

**Market Pressure Relief Fund
State and Local Fiscal Recovery Funds
Program Guidelines
CFDA 21.027**



STATEMENT OF OBJECTIVES

The Department of the Treasury 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) recognizes that the COVID-19 Pandemic has created unprecedented increases in construction material costs. To assist cost overruns caused by current market conditions, DSHA has made available \$9MM in SLFRF to create the Market Pressure Relief Fund (MPRF) program. This program will provide additional funding for Low Income Housing Tax Credit (LIHTC) and DSHA-funded multifamily projects currently under construction with documented construction material price increases.

FUNDING AVAILABILITY

- \$9,000,000
- Awards are limited to the lesser of the funding request amount, seven percent (7%) of the initial construction contract, or \$1.5MM. DSHA will evaluate the information provided within the application to determine the total MPRF award amount.
- All funds **must** be expended by December 31, 2023. Failure to meet this deadline will result in the recapture of SLFRF funding by DSHA.

ELIGIBLE ASSISTANCE

- Increased construction material costs

Eligible construction material cost increases must be documented increases in excess of the initial construction contract at the time of Notice to Proceed (NTP) issued by the Architect plus all approved change orders and budget reallocations up until the date of application for this program.

Requests are limited to only increases in construction materials. The program will not provide funding for any labor cost increases, General Requirements or Overhead & Profit mark-ups on material cost increases (either for the General Contractor or subcontractors), schedule escalations, or any soft cost increases. Funds may not be used to offset any downward adjusters to the equity pricing, deferred developer fee, or previously committed financing sources including General Partner/Managing Member (GP/MM) contributions.

The award will be structured as a loan to the owner (LP or LLC), deferred for 30 years at 1% interest. Beginning at year 20, a prorated portion of the loan may be forgiven calculated on the outstanding principal and remaining term of the loan. Any principal or interest still outstanding at the time of refinance, sale of the property, or resyndication will become due and payable. LIHTC developments should consult their tax and/or legal professional to discuss any potential basis implications associated with principal forgiveness.

ELIGIBLE APPLICANTS

- Developers of LIHTC and DSHA-funded multifamily projects under construction during the period of December 1, 2020 through June 31, 2022.

Under construction is defined as having achieved construction closing and the construction NTP has been issued by the Architect.

APPLICATION INFORMATION

- Applications will be accepted on a rolling basis until January 31, 2023.
- Required Application Documentation:

Narrative Request Memo

- A formal request for the material cost overruns to include:
 - Specific dollar amount of additional funding.
 - Statement acknowledging the funding amount only covers increases in construction costs related to material cost increases.
- An estimate of all outstanding change orders. Estimate should be broken down by activity and dollar amount.
- Outline of the changes between current sources of funds opposed to closing sources of funds (if applicable).
- Efforts made to secure additional funding for cost overruns e.g., additional fundraising, increased deferred developer fee, GP/MM contributions, etc.
- Detailed timeline to permanent conversion. Include any significant deadlines e.g., funding expirations, placed in service deadlines, etc.

Cost Overrun Worksheet

- A project Cost Overrun Worksheet and supporting documentation that may include, but is not limited to, invoices from suppliers or subcontractors. The corresponding proof of payment should be provided.
- Cost overrun estimates for work not yet completed may be included. These estimates must be based on current material pricing and the percentage of work not yet completed. The applicant should include the corresponding calculations.

Updated Financing Commitments

- Updated financing commitments, if applicable.
- Documentation of any additional financing obtained during the course of construction.
- Updated Part II Pro-Forma (for additional financing other than the MPRF).
 - Updated financing source information
 - Updated eligible construction costs and soft costs
 - Updated operating expenses

OTHER INFORMATION AND REQUIREMENTS

- Funds will be awarded on a “First Come, First Served” basis. Submission of this application does not guarantee an award of MPRF funding.
- If funding is still available, DSHA may, at its sole discretion, increase individual project award caps to cover otherwise eligible material cost overruns.
- Fund Layering:
 - Projects may be funded with both ARPA funds (State and Local Fiscal Recovery Funds) and other sources of funding by blending, braiding, or pairing provided the costs are eligible costs under each source program and are compliant with all other related statutory and regulatory requirements and policies, including restrictions on use of funds. Funds must be complimentary and non-duplicative.
- Developments still under construction at time of application:
 - Applicant may receive payment on approved cost overruns as of application up to 70% of the total award. Payment will not be made for costs not yet incurred.
 - Costs incurred after award will be paid through the draw process as established by DSHA’s Cost Certification and Draw Guide.
 - Award is subject to a 10% holdback until the cost certification is approved.
 - A Change Order (CO) to the construction contract for the material cost increase must be approved by all parties before funds may be drawn down. Multiple COs will be permitted as appropriate for tracking purposes.
- Developments having received a Temporary Certificate of Occupancy or Certificate of Occupancy:
 - Applicant may receive payment on approved cost overruns as of application up to 90% of the total award.
 - Award is subject to a 10% holdback until the cost certification is approved.
 - A Change Order to the construction contract for the material cost increase must be approved by all parties to document the final construction contract amount.
- The general contractor will be required to make payments to subcontractors as appropriate. Release of Liens for funds will be required for all subcontractors and the general contractor.
- Project Owners of any properties receiving SLFRF loans which also receive LIHTC financing must agree to waive their right to request a qualified contract as defined in Section 42(h)(6)(F) of the Internal Revenue Code and repay any loaned funds if the property becomes noncompliant.
- Presumptive Eligibility - The Market Pressure Relief Fund meets the Treasury’s enumerated eligible use “Development, repair, and operation of affordable housing and services or programs to increase long-term housing security.” The MPRF program meets the Treasury’s “Presumption 1” category as an eligible use of funds, as any project that is eligible to be funded under one of the enumerated programs.
- The project must at minimum comply with the following requirements for the enumerated presumptively eligible programs:
 - Resident income restrictions;
 - The period of affordability and related covenant requirements for assisted units;
 - Tenant protections; and
 - Housing quality standards.