



Homes and  
Community Renewal

# REQUEST FOR PROPOSALS

Multifamily Programs

HCR Multifamily Finance 9% LIHTC RFP

Fall 2023

## For Projects Financed by:

- 9% Low-Income Housing Tax Credit
- New York State Low-Income Housing Tax Credit
- Low-Income Housing Trust Fund Program
- Rural and Urban Community Investment Fund
- Supportive Housing Opportunity Program
- Public Housing Preservation Program
- Middle Income Housing Program
- Federal Housing Trust Fund Program
- Senior Housing Program
- HOME Program
- New Construction Program
- LGBTQ+ Affirming Senior Housing Program
- Clean Energy Initiative Program

RFP RELEASE DATE: September 15, 2023



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# I. INTRODUCTION

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## A. Funding

The funding made available through this Request for Proposals (RFP) and through other NYS Homes and Community Renewal (HCR) funding opportunities are a critical component of New York State’s \$25 billion, five-year Housing Plan to create and preserve 100,000 affordable homes statewide, increase construction of new homes and tackle inequities in the housing market. Beginning in the Fiscal Year 2022-23 Budget, the plan will create and preserve more than 100,000 units of affordable housing over five years, including 10,000 homes with support services for vulnerable populations.

To advance the plan, HCR seeks proposals for the preservation and creation of high-quality affordable housing throughout the State by investing certain resources of the agency identified herein. HCR invites eligible applicants to apply for these housing resources through this HCR Multifamily Finance 9% LIHTC Request for Proposals (RFP). Under this RFP, applicants may only apply for funding for the new construction, rehabilitation, and/or adaptive reuse of site-specific projects that provide multifamily rental housing. This RFP is not applicable to projects proposing the use of tax-exempt bond financing.

This RFP describes the programmatic and submission requirements for the following funding sources. HCR reserves the right to adjust anticipated funding amounts contained in this RFP when awarding funds. In addition to the per project and per unit limitations, applicants cannot exceed the total amount of anticipated funding available per program when requesting program funds. Detailed information on each program is available in the program term sheets available at [hcr.ny.gov/multifamily](http://hcr.ny.gov/multifamily).

Program	Anticipated Funding
9% Low-Income Housing Tax Credit (LIHTC)	\$40 million
New York State Low-Income Housing Tax Credit (SLIHC)	\$8 million
Low-Income Housing Trust Fund Program (HTF)	\$20 million
Rural and Urban Community Investment Fund (CIF)	\$10 million
Supportive Housing Opportunity Program (SHOP)	\$63 million
Public Housing Preservation Program (PHP)	\$10 million
Middle Income Housing Program (MIHP)	\$10 million
Federal Housing Trust Fund Program (FHTF)	\$25 million
Senior Housing Program (SENR)	\$20 million
HOME Program (HOME)	\$10 million
New Construction Program (NCP)	\$37 million



LGBTQ+ Affirming Senior Housing Program (SENR)	\$4 million
Clean Energy Initiative Program (CEI) * total amount available for Existing Buildings, New Construction and Adaptive Reuse	\$7* million

## B. What's New

Specific changes for the Fall 2023 funding round include:

- HCR is returning to an annual 9% LIHTC RFP cycle, beginning with this RFP. The prior restrictions on the number of applications allowed to be submitted by a single applicant have been removed. HCR tentatively anticipates the next RFP to be released in the summer of 2024.
- A new LGBTQ+ Affirming Senior Housing Program term sheet has been released supporting affordable senior housing developments that are LGBTQ+ affirming. As detailed in the term sheet, eligible applicants or members of the development team must demonstrate experience developing, marketing, owning and managing housing for low-income seniors, and ideally have experience providing housing and services to LGBTQ+ low-income seniors. In addition, applicants must provide a plan that describes how tenants will have access to services that support aging in place, particularly for LGBTQ+ low-income seniors.
- Projects proposed to be located in Rockland County may now request up to the per unit maximum awards allowed for projects in New York City, Westchester, Nassau and Suffolk Counties. Term sheets have been updated to reflect this change.
- NCP is listed as additional available loan subsidy source. NCP is a funding source of the Housing Plan that has broad applicability. Rather than offer applicants the option to request NCP directly, HCR in its sole discretion, will substitute NCP funds in eligible projects at the same per unit limits as the subsidy program requested.
- As a State Housing Goal, Housing Opportunity Projects (HOP), are now referred to as Projects in Well Resourced Areas (WRA). Note that qualifying WRA census tracts may now be identified via a GIS mapping tool [NYSHCR Designated Well-Resourced Areas Map](#) replacing the previous listing of census tracts. Note that regardless of whether a project qualifies for the WRA State Housing Goal, all projects will continue to be scored under the housing opportunity criteria: to the extent the project is located in close proximity to public transportation, i.e., within ½ mile or less safe walking distance; is located in a community with a low incidence of crime; and/or is located in a WRA.
- HCR has added a set-aside of up to \$3 million in LIHTC for NYS-certified Minority/Women-Owned Business Enterprise (M/WBE) and Service-Disabled Veteran-Owned Business (SDVOB) Developers. HCR will additionally offer an application information session focusing on these prospective developers.
- In recognition of the need to expand childcare and other opportunities for low-income residents, HCR has modified the CIF term sheet to include funding priorities for the development of childcare



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centers, grocery stores or supermarkets, healthcare facilities, youth services, job training organizations and/or other community facilities.

- Applicants interested in applying for HCR Project Based Vouchers (PBVs) should note that the HCR PBV RFP will be released later this year. Applicants must reflect the HCR PBV's in the Fall 2023 Finance and Underwriting Application and must apply through the HCR PBV RFP when released.
- Round 8 of the Empire State Supportive Housing Initiative (ESSHI) RFP is anticipated to be released later this year. Therefore, applicants considering providing supportive housing funded through ESSHI must either have a current ESSHI Conditional Award Letter or an ESSHI extension letter.
- Phase I Environmental Site Assessment, ASTM E1527 Update: At application, all project sponsors must submit a Phase I Environmental Site Assessment (ESA) report which shall meet, at a minimum, the American Society for Testing and Materials standard for site assessment. **Until February 13, 2024, both ASTM E 1527-13 and ASTM E 1527-21 are acceptable. After February 13, 2024, only ASTM E1527-21 is acceptable.** The ESA must be dated within one year prior to the application for funding. Any project receiving HUD Federal Funding must have an updated Phase I ESA dated within six months of the federal environmental review. After Award Letter issuance, the HCR Environmental Unit will request an updated ESA as required.
- Regarding wetlands, while recent court decisions have modified federal permitting jurisdiction under the Clean Water Act, Executive Order and regulatory restrictions on federal funding of projects in areas containing wetland habitat has not changed. Accordingly, projects seeking federal funding may still require a wetland habitat delineation and/or be prohibited. For more information on the definition of wetland habitat see: <https://www.hudexchange.info/programs/environmental-review/wetlands-protection/>.
- The Environmental ("E") Exhibit has been updated to include:
  - (E-3) language clarifying that all environmental concerns, not just those labelled as "Recognized Environmental Conditions," must either be resolved or the application must include a timeline and budgeted costs for corrective action/remediation;
  - (E-6) clarifications. If an E-6 submittal has been previously accepted by the Environmental Unit, include that acceptance along with the submittal;
  - New (E-7), mandatory for projects applying for Federal Housing Trust Fund (FHTF) to demonstrate that the project is not barred by any of the property standards at 24 CFR 93.301(f). Note that wetlands are defined by habitat, not Federal jurisdiction, see <https://www.ecfr.gov/current/title-24/subtitle-A/part-93#93.301>.
- HCR requires that LIHTC-assisted projects request and obtain consent from HCR prior to the transfer of certain investor member interests in project ownership or borrower entities. To ensure compliance, HCR revised its LIHTC Regulatory Agreement template to incorporate this requirement and to allow for HCR to assess fees for failure to obtain consent. In addition, LIHTC applicants must secure investor/syndicator Letters of Interest, credit commitment letters and Partnership or Operating Agreements which include language addressing this requirement. Updated LIHTC Regulatory Agreement templates can be found at: <https://hcr.ny.gov/low-income-housing-credit-program-9pctRFP>.
- CEI funds will be offered at 0% interest this round. Please refer to the CEI term sheets for more information.



- Design and Sustainability waivers are applicable for 18 months from date of approval issuance. If a project does not submit a formal financing application to HCR within 18 months, a new waiver request must be submitted to HCR for review and approval against HCR’s latest guidelines and standards.
- All waivers granted for all-electric requirements will need to be resubmitted to the HCR Sustainability Unit for review, regardless of when they were approved. Previously granted waivers for gas appliances or HVAC equipment may not be granted again if the project is able to feasibly convert to an all-electric project within the last year.

## II. RFP TIMELINE AND SUBMISSION INSTRUCTIONS

### A. Significant Deadlines

The following are significant dates and deadlines under this RFP Process:

RFP Release	September 15, 2023
Funding Round Presentation Posted	October 6, 2023
MWBE / SVDOB Information Session	TBA – Tentatively October 6, 2023
Deadline to submit questions	Prior to Application Deadline
Design Waivers Due	October 17, 2023 at 3:00 PM ET
Deadline to request access to application dropbox	October 20, 2023 at 3:00 PM ET
Deadline to request TA session, Design Unit occupied rehabilitation package due, and/or LIHTC/SLIHC fee deferral	October 18, 2023 at 3:00 PM ET
Deadline to submit applications	November 7, 2023 at 11:59 PM ET

### B. Application Submission Instructions

Each applicant must submit a complete application, utilizing the current application forms and the instructions therein and providing the requested supporting documentation. Applications submitted on incorrect or outdated forms will not be considered for funding. Application forms and full submission instructions are available at [hcr.ny.gov/multifamily](https://hcr.ny.gov/multifamily).



## 1. Application Submission Documents

TAB	CONTENTS	EXHIBITS/ATTACHMENTS
A	Application & Development Team	A-1 – A-5
B	Project/Site Information	B-1 – B-7
C	Community Needs/Market Information	C-1 – C-3
D	Design & Construction Documents	D-1 – D-7
E	Environmental Documents	E-1 – E-7
F	Financial Analysis	F-1 – F-5
G	Preservation Documents	G-1 – G-8
H	LIHTC/SLIHC	H-1 & H-2
I	Consents and Certifications	I-1 – I-5

## 2. General application instructions

Applications must be submitted electronically (Excel and pdf) via an Internet Aspera drop box set up by HCR. Prior to October 20, 2023 at 3:00 PM ET, applicants must send an email to [msr@hcr.ny.gov](mailto:msr@hcr.ny.gov) to request access to the drop box to be used for the submission of an application. A drop box is required to be requested for each application for each round. Drop boxes used for previous submissions cannot be used again.

Shortly after HCR's receipt of this request e-mail, each user identified will receive a "Dropbox Invitation" e-mail from "NYS mySend" ([its.grp.plat.adhoc@its.ny.gov](mailto:its.grp.plat.adhoc@its.ny.gov)). The invitation e-mail will contain a unique web link (URL) that has been assigned to them specifically. This URL should not be shared. It is the equivalent of their User ID and Password for the drop box. Please see the Aspera Drop Box Instructions available at [hcr.ny.gov/multifamily](http://hcr.ny.gov/multifamily) for more detailed information.

The submission process can take a considerable amount of time, especially over Internet connections with slower upload speeds. For this reason, HCR strongly recommends that applicants **do not wait until immediately prior to the deadline to submit**. While the actual deadline is at 11:59 pm ET, HCR staff will not be available for technical assistance after 4:00 pm. Please plan accordingly.

## C. Application Fees

Applications for 9% LIHTC and/or SLIHC are subject to a \$3,000 application fee per credit program financing requested. An applicant requesting both 9% LIHTC and SLIHC must submit a \$6,000 application fee.

### Credit Fee Transmittal

Fee payments must be made payable to "NYS DHCR" **on or prior to the date of application submission** and transmitted with the Credit Fee Transmittal Letter in Attachment H-1. Both the fee transmittal letter and check should indicate "LIHTC/SLIHC fee" and the Applicant and project name. Send the check and letter via United States Postal Service overnight to:

J.P. Morgan Chase – Lockbox Processing  
Attn: DHCR 9% LIHTC/SLIHC Fees – 28026  
4 Chase Metrotech Center





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7<sup>th</sup> Floor East  
Brooklyn, NY 11245

HCR will not accept payment of the fee at any other office or address. A copy of the payment and Credit Fee Transmittal Letter must be submitted in Attachment H-1 of the application. Failure to meet the fee requirements may result in the application being deemed incomplete and the termination of further application review.

#### Credit Fee Deferral

Not-for-profit applicants (or their wholly-owned subsidiaries) which have not received HCR capital funding since 2019 and which will be the sole general partner (or co-general partner with another not-for-profit) of the limited partnership or the sole managing member (or co-managing member with another not-for-profit) of the limited liability company, which will own the project, may request a deferral of the application fee payment until the time of initial allocation (i.e., carryover allocation).

A Credit Fee Deferral Request must be submitted to HCR prior to the deadline stated in Section II.A. above. Deferral requests should be emailed to: Arnon Adler, LIHTC Program Director, at [arnon.adler@hcr.ny.gov](mailto:arnon.adler@hcr.ny.gov).

Applicants who have received approval of their request for an application fee deferral must include a copy of the Credit Fee Deferral Request Letter and HCR's deferral approval notification in Attachment H-1 of the application.

## D. Q&A

Prior to the application deadline, all questions regarding this RFP must be submitted via email to [9%RFP@hcr.ny.gov](mailto:9%RFP@hcr.ny.gov). Responses to all timely and appropriate questions will be posted at [hcr.ny.gov/multifamily](http://hcr.ny.gov/multifamily).

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**Upon submission of an application to HCR for consideration, no communication will be permitted from applicants (or representatives of applicant team members) to HCR (or its staff and board members) regarding such application until an Outcome Letter is issued, unless initiated by HCR, except as required under Section IV of this RFP. Any such prohibited contact will be grounds for disqualification and termination of application review.**

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## III. APPLICATION PROCESS & REVIEW

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### A. Pre-Application Technical Assistance & Site Visit Requirements

#### 1. Pre-Application Technical Assistance

Please see HCR's website at <https://hcr.ny.gov/multifamily> for more information on the Technical Assistance process.





## OPWDD Coordination

For the purposes of this RFP, prospective applicants who are planning to propose a preference in tenant selection for individuals with intellectual and/or developmental disabilities will only be considered if the project either (1) has an ESSHI conditional award letter and does not require OPWDD capital or (2) has a current Integrated Supportive Housing (ISH) letter of support or extension of support from OPWDD issued after January 1, 2023. Applicants seeking to support individuals with intellectual and/or developmental disabilities should refer to the Technical Assistance for Multifamily 9% LIHTC RFP applicants at <https://hcr.ny.gov/multifamily>.

## B. Threshold Review

HCR will review each application according to the Threshold requirements listed below. If a project does not meet the Threshold requirements, it will be eliminated from further review under this RFP and the applicant will be notified of such in HCR's Outcome Letter (see Section IV).

Threshold Requirements
<p><b>TA Session</b></p> <ul style="list-style-type: none"><li>○ A TA session with HCR staff must have been conducted within 12 months prior to application submission.</li></ul>
<p><b>Completeness</b></p> <ul style="list-style-type: none"><li>○ All required submissions are included in the application.</li></ul>
<p><b>Development Team Experience and Capacity</b></p> <ul style="list-style-type: none"><li>○ No adverse findings found: Applicants may be rejected at any time during or after the evaluation process if there any adverse findings regarding the applicant, any entity or individual associated with the applicant, or any property owned or managed by them. Applicant must certify that there are no adverse findings, which may include, but are not limited to:<ul style="list-style-type: none"><li>▪ The project applicant, developer, owner, general contractor, and manager, including related entities, and their principals are not included on any federal or state debarment lists,</li><li>▪ The applicant, owner and/or manager, including related entities, and their principals do not include anyone who owns or manages a project for which an IRS Form 8823 has been issued and has not been corrected,</li><li>▪ The applicant, project developer, owner and/or manager, including related entities, and their principals do not include anyone who has participated in a publicly assisted program or project that has been determined to be out of compliance with statutes, rules, regulations, policies or agreements, and such non-compliance has not been corrected or otherwise resolved as determined by the public agency responsible for supervising the project, or an explanation of any unresolved non-compliance described above has been provided.</li><li>▪ The project applicant, developer, owner and/or manager, including related entities, and their principals, does not include anyone, who, in the sole judgment of HCR, has initiated or been the decision maker in requesting a Qualified Contract under Section 42(h)(6)(F) of the Internal Revenue Code after the effective date of the current 9% LIHTC Qualified Allocation Plan (i.e., May 26, 2021).</li></ul></li></ul>



- Development team demonstrates comparable experience to undertake, complete, and operate the project. If the team does not have comparable experience, it must demonstrate that individuals on the team have requisite experience.
- Development team demonstrates available capacity to develop the project based on current workload.

#### **Programmatic**

- Residential: Project proposes that all HCR-assisted units will be subject to a regulatory agreement for no less than the minimum term required under each requested funding program as set forth in this RFP.
- Evidence of site control: must be valid through the later of:
  - proposed construction finance closing date, or
  - at least 6 months beyond the funding round application deadline.
- Site suitability: (a) address potential site contamination concerns as described in Application Attachment E-3; and, (b) provide an environmental justice narrative, explaining how the surrounding area is suitable for the development of affordable housing, as described in Application Attachment E-6 and (c) for FHTF applications, demonstrate the project is not barred by any of the property standards at 24 CFR 93.301(f), as described in Application Attachment E-7.

#### **Housing needs**

- Current market study or analysis demonstrates that the project meets an existing and identified need. See Capital Programs Manual Section 5.07 for requirements.
- Addresses a State Housing Goal as listed in Exhibit B-1 and below.

#### **Financing**

- Letter or letters of interest (LOI) from a private lender(s) are included, dated no earlier than 45 days from the date of submission. See Attachment F-1 for requirements for government sources.
- If LIHTC is proposed, an equity investor or syndicator letter must be provided, dated no earlier than 45 days from the date of submission.

#### **Ownership structure**

- All entities are identified, including all general partners and managing general partners for limited partnerships, and all managing members for limited liability corporations.

## **C. State Housing Goals**

All applications must clearly advance at least one of the following State Housing Goals:

1. Community Renewal and Revitalization Projects: Projects that address a component indicated in the municipality's most recent comprehensive plan, or other municipal approved plan, as demonstrated by one or more of the following:
  - Demonstrate site control of land acquired through Land Banks, established pursuant to Article 16 of New York State Not-for-Profit Corporation Law, in neighborhoods that have experienced a high incidence of abandoned and/or "zombie" properties;
  - Demonstrate the donation of one or more of the project sites from the municipality in which the project is located at either a \$0 or \$1 acquisition price;
  - Demonstrate the rezoning of, or the granting of a zoning variance/special use permit for, at least one project site necessary to complete the project;



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- Demonstrate the project municipality has committed capital financing to the project as evidenced in the application sources and uses;
  - A draft commitment for a PILOT for the project (at a level greater than Section 581-A of Real Property Tax Law);
  - Listed as a priority project in the municipality's latest Annual Action Plan;
  - Utilizing a site for the project which has been designated for redevelopment by an Urban Renewal Plan; or,
  - Applicant, or its affiliate, has been identified as the Designated Developer for the project by the municipality.
2. Integrated Supportive Housing Projects: Projects that provide permanent supportive housing to one or more special needs populations, and that can show evidence of a service and operating subsidy from a governmental agency, such as an ESSHI award.
  3. Projects in Well-Resourced Areas (WRA): Projects in Well-Resourced Areas, formerly referred to as Housing Opportunity Projects, are family projects located in census tracts with poverty rates below 10% in the 2019 American Community Survey and the school district of the centroid of the census tract scored above the state median in the average of 3<sup>rd</sup> through 8<sup>th</sup> grade English and Math standardized test scores from the past five years (2015-2019). See [NYSHCR Designated Well-Resourced Areas Map](#) for a map of these census tracts, now referred to as HCR-Designated WRAs. Proposed projects must have an average unit size of at least 2 bedrooms. WRA projects may not be: 1) intended for, and solely occupied by persons 62 years of age or older; or 2) intended and operated for occupancy by persons 55 years of age or older. At least 10% of the project units must be targeted to and serve households at or below 30% of AMI.
  4. Workforce Opportunity Projects: Projects that propose housing within a safe half-mile walk of frequently occurring public transportation (available 7 days a week on a repetitive, fixed-route schedule that is regular and continuing).
  5. Projects Advancing State Revitalization and Economic Development Initiatives, including:
    - Downtown Revitalization Initiative Projects: Projects that propose residential and/or mixed-use projects located in Downtown Revitalization Initiative plan areas that clearly advance the objectives of an approved Downtown Revitalization Initiative Strategic Investment Plan.
    - Economic Development Projects: Projects specifically endorsed in the Regional Economic Council Strategic Plans that will support the construction and/or rehabilitation of affordable housing.
    - Brownfield Cleanup Program Projects: Projects resulting in the cleanup/redevelopment of property that has been determined to be eligible to participate in the New York State Brownfield Cleanup Program (BCP). The application must propose a plan of finance fully utilizing all BCP tax credits generated from the cleanup/redevelopment of the property.
    - Projects which will be implemented in a neighborhood located in a designated Empire State Poverty Reduction Initiative (ESPRI) locality and coordinated with the ESPRI activities



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underway. At least 15% of the project units must be targeted to and serve households at or below 30% of AMI.

6. **Senior Housing:** Projects that allow low-income seniors to live independently in the community. Preference will be given to projects that also meet at least one of the following State Housing Goals: 1) Community Renewal and Revitalization, 2) Workforce Opportunity, 3) Economic Development, or 4) Downtown Revitalization Initiative.
7. **Public Housing Redevelopment Projects:** Projects that address the needs of public housing units outside the City of New York and/or assist Public Housing Authorities in completing their restructuring plans, including projects participating in HUD’s Rental Assistance Demonstration Program.
8. **Preservation Projects:** Projects that are currently under a regulatory agreement with HCR or another governmental agency to provide affordable housing to low-income individuals and/or families in order to preserve the housing as a viable community housing resource.

## D. Program Eligibility

Proposals that meet all Threshold requirements will be reviewed to determine whether program-specific Eligibility requirements are met pursuant to the Eligibility Checklist in the application. If a project does not meet Eligibility, it will be eliminated from further review under this RFP and the applicant will be notified of such in HCR’s Outcome Letter (see Section IV).

## E. Scoring

Proposals that meet all Threshold and Eligibility requirements will be scored and ranked within each Regional Economic Development Council (REDC) geographic region in which the project is located. REDCs are defined here: [https://regionalcouncils.ny.gov/sites/default/files/2023-07/2023\\_REDC\\_Guidebook.pdf](https://regionalcouncils.ny.gov/sites/default/files/2023-07/2023_REDC_Guidebook.pdf). Applications requesting 9% LIHTC will be evaluated using the following scoring criteria outlined in the 9% LIHTC Qualified Allocation Plan (QAP) effective May 26, 2021:

1. Community impact/revitalization – up to 10 points
2. Financial leveraging – up to 11 points
3. Sponsor characteristics – up to 9 points
4. Green building/Stretch Sustainability Goals, per the criteria outlined in Section IV below– up to 5 points
5. Fully accessible and adapted, move-in ready units – up to 5 points
6. Affordability – up to 8 points
7. Individuals with children – up to 7 points
8. Project readiness – up to 10 points
9. Persons with special needs – 5 points



10. Participation of non-profit organizations – up to 4 points
11. Mixed income – up to 4 points
12. Historic nature of project – up to 2 points
13. Cost effectiveness – 5 points
14. Housing opportunity projects – up to 5 points
15. Investment in underserved areas – 5 points
16. Minority and Women Owned Business Enterprise and Service-Disabled Veteran-Owned Business participation – up to 5 points

For the purposes of rating and ranking applications, when an applicant requests funds from two or more programs pursuant to this RFP, HCR will utilize the scoring criteria for the program which would provide the greatest amount of financial assistance to the proposed project. Recognizing that different Program scoring criteria can result in scores that are not comparable to one another, HCR's evaluation of applications will only compare projects to other projects scored under the same Program scoring criteria. See the Program Term Sheets for specific program scoring criteria. Some gap subsidy financing may have additional scoring criteria as outlined in the term sheets.

## F. Funding Awards

Funding awards are made from available funds on the basis of score and ranking, statutory distribution requirements, geographical distribution across the State, support of the State's Housing Goals and other review criteria outlined in this RFP.

Also, please note that consistent with the provisions of the QAP, HCR may award a project funding irrespective of its point ranking, if such an award is in furtherance of the State's Housing Goals and such award is determined to be in the interests of the citizens of the State of New York.

Applicants will be informed of the result of their application in an Outcome Letter. Awards are contingent upon compliance with all applicable regulations and HCR policies and guidance. Further post-award process information is contained in Section IV.

## G. Waiting List

Any complete application requesting LIHTC which meets Threshold and Eligibility review criteria, but is not selected for a credit reservation, may be placed on a waiting list which will be in effect until the next 9% LIHTC RFP is issued by HCR, at which time the waiting list will be terminated. Applicants on the waiting list will remain eligible to be selected for a credit reservation if credits are made available to the Division from sources including additional federal allotment of 9% LIHTC allocation authority, the LIHTC national pool, expired credit reservations or binding agreements, or credit allocation recapture.



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## IV. REGULATIONS, GUIDANCE, & APPLICANT OBLIGATIONS

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### A. 9% LIHTC Set-Asides

HCR has established set-asides for a portion of the available 9% LIHTC for the following program priorities: ESSHI Projects and Supportive Housing Projects (up to \$3 million); Public Housing Projects (up to \$2 million); Projects in Well-Resourced Areas (WRA) (up to \$3 million); and projects proposed by NYS-certified M/WBE or SDVOB Developers (up to \$3 million). HCR reserves the right to award 9% LIHTC in excess of these set-aside amounts to projects meeting these program priorities or to award 9% LIHTC in lower amounts than noted above under the pertinent set-aside, depending upon the number of competitive and feasible set-aside applications received and available resources.

#### 1. ESSHI Projects

In order to qualify under this set-aside, applicants must demonstrate: (a) they have received a Conditional Award Notification through the Empire State Supportive Housing Initiative, Inter-Agency Service and Operating Funding Opportunity RFP to fund appropriate services for the targeted population; (b) the proposed project gives preference in tenant selection to persons with special needs for at least 50% of the project units; and (c) the project satisfies the definition of supportive housing cited in Section 2040.2(v) of the QAP, applicants may satisfy the capital financing requirement of that definition by requesting SHOP, SENR and/or HOME funds pursuant to this RFP.

#### 2. Supportive Housing Projects

A Supportive Housing Project, as defined in Section 2040.2(v) of the QAP and this RFP, is a project that gives preference in tenant selection to persons with special needs for at least 50% of the project units. Persons with special needs for the purposes of this set-aside are defined in Section 2040.2(q) of the QAP. To be considered a Supportive Housing Project under this set-aside, an application must:

- a. document the need for housing for the targeted population within the primary market area (may include Continuum of Care data or local data that was collected as part of community planning activities);
- b. provide a comprehensive service plan and an agreement in writing with an experienced service provider that ensures the delivery of appropriate services for which a documented need exists for the targeted population;
- c. propose a project site in close proximity to public transportation, or include a transportation plan as a component of the comprehensive service plan to ensure access to necessary services;
- d. include a provision for an ongoing rental subsidy or other form of subsidy to ensure rents paid by the targeted population remain affordable;
- e. demonstrate a commitment of services or combined services and operating funding from a governmental agency serving the proposed target population;
- f. demonstrate a firm commitment for capital financing from a governmental agency serving the proposed target population, provided however that applicants may satisfy the capital



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financing requirement by requesting SHOP, SENR and/or HOME funds pursuant to this RFP;

- g. identify a public agency or experienced service provider with which a written agreement that includes a description of the referral procedure they will use to refer eligible persons and families for the targeted units has been executed; and,
- h. the project must provide an integrated setting that enables individuals with disabilities to live independently and without restrictive rules that limit their activities or impede their ability to interact with individuals without disabilities.

Any applicant considering submission of an application for a project that would give preference in tenant selection to persons with disabilities (and therefore subject to *Olmstead* considerations) for more than 60% of a project's total bedrooms must provide evidence from the government service agency providing services and supports to the project that the project complies with New York State's *Olmstead* plan.

### **3. Projects in Well-Resourced Areas (WRA)**

In order to qualify under the WRA Set-Aside, eligible family projects must be located in census tracts with poverty rates below 10% in the 2019 American Community Survey and the school district of the centroid of the census tract scored above the state median in the average of 3rd through 8th grade English and Math standardized test scores from the past five years (2015-2019). See [NYSHCR Designated Well-Resourced Areas Map](#) for a map of these census tracts, referred to as HCR-Designated WRAs. Proposed projects must have an average unit size of at least 2 bedrooms. WRA projects may not be: 1) intended for, and solely occupied by persons 62 years of age or older; or 2) intended and operated for occupancy by persons 55 years of age or older. Proposed projects must also target at least 10% of project units to households at or below 30% of AMI. Applications that clearly advance this goal will be eligible for a 130% LIHTC basis boost, based on a DHCR designation, as authorized by the Housing and Economic Recovery Act of 2008.

### **4. Public Housing Redevelopment Projects**

Projects that meet the Public Housing Redevelopment Projects Housing Goal are eligible for this set-aside. This includes projects proposing rehabilitation, expansion, redevelopment and/or restructuring of Public Housing units, and may include projects participating in a HUD restructuring program.

### **5. M/WBE SDVOB Developer**

To qualify for this set-aside, a M/WBE or SDVOB must serve as the project applicant, owner and/or developer with a controlling interest (i.e., 51% or more) in the general partnership (LP) or managing member (LLC) which will own the project through the construction and regulatory periods.

## **B. Fair Housing**

Awardees must comply with all HCR marketing guidelines and submit an Affirmative Fair Housing Marketing Plan acceptable to HCR's Office of Fair Housing and Equal Opportunity





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(FEHO). FEHO Affirmative Fair Housing Marketing Plan requirements are available at: [hcr.ny.gov/marketing-plans-policies](http://hcr.ny.gov/marketing-plans-policies).

### **C. Equal Employment Opportunity/Minority and Women Owned Business; Service-Disabled Veteran-Owned Businesses**

All contractors and awardees must submit a M/WBE Utilization Plan that is acceptable to HCR. Awardees are required to make affirmative efforts to ensure that New York State Certified M/WBE's are afforded opportunities for meaningful participation in projects funded by HTFC. Further, all contractors and awardees must conduct good faith outreach efforts to solicit the participation of NYS-Certified Service-Disabled Veteran-Owned Businesses (SDVOBs) in HTFC financed projects. Enterprises and Businesses certified by New York City or any entity other than New York State do not satisfy this requirement. Additional information can be found at: <https://hcr.ny.gov/deco>.

### **D. Entities on Federal or State Debarment Lists**

No entity listed on any Federal or New York State debarment list, or which is otherwise prohibited from bidding on or receiving government contracts, may be contracted for any services related to the project (including construction subcontracts).

### **E. Environmental Review & Prohibition of Project Work**

Applicants are hereby advised that after submission of an application no work may be undertaken, including site acquisition, contracts for services, demolition, and any other site disturbance beyond investigation or testing activities, until either an award is made and HCR's Environmental Analysis Unit has completed an environmental review and issued an environmental clearance letter to the applicant or the applicant receives a Negative Outcome Letter. If project work or choice limiting actions are made, it may impede or prohibit environmental clearance or use of specific program funding sources.

All funding awards are contingent upon completion of HCR's review pursuant to the State Environmental Quality Review Act (6 NYCRR 617) and HUD's National Environmental Policy Act (NEPA) requirements under 24 CFR Part 58 (if HUD funding will be utilized) or Federal Housing Trust Fund (FHTF) housing standard regulations at 24 CFR 93.301. All projects shall comply with: Section 14.09 of the Parks, Recreation, and Historic Preservation Law (or federal equivalent); Floodplain Management Criteria for State Projects (6 NYCRR Part 502); Section 305(4) of the Agriculture and Markets Law; NYS Coastal Zone Management regulations (19 NYCRR Part 600); and, Smart Growth Public Infrastructure Policy Act (NYS Environmental Conservation Law, Article 6), in addition to other policy and laws outlined in HCR's Capital Programs Manual and HCR Design Guidelines.



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## F. Financial Background Review

As a condition of application submission and/or award, HCR will require the project applicant, project developer, project owner, general contractor/builder, architect, management agent and development consultant, and their principals, to provide written authorization for HCR to conduct a background review, including receipt of LexisNexis or equivalent reports from other legal services.

## G. Reference Materials and Related Resources

This RFP provides only some of the information and materials necessary for application preparation. Additional materials are available on HCR's website at [hcr.ny.gov/multifamily](https://hcr.ny.gov/multifamily).

1. Fall 2023 HCR Multifamily Finance 9% Project Detail Application;
2. Fall 2023 HCR Multifamily Finance 9% Underwriting Application;
3. Fall 2023 Term Sheets;
4. Design Guidelines 2023;
5. Sustainability Guidelines 2023;
6. Design Waiver Request Form;
7. Capital Programs Manual (CPM) – September 2023;
8. Fall 2023 NOFA-NOCA;
9. DHCR's 9% LIHTC Qualified Allocation Plan (effective 5/26/2021);
10. DHCR's SLIHC Regulation – 9 NYCRR Part 2040.14 (effective 5/26/2021);
11. Fall 2023 Reference Materials;
12. 2023 NYS Annual Action Plan;
13. FEHO Affirmative Fair Housing Marketing Plan Guidance;
14. HCR Multifamily Finance 9% Application Presentation (available on October 6th);
15. SHPO Guidance and Walkthrough Information;
16. Market Analyst Certification Form;
17. Fall 2023 Pre-Qualified Market Analysts List;
18. HOME, FHTF and CDBG Antidisplacement and Relocation Assistance Plan;
19. HOME, FHTF and CDBG Relocation Appeal Process; and,
20. Fall 2023 Aspera Dropbox Instructions.

## H. HTFC Board Approval and Subsequent Process Obligations

### 1. Board Approval

All HTF, CIF, SHOP, PHP, MIHP, FHTF, SENR, NCP, and HOME awards must be approved by the HTFC Board of Directors.



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## 2. Outcome Letters

HCR will issue Outcome Letters. There are three types of letters:

- a. Application Disqualification Letters are sent to unsuccessful applicants whose submissions did not pass Completeness, Threshold or Eligibility reviews.
- b. Application Review Letters are sent to unsuccessful applicants regardless of which program(s) funds were requested from.
- c. Award Letters are sent to all successful applicants. This letter notifies the applicant that the project has been selected for funding and sets forth the number of units and award amount(s). The Award Letter is a preliminary notification and is issued prior to the 9% LIHTC/SLIHC Reservation and Funding Commitment Letters, as described below.

## 3. 9% LIHTC/SLIHC Reservation Letters

9% LIHTC and/or SLIHC Reservation Letters are sent to awardees of 9% LIHTC and/or SLIHC financing. These letters specify the terms and conditions that the project awardee will be required to meet prior to issuance of a binding agreement and/or carryover allocation, including the reservation expiration date and certain provisions to be incorporated in the project's 9% LIHTC and/or SLIHC Regulatory Agreement.

Projects that are awarded both 9% LIHTC and SLIHC will be issued a combined 9% LIHTC/SLIHC Reservation Letter.

## 4. Funding Commitment Letters

HCR sends Funding Commitment Letters (FCL) to successful applicants, or their assignees, who were awarded HTFC financing. The FCL sets forth the terms and conditions under which HTFC will provide financing to the project, including some of HTFC's requirements for the project's ongoing operations during the regulatory period, and is considered a binding agreement when signed and returned by the applicant.

## 5. Project Development Meeting

The project development team for each awarded project will be required to participate in a Project Development Meeting with HCR staff. The meeting provides a forum for the awardee's development team and HCR to discuss the project's development timetable, the roles and responsibilities of the development team members and HCR, and the deliverables required prior to issuance of a 9% LIHTC/SLIHC Reservation Letter and/or Funding Commitment. Additional information on Project Development Meetings can be found in the CPM. Project development meetings will be scheduled to occur within approximately 30 business days after the issuance of an award letter.

## 6. Processing Timeframes

Successful applicants will be required to agree to a development timetable outlining the timing of critical development milestones and establishing a schedule for the delivery of key documents for HCR staff review.



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## I. Material Changes to Applications

Applicants are obligated to inform HCR if there are any material changes to applications after submission. Please note, however, that any information related to material changes provided after the application deadline will not be considered if the documentation would, in any way, enhance the competitiveness of the application. For example, applicants must disclose any loss of funding source(s) or changes in the local approval process. After application submission, applicants must send the required disclosure materials to [9%RFPModifications@hcr.ny.gov](mailto:9%RFPModifications@hcr.ny.gov).

## J. Project Budget Completeness

All costs and funding sources related to the development or redevelopment of the project site, including any related infrastructure work necessary for the project, must be included in the project budget. Failure to include all such costs and/or to disclose such sources will result in the termination of HCR's review and the rejection of the application. All costs and financing sources related to the remediation of any environmental hazards affecting the site, as necessary for the redevelopment of the parcel on which the proposed project is located, must be disclosed in the application and included in the development budget.

## K. Identity of Interest Disclosure

Any identity of interest between applicants, owners, their development teams and the proposed financial institutions and/or financing sources must be disclosed and will be closely scrutinized to ensure the most advantageous market terms available to the project have been achieved. HCR reserves the right to require the solicitation of alternative financing partners acceptable to the agency.

## L. Single Financing Plan

Applicants may only submit a single consistent plan of financing, inclusive of all financing, for the proposed project to other funding agencies. Applications that propose multiple financing scenarios will be deemed ineligible and will not be subject to further review. Applicants are required to certify that all information presented in the application is complete and accurate, and that the overall budget presentation, including the plan of financing, is consistent with that presented or to be presented to other funding agencies and is inclusive of all other funding requests and/or pending funding applications. Significant inconsistencies may result in the termination of application review.

## M. Subsidy Gap Financing Source per Residential Unit

In addition to 9% LIHTC and SLIHC, projects may only apply for one subsidy gap financing source per residential unit, except for FHTF which may be included in addition to another source of subsidy. Projects may also apply for CIF for non-residential purposes in addition to other subsidy sources. Furthermore:

- HTF, SHOP, SENR and PHP cannot be combined; a project may use only one of these funding sources;



- HOME may be combined with other HCR financing in a project, however HOME must be the only source of HCR subsidy financing in a unit. A unit may not include HOME and HTF, SHOP, PHP, SENR or FHTF;
- MIHP must be the only source of HCR financing in a unit and cannot be combined with projects requesting PHP or SENR; and
- NCP funding provides gap financing for the new construction or adaptive reuse of rental housing that advances one or more of the State's Housing Goals and for households earning up to 60% AMI, or 80% AMI for projects utilizing the LIHTC Average Income minimum set-aside. Projects which meet NCP criteria will automatically be considered for an NCP award. HCR, in its sole discretion, will substitute NCP funds in eligible projects at the same per unit limits as the subsidy program requested.

## N. Capacity

HCR will consider the capacity of development teams to undertake more than one project within a single funding round, based on the past performance of the developer or development team. In reviewing applications, HCR will also consider whether that developer or development team is currently engaged in other projects relying on 4% LIHTC and tax-exempt bond financing.

## O. Market Studies

Market study analysts who were included on the Fall 2022 Pre-Qualified Market Analyst List do not have to resubmit a Market Study Certification Form for the Fall 2023 RFP. Market analysts who would like to be included on the Fall 2023 Pre-Qualified List must complete the Market Study Certification form available at [hcr.ny.gov/multifamily](https://hcr.ny.gov/multifamily) and submit the Certification form, along with the company address, phone number and email of contact person, to [9%RFP@hcr.ny.gov](mailto:9%RFP@hcr.ny.gov).

## P. Rent Setting Guidance

Fall 2023 applicants should use the most current HUD designated Area Median Incomes available at the time of application.

## Q. Design Guidelines

Projects are subject to the 2023 HCR Design Guidelines. Any additional design requirements that may apply to a specific subsidy financing source are specified in the term sheets.

## R. Sustainability Guidelines

Projects are subject to the 2023 HCR Sustainability Guidelines. Any additional sustainability requirements that may apply to a specific subsidy financing source are specified in the term sheets.



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## S. Green Building/Stretch Sustainability Goals

Points will be awarded under the capital financing programs made available pursuant to this RFP, as applicable, to an applicant who documents that their project will meet one of the Stretch Sustainability Goals listed in Attachment D-6 of the application. Projects receiving points through compliance with a third-party standard listed in Attachment D-6 will be required to achieve full certification from the selected third-party program. Supporting documentation shall be included in Attachment D-6 and should include executed green building/energy consultant contracts, applications to third-party programs, initial energy modeling or other documentation, as applicable to the selected Stretch Goal.

In order to be awarded points under this scoring category, applicants must also qualify for points under the Cost Effectiveness scoring category. Applicants who choose one of these Stretch Sustainability Goals will be required to comply with the chosen standard, including modifications resulting from changes to any third-party standards, without any additional cost to HCR programs.

In order to qualify for points listed under the Stretch Sustainability Goals, applicants must commit at the time of application to design and implement a policy acceptable to HCR prohibiting the use of any products or substances involving the ignition and burning of the product or substance within all interior areas of project buildings as well as in outdoor areas within 50 feet of inhabited project buildings, play areas, or any surrounding inhabited buildings or play areas outside of the project property. Project owners may also elect to prohibit the use of the aforementioned product or substance anywhere on the project property.

## T. Cost Considerations - High Cost Projects and Cost Effectiveness

HCR will evaluate project costs in making its funding decisions. Two cost regions will be used for these evaluations. The first will include proposed projects located in New York City, and Rockland, Westchester, Nassau, and Suffolk counties. The second will include all proposed projects located in the remaining 53 counties of the State. Each project's costs will be compared to those of other projects proposed under the same RFP and in the same cost region. Only applications that have been found to be complete will be included in this evaluation. HCR may also consider any other available cost data and disallow costs that are ineligible, unreasonable and/or excessive.

In scoring Cost Effectiveness and identifying High Cost Projects, HCR will use three cost measures:

- Total Residential Development Cost per Gross Square Foot of Residential Space, including Residential Common Areas (Square Footage used for this calculation includes all Dwelling Unit Space plus all Residential Common Areas up to, but not exceeding the HCR design standards limit of 25% of the total, or 35% if a waiver to exceed that 25% limit has been requested and granted prior to application, or for Historic Adaptive Reuse projects);
- Total Residential Development Cost per Bedroom; and,
- Total Residential Development Cost per Residential Unit.

Each of these three cost measures will be compared to the median for complete applications submitted during the round within the same cost region, and then averaged to produce a single cost analysis percentage.



For example, if the costs for Project A located in Nassau County are 125% of the NYC area cost region median for cost per square foot, 132% of the NYC cost region median for cost per bedroom, and 120% of the NYC cost region median for cost per unit, the average (mean) across the three measures would be 125.7%.

**Cost Effectiveness scoring** - HCR will award Cost Effectiveness points to projects with a final average of 100% or less when the project *is not* pursuing Green Building/Stretch Sustainability Goals, and will award Cost Effectiveness points to projects with a final average of 105% or less when the project *is* pursuing Green Building/Stretch Sustainability Goals.

**High Cost projects** - Projects with a final average of 130% or more will be considered High Cost projects. No more than 10% of the total annual amount awarded per program will be available to High Cost Projects and will only be awarded if a determination has been issued by the Commissioner finding the project is in furtherance of the State's Housing Goals.

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## V. GENERAL PROVISIONS

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HCR reserves the right to award all, a portion of, or none of the program funds based upon funding availability, feasibility of applications received, site suitability, the competitiveness of the applications, the Applicant's ability to meet the criteria for funding described in this RFP and additional HCR Multifamily Finance 9% Application Reference Materials, the applicant's ability to advance the State's Housing Goals, and HCR's assessment of cost reasonableness, as well as other considerations described in this RFP. HCR further reserves the right to review an application requesting specific program funding as an application for funding under other programs for which the project is statutorily eligible, including 4% LIHTC and tax-exempt bond financing, and to change or disallow aspects of the applications received. HCR may make such changes an express condition of its award or commitment to fund the project. HCR may also revise this RFP as necessary after issuance.

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## APPENDIX – REGIONAL DEVELOPMENT AREAS

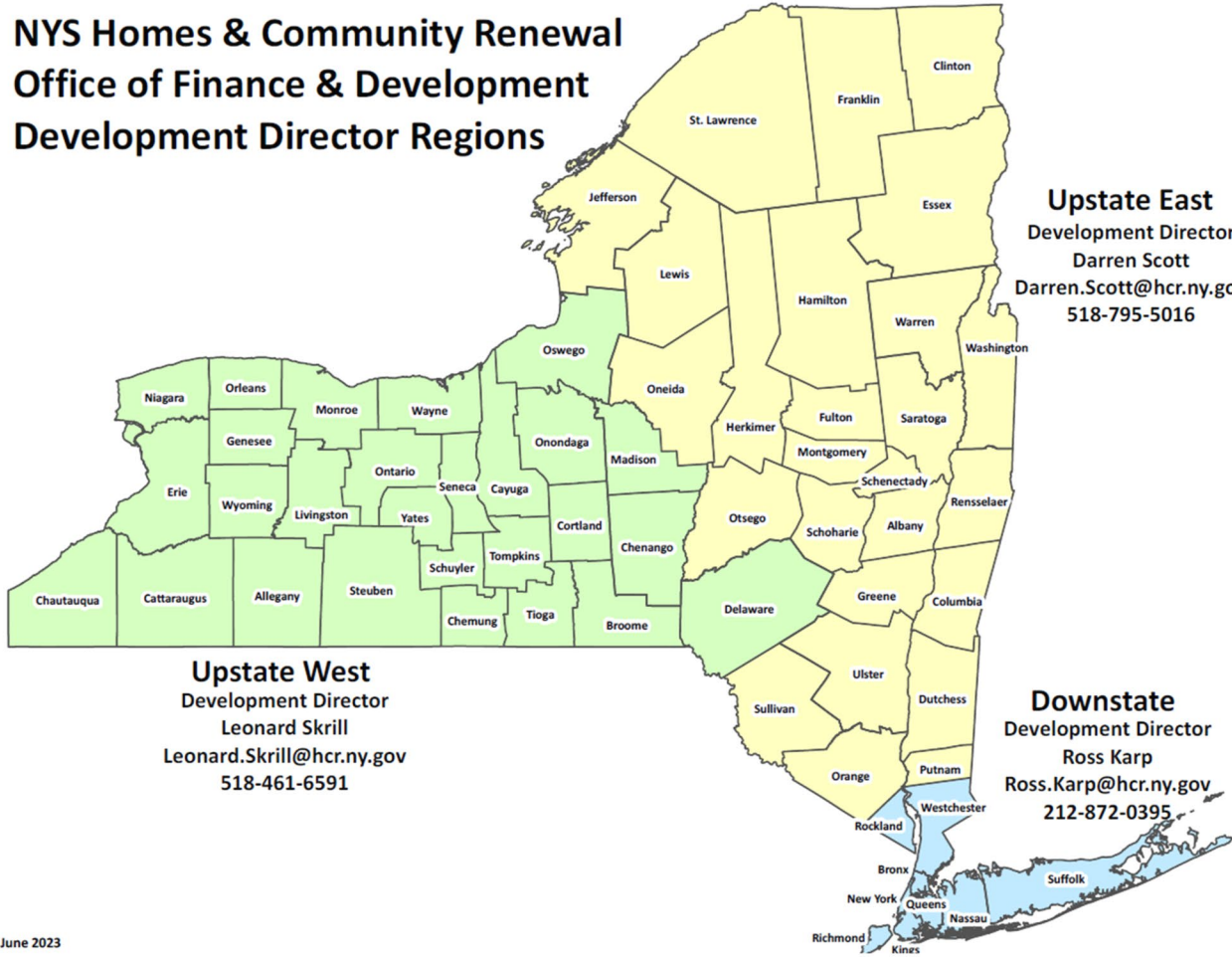
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HCR Development Directors serve the county in which the proposed project is located. Please see the map of NYS Homes and Community Renewal Office of Finance & Development Director Regions.





**NYS Homes & Community Renewal  
Office of Finance & Development  
Development Director Regions**



June 2023

**-END OF REQUEST FOR PROPOSALS-**