

NYS HOME Local Program

Administrative Plan

Tenant-Based Rental Assistance (TBRA)

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 Tenant Based Rental Assistance (TBRA) program.

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

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

Acronyms:

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

- NYS HOME Local Program Manager: is assigned to the LPA at contract execution and is the HTFC OCR staff representative that will assist the LPA to administer the contract with HTFC.
- 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 Program Administration

1.1 Use of Funds

1.1.1 Eligible Activities

TBRA provides monthly rental subsidy to low-income individuals and families. Funds may be used to provide monthly tenant-based rental assistance to assist families at or below 60% of area median income.

TBRA may be used to assist low-income households with:

- i. Rent and utility costs
 - ii. Security deposit assistance in conjunction with a TBRA rental assistance program (up to two months' rent, provided as a grant) and/or
 - iii. Utility deposit assistance in conjunction with a TBRA rental assistance program.
- A. TBRA may not be provided to households already receiving assistance under other rental assistance programs that already reduce tenant payment to 30% of income.
 - B. The term of the rental assistance commitment may not exceed 24 months, but may be renewed by the LPA, subject to the availability of HOME funds at the time of renewal.
 - C. TBRA programs are required to demonstrate compliance with HOME program regulations at 24 CFR 92.209.

1.1.2 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.

1.1.3 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. Any changes to the milestones 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.

1.1.4 Eligible Administrative and LPA 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 costs.
- C. Eligible TBRA costs for administration and project delivery are described in the NYS HOME Local Program Budget Policy, available on the HCR HOME Program website.

- D. LPA costs of 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.

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.
- B. Individual properties (units) will need to have site specific (Tier 2) environmental clearance before funds can be committed or set up in IDIS.

1.2.1 Tier 1 (Programmatic) Clearance

- A. During contract execution the HTFC and the LPA will conduct a programmatic Tier 1 environmental review with HCR's Environmental Analysis Unit (EAU), which generally approve 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 Fair Housing & Accessibility

- A. LPAs and property owners providing housing to TBRA households are subject to all state and federal fair housing laws and orders, as referenced in 92.350. In general, the housing must be provided in a manner that does not discriminate against persons based on race, color, religion, sex, familial status, national origin, age, or disability.
- A. LPAs should be sure that participating housing providers understand their fair housing obligations and comply with fair housing laws.
- B. LPAs should refer to the HOME Local Program Fair Housing-Equal Opportunity-Affirmative Marketing Policy available on the HCR HOME Program website.
- C. For further guidance, refer to the Fair Housing Guide available at: <http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/2005/200510.pdf>.

1.3.1 Affirmative Marketing & Minority Outreach

- 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.
 - 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).

1.3.2 Accessibility

- A. Private housing providers participating in a HOME-funded TBRA program are not subject to the requirements of Section 504 of the Rehabilitation Act of 1973, but HTFC and LPAs are.
- i. Section 504 and its implementing regulations at 24 CFR Part 8 obligate recipients of Federal financial assistance to make their programs accessible to persons with disabilities, including providing a policy, practice, or rule modification, or an accessible feature in a unit or common area, if needed as an accommodation by an applicant or tenant with a disability, unless doing so would result in a fundamental alteration in the nature of its program or an undue financial and administrative burden. See 24 CFR 8.4, 8.20, 8.24, and 8.33 for further requirements and guidance.
 - ii. The LPA should take the following steps to ensure that it is operating its TBRA program in a manner that makes the program accessible to persons with disabilities:
 - 1. Ensure that the in-take office of the TBRA program is in a building that is accessible to persons with mobility disabilities
 - 2. Distribute notices of the availability of housing assistance to eligible individuals with disabilities.
 - 3. Make notices and application forms available in a variety of formats, to ensure that persons with disabilities receive information about the program, and are able to access the program;

4. Provide information about the availability of accessible units to applicants who require accessible units, where known.
 5. Provide information on counseling available to help those in need of accessible units to find them.
- iii. In addition, LPAs should be aware that they may need to provide reasonable accommodations to individuals with disabilities in order to make it possible for them to participate in the TBRA program. Such accommodations may include providing higher rents and sufficient assistance to enable a person with a disability who needs a live-in aide to rent a unit with an extra bedroom, in addition to that needed by the family.
 - iv. Effective communication with applicants and beneficiaries may require auxiliary aids where necessary, such as sign language interpreters, TTY devices, note readers, large-sized written materials, Braille materials, audio recordings, and other similar services and devices; and having a TTY or equally effective communication system available if the LPA communicates with the public by telephone.
- B. Under the Fair Housing Act, housing providers must make reasonable accommodations for applicants or residents with disabilities to enable them to fully enjoy or use their dwelling and any related amenities afforded to other residents, in accordance with 24 CFR 100.203 and 100.204.
- i. Typically, an accommodation can be made with little or no cost to the housing provider. However, in some circumstances an applicant or resident will require an accommodation that has a cost and is necessary to the full use and enjoyment of the property by the tenant. In these cases, the housing provider is obligated to bear the cost of the accommodation, provided it does not impose an undue financial and administrative burden on the housing provider.
- C. In addition, housing providers must permit tenants to make and pay for structural modifications to units or common areas that are needed to allow them to have effective use of the housing program (reasonable modifications).
- i. A housing provider is not required to pay for modifications or structural changes to the development. If the housing provider wishes to make these modifications on behalf of the tenant, the cost of these modifications can be passed on to the tenant, either as a direct payment to the housing provider, or in a series of payments over time. The tenant can also arrange to have these modifications made on his or her own. A housing provider may require the tenant or applicant

to provide a description of the proposed work and reasonable assurances that the work will be done in a workmanlike manner and with required building permits. The housing provider may also require restoration of the unit to its original condition (except for normal wear and tear) prior to moving out, if the modification might interfere with a subsequent tenant's use and enjoyment of the unit, and payment into an interest-bearing escrow the funds for restoration.

1.4 Written Agreements & Program Documents

- A. All households (tenants) receiving assistance must execute a written agreement for HOME program assistance with the LPA and Owner of unit to be rented 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 prior to setting up the unit in IDIS.
- B. All property owners must execute a housing assistance payments contract with the LPA.

1.5 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 Section 1.8.1 and 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 as Section 1.8.2, 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: property description and location, copies of written agreements, records regarding project requirements, copies of HOME eligible leases, maximum subsidy determination, compliance with property standards and on-going inspections, invoices and payment records, related correspondence, audits, indirect cost analysis, operating budgets 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.
- 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 termination of the contract.
- 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.

1.6 Reporting

1.6.1 Project Set-up Report

- A. A TBRA Set-Up form should be submitted when a project commitment is ready – that is:
 - i. A written agreement/contract has been executed by the LPA, tenant and owner and tenancy is ready to commence. The site to be HOME assisted must also have site specific, Tier 2 environmental approval.
- 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

1.6.2 Project Completion Report

- A. A project completion form should be submitted when a unit is completed, which means that:
 - i. The tenant is no longer receiving TBRA assistance and/or HOME program funds are no longer available for TBRA assistance.
- B. The TBRA 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.

1.6.3 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.

1.7 Workplace Requirements

- A. LPAs are subject to the Equal Employment Opportunity requirements related to nondiscrimination and equal access: The LPA shall comply with the following, as applicable. LPAs must not discriminate in hiring and employment practices. To comply, LPAs must:
 - i. Post an Equal Employment Opportunity Poster in a conspicuous place (poster available at: <http://www.dol.gov/regs/compliance/posters/eeopost.pdf>);
 - ii. Include the EEO tagline in all employment advertising: "All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin."
 - iii. Keep records of all employment actions and decisions, including job descriptions, postings, applications/resumes, interviews, tests, offers, written employment policies and procedures, and personnel files, and make available for inspection by state and federal agencies if requested.
 - iv. If the LPA has 50 or more employees and a contract in excess of \$50,000, submit an annual EEO-1 Report (report form available at: <http://www.eeoc.gov/employers/reporting.cfm>).
- A. 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; and
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.

1.8 Attachments

1.8.1 LPA TBRA Program – 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 income limits – by year			
Program rent limits – by year			
Utility allowances – by year			
Rent standard			
Payment standard/min tenant contribution			
Program Administrative Records			
Program (Tier1) environmental clearance			
Affirmative marketing plan & outreach			
Application intake log & wait list			
Denials & appeals			
Fair housing complaints			
Conflict of interest determinations			
Bi-annual Report			
Program Financial Records			
Financial policies & procedures			
Program budget & eligible costs			
Admin/project delivery costs documentation			
TBRA draw requests			
Disbursement documentation			
Audit (if applicable)			

1.8.2 LPA TBRA Program - Project File Checklist

Household: _____ SHARS: _____

Project File Items (for each household assisted)	Check if in file	Date	Notes
Household application & income eligibility determination			
HH authorization to release			
Household income source documentation			
Documentation of disability/special need (if applicable)			
TBRA assistance offer/coupon			
Request for unit approval			
Unit HQS inspection report			
Site (Tier 2) environmental clearance			
Unit rent documentation (reasonableness, utility allowance, assistance payment, tenant payment calculation)			
Executed owner contract			
Approved lease form/addendum			
LBP Notice (if pre-1978 unit)			
IDIS project set-up form			
Documentation of termination (if appl.)			
<i>If renewal of assistance:</i>			
Household income declaration			
Household income source documentation			
Unit HQS inspection report			
Unit rent documentation (reasonableness, utility allowance, assistance payment, tenant payment calculation)			
Notice of change in assistance & lease			
Executed owner contract			
Approved lease			
Project Financial Records			
Draw requests			
Disbursement records			

2 Project Requirements

2.1 Assistance Limits

2.1.1 Rental Assistance Model

- A. LPAs must use the Voucher Model. Under the Voucher Model:
 - i. The LPA calculates and fixes the amount of rental assistance it will pay; and
 - ii. The tenant pays the difference between that amount and the rent of the unit that that household selects (and is approved by the LPA.)

2.1.2 Payment Standard

- A. The LPA must establish the payment standard (or rent standard) by bedroom size that is inclusive of contract rent and tenant-paid utilities.
 - i. The standard must be between 80 and 100 percent of the local Section 8 FMR or community-wide exception rent.
 - ii. The LPA may approve rents at 110 of the applicable FMR in no more than 20 percent of the units assisted.
- B. The payment standard is used to cap contract rent plus tenant paid utilities under the Certificate model, and to calculate the assistance amount under the Voucher model.

2.1.3 Assistance Payment Limit

- A. The maximum amount that the HOME TBRA project may pay to assist any given household for rent assistance is the difference between 30% of the household's adjusted monthly income and the actual monthly rent.
- B. The LPA must establish a minimum monthly tenant payment toward rent and utilities.
- C. The LPA will establish a rent standard using the local Public Housing Authority's Section 8 Housing Choice Voucher Program fair market rent standard.
 - i. The rent standards must not be less than 80% of the published FMRs and not more than FMR or area-wide exception rent.

- ii. The calculation of rents includes all utilities and housing-related services, except telephone.

2.2 Program Marketing and Outreach

- A. Prior to the taking of applications, the LPA should implement the affirmative marketing requirements noted in this Plan.
- B. The marketing effort should also include outreach to property owners to make them aware of the program and its requirements and to minimize potential discrimination against households that have the assistance.

2.3 Applicant Intake & Eligibility

2.3.1 Tenant Selection Plan

- A. The LPA must have a written tenant selection policy that clearly specifies how households will be selected for participation in their project. There are two major components of tenant selection:
 - i. Income Eligibility – A project can target the assistance to distinct AMI levels as long as it is below the 80% AMI level.
 - ii. Preferences – A project can target populations of unmet needs as defined in the State’s Consolidated Plan. (See §92.209(c)(2)(i) and (ii)).
- B. Applicant selection procedures must:
 - i. Clearly articulate any locally established preferences.
 - ii. Identify applicants who meet the selection criteria on a lottery or a “first come, first served” basis in accordance with preference policies.
 - iii. Provide for the selection of TBRA recipients from a written waiting list in the chronological order of application.
 - iv. Provide immediate written notification to any rejected applicant of the specific grounds for rejection and maintain records of the rejection.
 - v. Provide for reasonable accommodations for persons with disabilities to ensure they have equal access.

- C. Special provisions are necessary for tenants who are on the Section 8 waiting list at the time of selection for HOME TBRA assistance. These households must remain in place on the Section 8 list while receiving the HOME-funded TBRA.

2.3.2 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.

2.3.3 Income Eligibility

- A. All households assisted must be under 60% of median income as defined by HUD HOME income limits posted at: <https://www.hudexchange.info/manage-a-program/home-income-limits/>.
- B. Income will be determined using the Section 8 or known as the Part 5 method, defined at 92.203(b).
- 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.
- F. The commencement of rental assistance must occur within 6 months of the income certification or the certification must be updated.
- G. Visit <https://www.hudexchange.info/programs/home/topics/income-determination/#guidebooks-and-tools> for further guidance.

2.3.4 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.
- D. Generally, TBRA (and related services) should be made available to all persons with special needs or disabilities who can benefit from such services. However, the LPA program can limit or preference TBRA to persons with a specific disability or disabilities as follows:
- i. The program may have a limit or preference for a specific disability if the specific category is identified in the State's consolidated plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.
 - ii. The program may be designed to serve the entire community with a preference for persons with a special need(s), or the program may be designed to serve only special purpose or specific housing need(s).
 - iii. If a TBRA preference is for persons within a class or category of disability (such as persons with HIV/AIDS or chronic mental illness), the LPA cannot discriminate against persons who fall within that class based on the presence of other disabilities. The program is prohibited from requiring participation in medical or disability-related services as a condition of receiving or continuing to receive HOME TBRA.
- E. Persons who are eligible for a preference cannot be restricted from participating in any other programs of the LPA or the State, including programs that are not separate or different.

2.3.5 Application 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 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.

2.4 Selection of Unit

2.4.1 Household Notification of Eligibility

- A. Once a household is determined eligible and selected to receive TBRA assistance, the LPA must notify the household in writing and authorize the household to look for housing. The notification should contain the following:
 - i. The responsibilities of the household to select a unit
 - ii. Subsidy calculations & limits on rent.
 - iii. Unit requirements (HQS).
 - iv. Security deposit policy.
 - v. Timeline (expiration and extension policies)

- vi. The process for submission and approval of a unit
- B. The LPA should also conduct a briefing for the family and address the contents of the letter or coupon, plus guidance on:
 - i. Shopping for and selecting units
 - ii. Dealing with landlords
 - iii. Fair housing protections
- C. The LPA must limit the family to use of the tenant-based assistance within the service area of the awarded NYS HOME Local Program.
- D. The LPA must establish a deadline for the household to locate a unit.

2.4.2 Request for TBRA Unit Approval

- A. Once the household finds a unit and a landlord willing to participate in the project, the tenant submits a request for the unit to be approved and for using TBRA to rent the unit. The LPA should prepare the request form to be signed by the household and potential landlord.
- B. Prior to approval of the lease, the LPA must:
 - i. Inspect the unit to assure that Section 8 Housing Quality Standards, lead safe housing, and occupancy requirements will be met.
 - ii. Determine that the rent is reasonable and that the lease meets all requirements

2.5 Property Inspection

- A. Any TBRA unit must meet Section 8 Housing Quality Standards (HQS).
- B. This must be verified prior to occupancy by LPA inspection, and re-inspected annually.
- C. In addition, prior to approval of the unit, it must meet the LBP, accessibility and occupancy standards described below, as applicable.

2.5.1 Lead Based Paint (LBP)

- A. Pre-1978 housing assisted with HOME TBRA (and other HUD or RD funding) is subject to the HUD LBP rule at 24 CFR 35.1200 - .1225.
 - i. These requirements apply to any pre-1978 unit occupied or to be occupied by a child under the age of six.
 - ii. The LPA shall be responsible for the activities of the “designated party” under these requirements.
- B. The LPAs inspector must be trained in visual assessment, available at: <http://www.hud.gov/offices/lead/training/visualassessment/h00101.htm>
- C. The inspector will conduct a visual assessment of all surfaces in covered areas (the dwelling unit to be occupied by a child under the age of six, common areas serving the dwelling unit, and exterior painted surfaces) for deteriorated paint.
- D. The property owner must correct any conditions identified in the HQS inspection or visual assessment including stabilization of deteriorated paint. Paint stabilization normally involves repairing the substrate, scraping, and repainting the surface. All deteriorated paint must be stabilized by properly trained or supervised workers using Lead Safe Work Practices.
- E. When work is complete, the LPA must ensure that the unit passes clearance (as defined in 35.1340) and must maintain a copy of the clearance report. Failure to obtain clearance on any unit where lead hazard reduction activities have occurred will result in disqualification of the unit.
- F. The property owner must provide the tenant (1) a disclosure of known lead paint hazards (and clearance results, if applicable), and (2) a copy of the HUD/EPA pamphlet, Protect Your Family from Lead in Your Home. This is a standard requirement of all landlords, but the LPA should collect a copy of the receipt signed by the tenant acknowledging receipt to document that disclosure has occurred.

2.5.2 Accessibility to Apply for TBRA

- D. 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.
- E. 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.
- ii. Reasonable accommodations and reasonable modifications are required for households with **accessibility** needs. Program funds may be used to make such modifications, as long as the entire unit will meet HQS and program property standards upon completion.

2.5.3 Occupancy Standards

- A. LPAs must develop local occupancy standards that specify the number of bedrooms needed by households of various sizes and composition.
 - i. The HQS standard is two persons per bedroom or sleeping area, but also takes into account the age, sex and medical needs of the household members.
 - ii. A household may elect a larger unit than indicated by the standards, but the LPA is not required to provide increased assistance to provide for the additional costs of a larger unit.
 - iii. Fair housing rules permit a household to elect a smaller unit than indicated by the standards, provided it does not result in seriously overcrowded conditions.

2.6 Unit Approval

2.6.1 Rent

- A. The rent must be reviewed against the program standard defined in this Plan for compliance and reasonableness.
 - i. For the Voucher model, the payment standard is used to determine the assistance amount prior to unit selection, and the rent must only be reviewed for reasonableness.
- B. The LPA must review the rent against comparable unassisted units, and disapprove a lease if the LPA determines the rent is not reasonable based on rents that are charged for comparable unassisted rental units.
 - i. If security or utility deposit assistance is provided, the determination must be made that the deposits are reasonable. Security deposits should not exceed two months of rent.

2.6.2 Lease and Tenant Protections

- A. Once the unit has been approved, the tenant and the owner must enter into a lease.
- B. The LPA must provide required language regarding the HOME Program as an addendum to the owner's lease.
- C. The lease between the landlord and the tenant may not contain certain prohibited lease provisions as described in 24 CFR 92.253.
- D. The lease must be in effect for at least one year, unless otherwise agreed upon by the tenant and landlord for a lease less than one year.
- E. The lease must contain a provision for 30 day notice to terminate tenancy or increase rent.
- F. The LPA must establish written standards for when a landlord may elect to terminate or refuse to renew the lease of a TBRA household. These standards must also be included in the lease and in the contract between the LPA and the tenant.

2.6.3 Project Environmental Clearance

- A. As noted previously in this Plan, prior to the commitment of any funds to a HOME-assisted project, the Tier 2 clearance must be approved by HTFC.

2.6.4 Execution of the Contract with Owner

- A. The LPA and the owner will enter into an agreement in which the owner agrees to comply with the HOME rules and the LPA agrees to pay the TBRA share of rent.
- B. The term of the rental assistance contract may not exceed 24 months, but may be renewed, subject to the availability of HOME funds at the time of renewal.
 - i. The term of the rental assistance contract must begin on the first day of the term of the lease.
 - ii. The rental assistance contract between the LPA and the owner must terminate on termination of the lease.

2.7 Project File Documentation and Approval

A. Required project documentation is specified in the Program Project File Checklist available on the website and contained in this Plan.

2.7.1 First File Review by OCR

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

**HOME LPA TBRA Project
Initial File Submission Checklist**

SHARS: _____

Project Address: _____

File	Submitted	HTFC Review Notes
Part 1: Submitted at Project Setup		
TBRA Set Up Form		
Tier 2 Site-specific Statutory Checklist		
HH income eligibility certification & documentation		
TBRA assistance offer		
Unit inspection & approval		
Rent determination - reasonableness, utility allowance, assistance payment, tenant payment calculation		
Executed owner contract		

LPA Signature

Date

HTFC Reviewer

Date

2.8 Contract Renewals

- A. TBRA assistance is limited to two years at a time.
- B. However, household income eligibility and unit condition must be reassessed annually, and any changes in rent must be approved. Usually, these determinations coincide with renewal of an annual lease.

2.8.1 Income Recertification

- A. The incomes of households receiving rental assistance must be re-examined at least annually using source documentation. The LPA must re-evaluate family income, size and composition.
- B. Assistance must be terminated if the tenant's income goes above the Section 8 low-income limit (with reasonable notice to the tenant and landlord.)
- C. The LPA should establish a policy for interim (less than one year) recertification's if the household's income changes. Interim actions are not required by the rule.

2.8.2 Unit Re-inspection

- A. Prior to renewal of an assistance contract, the LPA must conduct an annual inspection to ensure that the unit still meets Section 8 Housing Quality Standards, and annually verify that the unit is appropriate for the household in order to meet the occupancy standard. Inspections standards are the same as for the original inspection, as described in Section 2.5.
- B. If HQS standards are not met, the LPA must give owners a reasonable period of time to correct the deficiency and provide evidence of the corrective action.
 - If the violation is not corrected, the LPA should take actions provided in the assistance contract to terminate.

2.8.3 Rent Adjustments and Lease Renewals

- A. Owners may adjust rents as leases are renewed (generally on an annual basis), unless they have agreed to a two-year lease.
- B. HTFC must review and approve rent increases by landlords renting to TBRA tenants.
 - i. The LPA must also re-determine the applicable utility allowance in effect at the time of lease renewal/rent adjustment.

- ii. HTFC must reject a lease if the rent is not reasonable, based on rents that are charged for comparable unassisted rental units.

2.8.4 Housing Assistance Contract Renewal

- A. The TBRA assistance must be adjusted based on the approved changes to rents and utility allowances, based on the circumstances and limits in effect at the time of recertification.

2.9 Move Outs & Terminations

- A. A tenant may elect to move or not renew.
- B. If the tenant elects to move, the assistance is portable, but the tenant and new landlord must be advised of the remaining term of the assistance (which would be less than 2 years.)
- C. The LPA must have standards for a landlord-initiated termination of tenancy. The standards must adhere to non-performance of tenancy obligations and avoid terminations that are inconsistent with fair housing laws.
 - i. If the household is evicted for cause, the LPA must determine whether assistance will also be terminated or available to the household in a new unit.

2.10 Renewal beyond 2 Years

- A. While the initial term of the rental assistance commitment may not exceed 24 months, assistance may be renewed subject to the availability of HOME funds at the time of renewal.

3 Financial Management

3.1 Uniform Administrative Requirements for Financial Management

- A. LPAs must have financial management systems that meet uniform federal administrative requirements (now restated at 2 CFR 200.301 - .316) that:
- i. Provide effective control over and accountability for all funds, property and other assets.
 - ii. Identify the source and application of funds for federally-sponsored activities including records and reports that verify the eligibility, reasonableness, allowability and allocability of costs.
 - iii. Permit the accurate, complete and timely disclosure of financial results in accordance with HUD reporting requirements or, for sub recipients, grantee reporting requirements
 - iv. Minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the grantee or sub recipient.
 - v. The LPA shall comply with the Uniform Administrative Requirements as 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. The amount of each request shall be limited to the amount needed to pay such costs incurred.
- C. Payments of funds under the contract are also subject to the LPAs compliance with the requirements of IDIS or any other similar or successor system used by HUD and all further documentation which may be demanded by HTFC related to any request for funds.
- D. HTFC will not disburse funds if the LPA is in default of any of the provisions of the contract.
- E. 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.
- F. The 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.
- I. Request for payment of administrative funds must be within 15% of project cost expenditure.
- J. IDIS - Integrated Disbursement Information System requirements:
 - i. LPAs must ensure unit completion in IDIS and are required to submit the project completion report and documentation the unit meets HQS, along with the request for final payment.
 - ii. 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.

- iii. Due to IDIS automatically cancelling projects in the system for no activity, LPAs should not set up units in IDIS unless the TBRA assistance is ready to begin and a qualified tenant has an LPA approved rental unit to begin renting 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. 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.
- B. Match must be reported on the required bi-annual report to HTFC.

3.4 Program Income

- A. Program income is any funds received by the LPA from a HOME investment.
- 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 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 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.