

**New York State**  
**COMMUNITY DEVELOPMENT**  
**BLOCK GRANT (CDBG) PROGRAM**

**2024 BUSINESS EXPANSION AND STARTUP (BEST)**

**REQUEST FOR APPLICATIONS**



**Homes and  
Community Renewal**

**Housing  
Trust Fund  
Corporation**

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I.

**I. INTRODUCTION**

The Housing Trust Fund Corporation (HTFC) will make available approximately \$15 million in Federal Fiscal Year 2024 NYS Community Development Block Grant (CDBG) Program funds. New York State Homes and Community Renewal’s, Office of Community Renewal (OCR) is responsible for administering the CDBG funds.

This Request for Applications (RFA) details the requirements to apply for NYS CDBG Business Expansion and Startup program funds and explains the process by which applications will be evaluated.

**II. FUNDING CATEGORIES & LIMITS**

<b>Stand-alone Business Assistance</b>	\$25,000 to \$750,000
<b>Microenterprise Development Assistance</b>	\$100,000 to \$300,000

OCR will review and consider the capacity of the applicant to undertake one or more concurrent projects. Please note that HTFC may exceed these funding limits if it determines that a project or projects have significant and transformational impacts.

**Applicants should only apply for the amount of funding that can be fully expended and the type of activities that can be completed within the specified project completion period of twenty-four (24) months.** Applicants should not proceed with a project that cannot be completed within the specified timeframe or with the assumption that an extension of the project deadline will be considered. Grant recipients who are unable to satisfy the term of their grant agreement may be unable to secure further HTFC funding until such time as the prior grants have been completed or the funds recaptured. Inability to meet the required timeframe may be viewed as an issue of project readiness and/or inadequate local capacity to carry out grant activities in a timely manner and may require significant additional actions on the part of the municipality to ensure that any potential future grants will be completed within the term of the grant agreement.

The maximum award is not intended to serve as a target amount for requests for assistance. The amount of CDBG assistance should be based on need and CDBG funds should not be used to reduce the amount of non- federal financial support for the project.

**III. ELIGIBLE APPLICANTS**

Eligible applicants are non-entitlement units of general local government (County, Town, City, or Village), excluding metropolitan cities, urban counties, and Indian Tribes that are designated Entitlement Communities. Non-entitlement areas are defined as cities, towns, and villages with populations of less than 50,000 except those designated principal cities of Metropolitan Statistical Areas, and counties with populations of less than 200,000. A list of eligible communities is available on the OCR website under [Program Guidelines](#).

Eligible units of local government may elect to appoint Economic Development Organizations (EDO’s), such as an Industrial Development Agency (IDA) or Local Development Corporation (LDC) to help to administer all or a portion of CDBG grant-funded activities as a “subrecipient”. Note that the unit of local government remains the applicant and contractual entity for the purposes of the NYS CDBG program. A subrecipient relationship is governed by the use of a subrecipient agreement. A template subrecipient agreement can be found in Chapter 1 of the NYS Grant Administration Manual (GAM).

## IV. PROGRAM OBJECTIVES

As set forth in the Federal Housing and Community Development Act, the Primary Objective of the CDBG program “is the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income (LMI).”

Financial assistance will be provided for the development of projects that meet the NYS CDBG Program Objectives and that provide decent, safe affordable housing, access to clean drinking water, proper disposal of household wastewater, access to local public facilities, and economic opportunities for persons from LMI households by supporting development projects that are designed to create or retain employment opportunities or foster microenterprise activities and provide opportunities through planning efforts to address community development needs.

In support of New York’s community development goals, the NYS CDBG Program will:

1. Encourage investment in communities by assisting local governments in devising and implementing economic development strategies to revitalize viable communities and provide economic opportunities that principally benefit LMI persons.
2. Revitalize the vibrancy of New York’s communities and enhance the quality of life through improvements to public infrastructure and public facilities.
3. Develop and implement strategies that facilitate the coordination of NYS CDBG funding with other Federal, State, and local community development resources.
4. Support a mix of rehabilitation and conversion activities to preserve and increase affordable housing for both renters and homeowners.

## V. ELIGIBLE ACTIVITIES AND FUNDING STRUCTURE

The NYS CDBG Business Expansion and Start-up (BEST) Program provides grant funds to eligible communities for economic development projects that result in the creation or retention of permanent jobs, principally for persons from low- and moderate-income families. The two primary categories of funding are:

### A. STAND-ALONE BUSINESS ASSISTANCE

Funding is provided to eligible communities to provide financial assistance to for-profit businesses for an identified CDBG eligible activity which will result in the creation or retention of permanent, private sector job opportunities, principally for persons from low-moderate income families. This category may also include the improvement of publicly owned infrastructure necessary to stimulate business expansion and job creation.

#### *Eligible Costs:*

- acquisition of real property
- financing of machinery, furniture, fixtures and equipment
- working capital, including payroll
- inventory
- employee training expenses
- building construction and renovation. Note that the use of CDBG funds toward construction and renovation costs may trigger Davis Bacon Wage Rate requirements. This includes the cost of equipment that requires installation as well as the purchase of materials used for construction activities.

#### *Funding Structure:*

- Maximum award amount of \$750,000 (minimum \$25,000)
- Business with more than 25 employees at the time of application may be eligible for up to \$15,000 for each Full Time Equivalent (FTE) job created or retained
- Businesses with 25 employees or less at the time of application may be eligible for up to \$25,000 for each

- (FTE) job created or retained, up to a maximum of \$100,000
- NYS CDBG funds can only fund up to 40% of a total project cost, not to exceed the maximum award amount. Applicants may request up to 50% for projects where cash equity meets or exceeds 20% of the total project costs
- NYS CDBG funds must be used as gap funding to induce project completion
- NYS CDBG funds for program delivery and grant administration costs combined **cannot exceed** \$16,000

## B. MICROENTERPRISE ASSISTANCE

Funding is provided to eligible communities to provide a program of financial assistance to for-profit businesses with five (5) or fewer employees, including the owner(s), for an identified CDBG eligible activity which will result in the creation or retention of permanent, private sector job opportunities, principally for persons from low-moderate income families. Businesses under this category may also meet HUD requirements if owned by a documented low to moderate income person.

### *Eligible Costs:*

- Inventory
- Procurement of machinery, furniture, fixtures and equipment
- Working capital
- Training
- Technical Assistance

### *Funding Structure*

- Maximum award amount of \$300,000 (minimum \$100,000) to support several microenterprises
- NYS CDBG Microenterprise funds must be allocated as a grant to each microenterprise
- Grant assistance to an individual microenterprise must be between \$5,000 and \$35,000
- Grants may not exceed 90% of the total project cost
- A minimum amount of 10% owner equity contribution
- Applicants may request up to 20% of the CDBG award in program delivery and administration combined. Of the 20%, neither administration nor program delivery can exceed 10% of the CDBG award amount.

<b>VI. INELIGIBLE ACTIVITIES</b>
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Pursuant to rules and regulations, CDBG funds shall not be used to support projects that include specific ineligible activities. Ineligible activities include:

- The replacement of existing debt with CDBG funds
- Construction (Under the Microenterprise Program)
- Assistance to a nonprofit
- Reimbursement of costs incurred prior to grant award and release of funds
- Political or religious activities
- Lobbying activities
- Advancement (or escrow) of CDBG funds prior to local approval
- Purchase and/or lease of a motor vehicle without prior consent from OCR

Expenses for the general conduct of government are not eligible. However, costs directly attributable to administration of a local CDBG program may be considered for reimbursement.

## **VII. PROGRAM GUIDELINES - STAND-ALONE BUSINESS ASSISTANCE**

### *Types of Business*

Eligible activities include providing assistance to businesses that are involved in sectors of manufacturing, warehousing and distribution, agri-business, high technology, research and development and traditional and innovative small business endeavors. Market driven businesses (i.e. restaurant, retail) will be considered when that business is an integral part of a community's revitalization efforts.

### *HUD Underwriting*

Underwriting is a process by which applicants to the CDBG BEST program assess both the need and viability of a prospective business. The applicant must, at a minimum, use the underwriting guidelines that meet the requirements set forth in 24 CFR 570.482(e) and Appendix A to Part 570 when evaluating potential assistance to a for-profit. The underwriting criteria is designed to provide rationale to assist a project that could not proceed without CDBG investment. The basic underwriting guidelines are to ensure:

- That project costs are reasonable - Review the project budget including detailed sources and uses of funds. If the budget is overinflated, there may be a waste of scarce public resources and a surplus can end up as an additional fee to a developer or entrepreneur; conversely, if the budget is understated, the success of the project may be affected, which could reduce the income available for debt service. To determine whether the costs are reasonable the Applicant should compare the business's proposal with costs of comparable projects and industry standards
- Sources are committed – OCR wants to avoid the risk of approving and disbursing funds to fund a portion of the project without sufficient funds from other sources to complete the development. Therefore, the Applicant must prove that all other sources of funds need to be in place prior to application.
- CDBG funds are not substituted for non federal funds - The Applicant needs to establish the need for public investment by demonstrating the owner's limited personal equity, and/or demonstrating that a bank or private financing institution has reached their lending limit to the project or will not lend to the project
- Project feasibility - The project or venture should be viable with the CDBG investment. The project should be able to achieve a level of operation that is successful in the near and long term. The project should provide sufficient cash flow to repay any debt and provide a reasonable return on equity invested.
- Owner's equity return is reasonable - A business owner strives to receive a reasonable Rate of Return (ROR) based on market and type of business. The ROR should be reasonable given the equity invested and risk taken. Projects must be compared to similar ventures in similar regions.
- CDBG funds disbursed pro rata with other sources – Where applicable, CDBG funds should be disbursed in proportion to the percentage of the project they fund.

These guidelines provide a framework for financially underwriting and selecting projects which are financially viable and will make the most effective use of CDBG grant funds. CDBG funds cannot be used to substitute other committed funding and the application must show that without NYS CDBG funding the proposed project could not be completed. Evidence of underwriting must be provided as part of the application and retained in the project files. In addition, there must be clear evidence that job creation will occur.

### *Marketing and Selection*

Applicants are asked to provide a description and any supporting evidence of the process by which the business was selected for assistance. The response should describe how consideration was given to disadvantaged populations, including M/WBE's and veteran-owned businesses. Applicants must consider this selection methodology during the citizen participation (public hearing) phase of project development.

### *Miscellaneous*

- While the Davis –Bacon and Related Acts generally only applies when CDBG funds are used for construction,

if the cost of labor to install a piece of equipment exceeds 13% of the cost of the equipment itself, Davis-Bacon labor standards may apply. Please contact OCR program staff if you suspect this may occur.

## VIII. PROGRAM GUIDELINES - MICROENTERPRISE

OCR provides a toolkit and form/template index for the Microenterprise Program. This toolkit provides all the resources needed to implement a successful local program of microenterprise assistance. This toolkit and all referenced materials can be found on the CDBG economic development website [here](#).

### *General Requirements*

- Maximum award amount of \$300,000 (minimum \$100,000) to support several microenterprises
- A minimum of 50% of a total allocation (less grant administration costs) must be awarded to start-up businesses. A start up business is one which has been in operation less than six (6) months from the time of application.
- NYS CDBG Microenterprise funds must be allocated as a grant to each microenterprise. Funds can't be loaned with regular repayment terms.
- Grant assistance to an individual microenterprise must be between \$5,000 and \$35,000.
- Grants may not exceed 90% of the total project cost to assist in the start-up or expansion of a microenterprise.
- A minimum amount of 10% owner equity contribution to the project is required.
- Each microenterprise owner must complete an OCR approved entrepreneurial assistance or small business training program prior to receiving CDBG Microenterprise grant funds. The cost for the owner to attend the training may be an eligible CDBG expense.
- Applicants may request up to 20% of the CDBG award in program delivery and administration combined. Of the 20%, neither administration nor program delivery can exceed 10% of the CDBG award amount.
- National Objective cannot be met through job retention for the Microenterprise Program
- Business must be selected based on a consistent and rational methodology described in the program design plan approved by OCR. Applicants may choose to reference HUD Underwriting Standards as described above and set forth in 24 CFR 570.482(e) and Appendix A to Part 570.
- Recipients of past CDBG Microenterprise assistance must have committed at least 85% of any current awards prior to applying for additional funding.

### *Microenterprise Program Design Plan*

The development of sound policies and procedures and the implementation of a well-designed program are critical to a successful microenterprise program. Applicants proposing microenterprise activities must submit a Program Design Plan as part of their application that describes how the proposed activities will be implemented. The Program Design Plan should provide a clear and detailed description of the following program elements:

- **Eligibility** — Explain who is eligible to participate, the process that will be followed to verify participant eligibility, and what activities are eligible under the program.
- **Selection** — Describe the process by which businesses will be selected to participate. Indicate the selection criteria, including any measures taken to prioritize M/WBE's.
- **Funding** — Describe the terms and conditions for providing assistance, and the means of securing compliance during the regulatory term.
- **Marketing and Supporting Activities** — Describe program marketing and outreach efforts. Summarize any unique program design features or additional administrative support for the program (such as business counseling, job training, etc.) that will increase the likelihood of successful completion. Provide a methodology for marketing to and encouraging participation of M/WBE's.
- **Entrepreneurial Training Requirement** — Describe the entrepreneurial assistance or small business training program each microenterprise must complete prior to receiving NYS CDBG Microenterprise funds. See Training Requirement below for additional guidance.
- **Program Objectives and Impact** — Provide a detailed description of all appropriate quantifiable information and any unique aspects. Examples of quantifiable information are the number of grants to be made, and the number of jobs to be created. Describe how the benefits of the program will be sustained, resulting in long-term benefits

- **Program Oversight and Grant Approvals** — Provide a clear demonstration of the expertise to manage the grant fund program and identify other resources that will be made available to the participating microenterprises. In addition, describe the grant approval process and a list of individuals who will be involved in the selection and approval process. The Recipient's Microenterprise Grant Committee should be diverse and include qualified individuals from related professions, such as bankers, business owners, attorneys, etc.

A template program design plan is available [here](#).

### *Training Requirements*

The microenterprise owner that is awarded a grant must complete an entrepreneurial training class prior to incurring project costs and requesting CDBG grant funds. Attendance by the employees does not satisfy this requirement. If the microenterprise is owned and operated by more than one individual, at least one owner must complete the training program.

The training requirement must be met through either an in-person classroom style course or through an online web-based course that teaches the fundamentals of owning and operating a business. The online course must be instructor or mentor led. Regardless of which style of course is taken, a certificate of completion must be obtained upon successful completion. The training program should help entrepreneurs develop business skills and design a business plan. At minimum, the training program should consist of the following elements:

- Developing a business plan
- Legal issues
- Taxes, recordkeeping, accounting
- Financing
- Marketing, advertising
- Employee issues

NYS CDBG funds may be used to reimburse the microenterprise business owner(s) for participating in an entrepreneurial training course. Reimbursement will not occur until the owner has successfully completed the course and has been awarded a NYS CDBG Microenterprise grant.

Individuals who have completed a relevant training course within 24 months of CDBG grant award, and addressed the topics listed above, meet the training requirement. However, the recipient must retain the following:

- Program syllabus
- The resume of the entrepreneur
- Proof of the training program(s) completed

For any individual who previously completed a training course beyond the 24 months, it is required that they complete another relevant training course.

A draft training syllabus can be found [here](#).

### *Owner Equity*

Investments of NYS CDBG microenterprise funds must be matched by a minimum of 10% owner equity. The equity contribution must be provided as cash; not to be associated with debt of any kind. Equity must be committed and available to the project at the time of the business application. Documentation of the equity commitment must be kept in the Recipient's files.

### *Disbursement of Funds*

NYS CDBG funds are disbursed electronically upon the approval of a request for funds ([form 1-6, 1-6A](#)) submitted by the Recipient. Funds should be available for withdrawal from the Recipient's CDBG bank account within 1-2 weeks from receipt of the request. Factors such as incomplete or incorrect request for funds will delay the disbursement process.

In order to substantiate all expenditures, Recipients must obtain copies of invoices for inventory or materials



purchased, and cancelled checks from the business owners. Quotes and in-cart documentation from an online vendor are **NOT** accepted. Recipients should refer to the OCR Grant Administration Manual for guidance on Financial Management. The manual is located [here](#). Administrative and program delivery expenses must detail work completed, identify staff involved, and breakout rate and time. A template for administrative expenses can be found [here](#).

**For microenterprises, the direct business costs related to the project cannot be incurred or grant funds committed, including equity, prior to:**

- **The local approval of grant award by the Recipient; and**
- **The Recipient has received OCR’s approval of the Request for Release of Funds; and**
- **Successfully completing the required entrepreneurial training requirement.**

#### *Miscellaneous*

Some useful hints and tips include:

- Although it is not required that specific microenterprises are identified as part of the application for Microenterprise Program funding, an application that identifies microenterprises and entrepreneurs that have gone through a prescreening stage is recommended. The prescreening stage should verify eligibility, evaluate the proposed project and determine funding need. The applicant must provide a program design plan that addresses the methodology for marketing to and encouraging participation of M/WBE’s.
- Computers, laptops, phones, and other electronic equipment are eligible CDBG expenses if business owners provide a written statement verifying that they will **ONLY** be used for business purposes. A template can be found [here](#)
- Eligible fixtures and equipment consist of moveable items that have no permanent connection to the structure of a building or its utilities. Consult with OCR should you have a question regarding this or other possible construction-related items
- Operating/working capital may include a range of expenses including utilities, insurance, payroll or lease costs
- Single owners operating multiple businesses should be carefully evaluated against local underwriting criteria established in the program design plan. Contact OCR program staff to determine eligibility
- Microenterprise FAQ’s can be found [here](#)

## **IX. ENVIRONMENTAL REVIEW AND PROJECT TIMING**

The National Environmental Policy Act of 1969 (“NEPA”) requires Recipients to conduct an environmental review of their projects and establish a written record of their findings, known as an Environmental Review Record (ERR). A Recipient cannot expend or encumber CDBG funds for any activity, except those listed as exempt under 24 CFR 58.34, or which fall under the categorical exclusions set forth in 24 CFR 58.35(b), until a Recipient has completed the environmental and historic requirements. This evaluation, conducted by the grant recipient, will culminate in the ERR document and either;

- Request for concurrence of categorical exclusion/exempt, or
- Request for release of funds

If any project costs, regardless of their funding source, are incurred prior to the CDBG award date and the approval of the Request for Release of Funds by the Office of Community Renewal, the entire project may be deemed ineligible for NYS CDBG funds.

Recipients may incur certain administrative costs after award and contract, but prior to release of funds, if those costs are related to program set up and completing the environmental review documents. **Specific costs related to prospective participating microenterprise businesses will only be considered following local grant award and completion of a Tier 2 environmental review (if applicable).**

In addition to NEPA, projects are also subject to review under the State Environmental Quality Review Act (SEQR) Classification. Information related to SEQR can be found at: <http://www.dec.ny.gov/permits/6191.html>.

### Stand-alone project considerations

The type and extent of environmental review will depend on the scope of activities proposed for assistance. In general, activities restricted to items such as working capital or purchase of machinery and equipment will result in a less extensive review. **However, any project costs incurred, from any source, prior to receiving a concurrence or release of funds from the OCR can endanger the project and may result in the inability to use CDBG for that project at that location, in perpetuity.** In addition, HUD requires that the ERR consider all dependent activities related to the proposed project, regardless of funding source. For this reason, applicants must exercise caution during project development, particularly in setting clear expectations for prospective businesses. Examples of successful strategies for advancing successful CDBG BEST stand-alone projects include:

- The business plans on purchasing and installing a large piece of equipment to accommodate a new production line in an existing building. No renovation will be included in this scope of work. Once confirmed, the host government begins to file a new CDBG BEST application
- A business plans on expanding their existing facility to accommodate additional teams. The expansion project includes construction, equipment purchases and working capital for new employee training. CDBG funds will only be used for working capital. The host government begins drafting an environmental review record that covers all activities and advises the business not to incur any costs, construction or otherwise, until award, contract, and release of funds by the HTFC. With expectations set, the host government begins to file a new CDBG BEST application

In all circumstances, a best practice is to begin the ERR process as early as practicable. For further information about compliance with NEPA and selecting the most appropriate level of review, please contact program staff or reference Chapter 2 of the CDBG Grant Administration Manual [here](#).

## X. APPLICATION PROCESS & SUBMISSION

### A. OVERVIEW

CDBG BEST funds can be accessed through an open round application available through the NYS Consolidated Funding Application portal [here](#). The HTFC maintains a two-step process comprised of a pre-application to determine basic eligibility, and a full application where the balance of information is provided. This application process does not share the annual CFA deadline. Open Round applications may be submitted anytime as projects are deemed ready.

Please note that submission of the full application constitutes formal consideration of the use of federal funds toward an activity. **For that reason, it is critical that neither the recipient nor the business(es) proposed to be assisted commit or incur costs related to the project, regardless of funding source. This includes entering into contracts and acquiring property. If costs are incurred after submission of a full application but prior to completion of the environmental review requirements, it is likely that HTFC may not be able to participate in the project.**

### B. SUBMISSION INSTRUCTIONS

#### *Pre-Application*

The Pre-Application is comprised of three (3) forms:

- Pre-Submission Certification Form
- Preliminary Budget Table
- Job Creation Table

Pre-submission forms for both Stand-alone Business Assistance and Microenterprise funding types can be found on the OCR website [here](#).

Once the applicant clicks 'Submit' within the Pre-Submission part of the application, the applicant will receive one of three notifications from the CFA portal via email:

- **Accept** - The Pre-Submission has been approved and the applicant can proceed to the full application within the CFA Portal

- **Reject** - The Pre-Submission form has not been approved. The applicant will not be able to proceed to the full application within the CFA Portal
- **Needs More Information** - OCR has determined that additional information is required before the application can be approved to proceed to a full application

For all the above, OCR staff will be in contact with the applicant to discuss the next steps. Once accepted, the applicant has 60 days to complete a full application within the CFA portal.

### *Full Application*

Applicants are strongly advised to thoroughly read the application, review the requirements of the NYS CDBG program and observe all of the application requirements. Applicants seeking consideration for funding must comply with all requests for information including completion of all required forms, providing descriptions, narratives and exhibits. All parts of the application and required exhibits must be completed in full for the application to be successfully evaluated. Required information that is not provided in the application will have a negative impact on the evaluation of the application. It is the Applicant's responsibility to provide OCR with an application that is clear, concise, well-organized and that provides all of the information requested.

The Full Application is comprised of the balance of required attachments and the remaining required questions within the CFA itself. Standard required forms include:

- Applicant Certification
- Certification of Business
- Proposed Project Financing and Lien Structure
- CDBG Program Income Report
- Applicant/Recipient Disclosure/Update Report
- Project Team
- Vendor Responsibility Questionnaire (VRQ) - if applicable

All full-application forms, including an application checklist(s) can be found [here](#).

## **C. APPLICATION REVIEW**

The review process for the NYS CDBG Program is designed to ensure that the limited NYS CDBG funds available are awarded to communities that have met all of the Federal CDBG requirements, demonstrated a significant need for the proposed activity, demonstrated the project is financially feasible, shown a significant positive impact to the community and complies with the Smart Growth Public Infrastructure Act.

In evaluating projects, the OCR will analyze the following specific factors:

- Overall description of the project, including location, design, issues and opportunities, and anticipated outcomes.
- The documented need and impact for assistance
- The extent to which the program will create permanent, full time equivalent job opportunities for persons of low- and moderate- income either through the support of LMI entrepreneurs or the creation of LMI jobs. (If creating jobs, at least 51% of the jobs created must be made available to, taken by or held by persons of LMI).
- The degree to which the program supports a community-approved strategic or comprehensive plan.
- The program's impact on increasing the viability of the "Main Street" business sector and/or targeted industry sectors.
- Written documentation of support.
- Demonstration of expertise in technical assistance.
- Detailed budget that includes all funding associated with the project.
- Leveraging and availability of other resources
- The degree to which the program is financially and technically feasible.
- Reasonableness of program costs.
- Documentation of third-party costs.
- Explanation of Program Delivery and Administrative costs associated with the project.
- Documentation of all funding sources.
- The extent of documentation that supports the timely completion of the proposed activities within the term of the grant agreement. Issues which may hinder timely completion of the program must be addressed prior to award.

- Demonstrated assurance of the success of the program.
- Capacity to complete activities in a timely & effective manner, including completion of the program in 24-months.
- CDBG and administrative performance history, if any.
- Extent to which activity complements other federal, state, & local program
- (Microenterprise only) The usefulness and practicality of the entrepreneurial training program.
- (Microenterprise only) Developed Program Design Plan that describes how the proposed activities will be implemented.
- (Microenterprise only) Diverse grant committee with expertise in professional areas such as banking, entrepreneurship, law, etc.
- Applicant's status as a Pro-Housing Community. Indicate in Question 15254 if the proposed program or project is located in a municipality designated as a Pro-Housing Community, or if the municipality submitted a Letter of Intent initiating the Pro-Housing Community certification process. For County applicants, please check "yes" to Question 15254 and upload a list of the municipalities within the county and their status as a Pro-housing community with Question 14418, Applicant Certification.

\*\* Please note: If any project costs, regardless of their funding source, are incurred prior to the CDBG award date and the approval of the Request for Release of Funds by the Office of Community Renewal, the entire project may be deemed ineligible for NYS CDBG funds.

OCR will review an applicant's program history, beginning with Program Year 2000, to determine whether or not the Applicant has completed and/or made appropriate progress with any and all prior OCR grants including the number of extensions requested in order to complete a project beyond the specified deadline. Applicants should only apply for the amount of funding that can be fully expended and the type of activities that can be completed within the specified project completion period of twenty-four (24) months. Applicants should not proceed with a project that cannot be completed within the specified timeframe or with the assumption that an extension of the project deadline will be considered. **Recipients of past CDBG Microenterprise assistance must have committed at least 85% of any current awards prior to applying for additional funding.**

#### **D. CITIZEN PARTICIPATION REQUIREMENTS**

Applicant communities must conduct a public hearing before a quorum of the full legislative body in compliance with NYS Citizen Participation requirements, prior to submitting an application for funding. A [public hearing template](#), [requirements](#) and [instructions](#) are available online with the funding round materials. HTFC strongly encourages applicants to contact OCR program staff who are available to review draft citizen participation documents. Incomplete public hearing material will delay submission and review of the full application. **For all economic development projects, full applications must be submitted within six (6) months of the public hearing date.**

#### **E. TECHNICAL ASSISTANCE**

OCR will provide technical assistance regarding the application, proposed projects, and program regulations to applicants upon request. Applicants can contact OCR staff at [HCR\\_CFA@hcr.ny.gov](mailto:HCR_CFA@hcr.ny.gov) or 518-474-2057 for assistance.

#### **F. DISCLAIMER**

- HTFC reserves the right to communicate with an applicant for the purpose of addressing clerical and arithmetical errors in applications.
- HTFC reserves the right not to issue an award or contract to any applicant if it has been determined that the applicant is not in compliance with existing contracts and has not taken satisfactory steps to remedy such non-compliance. Activities that commence prior to contract execution and environmental review will not be eligible for reimbursement.
- HTFC reserves the right to award all, more than identified, a portion of, or none of the available funds based upon funding availability, feasibility of the applications received, the competitiveness of the applications, an applicant's ability to meet HTFC criteria for funding, the applicant's ability to advance the State's goals, and HTFC's assessment of cost reasonableness. HTFC reserves the right to award all, a portion of, or none of the application's requested amount, and further reserves the right to review an application requesting funds as an application for funding under other programs for which the proposed activity is eligible, and to change or disallow aspects of the applications received.

- HTFC reserves the right to waive any requirement contained in this RFA or revise the terms of this RFA as needed.
- Award of funds does not confirm eligibility of all activities included in an application proposal, and HTFC reserves the right to change or disallow aspects of the applications received and may make such changes an expressed condition of its commitment to provide funding for proposed activities.

## XI. PROGRAM REQUIREMENTS

The following is an abbreviated description, not all-inclusive, of regulations and other program requirements that apply to the NYS CDBG Program. Recipients will be monitored throughout the term of award to ensure continued compliance with these and other rules and regulations. The Federal regulations set forth at 24 CFR Part 570 and 2 CFR Part 200 govern the NYS CDBG Program and other federal administrative requirements. For more detailed program guidelines, applicants may reference the [NYS CDBG Grant Administration Manual](#).

### A. NATIONAL OBJECTIVE

Activities funded under the NYS CDBG Program must primarily benefit low- and moderate-income persons, aid in the prevention or elimination of slums or blight or meet community development needs having a particular urgency. **Most economic development activities are undertaken for the purpose of job creation or retention where at least 51% of the jobs are either taken by, or made available to, low- and moderate-income persons.** Jobs are counted on a full time equivalent (FTE) basis.

#### *Jobs “taken by” LMI persons:*

A job is considered to be held by a LMI person if the person is, at the time their employment commences, a member of a family whose income falls at or below the applicable Section 8 program income limits. The family’s entire income must be counted (This is particularly important when dealing with part-time jobs or jobs taken by students). The annual salary or hourly wage of the job that the person fills is irrelevant. HUD annual income limit schedules can be found [here](#).

#### *Jobs made “available to” LMI persons:*

Jobs that are not held (filled) by LMI persons may be claimed to be “available to” LMI persons *only* when *both* of the following are met:

- The jobs do not require special skills that can only be acquired with substantial (i.e., one year or more) training or work experience, and education beyond high school is not a prerequisite to fill such jobs, unless the business agrees to hire unqualified persons and train them and
- The state grant recipient and/or the assisted business takes actions to ensure that LMI persons receive “first consideration” for filling such jobs. “First consideration” means:
  - The business must use a hiring practice that under usual circumstances would result in over 51 percent of LMI persons interviewed for applicable jobs being hired,
  - The business must seriously consider a sufficient number of LMI job applicants to give reasonable opportunity to fill the position with such a person, and
  - The distance from residence and availability of transportation to the job site must be reasonable before a particular LMI person may be considered a serious applicant for the job.

#### *Job Retention (Business Expansion/Stand-Alone Activities Only):*

In order to consider jobs *retained* as a result of CDBG assistance, there must be clear and objective evidence that permanent jobs will be lost without CDBG assistance. For these purposes, “clear and objective” evidence that jobs will be lost would include:

- Evidence that the business has issued a notice to affected employees or made a public announcement to

that effect, or

- Analysis of relevant financial records which clearly and convincingly shows that the business is likely to have to cut back employment in the near future without the planned intervention.

To meet the LMI job standard, 51 percent or more of the retained jobs must be known to be held by LMI persons at the time CDBG assistance is provided.

#### *Low/Moderate Income Owner (Microenterprise Activities Only):*

Businesses that qualify as a microenterprise (5 or fewer employees including the owner) may meet national objective through either job creation or by demonstrating that the owner(s) is LMI themselves. If more than one individual owns the business, a majority of owners must meet the LMI requirement. This is categorized by HUD under the Limited Clientele national objective and is known as LMCMC. LMI status is determined based on the family income of the owner(s).

#### *Special Considerations*

- Part-time jobs must be converted to full-time equivalents (FTE). An FTE job is any combination of two or more part-time jobs that, when combined together, constitute the equivalent of a job of at least 40 hours per week
- Only permanent jobs count (temporary jobs may not be included)
- Seasonal jobs are considered only if the job is long enough for the job to be considered as the employee's principal occupation
- Jobs indirectly created (i.e., "spin off" jobs) may not be counted.
- A Business owner cannot be included or reported as a created job
- Retention is not permitted in the Microenterprise Program

#### *Required Documentation*

At the time of application, HTFC will require:

- A description of how the total number of jobs to be created or retained was determined.
- A written commitment by the business at the time of application that at least 51 percent of the jobs on a full-time equivalent basis, will be taken by or made available to LMI persons
- A listing, by job title, of the permanent jobs to be created
- The nature of the jobs created to date (number skilled, semiskilled, and unskilled, and for semi-skilled jobs, any special education or experience required) and the nature of additional jobs expected to be created
- (Retention only) Clear and objective evidence that in the absence of the CDBG assistance the jobs will be lost
- (Retention only) Self-certifications/family income forms for all employees. See [here](#)
- (Retention only) Any other evidence to support the conclusion that a majority of jobs will be filled by LMI persons, such as accessibility of the jobs to areas where substantial numbers of LMI persons reside or special outreach and/or training to be directed toward LMI persons

At project start-up, HTFC will require:

- A written agreement with each business in which that business agrees to keep or create a specific number of jobs and identifies each such job by type and whether the job will be full- or part-time. The agreement must also specify the actions the business and the grant recipient will take to ensure that at least 51 percent of the jobs created or retained will benefit LMI persons pursuant to the program rules.

At project reporting/monitoring/close-out, HTFC will require:

- Self-certifications/family income forms for all employees hired
- Documentation of which jobs were actually created and/or retained, whether each such job was taken by or made available to a LMI person, and the full-time equivalency status of each job. In order to help recipient documentation of these efforts, the HTFC offers a template applicant interview and hiring log [here](#)
- A description of how first consideration was given to LMI persons for those jobs. That description should include the hiring process used



- A description of how the LMI status of those hired was determined by the applicant during the review of the recipient
- (Start-up/Microenterprise only) If applicable, documentation that the owner qualifies as LMI through all relevant tax returns or analysis of all income sources. A standard methodology must be chosen during initial design of program

Additional information on National Objective Compliance can be found at <https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/> **If satisfactory demonstration of compliance with a National Objective is not provided, the proposed activity will be considered ineligible and will not be considered for funding.**

## B. CONTRACT TERM

Due to HUD CDBG Program deadlines for commitment and expenditure, if awarded, the contract term shall not exceed two (2) years. All awarded projects will be required to demonstrate substantial progress within six (6) months of award. Substantial progress is defined as grant execution in forty-five (45) days of award, completion of the environmental review within sixty (60) days of award, and the first request for funds within six (6) months of award. The OCR reserves the right to rescind the award if substantial progress cannot be demonstrated as described above. Requests for extensions to complete program activities may be limited or not approved

HTFC may, at its sole discretion, provide need-based awards to commit additional CDBG funds to existing contracts specifically for the continuance or expansion of the CDBG eligible activities. The Corporation may, at its sole discretion, also provide multi-year contracts or renewals based on the Corporation's available CDBG funds. Additional funds are subject to approval by the Corporation's board of directors.

## C. PROCUREMENT

An applicant may choose to use a third-party consultant and/or non-profit subrecipient to help administer the project. For professional service contracts, federal procurement rules will apply if any portion of those services will be paid using CDBG funds. NYS CDBG funds may not be used to pay for costs related to the preparation of an application. Written agreements must be executed between the parties detailing all responsibilities, standards and fees. For more information on both procurement and subrecipient relationships, please see Chapter 1 and 4 of the NYS CDBG Administration Manual [Getting Started](#) and [Procurement Standards](#), respectively.

## D. MONITORING

Recipients will be monitored throughout the term of award to ensure continued compliance with all applicable rules and regulations. In addition, Recipients are required to provide oversight and monitoring of all subrecipients and consultants involved in the administration of the CDBG-funded project. This monitoring is required regardless of the source used to reimburse or pay fees associated with administration of the project. Recipients must show evidence of having monitored subrecipients and/or consultants on a specific day(s) and time. For more information, please see Chapter 10 of the NYS CDBG Grant Administration Manual, [Monitoring](#). In addition, OCR provides a subrecipient/consultant monitoring template [here](#).

## E. ENVIRONMENTAL REVIEW

All projects considered for an award of CDBG funds are subject to review under the National Environmental Policy Act (NEPA) and State Environmental Quality Review Act (SEQRA). A draft Environmental Review Record (ERR) must be submitted at the time of application. The length of time for the NEPA review varies based on the type of activities that are undertaken. Any non-exempt costs incurred prior to approval of NEPA Review would not be eligible for CDBG reimbursement. **Note that any costs incurred after submission of the full application but prior to award, contract, and environmental release of funds may be deemed ineligible and endanger the investment of any CDBG funds in that activity at that location.** Letting bids, entering into real estate contracts, and ordering equipment are all examples of activities that may constitute "choice-limiting actions" if done prior to release of funds by HTFC and put the project at risk of being deemed ineligible.

For more information, please see Chapter 2 of the NYS CDBG Grant Administration Manual, [Environmental and Historic Review](#).

## F. PROGRAM INCOME

Program income is defined by the CDBG Rule (24 CFR 570.489(e)(1)) to include any “gross income received by a State, a unit of general local government, or a subrecipient of the unit of general local government that was generated from the use of CDBG funds, regardless of when the CDBG funds were appropriated and whether the activity has been closed out.” The rule provides for an annual threshold of \$35,000 before receipts by local recipients must be counted as program income. If the total amount of receipts by the local recipient exceeds \$35,000 during the year (for the New York State Program, the state fiscal year of April 1 – March 31), all funds received, including the initial \$35,000, are considered program income and are subject to recapture by HTFC. For more information please see Chapter 3 of the NYS CDBG Grant Administration Manual, [Financial Management](#).

## G. GRANT ADMINISTRATION AND PROGRAM DELIVERY COSTS

*Microenterprise:* Program delivery and grant administration costs combined **cannot exceed** 20% of the total award. Neither administration nor program delivery can exceed 10% of the CDBG award amount.

*Traditional Business Assistance:* Program delivery and grant administration costs combined **cannot exceed** \$16,000

**Grant Administration Costs:** Generally, these are costs associated with salaries, wages, and related costs of the grant recipient’s staff, the staff of local public agencies, or other staff engaged in program administration for the awarded grant. General operating expenses are ineligible for reimbursement from the grant funds. Examples of eligible administrative costs include:

- Providing local officials and citizens with information about the program
- Preparing program budgets and schedules and amendments thereto
- Developing systems for assuring compliance with program requirements
- Costs associated with the Environmental Review Process for the overall program, including the release of funds
- Preparing Requests for Proposals with consultants for grant administration or other consulting work, such as architectural or engineering services
- Developing interagency agreements and agreements with sub recipients and contractors to carry out program activities
- Monitoring program activities for progress and compliance with program requirements
- Preparing reports and other documents for submission to the state regarding the grant
- Coordinating the resolution of audit and monitoring findings
- Evaluating program results against state objectives
- Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described above
- Costs incurred for official business travel in carrying out the program and administrative services performed under a third-party contract
- Purchase of capital equipment, such as file cabinets, for grant administration
- Training on CDBG grant administration requirements

**Program Delivery Costs:** These are those costs that can be directly attributed to activities for delivery of specific proposed activities. These include in-house staff or third-party costs. Examples of program delivery costs include:

- Marketing grant activities
- Services verifying client eligibility
- Providing education or counseling to beneficiaries
- Preparation of site-specific environmental review and environmental assessment
- Preparation of loan closing documents, all costs associated with perfecting security, repayment processing, loan disbursement
- Legal expenses related to construction such as temporary or permanent easements and filing fees
- Any required building or regulatory permit or fees associated with regulatory compliance
- Client/contractor troubleshooting
- Any other professional services required to deliver the program



For more information, please refer to the NYS CDBG Administration Manual, Chapter 3, Financial Management [here](#).

## H. SMART GROWTH

The Housing Trust Fund Corporation is subject to the New York State Smart Growth Public Infrastructure Policy Act (Chapter 433 of the Laws of 2010) and must, to the extent applicable, make funding decisions consistent with the provisions of the Act. This law is intended to minimize the unnecessary cost of sprawl development and requires New York State agencies to ensure public infrastructure projects undergo a consistency evaluation and attestation using the eleven Smart Growth criteria specified in the Act.

## I. DAVIS BACON RELATED ACTS

The use of CDBG for construction-related costs in excess of \$2,000 will trigger Federal Labor Standards requirements ([Davis Bacon Related Acts](#)) as outlined in 40 USC 276. This regulation requires that workers receive no less than the prevailing wages being paid for similar work in their locality. **Note that the labor associated with the installation of equipment may also trigger David Bacon if the installation costs exceed 13% of the cost of the equipment itself.** Applicants and grantees are encouraged to contact OCR staff with any questions on this requirement.

## J. SECTION 3

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain United States Housing and Urban Development (HUD) financial assistance shall, to the greatest extent feasible, and consistent with existing federal, State, and local laws and regulations, job training, employment, contracting and other economic opportunities be made available to low- and very low-income persons and locally owned enterprises within the proposed service area. Refer to the Appendix additional information.

## K. EQUAL EMPLOYMENT AND MINORITY AND WOMEN OWNED BUSINESS PARTICIPATION

Refer to the [Minority and/or Women Business Enterprises \(MWBE\) Policy](#).

Applicants are subject to the Equal Employment Opportunity requirements related to nondiscrimination and equal access. The applicant shall comply with the following, as applicable. Executive Orders 11246, 11625, 12432, and 12168 as amended require States receiving CDBG funds to establish procedures for compliance with EEO and MWBE outreach. To comply with these Executive Orders, NYS HCR and the HTFC have elected to follow the State requirements under Article 15A of New York State Executive Law **if state funds are used in the proposed program as leverage for CDBG funds**. This requires that all contractors and awardees make affirmative efforts to ensure that New York State Certified MWBE's are afforded opportunities for meaningful participation in projects funded by the HTFC pursuant to Section 313 of the Article.

For federal reporting purposes, applicants are also asked to report on all non-State certified MWBE's (that meet the federal definition of business enterprises that are 51% minority or women owned) that have been hired to provide services for the NYS CDBG Program contract. Please see additional guidance on MWBE requirements as referred to in the Administrative Plans.

## L. NON-DISCRIMINATION

No person in the United States shall, on the grounds of race, color, national origin, religion, or sex be excluded, denied benefits, or subjected to discrimination under any program funded in whole or in part by NYS CDBG Program funds. Applicants are subject to all federal and State fair housing and equal opportunity laws and orders, as referenced in 24 CFR Parts 92.350 and 92.351 to include: Title V of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), The Fair Housing Act (42 U.S.C. 3601-3620.), Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259), Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107). Refer to [HCR's Fair and Equity Housing Office](#) for more guidance on non-discrimination.

## M. AFFIRMATIVELY FURTHERING FAIR HOUSING

Recipients of federal funds have a duty to affirmatively further fair housing (AFFH) pursuant to the Fair Housing Act. New York State will monitor the efforts of local government grantees to satisfy and certify their own duty to AFFH. In general, activities that AFFH should promote non-discrimination and ensure fair and equal access to

housing opportunities for all. The [CDBG Grant Administration Manual, Chapter 7](#), provides additional information regarding fair housing obligations. To ensure compliance with the AFFH requirements Recipients **are required to:**

- Display fair housing posters and distribute fair housing materials prepared by New York State, the municipality, US Department of Housing and Urban Development (HUD), or fair housing organizations to community residents, landlords, real estate professionals and lenders.
- Pass a fair housing resolution that demonstrates a “good faith effort” in complying with fair housing requirements. The fair housing resolution adopted by the Recipient must also be publicized and promoted within the community; and
- Designate a fair housing officer who is familiar with the fair housing regulation, have him or her trained on their duties and responsibilities as a fair housing officer, and, through means reasonably calculated to reach the community, publicize the existence of the fair housing officer as the primary point of contact for all fair housing related issues.

**The Recipient must carry out the AFFH actions within one (1) year of the award of funds** and provide to HCR’s Office of Community Renewal proof of the activities undertaken as a record of the municipality’s activities to satisfy its AFFH requirements. Recipients must be prepared to report on efforts to Affirmatively Further Fair Housing on an annual basis. Reporting will occur on an annual basis through the OCR Annual Performance Report that is due in January of every year.

In addition to the above-mentioned required activities, the Recipient’s AFFH Checklist should identify which of the below activities will also be undertaken. The below checklist does not include every fair housing activity that a municipality could or should undertake. It is however a good starting point of increasing community awareness, ensuring that clear procedures exist for addressing fair housing complaints, expanding the types of housing choice within the municipality, and generally providing all people with the opportunity to live in a community of their choice without discrimination.

If a Recipient intends to complete an action not included in the AFFH Checklist to satisfy one of the categories from the AFFH Checklist, it must apply to Fair and Equitable Housing Office (FEHO) for permission to do so. Questions related to fair housing obligations and/or the AFFH Checklist must be addressed to HCR’s Fair and Equitable Housing Office at (518) 473-3089 or [feho@hcr.ny.gov](mailto:feho@hcr.ny.gov).

#### **Encourage community input on fair housing matters**

- Hold an annual public meeting on fair housing. Provide to HCR an agenda, meeting notes, and reports concerning the steps that will be taken to address fair housing issues raised at these meetings. Include list of attendees/sign-in sheet, location and date.

#### **Ensure public policy affirmatively furthers fair housing**

- Sponsor, or work with a community development/planning organization, rural/neighborhood preservation, or fair housing organization to conduct a survey to assess the community’s housing needs, including barriers to fair housing choice
- Survey special housing needs of minorities and women to determine possible effects of discrimination.

#### **Promote fair housing education**

- Elected officials, municipality staff in charge of planning, zoning, building, housing, community and economic development, and their third-party consultants attend a fair housing training program.
- Expert provides a fair housing education and training program for real estate professionals, including developers, sales and rental agents, lenders, and property managers.
- Conduct a meeting with financial institutions that serve the community to discuss the importance of providing financial assistance for housing in all geographic areas and to all residents in the community.

Recipients will have a continuing obligation through the contract period to disclose within thirty (30) days to HCR’s Fair and Equitable Housing Office if the municipality becomes the subject of any fair housing proceeding before a

federal, state and/or local adjudicatory body, or if it receives a final disposition in a proceeding involving fair housing law claims.

Please note that the actions listed above represent the commitment of the Office of Community Renewal (OCR) to Affirmatively Further Fair Housing (AFFH), and supplement, but do not replace the responsibility of each grantee to AFFH as described in the CDBG Grant Administration Manual.

#### **N. VIOLENCE AGAINST WOMEN ACT (VAWA)**

Information specific to VAWA compliance can be found on the FEHO website at <https://hcr.ny.gov/marketing-plans-policies>

#### **O. BUILD AMERICA BUY AMERICA (BABA)**

Any infrastructure activity that is awarded NYS CDBG funds on or after November 14, 2022, is subject to compliance with BABA. The Build America, Buy America Act (“BABA” or “the Act”) was enacted on November 15, 2021, as part of the Infrastructure Investment and Jobs Act (“IIJA”) ([Pub. L. 117-58](#)). The Act establishes a domestic content procurement preference, the BAP, for Federal infrastructure programs. Section 70914(a) of the Act establishes that no later than 180 days after the date of enactment, HUD must ensure that none of the funds made available for infrastructure projects may be obligated by the Department unless it has taken steps to ensure that the iron, steel, manufactured products, and construction materials used in a project are produced in the United States. In section 70912, the Act further defines a project to include “the construction, alteration, maintenance, or repair of infrastructure in the United States” and includes within the definition of infrastructure those items traditionally included along with buildings and real property. Thus, beginning May 14, 2022, new awards of FFA by HUD through a program for infrastructure, and any of those newly obligated funds then obligated by the grantee, are covered under BABA provisions of the Act, [41 U.S.C. 8301 note](#), unless covered by a waiver.

## XII. APPENDICES

### A. DEFINITIONS OF ANNUAL HOUSEHOLD INCOME

For purposes of determining whether a household is low- and moderate, income, CDBG permits two definitions:

- Adjusted gross income as defined for purposes of reporting under internal revenue service (IRS) form 1040 for individual federal annual income tax purposes.
- Annual income as defined under the Section 8 housing assistance payments program at 24 CFR part 5.

General Category	24 CFR 5.609 paragraph (b) Income Inclusions
1. Income from wages, salaries, tips, etc.	The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
2. Business Income	The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.
3. Interest & Dividend Income	Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in number 2 (above). Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
4. Retirement & Insurance Income	The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in number 14 of Income Exclusions).
5. Unemployment & Disability Income	Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay (except as provided in number 3 of Income Exclusions).
6. Welfare Assistance	<p><b>Welfare Assistance.</b> Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income:</p> <ul style="list-style-type: none"> <li>• Qualify as assistance under the TANF program definition at 45 CFR 260.31; and</li> <li>• Are otherwise excluded from the calculation of annual income per 24 CFR 5.609(c).</li> </ul> <p>If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:</p> <ul style="list-style-type: none"> <li>• the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus</li> <li>• the maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is reduced from the standard of need by applying a percentage, the amount calculated under 24 CFR 5.609 shall be the amount resulting from one application of the percentage.</li> </ul>

7. Alimony, Child Support, & Gift Income	Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
8. Armed Forces Income	All regular pay, special day and allowances of a member of the Armed Forces (except as provided in number 7 of Income Exclusions).

## B. SECTION 3 COMPLIANCE

Housing construction and rehabilitation projects as well as public works projects that receive more than \$200,000 in HOME Investment Partnership Program (HOME), Community Development Block Grant (CDBG), federal Housing Trust Fund or other funding from the U.S. Department of Housing and Urban Development (HUD) must comply with Section 3 of the Housing and Urban Development Act of 1968 (“Section 3”) as implemented by regulations found at 24 CFR 75.

Section 3 requires that economic opportunities generated by HUD funds be prioritized for low-income individuals and the businesses that hire or are owned by them, particularly in the neighborhood surrounding the project. All entities involved in the Section 3 Project (the entity awarded the HUD funds through the Housing Trust Fund Corporation (HTFC) (the Awardee), the General Contractor, other contractors, and subcontractors (together, the “Subs”) must, to the greatest extent feasible, engage in efforts to achieve Section 3 goals and objectives.

The Benchmark Goals for each Section 3 Project are the following:

- 25% of Total Labor Hours worked by Section 3 Workers, of which
- 5% of Total Labor Hours worked by Targeted Section 3 Workers.

Applicable Projects will be required to report on these numbers mid-year and end-year as well as at project closeout. All reporting must include Total Labor Hours, Section 3 Worker hours and Targeted Section 3 Worker hours for Awardee and all the Subs on the Project.

Failure to meet the Benchmark Goals requires a narrative and supporting documentation indicating what the Awardee, General Contractor and Subs did to ensure that economic opportunities were made available to low-income individuals and Section 3 Businesses. A non-exhaustive list of these efforts can be found at this link: <https://hcr.ny.gov/S3SubReportingForm>. Section 3 compliance is not optional, but it is flexible depending on the type of Project, location and needs of the local workforce.

More information and guidance on Section 3 compliance can be found in NYSHCR’s Section 3 Policy Manual here: <https://hcr.ny.gov/section-3-compliance>. Links to required documents and useful resources can be found below.

## KEY DEFINITIONS

**Section 3 Worker:** An individual employed by Awardee or its Subs who works on the Section 3 Project and who currently fits, or when hired within the past 5 years fit, at least one of the following criteria, as documented:

- 1) The worker’s income for the previous or annualized calendar year is categorized as low-income (80% AMI or less).
- 2) The worker is employed by a Section 3 Business (these are also Targeted Section 3 Workers); or
- 3) The worker is a YouthBuild participant (these are also Targeted Section 3 Workers).

The hiring of a Section 3 or Targeted Section 3 Worker shall not be negatively affected by a prior arrest or conviction. The Section 3 Hiring Form (link below) will guide an employer in determining which employees/candidates are Section 3 and Targeted Section 3 Workers.

**Section 3 Business or Section 3 Business Concern:** These terms are used interchangeably and mean a business that meets at least one of the following criteria, documented within the last 6-month period:

- 1) At least 51 percent owned and controlled by low-income persons.
- 2) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 Workers: or

- 3) At least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

**Targeted Section 3 Worker:** A Section 3 Worker who:

- 1) is employed by a Section 3 Business: or
- 2) currently fits or when hired fits at least one of the following categories, as documented within the past five years:
  - (i) Living within the Service Area or the Neighborhood of the project; or
  - (ii) A YouthBuild participant.

**Total Labor Hours:** The number of paid hours worked by persons on a Section 3 Project, including those worked by Awardees, subawardees, contractors and subcontractors.

Document	Summary	Required for Use by:
Contract Clause	Mandatory language for all S3 projects	Awardee, GC, all Subs
Participation Plan	Outlines mandatory minimum efforts and sets forth Project's plan to meet S3 objectives. <b>Must be completed before funding contract execution.</b>	Awardee & GC, Suggested for all Subs
Sub-Reporting Form & Greatest Extent Feasible Checklist	Form GC and Subs use to report S3 performance up to Awardee	GC and all Subs
Consolidated Awardee Reporting Form	Form Awardee uses to report consolidated S3 performance to NYSCHR	Awardee (consolidating Sub Reporting Forms)
Section 3 Business Self Certification	Forms businesses can use to self-certify that they meet the S3 definition for a S3 business	Awardee must have on file for all S3 Businesses on Project
Hiring Form	Form to be used to determine which employees/applicants are Section 3 Workers % Targeted Section 3 Workers	Awardee, GC, all Subs

### C. APPLICABLE LAWS AND REGULATIONS

There are numerous Federal, state and local regulations that govern or impact the State CDBG Program. It is the responsibility of the Applicant to ensure compliance with all applicable Federal, state and local regulations and statutes. The following is a listing that is not all inclusive, of Federal regulations that apply to the State CDBG Program:

- Efforts to Affirmatively Further Fair Housing
- Davis-Bacon Fair Labor Standards Act (40 USC 276a)
- Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333)
- Copeland Anti-Kickback (18 USC 874)
- Title VI of the Civil Rights Act of 1964 (42 USC 200(d))
- Title VIII of the Civil Rights Act of 1968 (42 USC 3601)
- Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 792 and 3601)
- Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC 1701 (u))
- Section 109 of the Housing and Urban Development Act of 1974, as amended (42 USC 5309)
- Age Discrimination Act of 1975, as amended (42 USC 6101)
- Architectural Barriers Act of 1968, as amended (42 USC 4151)
- Americans with Disabilities Act of 1991
- Equal Employment Opportunity (Executive Order 11246, September 24, 1965)
- Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)
- The Hatch Act (5 USC 1501 et seq.)
- The National Environmental Policy Act of 1969
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and amendments of 1987
- Title IV of the Lead-Based Poisoning Prevention Act (42 USC 4831)
- HUD Reform Act of 1989
- 24 CFR Parts 35, 58, 85, and 570
- Housing & Community Development Act of 1974, as amended
- 2CFR 200, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments; Section 104(d) of the Housing and Urban Development Act of 1974, as amended (Anti-Displacement)