

# FREQUENTLY ASKED QUESTIONS

## For the Rental Preservation Loan Program (RPLP)

Published: March 14, 2024

*Please note that this document has been updated from the previously-published versions on March 1, February 22, February 14 and February 7, 2024. Changes included:*

- *March 14, 2024 version: added a new question on SAM.gov registration (number 4 in the Federal Cross-Cutting Requirements section)*
- *March 1, 2024 version: added paragraph 5 (additional guidance from HUD on example activities) to question (1) on choice limiting activities in section III. Federal Cross-Cutting Requirements*
- *February 22, 2024 version: added two new questions (numbers 4 and 5 in the General Questions section)*
- *February 14, 2024 version: included a response to question (1) on choice limiting activities in section III. Federal Cross-Cutting Requirements*
- *February 7, 2024 version: first published version*

*No other changes have been made.*

The following is a guidance document published by the North Carolina Housing Finance Agency for the purpose of providing answers to frequently asked questions about the 2024 cycle of the Rental Preservation Loan Program (RPLP).

This guidance document covers questions in several topic areas and is divided into parts that contain questions on that part's topic.

### **I. General Questions**

(1) What properties are eligible to apply for RPLP funding?

Eligible properties within the geographic boundaries of North Carolina that demonstrate a need for RPLP funds based on a project budget and projected cash flow must meet the following criteria:

- Projects that have a matured Agency loan or has an existing Agency loan that is within 1 year of the loan maturity date, and the project is subject to Agency deed restrictions and is currently being monitored by the Agency. For the initial round of funding, the property must have an Agency loan with a maturity date of **February 2025 or earlier**.
- Projects with a property owner in good standing with the Agency and eligible to apply for Agency programs.
- Projects that have a demonstrated need for rehabilitation.

For additional information on eligibility and eligible uses of funds, please see the RPLP Program Guidelines at

<https://www.nchfa.com/rental-housing-partners/rental-preservation-partners>.

- (2) What is the difference between the two types of operating subsidies – the capitalized operating subsidy reserve and the operating deficit reserve – and how applicants should size their requests?

RPLP applicants with projects that do not have project-based rental assistance may request a *capitalized operating subsidy reserve* if they can demonstrate a financial need in order to have rents affordable to households earning at or below 30% of AMI or, for those projects receiving National Housing Trust Fund dollars, at or below the federal poverty line (whichever is greater). The Agency will evaluate the need for a capitalized operating reserve during underwriting of the application. The capitalized operating subsidy reserve is fully capitalized at project closing.

The Agency may require participation in an *operating deficit reserve payment plan* if a project does not meet the minimum cash-flow requirements (\$500 per unit per year) for the duration of the loan period. The operating deficit reserve starts at a \$0 balance at loan closing and will be funded monthly through a portion of the project's mortgage payment to the Agency in early years to be used in later years where a deficit is anticipated.

The applicant does not need to propose the operating reserve amounts at the time of application. The Agency will size the proposed operating reserve as part of the underwriting process.

See the RPLP Program Guidelines Sections 1.11 and 1.14 for more information at <https://www.nchfa.com/rental-housing-partners/rental-preservation-partners>.

- (3) For properties with existing Agency loans, will existing loans roll over into the new capital stack in addition to the newly-awarded RPLP funds, or are the RPLP funds intended to both pay off existing Agency debt and fund the rehabilitation?

RPLP funds will not be used to pay off the existing Agency debt. The existing Agency loan will be extended to match the term of the new RPLP loan. The Agency may concentrate the monthly mortgage payments on the existing debt to pay it off quicker during underwriting, and delay the start of payments on the new loan until the existing debt is paid in full. This option will be evaluated on a case-by-case basis during underwriting.

- (4) Can a multi-phase project apply under a single RPLP application?

Yes, a multi-phase project may apply under a single application provided that at the time of closing for the RPLP loan, the multiple phases are consolidated into a single project owned by one entity. This does not materially change the program rules. The application is subject to the loan caps and all requirements in the RPLP Program Guidelines. NCHFA will allow 2024 applicants that met the deadline for the Project Description & Questionnaire Form to add or consolidate additional phases of the same project to the full application.

- (5) Are projects that are just pursuing rehabilitation with no acquisition still required to do an appraisal?

Yes, all applications are required to submit an "as is" appraisal by an independent qualified appraiser, furnished at full application. For additional appraisal requirements, please refer to the RPLP Program Guidelines at <https://www.nchfa.com/rental-housing-partners/rental-preservation-partners>.

## **II. Capital Needs Assessment (CNA)/Physical Needs Analysis (PNA)**

- (1) What are the PNA/CNA requirements?

Capital Needs Assessments (CNAs), also known as Physical Needs Analysis (PNA), are property inspection reports that document the current condition of all major building components, recommend specific improvements, and estimate the future costs of property maintenance, as well as determining the cost to repair any parts of a property that must be fixed urgently.

Capital Needs Assessment/Physical Needs Analysis must address all major systems and provide a unit-by-unit recommended plan of action—listing the system and providing a recommendation for either replacement, repair/upgrade, or no action needed. Additionally, the CNA/PNA must identify deferred maintenance items that need addressing. These items include floor coverings, paint, light fixtures, smoke detectors, appliances, etc.

If the CNA/PNA concludes that the useful life of one or more major systems in the proposed project does not meet the minimum period of affordability, the Agency may require the owner to establish an appropriately-funded replacement reserve.

- (2) Do CNA/PNAs need to be completed by a third-party or can the project architect do it?

For multifamily projects of 26 or more units, the CNA/PNA must be completed by a qualified third party to support the scope of the planned rehab. A qualified third party includes the project architect, as long as the project architect has no identity of interest with the developer, or by a qualified and independent third party who has no identity of interest with any of the members of the Development Team.

For projects with less than 26 units, the CNA/PNA must be completed, but may be completed by the applicant or a qualified member of the applicant's team.

- (3) Does the Agency have a list of preferred or recommended CNA providers?

The Agency does not make recommendations for service providers. Please refer to our RPLP Program Guidelines for more information about CNA/PNA requirements at <https://www.nchfa.com/rental-housing-partners/rental-preservation-partners>.

### III. Federal Cross-Cutting Requirements

- (1) How do choice limiting activities fit in with existing operational apartment communities?

Existing operational apartment communities are expected to conduct regular maintenance of the property. Maintenance is categorically excluded from environmental assessment under the National Environmental Policy Act (NEPA) and not subject to compliance requirements of the related federal environmental laws.

However, distinguishing between maintenance activities and more extensive repair and rehabilitation activities requires careful consideration. HUD Notice CPD-16-02 provides information that can help assist in determining whether an activity is maintenance and therefore exempt from further environmental review, or, if it is rehabilitation, and subject to environmental review. HUD Notice CPD-16-02 also provides specific examples of activities that do and do not qualify as maintenance.

#### [HUD Notice CPD-16-02 Guidance for Categorizing an Activity as Maintenance](#)

General examples of maintenance activities for environmental review purposes:

1. Cleaning activities;
2. Protective or preventative measures to keep a building, its systems, and its grounds in working order;
3. Replacement of appliances that are not permanently affixed to the building;
4. Periodic replacement of a limited number of component parts of a building feature or system that are subject to normal wear and tear;
5. Replacement of a damaged or malfunctioning component part of a building feature or system. (Replacement of all or most parts or an entire system is not maintenance.)

[Click here for additional guidance from HUD](#) on example activities that are not subject to further environmental review because they fall under 24 CFR 50.19(b) as maintenance, engineering and design, inspection and testing, pre-development costs, purchase of equipment, etc. This additional guidance should be used in conjunction with [Notice CPD-16-02: Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58.](#)

If you have questions about specific activities for your project, please email [EAQuestions@nchfa.com](mailto:EAQuestions@nchfa.com).

- (2) What is Section 3 and are the Section 3 “benchmarks” in fact thresholds or benchmarks?

The “Section 3” statute is found within the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and its regulations at 24 CFR Part 75 and 24 CFR Part 135. Section 3 seeks to ensure that employment and other economic opportunities generated by the applicable HUD financial assistance shall, to the greatest extent feasible, be directed to low- and very low-income individuals. Among other HUD funds, Section 3 applies to projects receiving HOME or NHTF funding. In general and when applicable, Section 3

requires fund recipients, subrecipients, contractors, and subcontractors to make best efforts to hire/contract low- and very low-income workers with priorities for certain other populations.

In order to comply with Section 3 requirements, covered parties must either meet the quantitative Section 3 benchmarks **or**, if meeting benchmarks is not feasible, then report on the qualitative efforts pursued in attempting to meet the benchmarks. Section 3 regulations provide a non-exhaustive list of qualitative efforts to be reported upon at 24 CFR §75.25(b)(1)-(14).

The quantitative benchmarks require that at least 25% of total labor hours are worked by a Section 3 Worker **and** at least 5% of total labor hours are worked by a Targeted Section 3 Worker.

For more information, please see the Agency's Section 3 webpage at <https://www.nchfa.com/rental-housing-partners/rental-developers/section-3-local-jobs-initiative>.

(3) What is the developer fee structure and how does this relate to Section 3 requirements?

Developers who receive a federally-funded RPLP loan and who are able to meet or exceed the quantitative Section 3 benchmarks will be able to take an additional 2% of rehabilitation costs and add to their Developer Fee for a total maximum Developer Fee of 15% of rehabilitation costs.

Developer fee max without meeting the quantitative Section 3 benchmarks, or with a state-funded RPLP loan, shall not exceed 13% of rehabilitation costs.

(4) Does the SAM.gov registration need to be in place by the full application deadline?

No, but the Agency must be able to verify your SAM.gov registration prior to making an RPLP award.