

NYS HOME Local Program Administrative Plan Owner Occupied Housing Rehabilitation With or Without Rental Units

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 (HOME Local) funded homeowner housing rehabilitation program. 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
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
NYSERDA	New York State Energy Research and Development Authority

- 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>.

Contents

1	General Program Administrative Requirements	5
1.1	Use of Funds	5
1.1.1	Eligible Activities	5
1.1.2	Form(s) of Assistance	5
1.1.3	Program Budget	5
1.1.4	Program Schedule	6
1.1.5	Eligible Administrative and Project Delivery	6
1.2	Environmental Review:	7
1.2.1	Tier 1 (Programmatic) Clearance	7
1.2.2	Tier 2 (Individual Site Specific) Clearance	7
1.3	Non-Discrimination and Equal Access	8
1.4	Workplace Requirements	8
1.4.1	Affirmative Marketing	9
1.4.2	Accessibility to Apply to the Program	10
1.5	Written Agreements & Legal Documents	10
1.6	Recordkeeping	11
1.7	Reporting	12
1.7.1	Project set-up report	12
1.7.2	Project Completion Report	12
1.7.3	Bi-annual & Final Reports	13
1.8	LPA Project Monitoring	13
1.8.1	Project Records	13
1.8.2	Post-Completion Monitoring	14
1.8.3	Rental Unit Monitoring	15
1.9	HTFC Monitoring of LPAs	15
1.10	Attachments	16
1.10.1	LPA Homeowner Housing Rehabilitation With or Without Rental Units	17
	Program File Checklist	17
1.10.2	LPA Homeowner Housing Rehabilitation With or Without Rental Units	18
	Project File Checklist	18
2	Project Requirements	19
2.1	Eligible Project Costs & Maximum Subsidy	19

- 2.2 Eligible Project Costs 19
 - 2.2.1 Project Assistance Limits 20
- 2.3 Applicant Intake and Homeowner Eligibility 20
 - 2.3.1 Preferences and Priorities 20
 - 2.3.2 Application Intake & Waiting List..... 21
 - 2.3.3 Conflict of Interest..... 21
 - 2.3.4 Eligible Forms of Ownership 22
 - 2.3.5 Ineligible Forms of Ownership 23
 - 2.3.6 Other Homeowner Eligibility Requirements..... 23
 - 2.3.7 Income eligibility 23
 - 2.3.8 Underwriting the HOME assistance 24
 - 2.3.9 Feasibility Determination - Denial of Assistance 24
- 2.4 Property Eligibility 24
 - 2.4.1 Eligible Property Types 24
 - 2.4.2 Maximum Sales Price Limits (After Rehab Value)..... 25
- 2.5 Property Standards..... 25
 - 2.5.1 Weatherization Assistance Requirements..... 26
 - 2.5.2 Lead Based Paint (LBP) 27
 - 2.5.3 Reasonable Accommodations and Modifications 27
- 2.6 Rehabilitation Scope of Work & Cost Estimate 28
- 2.7 Project Approval & Commitment..... 28
 - 2.7.1 Tier 2 Site Specific Environmental Clearance 28
 - 2.7.2 Project Commitment and Set Up 28
 - 2.7.3 First File Review by OCR 28
- 2.8 Project Completion 30
- 2.9 Insurance Requirements..... 30
- 2.10 Procurement & Contracting..... 31
- 2.11 Required Construction Contract Provisions 32
- 2.12 Relocation 32
 - 2.12.1 Temporary Relocation 33
- 2.13 Construction Management & Monitoring 33
 - 2.13.1 Inspections 33
 - 2.13.2 Construction Completion 34

3	Financial Management Requirements.....	35
3.1	Uniform Administrative Requirements for Financial Management.....	35
3.2	Disbursements and IDIS.....	36
3.3	Match.....	37
3.4	Program Income.....	37
3.5	Audit.....	37
3.6	Contract Closeout.....	38
4	Homeowner Housing Rehabilitation with Rental Units.....	39
4.1	Cost Allocation & Determination of Assistance to Rental Unit.....	39
4.2	Property Eligibility.....	39
4.3	Homeowner Underwriting.....	40
4.4	Rental Unit Requirements.....	40
4.4.1	Tenant Income Eligibility.....	40
4.5	Relocation.....	41
4.6	Terms of Assistance.....	42
4.6.1	Written Agreement.....	42
4.6.2	Note & Mortgage.....	42
4.7	Initial Project Approval.....	42
	LPA Homeowner Housing Rehabilitation With or Without Rental Units.....	43
4.8	Eligible Administrative and Project Delivery.....	44
4.9	Recordkeeping.....	44
4.10	Project Monitoring – Rental Units.....	44
4.11	Attachments.....	45
4.11.1	Cost Allocation Worksheet.....	46
	LPA Homeowner Housing Rehabilitation with Rental Unit.....	46
4.11.2	LPA Homeowner Housing Rehabilitation with Rental Unit.....	47
	Rental Unit Supplemental File Checklist.....	47
4.11.3	Written Agreement Addendum for Rental Units.....	47
4.11.4	Note & Mortgage Addendum for Rental Units.....	47

1 General Program Administrative Requirements

1.1 Use of Funds

1.1.1 Eligible Activities

- A. **Homeowner Housing Rehabilitation:** the repair or rehabilitation of an owner-occupied single- family (1-4) unit dwelling unit to meet NYS and/or Local Code upon completion of construction activities. The housing rehabilitation must be in compliance with HTFC Housing Rehabilitation Standards. LPAs may not undertake some stand-alone forms of special purpose homeowner repair programs, such as weatherization, energy efficiency, emergency repair or handicapped accessibility programs, however, these types of activities may be undertaken with HOME funds as part of a comprehensive housing rehabilitation project, provided the unit will meet NYS and/or Local Code upon completion.

- B. **Homeowner Housing Rehabilitation with Rental Units:** same as above, housing rehabilitation of the homeowner unit and additionally rehabilitating HOME eligible rental units in a single family (2-4 unit) property. HTFC prefers a “whole house” approach to housing rehabilitation when assisting a homeowner with rental units and prefers the entire property to be rehabilitated in one undertaking if feasible. The homeowner must agree to HOME rental requirements pertaining to occupancy, affordability and lease up requirements.
 - i. Owner-occupied: a unit that is and will continue to be occupied and owned by the HOME assisted applicant throughout the required 5 year Period of Affordability (POA).
 - ii. Ownership of the assisted home must be in compliance with one of the forms of ownership identified in this Plan.
 - iii. If the LPA is going assist owner-occupied properties with rental units, Section 4 of this Administrative Plan applies

1.1.2 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.

1.1.3 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.

1.1.4 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.

1.1.5 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 project delivery are described in the NYS HOME Local Program Budget Policy, available on the HCR HOME Program website.

- D. Project delivery are 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 paid with HOME funds may not be charged to the owner or included in the owner'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 environmental review 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.

1.2.1 Tier 1 (Programmatic) Clearance

- A. Prior to contract execution, the HTFC and the LPA conducted a programmatic Tier 1 environmental review with HCR's Environmental Analysis Unit (EAU), which generally approved that the 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 project description and all environmental analysis, findings and complaints.
- B. LPA instructions to complete the programmatic Tier 1 environmental review are available on the HCR HOME Program website.

1.2.2 Tier 2 (Individual Site Specific) Clearance

- A. Individual properties (units) and structures will need to have Tier 2, site specific environmental clearance before the LPA can commit funds and set up the unit in IDIS.
- B. All LPAs must follow site specific environmental review procedures available on the HCR HOME Program website.

1.3 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/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 a drug abuse assistance or rehab program.

1.4.1 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 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 policies.
 - 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.
- D. If the program is targeted to a special need or target population, the Plan should describe:
 - i. How the program will be marketed across all protected classes within the special need preference.

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).
 - i. 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 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 homeowner, LPA and contractor, prior to setting up the unit in IDIS.
- B. LPAs must secure the HOME funds invested by placing a lien (note and mortgage) against the property for a 5 year POA. The POA is 5 years, regardless of the amount of HOME funds invested. LPAs must use the HTFC provided note and mortgage to secure the HOME investment, **no other forms will be accepted**. The template for the note and mortgage will be made available to LPAs at contract execution.
- C. LPAs should refer to the HOME Local Memo “Guidance on what to include in the lien amount” available on the HCR HOME Program website.

LPAs should refer to the HOME Local Memo “Guidance on when to execute and record the note and mortgage lien to secure the HOME investment” available on the HCR HOME Program website.

- D. The LPA 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 term of the lien is for 5 years at zero percent (0%) interest. The principal balance will be reduced by 1/5th, on each anniversary date of when the unit was completed in IDIS. No repayment is required if the homeowner 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.
- G. The note and mortgage must be prepared by the LPA and signed by the homeowner prior to beginning of any construction activities and before setting up the unit in IDIS. The note and mortgage must be recorded immediately upon completion of construction activities and after final sign off by the homeowner, the contractor and LPA that all work has been completed to satisfaction and the unit is documented to meet NYS and/or Local Code.
- H. If the home is sold during the POA to another HOME eligible homeowner, the note and mortgage terms may be assumable.

1.6 Recordkeeping

- A. Program files must be kept to document compliance with all of the requirements of the contract and this Plan. The Program File Checklist is attached in this Plan and is also available on the HCR HOME Program website.
- B. Project files must be kept to meet the requirements of 92.508(a) (3). The Project File Checklist is included in this Plan and is also available on the HCR HOME Program website.
- C. The LPA shall retain all applicable administrative and project records to include as applicable: 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, and a schedule for completion or other information as requested by HTFC.
- D. 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, as necessary.
- E. 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.

- F. 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.
- G. Representatives of HTFC, HUD or their designees may examine any records or information pursuant to the contract.
- H. The Catalogue of Federal Domestic Assistance (CFDA) number for this Program is 14.239.

1.7 Reporting

1.7.1 Project set-up report

- A. A Homeowner Rehab Set-Up form should be submitted when a project commitment is ready – that is:
 - i. A written agreement and contract has been executed by the LPA, homeowner and contractor and housing rehabilitation is ready to commence.
 - ii. The site to be HOME assisted must also have site specific, Tier 2 environmental approval.
 - iii. HTFC note & mortgage executed.
- 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. A project completion form should be submitted when a unit is completed, which means that:
 - i. The work has been completed and inspected to meet HTFC housing rehabilitation standards.
 - ii. The home is documented to meet NYS and/or Local Code upon completion.
 - iii. The LPA, homeowner and contractor have signed off that all work has been completed to satisfaction and homeowner has been provided with all applicable warranties.
 - iv. All funds have been disbursed.

- v. The HTFC lien has been publicly recorded.
- B. The Homeowner Rehab Completion form and instructions are available on the HCR HOME Program website.
- C. The completed form should be submitted to the HOME IDIS mailbox at: homeidis@nyshcr.org.

1.7.3 Bi-annual & Final Reports

- A. LPAs 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.
- C. 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, the LPA must monitor construction activities to ensure implementation of the construction contract, as outlined in this Plan.
 - i. The LPA will check annually that the owner remains in the unit as principal resident.
- C. The LPA must notify HTFC of sales and recapture of HOME funds, and the receipt of program income.
- D. HTFC will monitor the 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 LPA Owner-Occupied Housing Rehab Program Project File Checklist available in this Plan and the HCR HOME Program website and must contain:
 - i. Written agreements with homeowner and contractor(s).

- ii. Public filing receipts along with copy of the executed HTFC note and mortgage.
- B. This list is not all inclusive. Please refer to the checklist or contact your Program Manager for detailed information.
- C. 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

The following provides a summary of the annual monitoring requirements for HOME assisted owner-occupied housing and is applicable throughout the POA:

- A. 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.
- B. 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. A 5 year POA applies to all owner-occupied housing rehabilitation programs.
- C. The affordability period is regulated by the recapture provisions defined in the HTFC note and mortgage.
 - i. Recapture of HOME funds is required if the HOME assisted unit is not occupied by the homeowner as principal resident during the POA. (24 CFR 92.254 (a) (5)).
- D. The written agreement with the homeowner must document the recapture requirements and provisions.
- E. LPA requirements for continued affordability monitoring:
 - i. Annually, the LPA must verify that the owner continues to reside in the HOME assisted housing throughout the POA. The LPA must annually mail a letter to the homeowner 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.

- iii. 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 homeowner 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 LPA may need increased monitoring and/or technical assistance.
 - ii. HTFC will review the first project file submitted by the LPA to their HOME Local Program Manager 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 referenced 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 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 that 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. Post-completion Monitoring: for owner-occupied housing rehabilitation programs, 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. In addition, if any properties contain assisted rental units, the LPA must certify that it has conducted monitoring as specified in this Plan.
 - v. Other Monitoring of LPAs: routine processing of setup reports, disbursement requests and other paperwork submitted to HTFC provides additional opportunities to monitor program activities.

- vi. Requests for reimbursement for HOME eligible expenses are examined to ensure that only reimbursement for approved program expenditures is being sought. If appropriate back up documentation of the expense does not accompany the disbursement request or if information submitted is problematic, the disbursement request is rejected.
- vii. 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 Homeowner Housing Rehabilitation With or Without Rental Units

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			
Program written rehab standards			
Owner underwriting & subsidy layering guidelines			
Homeowner wr. agreement addendum			
Homeowner note/mortgage			
Program income limits – by year			
Maximum price/value limits – by year			
Program Administrative Records			
Program (Tier 1) environmental clearance			
Affirmative marketing plan & outreach			
Procurement procedures			
MWBE/Section 3 outreach			
Application intake & wait list			
Denials, appeals, fair housing complaints			
Conflict of interest determinations			
Bi-annual Report			
Financial Management Files			
Project budget & eligible costs			
Admin/project delivery costs documentation			
Draw requests			
Disbursement documentation			
Receipt/disposition of recapture funds & program income			
Audit (if applicable)			
Ongoing Monitoring Files			
Resales/prepayments – notification & disposition			

1.10.2 LPA Homeowner Housing Rehabilitation With or Without Rental Units

Project File Checklist

Project Files (for each project)	Check if in file	Date	Notes
Application			
Applicant income determination			
Authorization to release information			
Income source documentation			
Property ownership documentation			
Initial property inspection			
Property price/value determination			
Project underwriting & HOME assistance determination			
Property environmental clearance			
Executed homeowner written agreement			
IDIS project set-up form			
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			
IDIS project completion form			
Recorded note & mortgage			
Ongoing Monitoring			
Annual Verification of owner occupancy			
If HOME rental units: -Annual rent/utility allowance approval -Annual Owner report review -1 st & 3 rd year unit inspections			
Resale Notification to OCR			
Recapture/disposition of funds			

2 Project Requirements

2.1 Eligible Project Costs & Maximum Subsidy

2.2 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.
- B. In general, eligible costs include:
 - i. 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.
 - ii. Site improvements and connections to off-site utilities necessary to complete the rehabilitation.
 - iii. Soft costs related to housing rehabilitation.
 - iv. Administrative and project delivery as permitted in the NYS HOME Local Program Budget Policy.
 - v. Other third party costs necessary to implement the improvements, such as permits, inspections, legal and recording fees.
 - vi. Relocation costs as necessary.
- C. In general, ineligible costs include:
 - i. Costs for luxury improvements or improvements that are not consistent with the rule standard of “non-luxury housing with suitable amenities.”
 - ii. Payment of any deposits or operating costs
 - iii. Off-site infrastructure, except for necessary connections to offsite utilities for the assisted unit
 - iv. Payment of premium for homeowner’s or flood insurance
 - v. Refinancing or payment of other debt
 - vi. Non-capital equipment such as new appliances
- D. 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.

2.2.1 Project Assistance Limits

- A. HOME funds provided to any owner-occupied housing rehabilitation project may not exceed \$50,000 per unit, inclusive of all hard and soft costs.

2.3 Applicant Intake and Homeowner Eligibility

- A. The LPA may not charge applicants servicing, origination, or other fees for the purpose of covering costs of administering the HOME program, except that the LPA may charge nominal application fees (although these fees are not an eligible HOME cost) 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.
- B. At the time of application, document that the homeowner:
 - i. Owns the property (copy of deed)
 - ii. Lives in the property as their primary residence (by obtaining a copy of utility bill, bank statement, and/or canceled mail with their name and address)
 - iii. Is current on mortgage(s)
 - iv. Is current on property taxes & fees owed to the municipality
 - v. Maintains adequate and has homeowner's and/or flood insurance as necessary and premiums are paid up to date.
 - vi. If the homeowner has a mortgage loan modification agreement due to foreclosure, the owner must demonstrate 6 months of on-time payments in the modification agreement, prior to approval for HOME assistance.

2.3.1 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 to 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.

2.3.2 Application Intake & Waiting List

- A. Applications must be taken in a manner that 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. 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.

2.3.3 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. 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 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 Eligible Forms of Ownership

- A. The LPA must document that the assisted household owns the unit based on the following and in compliance with 92.254(c):
 - i. Ownership in fee simple title.
 - ii. 99 year leasehold or 50 years if with a Community Land Trust.
 - iii. Condo or co-op ownership eligible.
 - iv. Inherited property: shares ownership with other non-resident heirs, but pays all costs of ownership.
 - v. Life estate: right to live in the property until death, does not pay rent.
 - vi. Inter vivo trust: a living trust in which all trust beneficiaries qualify as low-income and each beneficiary has a legal right to reside in the property until death.

vii. Beneficiary deed ownership.

- B. The ownership interest may be subject only to mortgages or other liens or instruments securing debt on the property or any other restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest.

2.3.5 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.

2.3.6 Other Homeowner Eligibility Requirements

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

2.3.7 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 or the certification must be updated.
- G. Visit <https://www.hudexchange.info/programs/home/topics/income-determination/#guidebooks-and-tools> for further guidance.

2.3.8 Underwriting the HOME assistance

- A. Before committing funds to a project, the LPA must ensure that no more HOME funds are invested than needed to provide quality, affordable, and financially viable housing throughout POA.
 - i. The LPA must ensure that all sources are firmly committed and the costs are necessary and reasonable.
 - ii. 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.
 - iii. The owner is reasonably expected to be able to handle all existing obligations with respect to ownership including mortgage(s), property taxes, insurance and maintenance throughout the POA.
- B. Evidence and documentation of this analysis must be maintained in the project file.

2.3.9 Feasibility Determination - Denial of Assistance

- A. Properties/households should be assisted only if sufficient funding exists to address all necessary items identified in the inspection and the household has the capacity to sustain the housing for the POA.
- B. If inadequate funding exists, or the family is not expected to be able to sustain the housing or it is determined that this is not a cost effective use of funds, the project should be determined infeasible and the infeasibility determination documented.
- C. Any household denied assistance must be contacted in writing with the reasons for denial disclosed and the process for appealing the denial identified.

2.4 Property Eligibility

2.4.1 Eligible Property Types

- A. Single family (1-4 unit) owner-occupied housing.
- B. Owner-occupied with rental units – If HOME funds are used to assist an owner-occupied property that has rental units (e.g., a 2, 3 or 4 unit structure), the LPA must determine if the HOME assistance is being used in the owner's unit, the rental units or both as described in this Plan.
- 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.

2.4.2 Maximum Sales Price Limits (After Rehab Value)

- A. The estimated value of the property after rehab cannot exceed the HOME Maximum Sales Price Limits (maximum purchase price/after rehab value limit) as published annually by HUD for the local jurisdiction at the time of project commitment, available at: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>.
- B. The LPA will ensure that the value of the unit after housing rehabilitation does not exceed the maximum sales price limit for the service area, as determined by the annually published HUD limits.
- C. The after-rehab value must be determined up front, before work is started. The after rehab value must be considered when determining the scope of work for the unit. The cost to determine this value is a HOME eligible expense. HTFC requires an LPA to determine after rehab value by using one of the following methods:
 - i. Licensed Appraisal
 - ii. Real Estate Market Assessment
 - iii. Independent estimate of value by a “knowledgeable” professional

2.5 Property Standards

- A. 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. The LPA shall meet 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 upon completion.
- C. All housing 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. 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.
- D. Housing inspections must be performed in compliance with 24 CFR Part 92, as applicable by activity and throughout the POA.

- E. At construction completion and prior to submitting a completion report, LPAs must have an inspection performed by a NY State Code Certified Inspector documenting that that the unit meets NYS and/or Local Code.
- F. HOME rules require that each of the major systems in an owner-occupied rehab 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.
- G. 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.

2.5.1 Weatherization Assistance Requirements

- A. The NYS HOME Local program is partnering with the NYS HCR Weatherization Assistance Program (WAP) to provide weatherization assistance for all HOME assisted units that are income qualified at 50% or less of area median income.
- B. Weatherization funds and construction services to perform weatherization activities will be made available to LPAs through the HCR WAP provider located in the local service area.
- C. LPAs must partner with the local HCR WAP provider to ensure weatherization measures are incorporated into the scope of work for each applicable HOME assisted unit. LPAs and WAPs must develop an MOU describing how the housing rehabilitation and weatherization assistance will be combined in one scope of work, how construction will be handled, how both will address priorities, preferences and wait lists and the scheduling of construction activities.
- D. Priority should be given to senior citizens, families with children, and persons with disabilities. If a household contains a member who receives Supplemental Security Income (SSI), Public Assistance, Food Stamps, or Home Energy Assistance Program (HEAP) benefits, the household is automatically eligible for WAP.

- E. The HCR WAP will also provide the HOME program required energy audit. HTFC requires an energy audit be conducted for each house to identify energy-related improvements that can be incorporated into the scope of work.
- F. 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.
- G. If WAP funds are not available, LPAs are strongly encouraged to use NYSERDA Weatherization Assistance Program that may be applicable.

2.5.2 Lead Based Paint (LBP)

- A. 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...

2.5.3 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. Reasonable accommodations for modifications to the housing during housing rehabilitation are required for households with accessibility needs. Program funds may be used to make such modifications, as long as the entire unit will meet NYS and/or Local Code upon completion.

- C. 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 Rehabilitation Scope of Work & Cost Estimate

- A. 92.251(b) (2) requires LPAs to develop a scope of work and cost estimate 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.

2.7 Project Approval & Commitment

2.7.1 Tier 2 Site Specific Environmental Clearance

- A. Prior to the commitment of any funds to a HOME-assisted project, a Tier 2 site specific clearance must be approved by HTFC.
- B. All NYS HOME funded LPAs must submit a Tier 2 site specific clearance letter in order for HTFC to set up the unit in the IDIS system.
- C. The Site Specific Statutory Checklist and Tier 2 environmental review procedures/instructions for LPAs are available on the HCR HOME Program website.

2.7.2 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. A budget and schedule have been established.
 - iii. Project underwriting (if applicable) has been completed.
 - iv. The LPA and owner have executed a written legally binding agreement meeting the requirements noted in this Plan.
 - v. The construction contract has been let and the work is scheduled to start.
 - vi. The HTFC note and mortgage has been executed.

2.7.3 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 in this Plan and on the HCR HOME program website.

LPA Homeowner Housing Rehabilitation With or Without Rental Units Initial File Submission Checklist

SHARS: _____ **Project Address:** _____

File	Submitted	HTFC Review Notes
Part 1: Submitted at Project Setup		
Homeowner Rehab Set Up Form		
Tier 2 Site-specific Statutory Checklist		
Applicant income eligibility determination		
Income documentation		
Verification of ownership		
After rehab value estimate v. limit		
Project underwriting – budget review: <ul style="list-style-type: none"> • sources committed • uses reasonable • owner assistance reasonable 		
Executed homeowner written agreement		
Initial inspection/work write-up		
If pre-1978, LBP risk assessment		
Building permit		
Rehabilitation contract		
Part 2: Submitted at Project Completion		
Homeowner Rehab Completion Form		
Final inspection report		

File	Submitted	HTFC Review Notes
LBP clearance report (If pre-1978)		
Recorded note & mortgage		
Final project budget – all sources & uses		

LPA Signature

Date

HTFC Reviewer

2.8 Project Completion

- A. A project is completed when:
- i. All construction work has been performed.
 - ii. The project complies with the required property standards.
 - iii. The project complies with NYS and/or Local Code requirements.
 - iv. The homeowner, LPA and Contractor have signed a statement that all construction activity is complete and satisfactory according to program requirements with all applicable warranties given to homeowner.
 - v. The final drawdown of HOME funds has been disbursed for the project.
 - vi. The HTFC note and mortgage has been recorded.

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's written consent.

2.10 Procurement & Contracting

- A. The LPA is considered the "procurer" (i.e., it effectively controls the decision of who gets the contract) then the procurement requirements of 2 CFR Part 200.318 - .326 apply. (The combined Omni Circular replaces the former Parts 85 and 84 circulars).
- B. 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.
- C. 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.
- D. Labor related contract provisions:
 - i. Section 3 requirements for contractors are triggered at \$100,000.
 - ii. MWBE requirements
 - iii. Section 3 and MWBE reporting forms are available at: <http://www.nyshcr.org/Forms/FairHousing/>.
- E. The LPA is responsible to ensure an adequate level of competition in bidding to establish cost reasonableness.

2.11 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 homeowner and contractor must be signatories to the contract.
 - i. The LPA should be a third party to the contract able to approve payment and mediate disputes.
- D. Bonding is not required for individual contracts under \$150,000.
- E. LPAs must hold back 10% of the final payment to the contractor until after final completion of construction work and all required documentation has been submitted.
- F. The homeowner, LPA and the contractor have signed off that the work has been completed satisfactorily and meets all program requirements.
- G. LPAs must require that all contractors sign a release of lien form for all construction activity completed and paid for with HOME funds.
- F. Required HOME contract provisions – the following may be triggered:
 - i. Labor Standards: Davis-Bacon applies only to construction contracts of 12 or more HOME-assisted units.
 - ii. Section 3: Requirements for individual contractors are triggered at \$100,000
 - iii. MWBE requirements: All contractors are encouraged to utilize minority and women owned business enterprises. Section 3 and MWBE reporting forms are available at: <http://www.nyshcr.org/Forms/FairHousing/>.

2.12 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.
- B. The [HOME & CDBG Residential Anti displacement & Relocation Assistance Plan \(Relocation Plan\)](#) establishes the HTFC HOME Program policy to minimize displacement.
- C. Under most circumstances, owner-occupied rehabilitation will not result in permanent displacement, but may produce temporary displacement while work is being completed. Permanent displacement will occur if a tenant in an assisted unit is over-income or otherwise not expected to be housed after rehabilitation. In this case, refer

to the HUD Handbook 1378 at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/13780 and consult with HTFC before proceeding with the project.

- D. Any legal occupant of a property at the time of application for federal funds is entitled to protections, including the initial notice that is due on the initial application for funds by the owner. The Relocation Plan contains the non-displaced tenant notification form is in Appendix 2; the displaced tenant form is in Appendix 3.
- E. If rents are increased due to the rehabilitation and are 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.

2.12.1 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. Owner-occupants can be asked to voluntarily self-relocate during this period, or may be assisted with HOME program funds for the costs of temporary relocation.
 - ii. Tenants are considered involuntarily displaced and their costs of temporarily relocation must be paid. HOME funds may be used for this purpose.
 - iii. Federal requirements give administrators flexibility in determining and paying the costs of temporary relocation. Consult with HTFC if there are questions regarding appropriate eligible HOME program costs of temporary relocation.

2.13 Construction Management & Monitoring

2.13.1 Inspections

- A. HOME rules require progress and final inspections to determine that work was done in accordance with the work scope, contract and property standards.
- B. All progress and final payments to contractors must be signed off by the LPAs construction professional, homeowner and contractor and all lien releases have been submitted.
- C. If Lead based paint (LBP) is present, any hazard control work must be cleared according to the requirements of Part 35. HOME Local will only pay for the first LBP clearance test, if the unit fails, the LPA and/or contractor must pay for the clearance testing.

2.13.2 Construction Completion

- A. 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 a NYS Code certified inspector. Documentation must include a signed and dated report from the Code inspector that the property meets NYS and/or Local Code.

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, allow ability 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 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. The LPA shall not request disbursement of funds under the contract until the funds are needed for payment of eligible costs, meaning that the cost has occurred prior to billing HOME Local. Advances of funds are not permitted.
- B. Requests for disbursement of funds for owner-occupied housing rehabilitation will require submission of a certification, signed by the LPAs construction professional, the homeowner and contractor, stating that the work has been satisfactorily completed.
- C. The amount of each request shall be limited to the amount needed to pay such costs incurred.
- D. Payments of funds under the contract are also subject to the LPAs compliance with the requirements of the IDIS system 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 LPA is in default of any of the provisions of the contract.
- F. 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.
- G. The LPA must submit an Authorized Signature Form prior to contract execution; the form is available on the HCR HOME Program website.
- H. Disbursement requests must be submitted in compliance with the instructions available on the HCR HOME Program website.
- I. The NYS HOME Local Program will not pay for work that has not been completed; no advance or up-front payments will be permitted.
- J. Request for payment of administrative funds must be within 15% of project cost expenditure.
- K. IDIS - Integrated Disbursement Information System 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 and documentation that the unit meets NYS and or Local Code 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 their HOME Local 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 start construction and/or the 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. Information on eligible sources of match and the amount required to be matched in the awarded contract is available on the HCR HOME Program website.

3.4 Program Income

- A. Program income is any funds received by the LPA from a HOME investment. In most owner-occupied rehabilitation circumstances, the program income will be derived from the repayment of HTFC notes and mortgages 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 homeowner 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 within 30 days of receipt and will be reallocated for HOME eligible activities according to the State's Action Plan.
- C. The LPA shall furnish financial records detailing all program income and must remit all program income to the HTFC.
- D. All program income must be reported on the bi-annual report form.

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.
- E. 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.
- F. The LPA must have been monitored with all monitoring findings resolved.
- G. HTFC will issue a close out letter to the LPA detailing that the project is complete then HTFC will officially close out the contract and de-obligate any remaining unexpended HOME funds.

4 Homeowner Housing Rehabilitation with Rental Units

NOTE: This Chapter applies only if the LPA is going to rehabilitate owner-occupied properties that contain rental units, that is, a 2, 3, or 4 unit owner-occupied property.

- A. While the primary purpose of Homeowner Rehabilitation programs is to repair or rehabilitate owner-occupied single family home, funds may also be used to provide rehabilitation of rental units in an owner-occupied 2-4 unit property where the homeowner unit is being rehabilitated.
- B. HTFC prefers a “whole house” approach to rehabilitate all units and common areas in an owner-occupied property with rental units. If the owner’s and all rental units qualify for HOME assistance, then all units should be HOME assisted as a single undertaking.
- C. The housing rehabilitation must be comprehensive enough in scope to assure the entire property, including all units and common areas, must meet HTFC Housing Rehabilitation Standards, and NYS and/or Local Code upon completion.
- D. Assisted rental units are subject to the HOME occupancy, affordability and lease up requirements described in this Section.

4.1 Cost Allocation & Determination of Assistance to Rental Unit

- 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 owner’s unit, the rental units or both via cost allocation.
- B. The LPA must complete the Cost Allocation Worksheet for Homebuyer/Homeowner 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 Limits (maximum purchase price/after rehab value) are published for 2 – 4 family units as well as single family units. 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/>. All other details covering property eligibility and determination of after rehab value are covered in this Plan.

4.3 Homeowner Underwriting

- A. The LPA must ensure that the property will be sustainable for the homeowner throughout the POA. If amortizing loan funds are being used for any part of the rehabilitation, the LPA must underwrite the homeowner to determine that the owner can afford the rehabilitation and 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 Rental Unit Requirements

- A. If HOME funds are also used to assist the low-income homeowner 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 and the Rental Unit Addendum. The rental provisions may be terminated, at the discretion of HTFC, upon recapture of the HOME investment.
- 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.

4.5 Relocation

- A. Under most circumstances, owner-occupied rehabilitation will not result in permanent displacement. However, permanent displacement can occur if a tenant in an assisted unit is over-income or otherwise not expected to be housed after rehab. Refer to HUD Handbook 1378 at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/13780 and consult with HTFC before proceeding with the project.
 - i. If rents are increased due to the rehabilitation and are 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.
- B. Temporary relocation may be necessary due to extensive rehabilitation or reconstruction making the home unusable while work is progressing or for 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 HTFC if there are questions regarding appropriate eligible HOME program costs of temporary relocation.
- C. Existing tenants must be provided a notice at the time of award of funds to the project, notifying the tenant of displacement or non-displacement. The non-displaced tenant notification form is in Appendix 2; the displaced tenant form is in Appendix 3 of Handbook 1378.

4.6 Terms of Assistance

- A. The entire property is subject to a 5 year Period of Affordability (POA), regardless of the amount of HOME funds invested.
- B. The term of the lien is for 5 years at zero percent (0%) interest. The principal balance will be reduced by 1/5th, on each anniversary date of when the unit was completed in IDIS. No repayment is required if the homeowner 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.

4.6.1 Written Agreement

- A. If the homeowner is receiving HOME assistance to rehabilitate one or more rental units, the written agreement must include the Rental Unit Addendum as referenced in This Plan.

4.6.2 Note & Mortgage

- A. If rental units are assisted, the Note and Mortgage must include the Rental Unit Addendum as referenced in this Plan.
- B. If the home is sold during the POA to another HOME eligible homeowner, the note and mortgage terms may be assumed by the new HOME eligible homeowner, including the Rental Unit Addendum referenced in this Plan.

4.7 Initial Project Approval

- A. HTFC must approve the initial project file 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 an owner-occupied rehabilitation 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 also is available on the HCR HOME Program website.

LPA Homeowner Housing Rehabilitation With or Without Rental Units

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

4.8 Eligible Administrative and Project Delivery

- 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.
- B. In addition to project delivery costs 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.
 - iv. Completion of tenant income documentation and certification.
 - v. Development and execution of leases compliant with HOME requirements.

4.9 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 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 in this Plan and also available on the HCR HOME Program website.

4.11 Project Monitoring – Rental Units

- A. The 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 part of a homeowner rehabilitation 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 re-certifications during the POA (tenants self-certifications are permitted and source documentation is not required for re-certifications);

- iii. Review and 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.

4.12 Attachments

4.12.1 Cost Allocation Worksheet

LPA Homeowner Housing Rehabilitation with Rental Unit

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

**4.12.2 LPA Homeowner Housing Rehabilitation with Rental Unit
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			

4.12.3 Written Agreement Addendum for Rental Units

The template addendum for the written agreement between the Homeowner and the LPA for homeowners with HOME assisted rental units will be made available to LPAs at contract execution.

4.12.4 Note & Mortgage Addendum for Rental Units

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