with the property's annual rent adjustment cycle). Property owners will be expected to submit the necessary budget documentation to effectuate the required UA and utility budget line item adjustments.