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The Real Estate Roundtable

January 18, 2023

Submitted via [www.regulations.gov](http://www.regulations.gov)

The Honorable Michael S. Regan, Administrator  
Mr. Joseph Goffman, Principal Deputy Assistant Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

**Re: Docket ID Nos. [EPA-HQ-OAR-2022-0873](#); [EPA-HQ-OAR-2022-0878](#)  
Comments on *Inflation Reduction Act (IRA)* Programs: Climate  
Pollution Reduction Grants [60114], Low Emissions Electricity  
Program [60107], and GHG Corporate Reporting [60111]**

Dear Administrator Regan and Principal Deputy Assistant Administrator Goffman:

The Real Estate Roundtable ([www.rer.org](http://www.rer.org)) (“The Roundtable”) appreciates this opportunity to comment on EPA’s implementation of *IRA* grant programs in the above-referenced dockets. The Roundtable brings together the leaders of the nation’s top publicly held and privately owned real estate ownership, development, lending, and management firms, together with the leaders of major real estate trade associations, to jointly address national policy issues relating to real estate and the overall economy. The addendum to this letter provides more information on The Roundtable.<sup>1</sup>

**SUMMARY**

**Climate Pollution Reduction Grants:**

- Any jurisdiction seeking *IRA* grants for Building Performance Standards (BPS) must commit to using federal tools, resources, and data to develop and implement those state and local mandates, including:
  - EPA’s ENERGY STAR Portfolio Manager for buildings to measure and manage energy consumption, water use, waste disposal, and GHG emissions;
  - The GHG Emissions Calculator housed within Portfolio Manager, to enable a building to estimate historical, current, and future GHG emissions resulting from energy use;
  - EPA’s standard factors to convert various fuel types to GHG emissions – including the latest eGRID factors needed to estimate Scope 2 emissions from purchased electricity under the “location-based” method for GHG accounting; and

<sup>1</sup> See <https://www.rer.org/about-us/mission>.

- Metrics recommended by EPA to states and localities for BPS purposes that assess energy efficiency through normalized Site Energy Usage Intensity (“Site EUI”), and quantify carbon impacts through measurement of onsite “Direct GHG Emissions.”
- Utilities should be eligible for *IRA* grants to develop technology solutions that provide owners of multi-tenant buildings with “whole building” energy consumption data.
  - *IRA* dollars can help utilities develop software to provide aggregated, anonymized energy consumption data across all leased spaces in multi-tenant structures – in a form that allows automatic uploading into Portfolio Manager.
  - Building owners need whole-building consumption data, including energy used by their tenants, to comply with state/local BPS mandates. Owners also need access to whole-building energy data from utilities to attain the *IRA*’s tax deduction at Section 179D(f), that rewards retrofits only if the project substantially reduces Site EUI throughout an *entire* asset.

#### **Low Emissions Electricity Program Grants:**

- The federal government’s recently released BPS (“Federal BPS”) that governs its owned assets should provide the basis for any *IRA*-supported building electrification partnerships.
- The Federal BPS incorporates a concept of “practicable electrification,” recognizing that “full electrification” of certain buildings may not be achievable today. Partnerships and case studies that deploy cost-effective projects, using the Federal BPS as a guide, can likely attract private sector interest and help accelerate progress toward building electrification goals.

#### **GHG Corporate Reporting Grants:**

- EPA grants received under the *IRA* to promote corporate climate reporting standards should prioritize consistency for accounting practices regarding Power Purchase Agreements (PPAs) and associated Renewable Energy Certificates (RECs). These instruments quantify new megawatts of clean generation and can reduce Scope 2 emissions impacts attributable to purchased electricity.
- Corporate climate reporting grants should also focus on standardizing Scope 3 accounting for embedded carbon in upstream construction materials and building products purchased by real estate owners and developers.

### **Docket 1, Climate Pollution Reduction Grants** **EPA-HQ-OAR-2022-0873**

- **A state or locality seeking *IRA* grants for Building Performance Standards (BPS) must commit to using federal tools, standards and data as the foundation for those mandates.**

EPA received \$5 billion for state, city, and state agency grants to assist with a host of GHG reduction efforts. This funding could include federal support for local governments to develop and implement BPS requirements for buildings to reduce energy consumption and/or lower GHG emissions.

Any *IRA* grants used for BPS purposes should foster consistency among state and local mandates. Dozens of building-related climate laws have emerged across the United States, often with

different methods and metrics for compliance.<sup>2</sup> This BPS hodge-podge obfuscates the public’s ability to compare and contrast standards from one jurisdiction to the next, complicates regulators’ enforcement, hinders responsible investment strategies, and unduly complicates compliance by building owners and managers with nationwide portfolios.

EPA and other federal agencies have already developed data sets, tools, and protocols that real estate companies use to inventory, manage, and reduce GHGs emissions. To encourage greater consistency and comparability among state and local programs, *IRA* “Pollution Reduction Grants” should not be awarded for BPS purposes unless they rely on the following federal resources:

**(1) *EPA’s Portfolio Manager***

Virtually all benchmarking and related BPS mandates require building owners to track their assets’ energy consumption. EPA’s Portfolio Manager should be the benchmarking tool states and localities offer for compliance with BPS and related laws. “Nearly 25% of U.S. commercial building space ... actively benchmarks in Portfolio Manager — making it the industry-leading benchmarking tool.”<sup>3</sup> Any BPS jurisdiction seeking an *IRA* grant should not be eligible for federal funds unless its regulatory regime relies upon Portfolio Manager for owners to measure and manage – on a per square foot basis – a building’s energy use and emissions.

**(2) *Portfolio Manager’s GHG Emissions Calculator***

BPS laws frequently require specific assets to calculate emissions. EPA’s [GHG Emissions Calculator](#) expands on Portfolio Manager’s functions to “estimate historical, current and future annual greenhouse gas emissions resulting from [a] building’s energy use.” EPA further informs that its calculator helps foster seamless compliance with BPS benchmarking and reporting mandates, by enabling real estate owners to “import your data directly from Portfolio Manager—or enter it manually—to see estimated GHG emissions from energy use at your building and portfolio, customize emissions factors, and forecast emissions scenarios.”<sup>4</sup>

An *IRA* grant should not be awarded to a jurisdiction if its BPS ordinance does not permit GHG calculations using EPA’s emissions quantification tool.

**(3) *US-EPA’s Emissions Factors – including eGRID electricity factors***

Compliance with BPS laws typically requires steps to convert various fuel sources consumed in an asset to GHG emissions using certain “factors” or “coefficients.” No *IRA* “Pollution Reduction Grant” supporting a BPS should be awarded unless the state or locality endorses *federal* conversion factors published and regularly updated by EPA.

EPA’s Center for Corporate Climate Leadership has created a “GHG Emissions Factor Hub”<sup>5</sup> as part of its “comprehensive resource[s] to help organizations measure and manage GHG emissions.”<sup>6</sup> The Hub publishes standard factors for Scopes 1 and 2 calculations for combustion of various fuels from stationary sources (such as boilers or furnaces); cars, construction equipment, and

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<sup>2</sup> Institute for Market Transformation (IMT) *Map: U.S. City, County, and State Policies for Existing Buildings: Benchmarking, Transparency and Beyond* (updated July 2022); *Map: National BPS Coalition Participating Jurisdictions*.

<sup>3</sup> See <https://www.energystar.gov/buildings/facility-owners-and-managers/existing-buildings/use-portfolio-manager>.

<sup>4</sup> See <https://portfoliomanager.energystar.gov/buildingEmissionsCalculator/>.

<sup>5</sup> See [Emission Factors for Greenhouse Gas Inventories \(epa.gov\)](#)

<sup>6</sup> See [https://www.epa.gov/sites/default/files/2015-08/documents/center\\_one\\_pager\\_revised\\_7-2015.pdf](https://www.epa.gov/sites/default/files/2015-08/documents/center_one_pager_revised_7-2015.pdf)

other mobile sources; and steam and heat. EPA’s factors also support calculations for certain Scope 3 categories from indirect “value chain” emissions.

Furthermore, the Hub’s electricity factors adopt the most recent coefficients published by EPA’s Emissions & Generation Resource Integrated Database (eGRID), the “preeminent source of air emission data for the electric power sector” in the United States.<sup>7</sup> eGRID considers the varying fuel mixes that power the electric grid across the nation<sup>8</sup> and provides EPA’s regional coefficients to convert electricity to GHG emissions – a key tool for Scope 2 reporting. Any BPS law that addresses Scope 2 emissions and receives federal grants should allow regulated stakeholders to use the latest eGRID factors for calculations under the GHG Protocol’s “location-based”<sup>9</sup> method. Moreover, electricity factors provided by local grid operators should be allowed for calculations under the “market-based” approach<sup>10</sup> (such as where a company enters into a contract with a utility or other entity to purchase clean power). As noted above, EPA’s GHG Emissions Calculator allows a company to “customize emissions factors”<sup>11</sup> for market-based calculations; however, use of federal eGRID factors under “location-based” accounting should be a permissible pathway for state/local BPS compliance.

The Roundtable takes this opportunity to note that a two-year lag persists between the collection of eGRID data from power plants, and EPA’s publication of electricity factors. For example, the latest eGRID factors scheduled for publication this month are based on plant data collected in 2021. The Roundtable continues to urge EPA to reduce the lag time between data collection and publication of the electricity coefficients, so that eGRID factors used today reflect more current grid conditions.

#### **(4) BPS Preferred Metrics: Site Energy Usage Intensity and Direct GHG Emissions**

BPS regulators typically select “metrics” for buildings to reduce energy use and/or GHG emissions to specified levels. In this regard, ordinances receiving *IRA* financial support should focus on reductions of Site Energy Usage Intensity (“Site EUI”)<sup>12</sup> and Scope 1 Direct GHG Emissions.<sup>13</sup>

Last year, EPA released guidance for state and local governments explaining that Site EUI and Direct GHG Emissions are the agency’s recommended BPS metrics.<sup>14</sup> EPA endorsed these

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<sup>7</sup> EPA, [eGRID Questions and Answers](#), Question (1), “What is eGRID?”

<sup>8</sup> See <https://www.epa.gov/egrid>.

<sup>9</sup> The World Resources Institute discusses “location-based” and “market-based” Scope 2 calculation methods in its [GHG Protocol Scope 2 Guidance \(Executive Summary\)](#) at 4 (2015).

<sup>10</sup> Independent System Operators or Regional Transmission Organizations (ISOs/RTOs) are local grid operators created by the Federal Energy Regulatory Commission (FERC). See Federal Energy regulatory Commission (FERC) website, [RTOs and ISOs](#). An ISO/RTO might provide a local grid conversion factor that reflects electricity purchased by a company (through contract or other legal instrument) to support its “market-based” Scope 2 calculation.

<sup>11</sup> *Supra* note 4.

<sup>12</sup> “Site EUI” is the amount of heat and electricity consumed by a specific building, usually expressed as a quotient that divides such energy consumption by the building’s square footage. It includes the raw fuels combusted onsite (such as gas or fuel oil to operate a burner), as well as an owner’s or tenant’s purchased electricity from the grid or purchased heat from a district energy system that is needed for the building to function. “Source EUI,” in contrast, is the *total* amount of raw fuel that is required to operate the building and incorporates all *offsite* transmission, delivery, and production losses beyond a building owner’s ability to control. See [https://www.energystar.gov/buildings/benchmark/understand\\_metrics/source\\_site\\_difference](https://www.energystar.gov/buildings/benchmark/understand_metrics/source_site_difference).

<sup>13</sup> Direct GHG emissions, known as “Scope 1,” are “emissions that occur from sources that are controlled or owned by an organization (e.g., emissions associated with fuel combustion in boilers, furnaces, vehicles).” See EPA website, [Scope 1 and Scope 2 Inventory Guidance](#).

measurements, among others, “[b]ased on analysis and input from policymakers, building owners, and other stakeholders concerning appropriate metrics and methods to ensure equitable BPS targets.”<sup>15</sup> EPA’s guidance further explains that BPS regimes should “normalize” Site EUI (based on data collected by a jurisdiction through its benchmarking laws) to reflect variables such as a building’s type, hours of operation, and weather conditions.

Compared to other possible metrics that reflect off-site characteristics beyond building boundaries, owners can generally control Site EUI and Direct Emissions. These metrics are manageable through cost effective investments in energy efficient systems, renewable technologies, and other measures deployed onsite and within a property’s physical parameters. Site EUI and Direct Emissions do not unfairly saddle building owners with regulatory responsibilities that depend on the percentage of renewable fuels that power the grid or district systems. Those are *off-site* issues regarding the performance of community-wide infrastructure that no particular building owner can control.

Moreover, Congress recently endorsed Site EUI as a metric to gauge building performance. The *IRA*’s new alternative pathway for the Section 179D(f) tax deduction depends on whether a retrofit project reduces Site EUI by at least 25% on a per square foot basis.<sup>16</sup> EPA has further announced that it is developing a “next generation” ENERGY STAR platform to recognize leadership in low-carbon buildings that reduce onsite Direct GHG emissions. “Pollution Reduction Grants” should buttress these corollary programs for 179D(f) tax deductions and ENERGY STAR “next gen” recognition. Site EUI and Direct GHG Emissions should accordingly provide the metrics in any BPS laws receiving *IRA* support.

- ***Utilities should be eligible for federal grants to develop technology solutions that provide owners of multi-tenant structures with “whole building” energy data.***

State/local BPS and similar laws depend heavily on whether commercial owners have access to their *tenants*’ energy consumption data. Because residential and business tenants control day-to-day functions in the spaces they lease, building owners frequently lack visibility regarding how much electricity, gas, or steam is consumed in a specific leased space that is individually metered and where the tenant pays power bills directly to a utility.

Utilities are best positioned to add-up readings from all of the individual energy meters in a building – from common areas (controlled by owners) plus leased spaces (controlled by tenants). EPA should accordingly make *IRA* monies directly available to utilities to develop, maintain, and refine software and technology platforms that allow them to provide anonymized, aggregated whole-building energy consumption data to owners of multi-tenant real estate assets. Federal grants should support IT solutions that provide whole-building energy data in machine-readable formats that allow for automatic uploading into the Portfolio Manager tool.<sup>17</sup>

Success of the *IRA*’s tax provisions provides another compelling policy reason for EPA to make grant money directly available to utilities for whole building energy data technologies. The new

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<sup>14</sup> [EPA Recommended Metrics and Normalization Methods for Use in State and Local Building Performance Standards](#) (updated Nov. 2022).

<sup>15</sup> See <https://www.energystar.gov/buildings/tools-and-resources/epa-recommended-metrics-and-normalization-methods-use-state-and-local-building>.

<sup>16</sup> 26 U.S.C. § 179D(f).

<sup>17</sup> Encouraging utilities to simply support the Energy Department’s [Green Button function](#) is not sufficient. The Green Button initiative is designed primarily as a single-meter reading function available for homeowners. It is not geared to provide commercial and apartment building owners with aggregated readings from multiple meters across numerous commercial and residential tenant spaces.

deduction at Section 179D(f) hinges on whether an existing building retrofit project reduces Site EUI by at least 25% compared to a building's pre-retrofit energy usage baseline. Compliance with 179D(f) will depend on lowering Site EUI throughout an *entire* building. Owners undertaking retrofits in multi-tenant assets will not be able to obtain the 179D(f) incentive unless they have access to leased space data to measure pre-retrofit Site EUI and compare that baseline to post-retrofit Site EUI improvements.

In short, *IRA* "Climate Pollution Reduction Grants" should serve the goal for utilities to develop and provide the technology for utilities to provide aggregated whole building data to multi-tenant building owners.

### Docket 6, Low Emissions Electricity Program

- **The federal government's recently released Building Performance Standard for its owned assets should shape any *IRA*-supported electrification "partnerships."**

EPA received \$87 million to support "education, technical assistance, and partnerships" that, among several goals, "would best incentivize efficient electrification in buildings."

EPA should turn to the federal government's own BPS to inform any building electrification partnership programs with private sector and other non-federal asset owners. The [Federal BPS](#)<sup>18</sup> recently issued by the White House Council on Environmental Quality (CEQ) applies to the 300,000 existing buildings in the U.S. government's owned portfolio. It sets a 2030 goal for each federal agency to eliminate Scope 1 emissions in 30% of its facilities.<sup>19</sup> CEQ's building standard "prioritiz[es] energy efficiency and the elimination of on-site fossil fuel use." It is billed as an intermediate step toward the Biden administration's ultimate goal of "net zero" emissions by 2045 across all federal facilities.<sup>20</sup>

The Federal BPS also allows for a "prescriptive pathway" – premised on a concept of "practicable electrification" – where a facility is unable to reach zero Scope 1 emissions:

Under the prescriptive pathway, agencies must implement all *practicable electrification* for space and water heating ... The prescriptive pathway recognizes that, for certain space heating and water heating loads, system configurations, or climate zones, *full decarbonization may not be practicable today*. For example, an agency may replace a small-sized, gas-fired packaged rooftop unit with an all-electric air-source heat pump, but in cold-climate zones, a dual fuel, gas-electric option may be justified."<sup>21</sup>

The Federal BPS further explains that "market availability" and "cost effectiveness" of electrification equipment are key to defining the term "practicable electrification." For example, "[l]arger furnaces/air handling units (AHUs) may not have direct heat pump equivalents. Heat pump replacement of larger capacity furnaces/AHUs may have space constraints (i.e., mechanical closet size)."<sup>22</sup>

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<sup>18</sup> Available at: [The Federal Building Performance Standard \(sustainability.gov\)](https://www.sustainability.gov/the-federal-building-performance-standard).

<sup>19</sup> See [White House Fact Sheet](#) (Dec. 7, 2022).

<sup>20</sup> [Exec. Order 14057](#) (Dec. 8, 2021).

<sup>21</sup> Federal BPS, at p. 9 (emphasis supplied).

<sup>22</sup> *Id.* at Appendix. 2, pp. 18-20.

The Federal BPS takes a realistic approach to current constraints that inhibit complete building electrification. Its “practicable electrification” standard can particularly accommodate the challenges presented to renovations in sizeable, existing assets. Larger buildings generally have large energy loads, lease space to a broad range of energy intensive tenants, and are difficult to completely and cost-effectively electrify. These buildings may lack available space to install equipment needed to serve significant loads. In addition, upfront electrification costs can skyrocket for commercial and multifamily owners who would need to displace tenants or keep leased spaces vacant while they replace existing oil and gas heating systems, rip out the interiors of properties, and in some cases abate hazardous materials like lead and asbestos.

[NYSERDA’s Empire Building Challenge](#) is one example of a public-private, high performance building partnership that EPA should consider as it evaluates similar programs that *IRA* funds may support. Buildings participating in NYSERDA’s challenge are eligible for financial incentives and recognition for their efforts to reduce energy consumption and in some cases move toward electrification. The program has partnerships with 16 real estate organizations who control over 228 million square feet of New York real estate.

Like the Federal BPS’s “practicable electrification” standard, NYSERDA’s building challenge should provide a paradigm for EPA to consider when deploying “Low Emissions Electricity Program” grants for electrification partnerships under the *IRA*.

### [Docket 6, GHG Corporate Reporting](#)

- ***IRA* grants can help standardize corporate climate reporting regarding: (1) accounting for Power Purchase Agreements (“PPAs”) and associated Renewable Energy Certificates (“RECs”); and (2) embodied carbon in construction, building, and other materials purchased by real estate owners and developers.**

EPA received \$5 million under the *IRA* “[t]o enhance standardization and transparency of corporate climate action commitments.” For starters, EPA can make significant strides toward this objective by endorsing its own data, tools, and resources, discussed above under “Climate Pollution Reduction Grants,”<sup>23</sup> when companies set and report on climate-related targets.

Furthermore, EPA can be more active in the space around corporate standards that account for climate reporting on PPAs<sup>24</sup> and RECs used to minimize impacts from Scope 2 emissions.<sup>25</sup> As eGRID’s Power Profiler portrays,<sup>26</sup> no electric grid in the country is close to 100% reliant on renewable energy. Buildings – and the people who live, work, lease space, and recreate in them – will continue to generate GHG emissions if only because power plants will continue to combust fossil fuels as they supply electricity to business, residential, and industrial consumers. Accordingly, EPA

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<sup>23</sup> See supra notes 3-16 and accompanying text.

<sup>24</sup> A PPA for renewable electricity “is a contract for the purchase of power and associated [RECs] from a specific renewable energy generator (the seller) to a purchaser of renewable electricity (the buyer).” EPA, [Green Power Markets](#).

<sup>25</sup> These comments follow the GHG Protocol’s definitions – also used by EPA – for “offsets and “RECs.” “Offsets” *reduce* a building’s overall GHG emissions (such as through activities like energy efficiency retrofits, offsite tree planting, or carbon sequestration projects). “RECs” are more specific “legal instruments” used in electricity markets. One REC accounts for one megawatt-hour (MWh) of clean electricity *generation* by onsite or off-site renewable sources that “reduc[e] ... market-based scope 2 emissions.” EPA, Green Power Partnership, [Offsets and RECs – What’s the Difference?](#) (Feb. 2018).

<sup>26</sup> Natural gas accounts for 40.5% of the fuel mix to generate electricity nationally, and coal accounts for 19.3%. See <https://www.epa.gov/egrid/power-profiler#/>.

The Honorable Michael S. Regan, Administrator  
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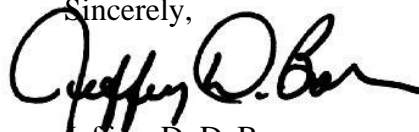
can help standardize reporting around Scope 2 emissions by clarifying the “quality control”<sup>27</sup> criteria for market-based PPAs and REC purchases as generally set forth in the World Resources Institute’s *GHG Protocol*.<sup>28</sup>

EPA can also make strides on Scope 3 reporting in the category of “purchased goods and services.”<sup>29</sup> Real estate developers lack standards in quantifying upstream emissions from cement, steel, and other materials used in construction. Likewise, building owners lack standards in quantifying upstream emissions from the carbon embedded in the broad range of products they purchase for furnishings, finishes, and tenant fit-outs. EPA should convene a series of stakeholder roundtables that connect product manufacturers and suppliers – with real estate developers and owners. Such an exercise would be a worthwhile use of *IRA* funds to help suppliers and purchasers alike develop data and standards they need to estimate and report their respective emissions.

\* \* \*

Thank you for this opportunity to present our perspectives. Please contact The Roundtable’s Senior Vice President and Counsel, Duane J. Desiderio ([ddesiderio@rer.org](mailto:ddesiderio@rer.org)), for more information.

Sincerely,



Jeffrey D. DeBoer  
President and Chief Executive Officer

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<sup>27</sup> See EPA, Center for Corporate Climate Leadership, [GHG Inventory Guidance – Indirect Emissions from Purchased Electricity](#) (Dec. 2020) at 1. EPA further states that RECs and PPAs “shall,” at a minimum, adhere to the “quality criteria” developed by the GHG Protocol for “[a]ll contractual instruments used in the market-based method for scope 2 accounting.” *Id.* at 12.

<sup>28</sup> The GHG Protocol’s [Scope 2 Guidance](#) (at p. 60) provides that “[a]ll contractual instruments used in the market for scope 2 accounting shall:

- “Convey the direct GHG emissions rate attribute associated with the unit of electricity produced.
- “Be the only instrument that carry the GHG emission rate attribute claim associated with that quantity of electricity generation.
- “Be tracked and redeemed, retired, or canceled by or on behalf of the reporting entity.
- “Be issued and redeemed as close as possible to the period of energy consumption to which the instrument is applied.
- “Be sourced from the same market in which the reporting entity’s electricity consuming operations are located.”

<sup>29</sup> See GHG Protocol, [Scope 3 Guidance, Category 1, “Purchased goods and services.”](#)



## ADDENDUM

### About The Real Estate Roundtable

<https://www.rer.org/about-us/mission>

The Roundtable's membership represents over 3 million people working in real estate; some 12 billion square feet of office, retail, and industrial space; over 4 million apartments; and more than 5 million hotel rooms. It also includes the owners, managers, developers, and financiers of senior, student, and manufactured housing as well as medical offices, life science campuses, data centers, cell towers, and self-storage properties. The collective value of assets held by Roundtable members exceeds \$4 trillion.

## Who We Are

