

NYS HOME Local Program Administrative Plan Homebuyer Development Projects

This Administrative Plan (Plan) describes the policies and procedures that must be followed by Community Housing Development Organizations (CHDOs) and Local Program Administrators (LPAs) in the management of a NYS HOME Local Program (HOME Local) funded housing development project for single family housing (1-4 unit) with or without rental units. Section 4.0 of this Plan addresses rental unit requirements.

This Plan contains both Federal HOME Program and State HOME Local 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
CHDO:	Community Housing Development Organization
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.
- 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 Requirements

1.1 Use of Funds

1.1.1 Eligible Activities

- A. HOME funds may be requested to assist a CHDO or an LPA housing developer to acquire an existing single family (1-4 unit) substandard home that will be substantially rehabilitated and then sold to a HOME eligible home buyer, or to build a new construction single family home (1-4 unit) home that will be sold to a HOME eligible buyer.
- B. Site Control: CHDO/LPAs must have site control or executed purchase options for site control at the time of application for funds. For purchase options, CHDO/LPAs must obtain full site control after contract execution and completion of an environmental review.
- C. The LPA/CHDO must be the owner and developer of the housing during the construction period, must arrange for all project financing and be in sole charge of the construction. CHDO projects have additional underwriting requirements, see CHDO section included in this Plan.
- D. All units must meet HOME Local property standards and NYS and/or Local Code upon completion of housing rehabilitation or new construction activities.
- E. A CHDO applicant must be certified by the HTFC as a CHDO prior to the award of funds.

1.1.2 Market Need:

- A. The CHDO/LPA must conduct and document a market analysis to support there is a need for the specific type of HOME assisted homebuyer units to be developed in the service area. The CHDO/LPA must demonstrate, using current, relevant data from the service area, a local market need for the type and pricing of housing to be developed.

1.1.3 Form(s) of Assistance

- A. The HOME assistance typically is provided for the acquisition and development of the housing, called “development assistance” for the developer and does not require the HOME assistance to be secured with the HTFC note and mortgage.
- B. In most cases, the HOME assistance must be secured with the HTFC Restrictive Covenant. This covenant does not require the repayment of HOME funds; rather, it restricts the sale of the home during the POA to a HOME eligible buyer. The restrictive covenant requires execution and public recording, as described in this Plan.

- C. Upon sale of the home to an eligible low income homebuyer, HTFC requires that the HOME assistance provided directly to the homebuyer (down payment/closing cost assistance, subsidy to reduce the sale price) be secured with the HTFC Note and Mortgage. The CHDO/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, as described in this Plan.
- D. For CHDO projects, most of the buyer assistance will occur as pass-thru of the development funds initially provided to the CHDO. HOME regulations permit a maximum of only 10% of the CHDO set-aside funds are able to be used for direct homebuyer assistance and not originally used in the development process. However, this does not limit total amount of assistance to the buyer.

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 Eligible Administrative and Project Delivery – LPA Only

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

- B. Project delivery are costs that the LPA incurs to pay staff to implement activities for specific units. The LPA may use up to 13% of their award for eligible project delivery.
- C. Eligible staff costs for administration and project delivery are described in the NYS HOME Local Program Budget Policy, available on the HCR HOME Program website.
- D. 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 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 costs paid with HOME funds may not be charged to the homebuyer or included in the homebuyer's note and mortgage.
- I. CHDO's do not invoice for administrative or project delivery fees, rather they receive a developer fee.

1.1.6 CHDO Developer Fee – CHDO Only

- A. A CHDO is not awarded administrative or project delivery funds. Instead, a CHDO may use up to 18% of their total award as a CHDO developer fee, see CHDO section included in this Plan.

1.1.7 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 on a bi-annual basis to HTFC. Failure to achieve milestones could result in suspension of funds,

increased monitoring and possible required changes to program administration. Changes to the bi-annual milestones that need to be met 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.

1.2 Environmental Review:

- A. The LPA/CHDO must provide all necessary information to HTFC as required to conduct the project environmental review (NEPA and SEQRA) for the eligible properties submitted to be included in the development. Instructions to complete the project environmental review are available on the HCR HOME Program website.
- B. Environmental review and clearance will be conducted by HCR Environmental Analysis Unit (EAU). HTFC may elect to execute a conditional commitment of HOME funds as permitted by HUD Notice CPD-01-11, p. 10 to meet program commitment deadlines.
- C. 24 CFR 58.22 prohibits the commitment or expenditure of HOME funds or any other funds until the proposed project environmental review process is complete and the environmental clearance and subsequent release of funds has been received.
- D. The LPA/CHDO must refrain from taking any choice limiting actions on the project site(s) prior to environmental clearance of the NEPA and SEQRA reviews. The CHDO/LPA may not: acquire or enter into a contract to acquire; demolish or clear; construct or rehabilitate or take any other action that would limit the choices of HTFC during the environmental review process. If prohibited activities are undertaken prior to receiving the approval or release of funds, the applicant is at risk for the denial of assistance and repayment of HOME funds.
- E. From the date of the issuance of the RFP through when HCR EAU notifies the CHDO/LPA of environmental clearance, only project planning and other exempt activities may be conducted. The LPA/CHDO cannot execute a purchase contract for acquisition of property during the time from the release of the RFP through the completion of the environmental clearance, however pre-existing contracts are ok.
- F. Reasonable and documented eligible planning and other exempt activities incurred costs may be reimbursed within 24 months of the CHDO/LPA contract execution with the HTFC.

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.

1.3.2 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, the LPA must:
 - i. Post an Equal Employment Opportunity Poster in a conspicuous place (poster available at: <http://www.dol.gov/reg/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.

1.3.3 Affirmative Marketing

- A. 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.
- B. 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.
- C. Each CHDO/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 CHDO/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 CHDO/LPA will assess the results of the affirmative actions and make corrective actions if necessary.

- D. 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).

1.3.4 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.

1.4 Insurance Requirements

- A. During the term of the contract, the CHDO/LPA shall take all adequate measures to safeguard against the risk of liability for injuries or death of employees of the CHDO/LPA, contractors and subcontractors, and any other persons.
- B. The CHDO/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 CHDO/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 CHDO/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 CHDO/LPA may not cancel, terminate or fail to renew any insurance policy required herein, unless and until the CHDO/LPA has received HTFC’s written consent.

1.5 Written Agreements & Legal Documents

- A. All households receiving assistance must execute a written agreement for HOME program assistance with the CHDO/LPA 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. The CHDO/LPA must secure the HOME funds invested. Prior to contract execution, the CHDO/LPA must document in writing and the HTFC must approve of the decision to use either Resale (restrictive covenant, typically used when there is development assistance) or Recapture (note and mortgage, typically used when there is direct assistance given to the homebuyer) provisions to secure the HOME investment, no other forms will be accepted. The template for these documents will be made available to The LPA at contract execution.
- C. There may be situations where either instrument could be used to more appropriately assist the homebuyer. The decision for either option must be for the entire awarded program and in compliance with NYS HOME Local Program Homebuyer Recapture/Resale Provisions Guidelines available on the HCR Home Program website.
- D. 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.
- E. If the HOME assistance is used only as development assistance, the HOME assistance must be secured with the HTFC restrictive covenant. This covenant does not require the repayment of HOME funds; rather, it restricts the sale of the home during the POA to another HOME eligible buyer.
- F. The CHDO/LPA must record the note and mortgage or restrictive covenant 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

- G. The HTFC will provide the CHDO/LPA with an affidavit of exemption at contract execution that will exempt State filing fees for recording the note and mortgage or restrictive covenant.
- H. 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 per the NYS HOME Local Program Homebuyer Recapture/Resale Provisions Guidelines available on the HCR Home Program website.

For the restrictive covenant, the document requires no re-repayment of HOME funds; rather it requires that the home must be sold to another HOME eligible buyer during the POA. The CHDO/LPA must assist the owner to qualify the new purchaser as HOME eligible. Funds can't be re-paid to remove this restriction.

- I. The note and mortgage or restrictive covenant must be prepared by the CHDO/LPA and must be executed and recorded at the closing/sale of the unit to the HOME eligible buyer.
- J. The note and mortgage and restrictive covenant 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 CHDO/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 Project

File Checklist included in this Plan and is also available on the HCR HOME Program website.

- C. The CHDO/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 CHDO/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 CHDO/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 and purchase offer has been executed by the CHDO/LPA and homebuyer.
 - ii. The closing is imminent.
- 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

- A. The Purchase Assistance/Closing Costs Project Detail Sheet should be submitted when a unit is completed. In order to complete the unit:
 - i. The assisted unit must have been sold to a HOME eligible buyer.

- ii. All housing rehabilitation or new construction has been completed, signed off by all applicable parties, that it meets property standards.
 - iii. The home is documented to meet NYS and/or Local Code.
 - iv. The CHDO/LPA have signed off that all work has been completed to satisfaction.
 - v. The note and mortgage and/or restrictive covenant has been publicly recorded.
 - vi. 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.
 - vii. 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. The CHDO/LPA must submit bi-annual reports on current progress as compared to the schedule and milestones contained in the contract and this Plan.
- B. The Bi-annual Report 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 CHDO/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 Project Monitoring

- A. The CHDO/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 or new construction, the CHDO/LPA must monitor construction activities to ensure implementation of the construction contract.

- C. The CHDO/LPA is responsible for ensuring full compliance of every project with HOME requirements, and for monitoring all projects and maintaining records of monitoring.
 - i. The CHDO/LPA will check annually that the homebuyer remains in the unit as principal resident.
- D. The CHDO/LPA must notify HTFC of sales and recapture of HOME funds, and the receipt of program income.
- E. HTFC will monitor the CHDO/LPA annually through desk reviews and conduct onsite monitoring as needed throughout the contract term.

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 Project File Checklist available 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 CHDO/LPA is responsible for annual monitoring of the HOME assisted owner-occupied housing throughout the POA.
- B. For homebuyer projects, the requirements are self-enforcing through the recorded HTFC note and mortgage or restrictive covenant. However, CHDOs and LPAs are required to annually verify that the unit meets principal residency and insurance requirements.
- C. The CHDO/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 or restrictive covenant throughout the POA.
- D. The CHDO/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 or restrictive covenant.
 - i. Recapture of HOME funds or default of the provisions of the restrictive covenant 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)).

- ii. The written agreement with the homebuyer must document the recapture requirements and restrictive covenant provisions.

E. LPA requirements for continued affordability monitoring:

- i. Annually, the CHDO/LPA must verify that the homebuyer continues to reside in the HOME assisted housing throughout the POA. The CHDO/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 project, the CHDO/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

- A. HTFC will monitor the CHDO/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 the CHDO/LPA 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 CHDO/LPA will submit the first project file information specified in the Initial Project File Submission Checklist included in this Plan 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 CHDO/LPA is required to send in bi-annual reports documenting program progress. The data from the bi-annual 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: 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 back up documentation does not accompany the disbursement request or if information submitted is problematic, the disbursement request 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/CHDO Homebuyer Development Projects – Project File Checklist

Project Address: _____ SHARS ID: _____

Project File Items (each project)	Check if in file	Date	Notes
Acquisition			
Acquisition price (appraisal/price support)			
Property environmental clearance			
Project relocation notices (if occupied)			
Rehabilitation/Construction:			
Initial inspection work write-up (if rehab)			
LBP risk assessment (if pre-1978)			
MWBE/Section 3 outreach			
Bid package & selection documentation			
Rehabilitation/construction contract			
Building permit			
Progress inspections			
Contractor invoice approvals			
Disbursements documentation			
Occupancy permit			
Final inspection – prop stds certification-NYS Code			
Sale			
Property price/value determination			
Buyer underwriting			
Homebuyer counseling			
Homebuyer income eligibility			
Buyer income source documentation			
Buyer assistance calculation			
Executed sales contract with HOME written agreement addendum			
OCR buyer approval			
IDIS project set-up form			
Recorded note & mortgage			

Final reconciliation – use of HOME funds			
Disposition of net proceeds of sale			
IDIS project completion form			
Bi-annual Report			
<i>If rental units:</i>			
Cost allocation (if not all HOME assisted)			
Approved lease form/addendum			
Rent/utility allowance approval			
Tenant income certification			
Monitoring Files			
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; receipt/disposition of recaptured funds			

2 Project Requirements

2.1 Eligible Project Costs

- A. Eligible project costs are those permitted by the NYS HOME Local Program Budget Policy available on the 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. Construction or rehabilitation hard costs necessary to address the improvements indicated by the property standards and to meet NYS and/or Local Code upon completion, and HTFC Housing Rehabilitation Standards (if applicable).
 - iii. Site improvements and connections to off-site utilities necessary to complete the rehabilitation.
 - iv. The cost for standard energy star rated appliances for the substantially rehabilitated or new construction home are eligible (stove, refrigerator, air conditioning, dishwasher, and minor landscaping).
 - v. Soft costs related to the rehabilitation, including:
 1. Project delivery or a developer fee - as permitted in this Plan and in the NYS HOME Local Program Budget Policy, available on the HCR HOME Program website.
 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. Purchase of non-capital equipment.

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.

2.1.1 Project Assistance Limits

- A. HOME funds provided to any homebuyer development project may not exceed \$75,000 per unit, inclusive of development assistance and/or direct homebuyer assistance.
- B. For CHDO projects, most of the buyer assistance will occur as pass-thru of the development funds initially provided to the CHDO. HOME regulations permit a maximum of only 10% of the CHDO set-aside funds are able to be used for direct homebuyer assistance and not originally used in the development process. However, this does not limit total amount of assistance to the buyer.

2.2 Property Eligibility

2.2.1 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, 3 or 4 unit structure), the

CHDO/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. 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.
- D. After completion of construction activities and prior to the sale, the property must be documented to be decent, safe and sanitary and meets NYS and/or Local Code requirements.

2.2.2 Maximum Sales Price Limit

- A. The purchase price for the homebuyer cannot exceed the HOME Maximum Sales Price Limits (maximum purchase Price/after rehab value) 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. The determination of how the sales price will be calculated must be proposed and approved by HTFC.
- C. The sales prices should be supported by one of the following methods:
 - i. Licensed Appraisal
 - ii. Real Estate Market Assessment
 - iii. Independent estimate of value by a “knowledgeable” professional

2.3 Property Standards

2.3.1 HOME Property Standards for New Construction

- A. All new construction must be in compliance with state and local housing codes, and HOME regulations at 25 CFR 92.251:

- i. State and local codes, ordinances, and zoning requirements: housing that is newly constructed with HOME funds must meet all applicable State and local codes, ordinances, and zoning requirements.
- ii. HOME-assisted new construction projects must meet State or local residential and building codes, as applicable. The housing must meet the applicable requirements upon project completion.
- iii. Projects must also meet the requirements described in 24 CFR 92.251 paragraphs (a)(2)(i) through (v):
 - a. Accessibility: the housing must meet the accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable.
 - b. Disaster mitigation. Where relevant, the housing must be constructed to mitigate the impact of potential disasters (e.g., earthquakes, hurricanes, flooding, and wildfires), in accordance with State and local codes, ordinances, or other State and local requirements, or such other requirements as HUD may establish.
 - c. Written cost estimates, construction contracts and construction documents: the CHDO/LPA must ensure the construction contract(s) and construction documents describe the work to be undertaken in adequate detail so that inspections can be conducted. The CHDO/LPA must review and approve written cost estimates for construction and make a determination that costs are reasonable and as approved by the HTFC.
 - d. Construction progress inspections: the CHDO/LPA must conduct progress and final inspections of construction to ensure that work is done in accordance with the applicable codes, the construction contract, and construction documents and as approved by HTFC.

2.3.2 HOME Property Standards for Housing Rehabilitation

- 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.
- B. An addition was made to the 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.

- B. 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.
- C. The CHDO/LPA 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.
- D. 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 CHDO/LPA must prepare a written cost estimate for rehabilitation, after determining that costs are reasonable.

2.3.3 Lead Based Paint (LBP) – Rehabilitated Properties

- 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.

2.3.4 Energy Audit Requirements – Rehabilitated Properties

- 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 CHDO/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.
- C. CHDOs/LPAs may request a waiver from the HTFC of this requirement, if the property does not have sufficient structure or systems to effectively perform an energy audit.

2.3.5 Reasonable Accommodations and Modifications

- A. The CHDO/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.

2.4 Project Approval & Commitment

2.4.1 Environmental Clearance

- A. Prior to the commitment of any funds to a HOME-assisted project, environmental review and clearance must be completed approved by HTFC.
- B. The environmental review procedures/instructions for the CHDO/LPA are available on the HCR HOME Program website.

2.4.2 Project Commitment and Set Up

- A. A project commitment can be made and the project set up in IDIS when:
 - i. The project has environmental clearance.
 - ii. All funding sources for the construction/rehabilitation are committed.
 - iii. The rehabilitation/construction scope of work has been approved by the HTFC and the construction contract has been let and the work is scheduled to start.
 - iv. The project has been underwritten.

2.4.3 First File Review by OCR

- A. Prior to the first project set-up and initial project draw, the CHDO/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/CHDO Homebuyer Development Project Initial File Submission Checklist

Project Address: _____ SHARS ID: _____

File	Submitted	HTFC Review Notes
Part 1: Submitted at Project Setup		
Homebuyer Set Up Form		
Tier 2 Site-specific Statutory Checklist		
If rehab, initial inspection/work write-up		
If pre-1978, LBP risk assessment		
Sale price v program limit		
Project underwriting – budget review: <ul style="list-style-type: none"> • sources committed • uses reasonable • market assessment update 		
Building permit		
Rehabilitation/construction contract		
Part 2: Submitted at Project Completion		
Homebuyer Project Completion Form		
Final inspection report		
LBP clearance report (if appl.)		
Applicant income eligibility determination		
Income documentation – all income		
Buyer underwriting: <ul style="list-style-type: none"> • Affordability analysis • 1st mortgage review • Assistance amount determination 		
Executed homebuyer written agreement		
Recorded note & mortgage		
Final project budget/proceeds reconciliation		

LPA Signature

Date

HTFC Reviewer

Date

2.5 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/CHDO to comply with the requirements and discourages the acquisition of occupied properties if the LPA/CHDO does not have detailed knowledge of URA requirements and Handbook 1378. The LPA/CHDO must consult with HCR/HTFC prior to making an offer on a property occupied by individuals or entities other than the seller.

2.5.1 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.

2.5.2 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.

2.5.3 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.

2.6 Procurement

For LPAs:

- A. The LPA as 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 is responsible to ensure an adequate level of competition in bidding to establish cost reasonableness.
- C. The LPA must receive a minimum of 3 bids for all procured projects to be paid with HOME funds and may select the lowest, responsible bid.

For CHDOs: See CHDO Section included in this Plan

2.6.1 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. The CHDO/LPA must be a party to the contract able to approve payment and mediate disputes.
- C. Bonding is not required for contracts under \$150,000.
- D. The LPA or CHDO 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.
- E. The CHDO or LPA and the contractor must sign off that the work has been completed satisfactorily and meets all NYS HOME Local Program property standards requirements.
- D. The CHDO/LPA must require that all contractors sign a release of lien form for all construction activity completed and paid for with HOME funds.
- E. CHDOs and LPAs should refer to and review the HOME Local Program Section 3 Participation Plan available on the HCR HOME Program website when responding to the questions below.
- F. 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. Section 3 and MWBE reporting forms are available at: <http://www.nyshcr.org/Forms/FairHousing/>.

2.7 Construction Management

- A. All contractors and sub-contractors hired must not have been debarred from working on federally funded projects or known as being on the “Excluded Parties” list and can be checked on the System for Award Management (SAM) website at <https://www.sam.gov/portal/SAM/#1>.
- B. 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.

- C. All progress and final payments to contractors must be signed off by the CHDO/LPA's construction professional and the contractor.
- D. If Lead based paint (LBP) is present, any hazard control work must be cleared according to the requirements of Part 35.
- E. The final inspection must certify completion of the scope of work and that the property meets NYS and/ or Local Code. The inspection must be performed by an independent NYS Code certified inspector. Documentation of this inspection must include a signed and dated report from the inspector documenting the property meets the above requirements.

2.7.1 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 the CHDO/LPA 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 CHDO/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.

2.7.2 Applicant Fees - Charges to Homebuyers

- A. The CHDO/LPA may not charge homebuyers servicing, origination, or other fees for the purpose of covering costs of administering the HOME program, except that the CHDO/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.

2.8 Applicant Eligibility

2.8.1 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. The method for establishing the queue and waiting lists must be disclosed in this Plan and in application materials and briefings.
- C. 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.
- D. Waiting lists must be updated within the last 6 months, maintained and available for inspection.

- E. 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.
- F. The CHDO/LPA 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.

2.8.2 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 CHDO/LPA and the 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.

2.8.3 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 CHDO/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. However, this provision does not apply to an employee or agent of a rental developer who occupies a housing unit in a HOME- assisted project as a project manager or maintenance worker.
- 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 CHDO/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.

2.8.4 Underwriting the HOME assistance

- A. Before committing funds to a project, the CHDO/LPA must ensure that no more HOME funds are invested than needed to provide quality, affordable, and financially viable housing throughout POA.
- B. Before committing funds to a project, the CHDO/LPA must conduct and document the following underwriting analysis:
 - i. Sources – all project funding must be reviewed to determine that all sources are firmly committed.
 - ii. Uses – all project costs must be reviewed and determined to be necessary and reasonable.

- iii. HOME funding – the amount of HOME funding (in consideration of all available sources, including other public sources) is reasonable and necessary to provide quality housing that is sustainable throughout the POA and is not excessive, and is within stated program guidelines.
 - iv. The home buyer is qualified (or expected to be qualified) for a first mortgage under normal underwriting guidelines that are consistent with typical affordable housing lending practices and that are non-predatory.
 - v. The buyer must have sufficient post-closing cash and income to be able to handle all obligations with respect to homeownership – including mortgages, taxes, insurance, utilities and maintenance – for at least the POA.
- C. Evidence and documentation of this analysis must be maintained in the project file.

2.8.5 Other Homebuyer Eligibility Requirements

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

2.8.6 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. The household must have the capacity to sustain the housing throughout the POA.
- C. 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 CHDO/LPA can correct these conditions.
- D. 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.

2.8.7 Homebuyer Counseling and Qualifying Ratios

- 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.
- E. Each homebuyer must be qualified to purchase a home with the following homebuyer qualifying ratios:
 - i. Housing debt to income ratio: max 35%
 - ii. Total debt to income ratio: max 45%
 - iii. The housing debt to income ratio may be a maximum of 40%, provided there is no other total debt.

2.9 Forms of Ownership

2.9.1 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.

2.10 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 project complies with NYS and/or Local Code requirements
 - iv. All construction activities are complete and the homebuyer, CHDO or LPA and contractor have signed a statement that all construction activity is complete and satisfactory according to program requirements.
 - v. The final drawdown of HOME funds has been disbursed for the project
 - vi. 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.
 - vii. The HTFC note and mortgage or restrictive covenant has been recorded and documents forwarded to HTFC.

3 Financial Management Requirements

3.1 Uniform Administrative Requirements for Financial Management

- A. The CHDO/LPA 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.
 - vi. CHDO's are exempt from 2CFR part 200 procurement requirements, however must also ensure reasonable cost principles for procurement of needed services, see CHDO section included in this Plan.
- 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 CHDO/LPA shall not request disbursement of funds under the contract until the funds are needed for payment of eligible costs. Advances of funds are not permitted.
- C. Requests for disbursement of funds will require submission of a certification, signed by the CHDO/LPA construction professional and contractor stating that the work has been satisfactorily completed.
- 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 CHDO/LPA compliance with the requirements of HUD's 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. HTFC will not disburse funds if the CHDO/LPA is in default of any of the provisions of the contract.
- F. The CHDO/LPA must submit an Authorized Signature Form prior to contract execution; the form is available on the HCR HOME Program website.
- G. Disbursement requests must be submitted in compliance with the instructions available on the HCR HOME Program website.
- H. The NYS HOME Local Program will not pay for work that has not been completed; no advance or up-front payments will be permitted.
- 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 and restrictive covenant.
- ii. The LPA or CHDO 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. The CHDO/LPA 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, The CHDO/LPA should not set up units in IDIS unless the project is ready to be sold, start construction and/or the CHDO/LPA is ready request the first disbursement.

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 CHDO/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, counseling funds or other assets, interest income or other income deriving from funds provided pursuant to the program that are received by the CHDO/LPA shall be returned to the HTFC.
- C. The CHDO/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.
- D. All program income must be reported on the bi-annual report form.

E. CHDO sale proceeds may be approved by the HTFC to be retained by the CHDO.

3.5 Audit

A. The LPA 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 if 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 CHDO/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.

F. The CHDO/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.

G. The CHDO/LPA must have been monitored with all monitoring findings resolved.

- H. HTFC will issue a close out letter to the CHDO/LPA detailing that the project is complete.
- I. HTFC will officially close out the contract and de-obligate any remaining unexpended HOME funds.

4 Homebuyer Properties with Rental Units

NOTE: This Chapter applies only if the CHDO/LPA is going to develop and sell a property that contains rental units – that is, a 2, 3 or 4 unit homebuyer occupied property.

- A. While the primary purpose of homebuyer activities 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 described in this Plan.

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 CHDO/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 CHDO/LPA must complete the Cost Allocation Worksheet for Homebuyer Projects with Rental Units included in this Plan and available on the HCR HOME Program website.
- 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

HOME Maximum Sales Price Limits (maximum purchase price/after rehab value) 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. The limits are available at: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>.

4.3 Homebuyer Underwriting

- A. The CHDO/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 CHDO/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 CHDO/LPA should review existing debt and financial obligations are manageable for the owner.

4.4 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 Period of Affordability, 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 provided to the LPA/CHDO at contract execution.
- C. If it is determined that HOME funds are NOT used for the development of the 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.

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 the CHDO/LPA at contract execution.

4.4.3 Note & Mortgage

- A. If rental units are assisted, the Note and Mortgage must include the Rental Unit Addendum provided to CHDO/LPA 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 provided to the CHDO/LPA 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 included in this Plan and available on the HCR HOME Program website.

**LPA Homebuyer Development Project
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 LPA Eligible Administrative and Project Delivery

- 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.
- B. In addition to the project delivery costs listed in this Plan and the NYS HOME Local Program Budget Policy and subject to the same limits, 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. In addition to the project files listed in this Plan, the CHDO/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 included in this Plan and also available on the HCR HOME Program website.

4.8 Completion

- B. 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.

4.9 Project Monitoring – Rental Units

- A. The CHDO/LPA is responsible for ensuring full compliance of each assisted rental unit with HOME requirements, and for monitoring the rental units and maintaining records of monitoring and provision of appropriate documentation to HTFC.
- B. If rental units are a part of a homebuyer project, the CHDO/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 period of affordability.

4.10 Attachments

4.10.1 Cost Allocation Worksheet

LPA Homebuyer Development Project 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!			
				HOME assisted unit	Cost allocated to HOME
Units	Square Ft	% of Total SF	Unit Cost	(Yes/No)	
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 Homebuyer Development 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			

4.10.3 Written Agreement Addendum for Rental Units

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

4.10.4 Note & Mortgage Addendum for Rental Units

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

5 CHDO Requirements and Additional Benefits

5.1.1 CHDO Site Control

In order to access HOME Local CHDO set-aside funds, the CHDO must be the owner and developer of the housing during the construction period, must arrange for all project financing, must be in sole charge of the construction and must sell the assisted units to HOME eligible buyers.

Site Control: CHDOs must have site control or executed purchase options for site control at application. For purchase options, Awardees must obtain full site control after contract execution and completion of an environmental review.

5.1.2 CHDO Procurement

The CHDO must, at a minimum, follow general procurement requirements as follows:

- i. All procured contracts should be selected based on professional and technical competence, relevant experience, knowledge of local laws, regulations and building codes, price, and capacity to provide services in a timely manner.
- ii. Procured contracts must reflect a fixed fee or guaranteed price compensation that is structured so that payment is tied to successful completion of the various phases of work proposed.
- iii. To ensure minimal change orders, the CHDOs scope of work and cost estimate should reflect compliance with project property standards and accurate costs.
- iv. For construction work to be solicited in a bid process: the CHDO is responsible to ensure an adequate level of competition to establish cost reasonableness and receive a minimum of 3 bids and may select the lowest, responsible bid.
- v. The CHDO may be approved to use a preferred contractor, with a reasonable cost estimate or selection of other than the lowest responsible bid, as approved by the HTFC prior to execution of the construction contract.

5.1.3 Project Assistance Limits

- A. For HOME Local funded homebuyer development projects, HOME funds provided to any unit may not exceed \$75,000 per unit, inclusive of all hard and soft costs.
- B. However, the HTFC may allow for an increase in the per unit assistance limits, based on the CHDOs documented need and as approved by the HTFC.

5.1.4 CHDO Developer Fee

- A. CHDOs may receive up to 18% of the total award as a developer fee to produce and sell the units. The developer fee may be invoiced to the HTFC during construction on a per unit basis based on the below 4 draw requirements:
 - a. At the start of construction – 25%
 - b. During construction: 25%
 - c. Upon executed purchase contract with the homebuyer: 25%
 - d. At completion and upon final close out of the unit in IDIS: 25%

5.1.5 Construction Financing vs. Permanent Financing

- A. With HTFC approval, CHDOs may use HOME Local funds as construction financing (to pay for hard and soft costs of construction) during construction, rather than using it solely as permanent financing to be paid out at the sale of the unit. This option and the proposed draw schedule must be approved by the HTFC prior to contract execution.

5.1.6 CHDO Certification

- A. The CHDO must be certified by the HTFC prior to the commitment of funds as meeting the CHDO requirements as specified in the CHDO definition in 92.2 and the HUD Notice.
- B. The CHDO must meet the “developer” role definition in the HOME Program and must:
 - i. Be the owner and developer of the housing during the construction period.
 - ii. Arrange for all project financing and be in sole charge of the construction.
 - iii. Sell the assisted units to HOME eligible buyers.
- C. The CHDO must document that has the staff experience and financial capacity for completion of similar size and scope projects within the expected time frame. Consultants may not administer the project on behalf of a CHDO.
- D. The CHDO is expected to maintain CHDO Certification status throughout the POA.

5.1.7 Commitment of Funds and Project Selection

- A. To commit funds CHDO funds, there must be a specific project (unit address) that meets the requirements for project commitment as defined in the HOME Rule in 92.2.

5.1.8 Net Sales Proceeds

- A. The CHDO may be able to keep net sales proceeds as permitted by the HTFC on a project by project basis.
- B. The CHDO may propose that, upon completion of the final unit, any net sales proceeds remaining be used as CHDO Proceeds in compliance with the HOME rule at 92.300(a)(6)(ii), which requires that the proceeds be used for HOME or other low income housing activities, as approved by HTFC.

The CHDO may propose using the expected proceeds of sale as a source in the overall project budget, as approved by the HTFC.