

NYS HOME Local Program Administrative Plan Homebuyer Down Payment Assistance With or Without Housing Rehabilitation

This Administrative Plan (Plan) describes the policies and procedures that must be followed by Local Program Administrators (LPAs) in the administration of a NYS HOME Local Program funded homebuyer assistance program with or without housing rehabilitation that may include rental units. If homebuyers are purchasing a 2 to 4 unit property.

This Plan contains both Federal and State HOME Program requirements that LPAs must follow in the administration of a HOME Local award and contract.

HTFC approval of the responses submitted to questions regarding this Plan is required prior to execution of a contract for a HOME Local award. Changes to this Plan are subject to prior approval by HTFC.

Policies and procedures contained in this Plan must be followed and will be enforceable along with all aspects of the contract and Federal HOME Investment Partnership Program regulations at 24 CFR Part 92.

Acronyms:

HUD:	Housing and Urban Development
HCR:	NYS Homes and Community Renewal
HTFC:	Housing Trust Fund Corporation
LPA:	Local Program Administrator
POA:	Period of Affordability
MWBE:	Minority/Women Owned Business Enterprise
IDIS:	Integrated Disbursement and Information System
WAP:	NYS HCR Weatherization Assistance Provider
EAU:	HCR's Environmental Analysis Unit
OCR:	Office of Community Renewal

- NYS HOME Local Program Manager: is assigned to the LPA at contract execution and is the HTFC OCR staff representative that will assist the LPA to administer the contract with HTFC.
- For the purposes of this Plan, homebuyer assistance with or without housing rehabilitation does not include homebuyer development projects, which is covered under the separate Homebuyer Development Administrative Plan.
- ALL FORMS and related documents referred to in this Plan are available on the HCR HOME Program website at: <https://hcr.ny.gov/nys-home-program>.

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1 General Program Administration Requirements

1.1 Use of Funds

1.1.1 Eligible Activities

- i. Homebuyer Purchase Assistance: funds may be used to assist a homebuyer to provide down payment and/or closing cost assistance to purchase a single family (1-4) unit, non-HOME assisted existing home or newly constructed home.
- ii. Homebuyer Purchase Assistance with Housing Rehabilitation: funds may be used to assist a homebuyer to provide down payment and/or closing cost assistance and funds for housing rehabilitation, to purchase a single family (1-4) unit, non-HOME assisted existing home. The housing rehabilitation must be complete within 6 months of purchase by the homebuyer.
- iii. LPAs may assist HOME eligible applicants making less than 80% of Area Median Income (AMI). There is no requirement that the applicant be a first-time homebuyer, however, the applicant must not own a home at the time of application for assistance.
- iv. If the LPA is going to assist homebuyers to purchase a 2 to 4 unit property, the section on Rental Unit Requirements of this Plan is applicable.

1.1.2 Market Need:

LPAs must conduct and document a market analysis to support there is a need for the specific type of HOME assisted homebuyer program to be offered in the service area. This analysis must be based on current relevant data from the service area that demonstrates a local market need for HOME funded down payment and closing cost assistance and if applicable, the need for funds for housing rehabilitation.

1.1.3 Form(s) of Assistance

- A. HTFC requires that the HOME assistance be secured with the HTFC Note and Mortgage. The LPA will be given the template for this document at contract execution. No other forms to secure the HOME investment will be accepted. The note and mortgage requires execution and public recording.

1.1.4 Program Budget

- A. The Program Budget is approved prior to contract execution and is included as an attachment to the contract and this Plan. It is enforceable along with all contract provisions. The budget must be in compliance with the NYS HOME Local Program Budget Policy available on the HCR HOME Program website.

- B. The total budget cannot be exceeded. HOME funds will not be disbursed over the amount originally approved.
- C. A variation from this budget in any line item by more than 10% requires HTFC prior approval. Offsetting decreases to HOME funds from another line item is required.
- D. Reimbursement for amounts over any line item will be withheld until approved by HTFC.
- E. Requests for budget revisions should be submitted to the LPAs assigned NYS HOME Local Program Manager.
- F. Requests for reimbursement must include a status of line items against the program budget.
- G. Other funds provided as HOME Match cannot be reduced in the budget without prior HTFC approval.

1.1.5 Program Schedule

- A. The Program Schedule is approved prior to contract execution and is included as an attachment to the contract and this Plan. It is enforceable along with all other contract provisions.
- B. A sample Schedule format is available on the HCR HOME Program website.
- C. The Schedule contains progress milestones that the LPA must report to HTFC. Failure to achieve milestones could result in suspension of funds, increased monitoring and possible required changes to program administration. Changes to the milestones require HTFC approval.
- D. The term of the contract is 2 years from the date of execution of the contract.
- E. Requests for extended time to complete the program must be approved by HTFC and will be limited or not approved.

1.1.6 Eligible Administrative and Project Delivery

- A. Administrative costs are costs that the LPA incurs in order to administer or manage its overall HOME program. LPAs may use up to 5% of their award for eligible administration costs.

- B. Project delivery are costs that the LPA incurs to pay staff to implement activities for specific units. LPAs may use up to 13% of their award for eligible project delivery.
- C. Eligible staff costs for administration and LPA project delivery are described in the NYS HOME Local Program Budget Policy, available on the HCR HOME Program website.
- D. LPA project delivery is required to be tied to a specific address, including documentation of specific projects in timesheets. The LPA must certify that it is keeping timesheets allocating time to specific projects to be able to invoice and must provide documentation of time sheets when requesting payment.
- E. LPA staff costs charged as project delivery may not be charged as Administrative costs.
- F. If a project is not completed, the LPA staff costs of project delivery may not be charged as project delivery, and may only be charged as an Administrative cost.
- G. All project delivery costs are subject to the maximum per unit assistance limits.
- H. Administrative and Project Delivery paid with HOME funds may not be charged to the homebuyer or included in the homebuyer's note and mortgage.

1.2 Environmental Review:

- A. 24 CFR 58.22 prohibits the commitment or expenditure of HOME funds or other funds until the programmatic environmental review (Tier1) process is completed and the environmental clearance and subsequent release of funds has been received. If prohibited activities are undertaken by an LPA prior to receiving the approval or release of funds, the applicant is at risk for the denial of assistance and repayment of HOME funds.
- B. Individual properties (units) will need to have site specific (Tier 2) environmental clearance before funds can be committed or set up in IDIS.

1.2.1 Tier 1 (Programmatic) Clearance

- A. After Award, the HTFC and the LPA conduct a programmatic Tier 1 review, which generally approves that program activities would not harm the environment in the service area. As a part of this process, the LPA must maintain a copy of the Environmental Review Record (ERR) and make it available for public review. It should

contain the program description and all environmental analysis, findings and complaints.

- B. LPA instructions to complete the programmatic review are available on the HCR HOME Program website.

1.2.2 Tier 2 (Individual Site Specific) Clearance

- A. Individual properties (units) will need to have Tier 2, site specific environmental clearance before the LPA can commit funds and set up the unit in IDIS.
- B. Entering into a purchase contract prior to receiving Tier 2 approval is a considered a choice limiting action unless the guidelines for option contracts or conditional contracts are followed. <https://www.hudexchange.info/resource/5032/hud-memo-guidance-on-options-and-conditional-contracts-for-purchase-of-real-property-for-environmental-reviews-conducted-by-a-responsible-entity-under-24-cfr-58/>

1.3 Other Federal Requirements

1.3.1 Non-Discrimination and Equal Access

- A. No person in the United States shall, on the grounds of race, color, national origin, religion, or sex be excluded, denied benefits, or subjected to discrimination under any program funded in whole or in part by HOME funds. LPAs are subject to all federal and State fair housing and equal opportunity laws and orders, as referenced in 24 CFR Parts 92.350 and 92.351 to include: Title V of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), The Fair Housing Act (42 U.S.C. 3601-3620.), Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259), Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107.)
- B. LPAs should refer to the HOME Local Program Fair Housing-Equal Opportunity-Affirmative Marketing Policy available on the HCR HOME Program website.

1.4 Workplace Requirements

- A. LPAs are subject to the Equal Employment Opportunity requirements related to nondiscrimination and equal access: The LPA shall comply with the following, as applicable. LPAs must not discriminate in hiring and employment practices. To comply, LPAs must:

- i. Post an Equal Employment Opportunity Poster in a conspicuous place (poster available at: <http://www.dol.gov/regs/compliance/posters/eeopost.pdf>);
- ii. Include the EEO tagline in all employment advertising: “All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin.”
- iii. Keep records of all employment actions and decisions, including job descriptions, postings, applications/resumes, interviews, tests, offers, written employment policies and procedures, and personnel files, and make available for inspection by state and federal agencies if requested.
- iv. If the LPA has 50 or more employees and a contract in excess of \$50,000, submit an annual EEO-1 Report (report form available at: <http://www.eeoc.gov/employers/reporting.cfm>).

B. LPAs with contracts in excess of \$100,000 are subject to the Drug-Free Workplace Act of 1988, which requires:

- i. Distribution of a policy statement to all employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy
- ii. Notification of employees that as a condition of employment on a Federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within five calendar days, if he or she is convicted of a criminal drug violation in the workplace
- iii. Establishment of a drug-free awareness program
- iv. If a covered employee is convicted of a criminal drug offense in the workplace, notify HTFC within 10 days, and require the employee to participate in drug abuse assistance or rehab program.

1.4.1 Affirmative Marketing

Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability.

- A. LPAs should refer to the HOME Local Program Fair Housing-Equal Opportunity-Affirmative Marketing Policy available on the HCR HOME Program website for

additional information as a basis for the creation of the LPAs Affirmative Marketing Plan.

- B. Each LPA HOME-funded program must have and follow an affirmative marketing plan consistent with the HOME regulations at 24 CFR 02.351. The plan must define the affirmative marketing procedures that will take place to provide information and otherwise attract eligible persons in the program service area to the available housing or assistance without regard to race, color, national origin, sex, religion, familial status or disability. Required elements of the plan include:
 - i. Identification of those persons across the protected classes that are expected to be least likely to apply.”
 - ii. Description of how the LPA will inform potential participants about fair housing and affirmative marketing policy.
 - iii. Description of specific procedures or activities that will be used to inform and solicit applications from those "least likely to apply" without special outreach.
 - iv. Delineation of the records that will be kept to document the affirmative efforts.
 - v. Description of how the LPA will assess the results of the affirmative actions and make corrective actions if necessary.
- A. If the program is targeted to a special need or population, the Plan should describe:
 - i. How the program will be marketed across all protected classes within the special need preference.
 - ii. If the program targets persons with disabilities, how the program will be marketed to all disabilities (however, advertisements can identify the specific services available based on the targeted disability).

1.4.2 Accessibility to Apply to the Program

- A. HOME regulations require adherence to the following three regulations governing the accessibility of Federally-assisted buildings, facilities and programs: Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155,201,218, and 225.), The Fair Housing Act and Section 504 of the Rehabilitation Act of 1973.
- B. All HOME projects are subject to accessibility requirements of 92.251(b) (1) (iv). For homebuyer assistance, reasonable accommodations are required to make the

program accessible to persons with disabilities, including affirmative outreach, accessible office locations and assistance with applications.

1.5 Written Agreements & Legal Documents

- A. All households receiving assistance must execute a written agreement for HOME program assistance with the LPA and contractor (if applicable) that is consistent with HOME requirements at 92.504(c) (4). The template for this agreement must be approved by HTFC at contract execution. This agreement must be executed with the homebuyer prior to setting up the unit in IDIS.
- B. LPAs must secure the HOME funds invested with a recapture note and mortgage, no other form will be accepted. The template for this document will be made available to LPAs at contract execution and is in compliance with the NYS HOME Local Program Homebuyer Recapture/Resale Provisions Guidelines available on the HCR Home Program website.
- C. The Period of Affordability (POA) is based on the amount of HOME funds invested in the unit as follows: less than \$15,000 = 5 year POA, between \$15,000 and \$40,000 = 10 year POA, \$40,000 and over = 15 year POA.
- D. LPAs must record the note and mortgage and have the original document returned to the HTFC at the following address:
 - Housing Trust Fund Corporation (HTFC)
 - Office of Community Renewal - NYS HOME Local Program
 - Hampton Plaza 4th Floor South
 - 38-40 State Street
 - Albany, New York 12207
- E. The HTFC will provide LPAs with an affidavit of exemption at contract execution that will exempt State filing fees for recording the note and mortgage.
- F. For the note and mortgage, the lien is at zero percent interest and the principal balance is reduced annually, on the anniversary date of when the unit was closed in IDIS. No repayment is required if the homebuyer remains as principal resident throughout the POA. If the home is sold or the owner no longer resides as principal resident, the pro-rated portion of the lien must be repaid to the HTFC in compliance with the NYS HOME Local Program Homebuyer Recapture/Resale Provisions Guidelines available on the HCR Home Program website.
- G. The note and mortgage must be prepared by the LPA and must be executed and recorded at the closing/sale of the unit to the HOME eligible buyer

- H. LPAs should refer to the HOME Local Memo “Guidance on what to include in the lien amount” available on the HCR HOME Program website.
- I. If no funds for housing rehabilitation are included, the unit must be documented to meet NYS and/or Local Code before the sale of the unit to the HOME eligible buyer.
- J. The note and mortgage terms and conditions are assumable by a new HOME eligible buyer during the POA.

1.6 Recordkeeping

- A. Program files must be kept to document compliance with all of the requirements of the contract and this Administrative Plan. Project files must be kept to meet the requirements of 92.508(a)(3).
- B. The LPA shall retain all applicable administrative and project records to include underwriting guidelines and evaluation, property description and location, copies of written agreements, records regarding project requirements, subsidy layering analysis, maximum subsidy determination, compliance with property standards and on-going inspections, information about contractors and vendors to include verification of non-debarment, verification of qualifications and experience, invoices and payment records, related correspondence, audits, indirect cost analysis, operating budgets and a schedule for completion or other information as requested by HTFC. The Program File Checklist and Project File Checklist is included in this Plan and are also available on the HCR HOME Program website.
- C. The LPA will maintain records of the use of funds pursuant to the contract, submit reports and cooperate with audits and inspections by HTFC or HUD.
- D. The LPA shall submit performance reports, in such format and at such times as HTFC or HUD may prescribe and shall provide to HTFC any document, report or information that HTFC deems necessary.
- E. The LPA shall retain all applicable administrative and project records and documentation pertinent to Other Federal Requirements, as specified in 24 CFR 92.508, for a period of five (5) years after the POA terminates.
- F. Representatives of HTFC, HUD or their designees may examine any records or information pursuant to the contract.
- G. The “Catalogue of Federal Domestic Assistance Number” for this Program is 14.239.

1.7 Reporting

1.7.1 Project set-up report

- A. A Homebuyer Set-Up Report Form should be submitted when a project commitment is ready – that is:
 - i. A written agreement has been executed by the LPA, homebuyer and contractor (if applicable) and the site to be HOME assisted has site specific, Tier 2 environmental approval.
 - ii. The unit has been inspected by the LPA within the last 90 days
 - iii. The closing is imminent.
 - iv. For homebuyer assistance with housing rehabilitation, LPAs must total the amount of expected direct homebuyer assistance (down payment/closing cost assistance) and the amount expected for housing rehabilitation and submit in one set up.
- B. The set-up form and instructions are available on the HCR HOME Program website.
- C. The completed form should be submitted to the NYS HOME IDIS mailbox at: homeidis@nyshcr.org

1.7.2 Project Completion Report – Closing Report

- A. The Purchase Assistance/Closing Costs Project Detail Sheet should be submitted when a unit is completed. If requesting funds for rehabilitation expenses associated with a purchase assistance project, the Rehabilitation Detail sheet should also be attached along with back up documentation for the construction expenses. In order to complete the unit:
 - i. The assisted unit must have been sold to a HOME eligible buyer.
 - ii. If applicable, all housing rehabilitation is complete to satisfaction, signed off on by the LPA, homebuyer and contractor and that it meets all HOME property standards.
 - iii. The home is documented to meet NYS and/or Local Code.
 - iv. The LPA, homebuyer and contractor (if applicable) have signed off that all work has been completed to satisfaction.

- v. The note and mortgage has been publicly recorded.
- vi. All funds have been disbursed.

B. The completed form(s) should be submitted to the HOME IDIS mailbox at: homeidis@nyshcr.org.

1.7.3 Bi-Annual Report

- A. LPAs must submit a bi-annual report on current progress as compared to the schedule and milestones contained in the contract and this Plan.
- B. The bi-annual report template will be made available at the time of contract execution.

1.7.4 Program Closeout Report

- A. At the end of the contract term and upon final completion of all units to be assisted in the program, the LPA will be sent a completion report from their Program Manager detailing the units assisted and funds expended. Any remaining funds not expended will be de-obligated and re-allocated according to the State's Action Plan. Issuance of this report will terminate the contract and officially close out the program.

1.8 LPA Project Monitoring

- A. The LPA is responsible for ensuring full compliance of every project with HOME requirements, and for monitoring all projects and maintaining records of monitoring.
- B. During housing rehabilitation (if applicable), the LPA must monitor construction activities to ensure implementation of the construction contract.

1.8.1 Project Records

- A. Records demonstrating compliance with HOME requirements are to be retained in the project file. Required documentation is specified in the [LPA Homebuyer Assistance Project File Checklist](#) included in this Plan and on the HCR HOME Program website.
- B. Project file records must be retained for a minimum of five years after project close out and throughout the POA.

1.8.2 Post-Completion Monitoring

- A. The LPA is responsible for annual monitoring of the HOME assisted homebuyer housing throughout the POA. The POA is regulated by the recapture provisions

defined in the HTFC note and mortgage. Recapture of HOME funds is required if the HOME assisted unit is not occupied by the homebuyer as principal resident during the POA. (24 CFR 92.254 (a) (5)). The written agreement with the homebuyer must document the recapture requirements.

- B. The recapture requirements are self-enforcing through the recorded HTFC note and mortgage, however, LPAs are required to annually verify that the unit meets principal residency and insurance requirements.
- C. The LPA must notify HTFC of any expected sales of HOME assisted units or non-compliance with residency requirements related to the HTFC note and mortgage throughout the POA.
- D. The LPA must assist the HTFC to work with HOME assisted households when requesting refinancing, subordination, request for payment and satisfactions of the HTFC Note and Mortgage.
- E. LPA requirements for continued affordability monitoring:
 - i. Annually, the LPA must verify that the homebuyer continues to reside in the HOME assisted housing throughout the POA. The LPA must annually mail a letter to the homebuyer requesting verification that the home is occupied by the HOME assisted applicant. General forms of verification include a copy of a utility bill, bank statement, or cancelled mail with the address and name of the homeowner, in addition to a signed statement verifying they live in the home as their primary address. The mailing envelope must include the following: "Address Correction Requested/Do Not Forward".
 - ii. The Homeowner's Insurance policy must include the HTFC as a loss payee during the POA. Annual documentation of principal residency and insurance requirements must be maintained in the project file.

1.8.3 Rental Unit Monitoring

- A. If rental units are part of a HOME assisted homebuyer rehab project, the LPA must monitor the rental units for compliance as described in this Plan and certify annually to HTFC that such oversight has occurred.

1.9 HTFC Monitoring of LPAs

- A. HTFC will monitor the LPA annually through desk audits, review of bi-annual reports and may conduct risk based, on-site monitoring, as needed throughout the contract term.

- i. The State has implemented a risk based monitoring system (RAS), in compliance with federal HOME program regulations at 92.504(d). The RAS will use a risk analysis tool and scoring system to inform HTFC of which LPAs may need increased monitoring and/or technical assistance.
 - ii. HTFC will review the first project file for completeness and accuracy prior to IDIS set-up and draws. The LPA will submit the first project file information specified in the Initial Project File Submission Checklist when the project is ready for set-up in IDIS. HTFC reserves the right to require additional file submissions if the first file submission is not adequate.
 - iii. The LPA is required to send in bi-annual reports documenting program progress. The data from the reports will be used to inform the risk analysis tool of the RAS system. Programs determined to be at high risk and are not performing successfully, will be monitored more frequently and may require on-site monitoring. The RAS will identify programs that are at risk which will allow for earlier HTFC intervention to prevent program close out and/or de-obligation of HOME funds.
 - iv. Other monitoring of LPAs: routine processing of setup reports, disbursement requests and other paperwork submitted to HTFC provides additional opportunities to monitor program activities.
 - v. Requests for reimbursement are examined to ensure that only reimbursement is for approved program expenditures. If required back up documentation does not accompany the disbursement request or if information submitted is problematic, the disbursement is rejected.
- B. At program close out, the closed contract will be transferred to the HCR Asset Management Unit to continue to monitor the projects for the remaining term of the POA.

1.10 Attachments

**1.10.1 LPA Homebuyer Assistance With or Without Housing Rehabilitation
Program File Checklist**

File	Check if in file	Date	Notes
Program Application & Contract			
Application			
Award letter			
Executed Agreement			
Admin Plan (& approved amendments)			
Budget (& approved amendments)			
Schedule (& approved amendments)			
Program Standards/Documents			
Income limits – by year			
Underwriting/subsidy layering guidelines			
Maximum price/value limits – by year			
Property standards - acquisition			
Written rehab standards			
Homebuyer agreement addendum			
Homebuyer agreement addendum (if rental unit(s))			
Homebuyer note/mortgage			
Bi-annual Report			
Financial Management Files			
Program budget & eligible costs			
Admin/project delivery costs documentation			
Draw requests			
Disbursement documentation			
Receipt/disposition of recaptured funds & program income (if applicable)			
Audit			
Monitoring Files			
Bi-annual reports to OCR			
Annual verification of owner occupancy			
If HOME rental units: - Annual rent/utility allowance approval - Annual owner report review - 1 st yr & 3 yr unit & file inspections			
Resale – notification to OCR			

1.10.2 LPA Homebuyer Assistance With or Without Housing Rehabilitation

Project File Checklist

Property Address: _____ SHARS: _____

Property file documents	Check if in file	Date entered in file	Notes
Application			
Applicant income determination including source documents			
Authorization to release information			
Initial property inspection			
Property environmental clearance (if needed)			
Property price/value determination			
Property inspection – HOME prop stds- NYS Code inspection			
Buyer underwriting			
Homebuyer counseling			
Homebuyer approval (income eligibility, price, assistance, inspection, affordability period)			
Executed sales contract with HOME written agreement addendum			
Relocation letter to seller			
IDIS project set-up form			
Recorded note & mortgage			
Final reconciliation – use of HOME funds			
Disposition of net proceeds of sale			
IDIS project completion form			
<i>If rehabilitation:</i>			
Work write-up			
LBP risk assessment (if pre-1978)			
Bid package & selection documentation			
Rehabilitation contract			
MWBE/Section 3 documentation			
Building permit			
Project relocation records (if applicable)			
Progress inspections			
Contractor invoices, approvals, payments			
Occupancy permit/local NYS Code inspection			
Final inspection – HOME standards			
<i>If rental units:</i>			

Property file documents	Check if in file	Date entered in file	Notes
Cost allocation (if not all HOME assisted)			
Approved lease form/addendum			
Rent approval			
Tenant income approval			
Ongoing Project Monitoring			
Annual verification of owner occupancy			
If HOME rental units: - Annual rent/utility allowance approval - Annual owner report review - 1 st yr & 3 yr unit & file inspections			
Resale – notification to OCR			
Receipt/disposition of recaptured funds			

2 Project Requirements

2.1 Eligible Project Costs & Maximum Subsidy

2.1.1 Eligible Project Costs

- A. Eligible project costs are those permitted by the NYS HOME Local Program Budget Policy available on the HCR HOME Program website and as approved by HTFC at contract execution. Please review the policy for specific eligible and in-eligible costs. In general, eligible project costs include:
- i. Acquisition costs
 - ii. Rehabilitation hard costs necessary to address the improvements indicated by the property standards, HTFC Housing Rehabilitation Standards and to meet NYS and/or Local Code upon completion.
 - iii. Site improvements and connections to off-site utilities necessary to complete the rehabilitation.
 - iv. Soft costs related to the rehabilitation, including:
 1. Project delivery
 2. Other third party costs necessary to implement the improvements, such as permits, inspections, legal and recording fees
 3. Relocation costs as necessary (if tenant occupied)
- B. In general, ineligible costs include:
- i. Acquisition of property owned by the participating jurisdiction or the LPA, except for property acquired by the participating jurisdiction with HOME funds, or property acquired in anticipation of carrying out a HOME project
 - ii. Delinquent taxes, fees or charges on properties to be assisted with HOME funds
 - iii. Luxury improvements that are not consistent with the standard of “non-luxury housing with suitable amenities.
 - iv. Payment of any deposits or operating costs

- v. Off-site infrastructure, except for necessary connections to offsite utilities for the assisted unit
 - vi. Payment of any escrows, deposits or operating costs (although HUD permits payment of up to one year of mortgage insurance premiums)
 - vii. Payment of premium for homeowner's or flood insurance
 - viii. Refinancing or payment of other debt
 - ix. Non-capital equipment such as appliances.
- C. The above list is not inclusive. For more details, please refer to the NYS HOME Local Program Budget Policy located on the HCR HOME Program website.

2.1.2 Project Assistance Limits

- A. Homebuyer Purchase Assistance without Housing Rehabilitation: funds may be used to assist a homebuyer to provide down payment and/or closing cost assistance to purchase a single family (1-4) unit, non-HOME assisted existing home or newly constructed home and may not exceed \$80,000 per unit, inclusive of all costs. As no funds for rehabilitation are included, the home to be purchased must meet NYS and/or Local Code at the time of purchase by the homebuyer and subject to a subsidy layering review.
- B. Homebuyer Purchase Assistance with Housing Rehabilitation: funds may be used to assist a homebuyer to provide down payment and/or closing cost assistance and funds for housing rehabilitation to purchase a single family (1-4) unit, non-HOME assisted existing home and may not exceed \$80,000 per unit, inclusive of all costs and subject to a subsidy layering review.
 - i. The amount of HOME funds necessary for down payment assistance and housing rehabilitation must be "right sized" for the individual homebuyer's financial situation and on the cost of housing rehabilitation necessary to meet program property standards.
 - ii. LPAs must assist homebuyers after purchase to complete the housing rehabilitation within 6 months. The homebuyer may not reside in the property if health and safety hazards are present. The property must meet NYS and /or Local Code upon completion of housing rehabilitation.

2.2 Homebuyer Eligibility, Underwriting Guidelines and Subsidy Layering

- A. Housing Counseling: each applicant must receive a Certificate of Completion for pre-purchase homeownership counseling.

- B. HTFC Underwriting Guidelines for Homebuyer Qualifying Ratios: housing debt to income ratio: max 35%, total debt to income ratio: max 45%, the housing debt ratio can be a maximum of 40%, provided there is no other total debt.
- C. LPAs must conduct and document a subsidy layering analysis to determine the appropriateness of the amount of HOME assistance being made available to the homebuyer. LPAs should “right size” the assistance in relation to the individual homebuyer’s financial need for direct homebuyer assistance and if applicable, the need for housing rehabilitation to meet property standards.
- D. LPAs must conduct and document a sources and uses analysis to demonstrate there are enough assets/funds available to purchase and if applicable, rehabilitate the home (mortgage commitment, down payment assistance, savings, gift letter, funds for housing rehabilitation if applicable, other funds, etc.).
- E. LPAs providing funds for housing rehabilitation must document the LPA and homebuyer role in the housing rehabilitation process. The LPA must document the contractor selection, hiring and construction management process to ensure there is capacity to complete the housing rehabilitation within 6 months of purchase.
- F. LPAs must document that financial resources are available to sustain future homeownership: document that the first mortgage product is not predatory (high fees, high interest rates, etc.) and that it conforms to standard affordable housing lending criteria (fixed rate, no balloon payments, etc.), review the expected income and job stability, estimate future adjustments to property taxes, fees to the municipality, homeowners insurance, estimate average monthly cost of utilities, review liquid assets to ensure the homebuyer will have the minimum equivalent of 1 month housing payment in personal savings following the purchase.

2.2.1 Preferences and Priorities

- A. Assistance can be limited to units within the identified service area of the program in the application and contract.
- B. Assistance cannot be limited to current or prior residents of the jurisdiction of the target area.
- C. Priorities or preferences for certain types of housing or household type is only permissible to the extent that:
 - i. The priority or preference does not violate nondiscrimination and fair housing requirements.

- ii. The priority housing and household type has been identified in the application and approved by HTFC at contract execution.
- iii. The priority or preference is fully disclosed in all program documents, advertisements and presentations.
- iv. The HTFC may allow LPAs to design eligible program activities that may limit beneficiaries to veterans, the elderly, the physically disabled, and/or or give preferences to persons in certain occupations, such as police officers, firefighters, or teachers.
- v. If the program elects to serve a special needs population, the LPA must have a current service provider agreement that will send direct referrals of clients in the special needs population to be served in the HOME assisted program.
- vi. Any limitation or preference must not violate nondiscrimination requirements in 24 CFR 92.350.
- vii. Limiting programs or giving preferences to students or a group of all employees is not permitted.
- viii. The preference or limitation must be approved by the HTFC at contract execution.

2.2.2 Applicant Fees - Charges to Homebuyers

- A. The LPA may not charge homebuyers servicing, origination, or other fees for the purpose of covering costs of administering the HOME program, except that the LPA may charge:
 - i. Nominal application fees to discourage frivolous applications – the amount of application fees must be appropriate to the type of application and may not create an undue impediment to a low-income family’s participation in the program.
 - ii. Housing counseling fees – only to the extent that such costs are not paid by HOME or other funds.

Any such fees collected must be treated as applicable credits under OMB cost guidelines.

2.3 Applicant Eligibility

2.3.1 Applicant Intake & Waiting List

- A. Applications must be taken in a manner that ensures fair access, including reasonable time periods and methods of submission. Assistance must be offered to any household requesting assistance in completing the application.
- B. While priority or preference households may be placed on a separate waiting list, and processed according to the priority, applications must be accepted from any household within the eligible service area.
- C. Waiting lists must be updated within the last 6 months, maintained and available for inspection.
- D. Income eligibility need not be verified to place an applicant in the queue or on a waiting list. Placement on the list can be based upon the applicant's representation of income, with disclosure that income will be verified prior to the offering of assistance.
- E. LPAs may use an already established wait list from a prior program, however, all applicants must have been pre-qualified to be on the list within the past 6 months.

2.3.2 Income Eligibility

- A. All households assisted must be under 80% of median income as defined by HUD HOME income limits posted at: <https://www.hudexchange.info/manage-a-program/home-income-limits/>.
- B. Income must be determined using either the Section 8 method OR IRS Form 1040 method, defined at 92.203(b). The same method must be used for the entire program/for each activity.
- C. LPAs must use the HUD CPD Income Eligibility Calculator at: <https://www.hudexchange.info/incomecalculator/>.
- D. All income sources must have at least two months of source documentation (92.203(a) (2) and project anticipated household income for the next 12 months.
- E. Income certifications must sign and dated by the LPA and homebuyer.
- F. The income certification is valid for 6 months. The sale of the unit to the HOME eligible buyer must occur within 6 months of the income certification or the certification must be updated.

- G. Visit <https://www.hudexchange.info/programs/home/topics/income-determination/#guidebooks-and-tools> for further guidance.

2.3.3 Conflict of Interest

- A. The LPA, including its officers, board members and employees, are subject to the presumption of conflict of interest as stated in 92.356(a) – (c). As such, all such covered persons of the LPA may not receive either program assistance or any contract without the prior written exception granted by HUD.
- B. No person(s) who exercises or has exercised any functions or responsibilities with respect to the activities being assisted with HOME funds or who is or was in a position to participate in the decision-making process or gain inside information related to HOME assisted-activities may obtain a financial interest or financial benefit from a HOME assisted activity or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties during their tenure or for one year thereafter.
- C. Immediate family ties include, whether related by blood, marriage, or adoption: spouse, parent (including step-parent), child (including stepchild), brother, sister (including step brother or step sister) grandparent, grandchild, and in-laws or a covered person.
- D. Further, no officer, employee, agent, or consultant of a covered person or entity may occupy a HOME assisted affordable housing unit in the Project.
- E. Exceptions: requests for exceptions to this policy must be submitted to HTFC in advance of selection with the information required by 92.356(d) – (e). HTFC will forward the request to HUD for review. Upon written request, exceptions may be granted by HUD on a case-by-case basis. In the request to HUD, the LPA must disclose the full nature of the conflict, submit proof that the disclosure has been made public and also provide a legal opinion stating that there would be no violation of State or Local law if the exception were granted by HUD.

2.3.4 Other Homebuyer Eligibility Requirements

- A. The assisted homebuyer must be legal a resident of the United States.

2.3.5 Feasibility Determination – Denial of Assistance

- A. Properties/households should be assisted only if sufficient funds exist to assist the buyer to purchase the home.
- B. If assistance includes housing rehabilitation, properties/households should be assisted only if sufficient funding exists to address the items to be repaired, as identified in the housing

rehabilitation inspection; and in order for the unit to meet the program property standards at completion.

- C. The household must have the capacity to sustain the housing throughout the POA.
- D. If inadequate funding exists, the family cannot sustain the housing or it is determined that this is not a cost effective use of funds, the project should be determined infeasible unless the LPA can correct these conditions.
- E. Infeasibility determinations should be documented, and the household provided notification including an appeals process.
- F. Any household denied assistance must be contacted in writing with the reasons for denial disclosed and the process for appealing the denial identified.

2.3.6 Homebuyer Counseling

- A. The homebuyer must receive a Certificate of Completion for pre-purchase housing counseling from a HUD-Certified counselor working for an agency approved to participate in HUD's Housing Counseling program. The prospective homebuyer must be deemed by the counselor as "ready to proceed" to purchase a home.
- B. The Agency approved to participate in HUD's Housing Counseling program may have funds from Federal sources other than HOME that will pay the cost for pre-purchase counseling. If so, the cost may not be charged to the HOME program.
- C. Counseling costs may be charged to only one of the following (as permitted in the approved budget):
 - i. To HOME administrative funds (if applicant does not purchase a home)
 - ii. As a project delivery cost charged to HOME (if applicant purchases a home)
 - iii. To the homebuyer, if the fee is cost-based and reasonable and not charged to the HOME program.
- D. Counseling costs may also be paid with other non-HOME funds provided by the LPA. If the direct cost of homebuyer counseling services provided to families that acquire properties with HOME funds is paid with other non-federal funds, it may be counted as HOME match.

2.4 Forms of Ownership

2.4.1 Eligible Forms of Ownership

- A. The home and land must be transferred to the homebuyer in fee simple title or if in a condominium or cooperative or land trust:
 - i. The land may be under a 99- year ground lease or a community land trust lease of at least 50 years.

2.4.2 Ineligible Forms of Ownership

- A. Right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made) is not ownership.

2.5 Property Eligibility

2.5.1 Eligible Property Types

- A. Permitted property types include:
 - i. Single family (1-4 units) housing.
 - ii. Condominiums & cooperative units.
- B. Homebuyer with rental units – If HOME funds are used to assist a homebuyer purchase a property that has rental units (e.g., a 2 to 4 unit), the LPA must determine if the HOME assistance is being used in the homebuyers unit, the rental units or both.
- C. If the rental unit is being assisted with HOME funds, then rental rules apply – including low-income tenant occupancy, lease requirements, rent limits, income recertification, and ongoing property standards during the POA.
- D. HTFC prefers a “whole house” approach to housing rehabilitation when assisting a homebuyer to purchase a property that includes rental units and prefers the entire property to be rehabilitated. If the homebuyer unit and all rental units qualify for HOME assistance, then all units should be HOME assisted as a single undertaking. All units and common areas must be rehabilitated to meet NYS and/or Local Code upon completion.
- E. The HTFC prefers the households assisted to receive some form of landlord and HOME Program rental requirements training prior to renting the HOME eligible units.

- F. The LPA must verify that the purchase price for the type of single family housing (1-4 units) cannot exceed the median purchase price for the area where the home is located, as defined by HUD's Homeownership Sales Price Limits provided by HUD for existing housing.
- G. The property must be documented to be decent, safe, sanitary, and in good condition and must meet NYS and/or Local Code upon completion. For down payment and closing cost assistance only, the home must meet NYS and/or Local Code at purchase.
- H. The Code inspection can't take place more than 90 days before the execution of the purchase agreement.
- I. If the homebuyer is approved for down payment and closing cost assistance with funds for housing rehabilitation, the unit must meet NYS and/or Local Code within 6 months of purchase. The homebuyer is not able to reside in the unit until after all health and safety issues and code violations (related to health and safety issues) are repaired.

2.5.2 Maximum Sales Price and After Rehab Value Limits

- A. If home is purchased with no funds for housing rehabilitation, the purchase price for the homebuyer cannot exceed the HUD Homeownership Sales Price Limits (maximum purchase price/after rehab value limit) as published annually by HUD for the local jurisdiction at the time of commitment, available at: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>.
- B. If the home is purchased and includes funds for housing rehabilitation and the property will be rehabilitated after acquisition to meet program property standards, this limit applies to the after-rehabilitated value.
- C. The after-rehab value must be estimated up front, before work is started. The after rehab value must be considered when determining the scope of work for the unit and the calculation documented using one of the following methods:
 - i. Licensed Appraisal
 - ii. Real Estate Market Assessment
 - iii. Independent estimate of value by a "knowledgeable" professional

2.6 Property Standards

- A. If a home is being acquired by a homebuyer with HOME assistance and there are no funds for housing rehabilitation, the LPA shall ensure that the property meets the property standards of 24 CFR Part 92.251, as applicable and as amended, for HOME assisted activities, to ensure that the housing is decent, safe and sanitary, and meets all applicable New York State and/or Local Code requirements at sale to the homebuyer.
 - i. HUD has deferred the implementation of new property standard requirements. These new requirements are applicable to any project with a commitment after the effective date of the new requirements as may be announced by HUD. These standards are subject to update as HUD issues additional guidance.
- B. If the housing was originally placed in service before 1/1/78, and will not be rehabilitated, then LBP requirements at 35.1000 - 1030 also apply, as detailed in the section on Lead Based Paint included in this Plan.
- C. Minor repairs needed to meet program property standards in which less than \$5,000 is expended in HOME funds are not considered rehabilitation, and can be made without triggering rehabilitation standards. The ability to expend less than \$5,000 in HOME funds for minimal repairs prior to purchase must be included in the program design at application and approved by HTFC at award.
- D. Housing inspections must be performed in compliance with 24 CFR 92.251. The LPA must inspect the housing no earlier than 90 days before the commitment of HOME assistance.
- E. If the existing housing does not meet these standards, it must be rehabilitated under the standards or it cannot be assisted with HOME funds.

2.6.1 Reasonable Accommodations and Modifications

- A. The LPA must work with any household with accessibility needs to address those needs as part of the scope of work for housing rehabilitation and must be in compliance with the Fair Housing Act, Section 504, as applicable.
- B. Accommodations and modifications to address accessibility needs can and should be paid with HOME funds. Exceptions to per-unit assistance limits due to such modifications will be considered.

2.6.2 Project Commitment and Set Up

- A. A project commitment can be made and the project set up in IDIS when:

- i. The unit has received Tier 2 environmental approval
- ii. Project underwriting has been completed
- iii. The LPA and homebuyer have executed a written legally binding agreement meeting the requirements.
- iv. A purchase offer has been accepted by the homebuyer
- v. If applicable, the rehabilitation scope of work has been approved by HTFC, the construction contract has been let and the work is scheduled to start immediately after purchase by homebuyer.

2.6.3 First File Review by OCR

- A. Prior to the first project set-up and initial project draw, the LPA will assemble all required documentation as specified on Initial File Submission Checklists and submit to OCR for review. OCR will review the documentation and require any corrections prior to initial project setup. If the first file submission is acceptable, no further documentation submissions will be required for subsequent projects.
- B. The Initial File Submission Checklist is included in this Plan and is available on the HCR HOME Program website.

**LPA Homebuyer Assistance
With or Without Housing Rehabilitation
Initial File Submission Checklist**

SHARS ID: _____ Project Address: _____

File	Submitted	HTFC Review Notes
Part 1: Submitted at Project Setup		
Set Up/Completion Form		
Applicant income eligibility certification		
Supporting documentation – all income		
Buyer underwriting: <ul style="list-style-type: none"> • Affordability analysis • 1st mortgage review • Assistance amount determination 		
Unit inspection report		
Tier 2 Site-specific Statutory Checklist		
Sale price v. program limit		
Executed homebuyer written agreement		
If rehab, set up can be approved based on above, but submit below right after set up but before proceeding through closing:		
After rehab value estimate v. limit		
If pre-1978, LBP risk assessment		
Building permit		
Rehabilitation contract		
Part 2: Submitted after closing		
Recorded note & mortgage		
If Rehab:		
Homeowner Rehab Completion Form		
LBP clearance report (If pre-1978)		
Recorded note & mortgage		
Final project budget – all sources & uses		

LPA Signature

Date

HTFC Reviewer

2.7 Relocation

- A. The HOME Program is subject to an overall policy of minimizing displacement, and is subject to the Uniform Relocation Act and Section 104(d) of the Housing and Community Development Act of 1974, as amended. The HOME & CDBG Residential Anti displacement & Relocation Assistance Plan establishes the HCR/HTFC HOME Program policy to minimize displacement.
- B. THE URA protects the seller and any legal occupants of the property as of the purchase agreement, and requires notices and assistance that varies by the circumstances.
- C. HUD Handbook 1378 contains the guidance and sample forms and notices that must be used in the event of acquisition and relocation. It is available at: <https://www.hudexchange.info/resource/310/hud-handbook-1378-tenant-assistance-relocation-and-real-property-acquisition/>.
- D. HTFC requires the LPA to comply with the requirements, and discourages the acquisition of occupied properties if the LPA does not have detailed knowledge of URA requirements and Handbook 1378. The LPA must consult with HCR/HTFC prior to making an offer on a property occupied by individuals or entities other than the seller.

2.7.1 Notices to the Seller (and Tenants)

- A. The seller must receive and acknowledge receipt of a notice of voluntary sale (Appendix 31 of HUD Handbook 1378).
- B. If rental units are included as part of the acquisition, the tenants of the structure are protected as of the date of offer to purchase, and the appropriate notices must be given to tenants, depending on whether they are going to be permanently displaced, temporarily displaced or not displaced. Refer to Handbook 1378.

2.7.2 Permanent Displacement

- A. Permanent displacement will occur if a tenant in an assisted unit is over-income or otherwise not expected to be housed after rehabilitation. Consult with HCR/HTFC before proceeding with the project.

- B. Individuals that are relocated are entitled to assistance and various payments. HOME funds can be used for permanent relocation costs in compliance with URA. Refer to the HUD Handbook 1378.

- C. Also, if rents are increased due to the rehabilitation and are considered unaffordable, otherwise non-displaced tenants can claim economic displacement and be entitled to benefits. LPAs should review pre- and post-rehab rents to determine if this could occur.

2.7.3 Temporary Relocation

- A. Temporary relocation may be necessary due to extensive rehabilitation or reconstruction making the home unusable while work is progressing. Temporary relocation may also be triggered by lead hazard control work following the requirements of 24 CFR 35. 1345(a) (2).
 - i. Tenants are considered involuntarily displaced and their costs of temporarily relocation must be paid. HOME funds may be used for this purpose.

 - ii. Federal requirements give administrators flexibility in determining and paying the costs of temporary relocation. Consult with HCR/HTFC if there are questions regarding appropriate eligible HOME program costs of temporary relocation.

2.8 Project Completion

- A. A project is completed when:
 - i. The project complies with the required property standards

 - ii. The unit has been sold to the HOME eligible buyer

 - iii. The rental unit is occupied (if applicable; see Section 4)

 - iv. The project complies with NYS and/or Local Code requirements

 - v. If applicable, the homebuyer, LPA and contractor have signed a statement that all construction activity is complete and satisfactory according to program requirements

- vi. The final drawdown of HOME funds has been disbursed for the project
- vii. The HTFC note and mortgage has been recorded and documents forwarded to HTFC.

2.9 Insurance Requirements

- A. During the term of the contract, the LPA shall take all adequate measures to safeguard against the risk of liability for injuries or death of employees of the LPA, contractors and subcontractors, and any other persons.
- B. The LPA shall provide HTFC with a certificate for comprehensive general liability coverage in a minimum amount of one million dollars (\$1,000,000) naming the HTFC and the State of New York as additional insured and fidelity bond/crime coverage in an amount not less than the largest anticipated disbursement request for program funds naming the HTFC as loss payee, together with certificates for automobile insurance (if applicable), fire insurance, workers' compensation and disability benefits. The LPA must also extend these insurance requirements to contractors hired under this contract.
- C. Disbursements requested in excess of the fidelity bond/crime coverage will be rejected.
- D. HTFC also reserves the right to further reduce such disbursement or to refuse payment of a disbursement if it is determined that previous disbursements have not yet been distributed to contractors or vendors, and such current disbursement will cause the fidelity bond / crime coverage to be exceeded.
- E. All insurance certificates shall be with a New York State licensed carrier of insurance rated "A" or higher.
- F. Within two (2) business days of having received any notice of non-renewal, cancellation, termination, or rescindment for any type of insurance required herein, the LPA shall provide HTFC with a copy of such notice, either by facsimile or email (in pdf format) to the signatory hereof, together with an explanation of any efforts taken to reinstate such coverage.
- G. The LPA may not cancel, terminate or fail to renew any insurance policy required herein, unless and until the LPA has received HTFC written consent.

3 Financial Management Requirements

3.1 Uniform Administrative Requirements for Financial Management

- A. LPAs must have financial management systems that meet uniform federal administrative requirements (now restated at 2 CFR 200.301 - .316) that:
- i. Provide effective control over and accountability for all funds, property and other assets.
 - ii. Identify the source and application of funds for federally-sponsored activities including records and reports that verify the eligibility, reasonableness, allowability and allocability of costs.
 - iii. Permit the accurate, complete and timely disclosure of financial results in accordance with HUD reporting requirements or, for sub recipients, grantee reporting requirements
 - iv. Minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the grantee or sub recipient.
 - v. The LPA shall comply with the Uniform Administrative Requirements, as applicable as set forth in 2 CFR Part 200 and the Uniform Administrative Requirements, Cost Principals and Audit Requirements and as described in 24CFR Part 92.205, as applicable and as may be amended from time to time.
- B. The financial management standards should provide for:
- i. Internal Controls – The combination of policies, procedures, job responsibilities, personnel and records that together create accountability in an organization’s financial system and safeguard its cash, property and other assets.
 - ii. Budget Controls – procedures to compare and control expenditures against approved budgets.
 - iii. Accounting Records – records that sufficiently identify the source and application of HOME funds provided.
 - iv. Cash Management – procedures in place to minimize the amount of time that elapses between receipt of HOME funds and the actual disbursement of those funds.

3.2 Disbursements and IDIS

- A. Disbursement instructions are available on the HCR HOME Program website.
- B. The LPA shall not request disbursement of funds under the contract until the funds are needed for payment of eligible costs. The NYS HOME Local Program will not pay for work that has not been completed; no advance or up-front payments will be permitted.
- C. Requests for disbursement of funds for homebuyer assisted housing rehabilitation will require submission of a certification, signed by the LPAs construction professional, the homebuyer and contractor, stating that the work has been satisfactorily completed and the unit meet program property standards and NYS and/or Local Code requirements at completion.
- D. The amount of each request shall be limited to the amount needed to pay such costs incurred. Payments of funds under the contract are also subject to the LPA compliance with the requirements of IDIS or any other similar or successor system used by HUD and all further documentation which may be demanded by HTFC related to any request for funds.
- E. In order to not delay a closing, it is preferred that the LPA fund the HOME assistance up-front and then requests reimbursement from HOME funds. For those LPAs that do not fund the assistance up-front, funds may be requested when the homebuyer closing has been scheduled and must be expended within 10 days of receipt by the LPA. If the scheduled closing does not happen within 10 days of receipt of the funds by the LPA, the funds must be returned to the HTFC and re-requested by the LPA when the closing is rescheduled.
- F. HTFC will not disburse funds if the LPA is in default of any of the provisions of the contract.
- G. The LPA shall commit all funds within 12 months of the start date of the contract and expend all funds within 24 months of the start date of the contract.
- H. The LPA must submit an Authorized Signature Form prior to contract execution; the form is available on the HCR HOME Program website.
- H. Request for payment of LPA administrative funds must be within 15% of project cost expenditure.
- I. Integrated Disbursement Information System (IDIS) requirements:

- i. The POA starts when the unit is completed in IDIS; this requirement is referenced in the HTFC note and mortgage.
- ii. LPAs must ensure unit completion in IDIS and are required to submit the project completion report along with the request for final payment.
- iii. The IDIS Red Flag Report details infrequent draw status, final draw for 30 days or more, auto cancellation pending within 30 days, auto cancellation pending within 90 days and auto cancelled within the past year. LPAs must respond immediately to program manager requests to resolve issues and remove red flagged units from the report.
- iv. Due to IDIS automatically cancelling projects in the system for no activity, LPAs should not set up units in IDIS unless the project is ready to proceed.

3.3 Match

- A. HOME has a program match requirement of 25% of the HOME funds expended that must be provided as permanent contributions from non-federal sources.
- B. Match must be reported on the required bi-annual report to HTFC.

3.4 Program Income

- A. Program income is any funds received by the LPA from a HOME investment. In most homebuyer program circumstances, the program income will be derived from the repayment of HTFC note and mortgage used to secure the HOME investment. This typically occurs in the event of resale, prepayment, or repayment in the event of noncompliance or default, such as the homebuyer no longer residing in the property as principal residence.
- B. All program income, proceeds, unexpended funds, recaptured funds or other assets, interest income or other income deriving from funds provided pursuant to the program that are received by the LPA shall be returned to the HTFC.
- C. The LPA shall furnish financial records detailing all program income and must remit all program income to the HTFC within 30 days of receipt by the LPA.

3.5 Audit

- A. LPAs that expend more than \$750,000 in federal funds (not limited to HOME) are subject to the audit requirements at 2 CFR 200.501-.512 (formerly A-133.).

- B. The LPA must notify HTFC within 60 days of the end of its fiscal year whether or not it is subject to this requirement using the Federal Assistance Expenditure Form available on the HCR HOME Program website.

3.6 Contract Closeout

- A. A contract is eligible for closeout when:
 - i. All program funds for HOME assisted units have been disbursed.
 - ii. All units have been reported as completed in IDIS.
 - iii. All required reports have been submitted, except for the most recent audit if it is not yet due.
- B. Any program income funds on hand at closeout have been returned to the HTFC.
- C. Due to federal HOME program commitment and expenditure requirements, the HTFC reserves the right to de-obligate committed HOME funds for non-compliance with the terms of the contract. All remaining program funds not expended at contract close out will be de-obligated and reallocated for future HOME eligible activities according to the State's Action Plan.
- D. The LPA is required to maintain all program files and documentation, including financial information, for a period of at least five years after the close out of the contract and throughout the POA.
- D. The LPA shall comply with HOME Local Program project close out procedures and verify the grant is 100% complete with all required project completion reports and single audits have been submitted.
- E. The LPA must have been monitored with all monitoring findings resolved.
- F. HTFC will issue a close out letter to the LPA detailing that the project is complete.
- G. HTFC will officially close out the contract and de-obligate any remaining unexpended HOME funds.

4 Homebuyer Properties with Rental Units

NOTE: This Section applies only if the LPA is going to assist homebuyers to purchase properties that contain rental units (2 to 4 unit) homebuyer occupied property.

- A. While the primary purpose of Homebuyer Assistance programs is to help low income buyers purchase homes for their own occupancy, funds may also be used to assist with the purchase of a 2-4 unit property where the homebuyer will occupy one of the units.
- B. If rehabilitation is required, HTFC prefers a “whole house” approach to rehabilitate all units and common areas in an owner-occupied property. If the owner’s and all rental units qualify for HOME assistance, then all units should be HOME assisted as a single undertaking.
- C. Assisted rental units are subject to the HOME occupancy, affordability and lease up requirements.

4.1 Cost Allocation & Determination of Assistance to Rental Unit(s)

- A. If funds other than HOME funds are used to assist the project, the LPA must determine if the HOME assistance is being used in the homebuyer’s unit, the rental units or both via cost allocation.
- B. The LPA must complete the Cost Allocation Worksheet for Homebuyer Projects with Rental Units included in this Plan.
- C. If HOME pays for all costs associated with the project, or if cost allocation is not conducted, it is assumed that all units are HOME-assisted and subject to HOME requirements.

4.2 Property Eligibility

- A. HOME Maximum Sales Price Limit (maximum purchase price/after rehab value) limit are published for 2 – 4 family units as well as single family. The limit applicable to the project unit count limit should be applied to the after-rehab value of the property for this determination of eligibility.
- B. The limits are available at: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>.

4.3 Homebuyer Underwriting with Rental Units

A. The LPA must ensure that the property will be sustainable for the homebuyer throughout the POA. If amortizing loan funds are being used for any part of the rehabilitation, the LPA must underwrite the homebuyer to determine that the owner can afford to sustain ownership, and determine the revenue associated with any rental units is sufficient to pay the operating and maintenance costs of the rental units. If only HOME funds are being used for the rehabilitation, the LPA should review existing debt and financial obligations are manageable for the owner.

4.4 Ongoing Rental Unit Requirements

- A. If HOME funds are also used to assist the low-income homebuyer to rehabilitate one or more of the rental units in the single-family housing, the affordability requirements of § 92.252 apply to assisted rental units for the POA, including:
- i. Low income occupancy – at or below 80% of AMI;
 - ii. Tenant income eligibility certification
 - iii. HOME rent limits & utility allowances
 - iv. HOME lease provisions in §92.253
 - v. Maintenance of the rental units to §92.251 property standards.
- B. These requirements are imposed for the POA, and enforceable through the HTFC Note and Mortgage with the Rental Unit Addendum.
- C. If it is determined that HOME funds are NOT used to rehabilitate rental units, a cost allocation must be on file to back up this conclusion and the above requirements are not applicable.

4.4.1 Tenant Income Eligibility

- A. All tenants assisted must be under 80% of median income as defined by HUD HOME income limits posted at: <https://www.hudexchange.info/manage-a-program/home-income-limits/>.
- B. Existing tenants must be certified as income eligible prior to commitment of the funds to the project. New tenants for vacant units must be certified as income eligible prior to lease execution and occupancy.

- C. Income will be determined using the Section 8 or known as the Part 5 method, defined at 92.203(b). LPAs may use the HUD CPD Income Eligibility Calculator at: <https://www.hudexchange.info/incomecalculator/>.
- D. All income sources must have at least two months of source documentation (92.203(a)(2)).
- E. Income certifications must signed and dated by the LPA and the tenant.

4.4.2 Written Agreement

- A. If the homebuyer is receiving HOME assistance to rehabilitate one or more rental units, the written agreement must include the Rental Unit Addendum provided to LPAs at contract execution.

4.4.3 Note & Mortgage

- A. If rental units are assisted, the Note and Mortgage must include the Rental Unit Addendum as specified by HTFC and provided to LPA's at contract execution.
- B. If the home is sold during the POA to another HOME eligible homebuyer, the note and mortgage terms may be assumed by the new HOME eligible homebuyer, including the Rental Unit Addendum provisions.

4.4.4 Written Agreement Rental Unit Addendum

The template addendum for the written agreement for homebuyers with HOME assisted rental units will be made available to LPAs at contract execution.

4.4.5 Note & Mortgage Rental Unit Addendum

The template addendum for the note and mortgage for homebuyers with HOME assisted rental units will be made available to LPAs at contract execution.

4.5 Initial Project Approval

- A. HTFC must approve the initial project prior to set-up in IDIS and the initial project draw. This requirement applies to the first project with rental units, whether or not an initial project approval has already been conducted for a homebuyer assistance project without rental units.
- B. The information that must be submitted for the rental units is contained in the Initial File Submission Checklist - Rental Unit Supplement and also is available on the HCR HOME Program website.

**LPA Homebuyer Assistance
With or Without Housing Rehabilitation
Initial File Submission Checklist - Rental Unit Supplement**

SHARS: _____ **Project address:** _____

File	Submitted	HTFC Review Notes
Part 1: Submitted at Project Setup		
Executed rental unit addendum to written agreement		
Cost allocation		
Initial rent & utility allowance		
Tenant income certification & documentation – if existing tenant		
Lease form/addendum		
Part 2: Submitted at Project Completion		
Final unit inspection		
Tenant income certification & documentation – if not submitted at setup		
Executed lease/addendum		

LPA Signature

Date

HTFC Reviewer

4.6 Eligible Administrative and Project Delivery for Rental Units

- A. Eligible administrative and project costs are those permitted by the NYS HOME Local Program Budget Policy available on the HCR HOME Program website and as approved by HTFC at contract execution. Please review the policy for specific eligible and in-eligible costs.
- B. The LPA may incur project delivery specifically for the rental units, including:
 - i. Determination of tenant selection requirements & rents;
 - vi. Completion of tenant income documentation and certification; and
 - vii. Development and execution of leases compliant with HOME requirements.

4.7 Recordkeeping

- A. The LPA must maintain additional records specifically for each rental unit assisted with HOME funds. These items are summarized in the Rental Unit Supplemental File Checklist also available on the HCR HOME Program website.

4.8 Project Monitoring – Rental Units

- A. If rental units are part of a homebuyer project, the LPA must monitor the rental units for compliance through the POA, including the following activities:
 - i. Approve the rents annually, based on updated HOME rent limits and utility allowances, prior to the implementation of rent changes;
 - ii. Conduct (or review) tenant income recertification's during the POA (tenants self-certifications are permitted and source documentation is not required for recertification's);
 - iii. Approve new tenants (including full source documentation) and leases;
 - iv. Conduct unit inspections to certify compliance with HOME ongoing property standards at 92.251 in the first year and every three years thereafter during the POA.

4.9 Project Completion

A project with rental units cannot be completed until all units are occupied and beneficiary information has been reported. Rental units must be occupied by eligible tenant within 18 months of when construction is complete.

4.10 Attachments

4.10.1 Cost Allocation Worksheet

LPA Homebuyer Assistance With or Without Housing Rehabilitation
With Rental Units
Cost Allocation Worksheet

****Double click anywhere on the form below to add data fields.**

Project Costs					
Rehabilitation/Construction					
Site/infrastructure	-				
Hard costs	-				
Soft costs	-				

Total Project Costs	\$ -				
Project Funds					
HOME Funds	\$ -	#DIV/0!			
Other Funds	\$ -	#DIV/0!			
		% of		HOME	Cost
Units	Square Ft	Total SF	Unit Cost	assisted unit (Yes/No)	allocated to HOME
Owner's Unit	0	#DIV/0!	#DIV/0!	Yes	#DIV/0!
Rental Unit 1	0	#DIV/0!	#DIV/0!		-
Rental Unit 2	0	#DIV/0!	#DIV/0!		-
Rental Unit 3	0	#DIV/0!	#DIV/0!		-

Total Sq Ft	0	Costs allocated to HOME units			#DIV/0!

Are the costs allocated to the HOME units equal to or greater than the HOME funds in the project?

Yes No (if not, increase assisted units)

LPA signature

Date

4.10.2 LPA Homebuyer Assistance With or Without Housing Rehabilitation

Rental Unit Supplemental File Checklist

Property Address: _____ SHARS ID: _____

Project Files (for each project)	Check if in file	Date	Notes
Project Documents			
Executed rental unit addendum to written agreement			
Cost allocation			
Approved tenant selection plan			
Approved tenant lease/addendum			
Initial rent & utility allowance approved			
Completion inspection – HOME prop stds			
Individual Tenant Documents			
Tenant application			
Tenant income certification & source documentation			
Executed lease/addendum			
LBP disclosures (if pre-1978)			
Ongoing Rental Monitoring			
Annual rent/utility approvals			
Tenant recertification – annual			
Unit inspections 1 st year			
Unit inspections 3 rd year			

5 Rehabilitation of Homebuyer and/or Rental Units)

NOTE: This Section applies only if the HOME assistance includes housing rehabilitation.

5.1 Rehabilitation Scope of Work & Cost Estimate

- A. All rehabilitation performed under this contract must be in compliance with HTFC Housing Rehabilitation Standards for One- to Four-Unit Structures, available on the HCR HOME program website and NYS and/or Local Code upon completion.
- B. An addition was made to the housing rehabilitation standards pertaining to mold containing components. LPAs should refer to the HTFC HOME Local Memo “REV. 1.2016 Mold Requirements” added into the housing rehabilitation standards at Section VIII -Interior standards available on the HCR HOME Program website.
- C. HOME rules require that each of the major systems must have a remaining useful life for a minimum of 5 years. If not, the major systems must be rehabilitated or replaced as part of the rehabilitation work. Major systems include structural support; roofing; cladding and weatherproofing (e.g., windows, doors, siding, gutters); plumbing; electrical; and heating, ventilation, and air conditioning.
- D. LPAs must develop the scope of work based on the following construction order of priority:
 - i. Address Health and safety issues
 - ii. Address NYS State and/or Local Code violations
 - iii. Ensure major systems have a useful life of at least 5 years
 - iv. Include disaster mitigation standards as necessary
 - v. And in addition, when done in the overall scope to deliver a code compliant unit at completion, address special purpose needs such as weatherization and energy efficiency.
- E. 92.251(b) (2) requires a scope of work in sufficient detail to be the basis for inspection to determine compliance with rehabilitation and property standards. The LPA must prepare a written cost estimate for rehabilitation, after determining that costs are reasonable.

5.1.1 Lead Based Paint (LBP)

For down payment/closing cost assistance without housing rehabilitation:

- A. If a home is being acquired and there are no funds for housing rehabilitation, the LPA shall ensure that the housing is decent, safe and sanitary, and meets all applicable New York State and/or Local Code requirements at the time of purchase.
- B. If the housing was originally placed in service before 1/1/78, and will not be rehabilitated, then LBP requirements at 35.1000 - .1030 apply. A LBP Risk assessment (by an EPA certified Risk Assessor) is not required.
- C. LPA's must do a visual assessment of the unit. As part of the inspection, any deteriorated paint must be identified and repaired. If it is known to be LBP or is unknown (i.e., was not tested), then repairs should be done using paint stabilization techniques. Housing inspections must be performed in compliance with 24 CFR 92.251. The LPA must inspect the housing no earlier than 90 days before the commitment of HOME assistance.
- D. If the existing housing does not meet these standards, it must be rehabilitated according to the property standards or it cannot be assisted with HOME funds.

For down payment/closing cost assistance with housing rehabilitation:

- A. Housing Rehabilitation assisted with HOME (and other HUD or federal funding) is subject to the HUD LBP rule at 24 CFR Part 35. Rehabilitation is subject to the requirements at 35.900 - .930.
- B. All renovation is also subject to the EPA Renovation, Repair and Painting Rule at 40 CFR Part 745. Effectively, this means that rehabilitation work (other than work that must be done by abatement contractors) must be done by an EPA Renovator following HUD rules.
- C. Risk assessments (by an EPA certified Risk Assessor) are required for any rehabilitation project where the federal rehabilitation assistance is over \$5,000. Presumption of LBP in lieu of a risk assessment is not permitted. HTFC requires lead based paint testing of all areas to be rehabilitated.
- D. The results of the risk assessment must be incorporated into the scope of work.
- E. LBP clearance is required for all applicable housing rehabilitation. The HTFC will allow the LPA to charge the program for a single LBP clearance test. If it does not pass

clearance the first time, the LPA or the contractor (per the agreement between the LPA and contractor) must pay for all subsequent clearance testing.

- F. Use of private funds in a project does not waive this requirement. Lead Based Paint rules still apply such as the Risk Assessment, interim controls, etc...

5.1.2 Energy Audit Requirements

- A. HTFC requires an energy audit be conducted for each house that includes housing rehabilitation to identify energy-related improvements that can be incorporated into the scope of work.
- B. The HTFC requires the LPA to certify at project completion that the energy efficiency measures, as recommended in the energy audit, have been incorporated into the scope of work, to the best of ability.

5.2 Procurement

- A. The LPA is considered the “procurer” (i.e., it effectively controls the decision of who gets the contract) and the procurement requirements of 2 CFR 200.318 - .326 apply. (The combined Omni-Circular replaces Parts 85 and 84 circulars.)
- B. The LPA must have an in-house estimate prior to bidding and receive a minimum of 3 bids for all procured projects to be paid with HOME funds. The LPA may select the lowest, responsible bid. LPAs must ensure an adequate level of competition in bidding to establish cost reasonableness.

5.2.1 Required Construction Contract Provisions

- A. Required contract provisions are attached to 2 CFR Part 200 as Appendix II.
- B. A contract must be executed with each contractor providing services.
- C. The LPA, homebuyer and contractor must be signatories to the contract.
- D. The LPA may should be a third party to the contract able to approve payment and mediate disputes.
- E. Bonding is not required for contracts under \$150,000.

- F. LPAs must hold back a minimum 10% of the final payment to the contractor until after final completion of construction work and all required documentation has been submitted.
- G. The homebuyer, LPA and the contractor must have signed off that the work has been completed satisfactorily and meets all NYS HOME Local Program property standards requirements.
- H. LPAs must require that all contractors sign a release of lien form for all construction activity completed and paid for with HOME funds.
- A. Required HOME contract provisions:
 - i. Labor Standards: Davis-Bacon is only for construction contracts of 12 or more HOME-assisted units.
 - ii. Section 3 requirements for individual contractors are triggered at \$100,000.
 - iii. MWBE: All contractors should be encouraged to utilize minority and women owned business enterprises.

5.3 Project Commitment and Set Up

- A. A project commitment can be made only when the rehabilitation contract has been let and the work is scheduled to start immediately after purchase by homebuyer.

5.4 Construction Management

- A. HOME rules require progress and final inspections to determine that work was done in accordance with the work scope and contract and required property standards. All progress and final payments to contractors must be signed off by the LPA construction professional, homebuyer and the contractor as applicable.
- B. If Lead based paint (LBP) is present, any hazard control work must be cleared according to the requirements of Part 35.
- C. The final inspection must certify completion of the scope of work and that the property meets NYS and/ or Local Code.