



## **SLFRF Accelerator**

### **Mixed Income Market Fund**

#### **Program Guidelines**

## PROGRAM OVERVIEW

The Department of the Treasury has made available more than \$350 billion in Coronavirus State and Local Fiscal Recovery Funds (SLFRF), a part of the American Rescue Plan Act (ARPA) to state, local, and Tribal governments across the Country to support their response to and recovery from the COVID-19 public health emergency.

The Delaware State Housing Authority (DSHA) has allocated up to \$7 million in financing to the Mixed Income Market Fund (MIMF), formerly known as the Market Rate Accelerator. The purpose of this program is to incentivize housing developers to provide affordable rental units at 65% AMI rent limits ("Affordable Units") in planned market rate rental development projects by providing favorable financing to fund the construction or operation of affordable units. Planned market rate rental developments are defined as those approved by local jurisdictions and/or already under construction.

## FUNDING AVAILABILITY

- Up to \$7 million State and Local Fiscal Recovery Funds (SLFRF) to establish the Mixed Income Market Fund.
- Awards range from \$125,000 to \$150,000 per unit, dependent upon unit size.
- Applications for this funding will be accepted on a rolling basis through September 30, 2024.

## ELIGIBLE ASSISTANCE

To be eligible, a developer must offer rents that are affordable to households at or below 65% AMI at the time of initial occupancy per HOME income and rental limits. Developers must commit to a minimum of five (5) Affordable Units with a maximum of 15% of total units designated as Affordable Units per participating development. To apply, a development must have a minimum of 34 total units. Affordable units must be scattered throughout the site, not grouped into one area, and must offer the same amenities and finishes as the market rate units. Minimum/maximum threshold per unit value for developers is established at \$125,000 per 1-bedroom unit, \$135,000 per 2-bedroom unit, and \$150,000 per 3-bedroom unit. DSHA reserves the right to adjust thresholds according to community needs.

## APPLICATION INFORMATION

### ELIGIBILITY

- Developers must be willing to offer rents that are affordable to households at or below 65% AMI at time of initial occupancy per HOME income and rental limits.
- Planned projects must be approved by local jurisdictions or already under construction.
- Developments already under construction are eligible to apply for permanent funding to provide affordable units. See below for additional details.



- Developments requesting construction financing to commence construction are eligible to apply for funding to provide affordable units. See below for additional details.

The MIMF program offers two tracks for developers to apply: The Construction Financing track or the Permanent Financing track.

### CONSTRUCTION LOAN TRACK

Construction financing may be allocated to developers during construction, if need is demonstrated, in order to commence the housing project. Construction financing will roll to permanent financing and remain as part of the capital stack for the stated affordability period. The Developer must submit an application for a Construction Loan. DSHA will review the documentation provided and evaluate the reasonability of the construction costs, the financial feasibility of the project, and will ensure that the application meets all other MIMF requirements. Upon approval, the Developer and DSHA will execute a Loan Agreement at the time of construction closing. A mortgage will secure the property, record the required 20-year affordability period, and define the responsibilities of the owner/developer.

The Construction Loan will be funded by a series of four (4) approved construction draws. These draws will occur at 25% construction completion, 50% construction completion, 75% construction completion, and following the issuance of the Certificate of Occupancy. DSHA will rely on the draw approval documentation from the Developer's Lender and/or inspection reports to confirm construction progress at 25%, 50%, 75%, and Certificate of Occupancy. For each draw, Developers will submit via email a draw package to DSHA that will consist of a coversheet and the aforementioned relevant documents.

All compliance and affordability requirements will apply. Applications must be submitted prior to commencement of construction.

### PERMANENT FINANCING TRACK

Permanent Financing will be allocated to developments which have begun construction and will be incorporating affordable units as part of the MIMF program. The Developer must submit an application for a Permanent Financing Loan. DSHA will review the documentation provided and evaluate the reasonability of the construction costs, the financial feasibility of the project, and will ensure that the application meets all other MIMF requirements. The Developer and DSHA will execute a Loan Agreement. This step may happen prior to the issuance of the Certificate of Occupancy but will not change the timing of funding release; funding will not be released prior to execution of the Loan Agreement. A mortgage will secure the property, record the required 20-year affordability period, and define the responsibilities of the owner/developer. All compliance and affordability requirements will apply. The cutoff for individual application submissions will be at the issuance of the Certificate of Occupancy for the development.

### COMPLIANCE REQUIREMENTS

1. Initial Lease up Requirements:
  - a. All residents of the household ages 18 or above must sign individual income verification forms authorizing the owner or its management agent representative to verify total



household income and household eligibility to occupy the Affordable Unit. They must provide either their most recent tax return statement or an affidavit attesting to their income.

- b. At the time of lease up, the household income must be certified as being at or below 65% AMI of the HOME income limits. Incomes will be certified in accordance with **LIHTC/HUD 4350.3, Change 4. (Revised 11/13)**.
2. Sustained Lease Requirements:
    - a. Tenants of Affordable Units will be required to self-certify their yearly financial income to the leasing office using the DSHA Annual Tenant Income Self-Certification Form for the four (4) years of occupancy after initial income certification, for a total of 5 years.
    - b. Beginning in the tenants' sixth year of occupancy, the tenant must recertify with the leasing office using their tax return. This cycle of self-certifications and full certifications will continue for the duration that the household occupies an Affordable Unit.
    - c. Tenants are required to self-report change of income within 90 days to the leasing office.
    - d. To the extent that a tenant and/or household income increases while living at the development in the Affordable Unit, the household cannot be required to move from the unit for reasons related solely to income increases. **(See Section 3.D. II-IV)**.
  3. Developer/Owner Responsibilities:
    - a. The rental rate will be established at the lesser of either the HOME established rents at the time of lease up for households at or below 65% AMI, the FMR, or \$200 less than that currently being charged for comparable market rate units at the site.
    - b. Provide a certified rent roll at placed-in-service indicating the rents charged for the Affordable Units.
    - c. Provide a self-certification of prices of market rate units of comparable size within the complex.
      - i. Note: DSHA will use market research to validate prices.
    - d. Maintain accurate accounting/record keeping of Affordable Unit household AMI and rent levels.
      - i. Establish bi-annual meeting with DSHA Mixed Income Market Fund representative regarding status of unit(s) occupancy.
      - ii. Conduct threshold meetings to provide information and guidance (next steps) to residents of Affordable Units whose household income exceed 75% AMI.
        1. Information will be made available online, in print, and will adhere to ADA standards.
        2. Meetings with Affordable Unit households whose income exceeds 75% AMI must be documented. Documentation from the meeting will be made available to DSHA upon request.
      - iii. In the case of Affordable Units with households whose income rise above 80% AMI, the unit shall continue to meet the requirements of the program as an Affordable Unit until a comparable unit is available. However, the owner must designate the next comparable available unit as an Affordable Unit. Once the new Affordable Unit has been designated, the owner will class the now over-income unit as a Market Rate Unit. At all times, the number of units for which MIMF



financing was provided shall be occupied by households whose incomes do not exceed 65% AMI as of the time of the initial lease up period.

- iv. Next Comparable Available Unit Definition – This shall be defined as an Affordable Unit of similar size and amenities to the now-Market Rate Unit it is replacing to maintain MIMF compliance.
  - e. A tenant whose income has increased to 80% AMI or above may be subject to market rate rents at the end of the term of their current lease. Annually, the developer must submit to DSHA a certified rent roll showing the rents being charged for the Affordable Units and the income certifications for the households of those units. This rent roll will be used to confirm compliance with the stated rental rate requirements (the lower of the HOME established rents at the time of lease up for households at 65% AMI, the FMR, or \$200 less than that currently being charged for comparable market rate units at the site).
  - f. Maintain compliance with the program on all Affordable Units and pay the associated fees as follows:
    - i. Legal Fees related to closing on the lending (including mortgage and restrictive covenants) will be charged on an hourly basis up to a maximum of \$11,000.
    - ii. Compliance Fees will be charged as a one-time fee of \$600/affordable unit.
    - iii. Asset Management Fees will be charged as a one-time fee of \$250/affordable unit.
  - g. If requesting assistance with construction financing, the developer must submit a schedule of sources and uses for the project. Construction financing will be awarded based on the affordable units provided, as described in the Eligible Assistance section of these guidelines.
4. DSHA Responsibilities:
- a. Upon request, DSHA will provide established [HOME rent limits](#) per household size/ by County.
  - b. Review income certifications at move-in and annually, as submitted by Leasing Office.
    - i. DSHA will supply leasing office with Delaware State Housing Authority Annual Tenant Income Self-Certification Form.
  - c. Review certified rent rolls to ensure compliance with MIMF guidelines including, but not necessarily limited to, household income limits and maximum rent limits.
  - d. Assess and collect penalties due from owner/developer due to noncompliance.
5. Penalty for Noncompliance:
- a. Developer will have an affirmative responsibility to notify DSHA immediately if any noncompliance with MIMF rules or terms of the Loan Agreement occur.
  - b. Upon discovery of noncompliance, DSHA will provide owner with a 90-day cure period.
  - c. If the noncompliance is not cured, Developer will be required to return all MIMF Program funds advanced by DSHA for the non-compliant unit, along with any interest accrued within 5 days of DSHA's written notification to Developer that noncompliance has not been cured.

## AFFORDABILITY PERIOD

The affordability period is 20 years. Early repayment is permissible; however, the affordability restriction will remain on the property for the duration of the affordability period, regardless of when the loan is paid



in full. For developments that agree to a 30-year affordability period, the MIMF loan will be forgiven over a period of 10 years, starting with year twenty-one.

## OTHER RULES AND RESTRICTIONS

- Any development using other federal funding sources in addition to SLFRF will trigger Davis Bacon wage requirements.
- In the event of conflicting requirements of funding sources, the most restrictive rules will apply.
- Projects cannot layer Downtown Development Districts (DDD) funding with MIMF.