SCHEDULE D

NYS Community Development Block Grant

Housing Program Administrative Plan

Contents

I. Introduction 2

II. Administrative Start Up 2

a. Management and Oversight 2

b. Environmental Review 3

c. Recordkeeping 3

III. Marketing & Outreach 3

IV. Participant Intake, Eligibility and Selection 4

a. Intake Procedure and Documentation 4

b. Application Prioritization and Selection 4

c. Eligible Activities 5

d. Eligible Participants 6

e. Conflict of Interest 7

V. Project Development 7

a. Work Write-up / Scope of Work 7

b. Participant Agreement 8

c. Contractor Procurement 8

VI. Financial Management 9

a. Financial Policies and Internal Controls 9

b. Disbursement Procedures 10

VII. Construction Monitoring & Quality Control 10

a. Construction Monitoring 10

b. Final Inspection 10

c. Dispute Resolution 10

VIII. Security and Maintaining Affordability 11

I. Introduction

This Administrative Plan outlines the required procedures a Recipient must follow to administer a NYS CDBG Housing Rehabilitation or Infrastructure in Support of Housing program (where there is a direct benefit to a specific household, e.g. wells and septic replacement). It addresses the federal and state policies, procedures, and requirements applicable to both owner-occupied and rental housing activities. A structured approach to implementing a housing program is key to success. The framework presented here serves as a roadmap for Recipients. Recipients are expected to supplement these basic procedures with local policies and procedures that best meet the needs of the service area. Written local policies and procedures must, at a minimum, address: 1) application intake, eligibility and selection; 2) conflict of interest; 3) contractor procurement; 4) construction monitoring; and 5.) dispute resolution.

This Plan is specific to housing rehabilitation and infrastructure in support of housing activities only and supplements the CDBG Grant Administration Manual that covers all CDBG activities. All forms and related documents referred to in the Plan are available on the CDBG Program website at: https://hcr.ny.gov/community-development-block-grant

This plan is subject to review and monitoring by the Office of Community Renewal (OCR). Failure to adhere to the procedures outlined herein may result in findings during monitoring and may require corrective action.

Steps in Implementing a CDBG Housing Program

II. Administrative Start Up

There are important administrative steps that Recipients must take prior to implementing a CDBG Housing program, which include:

a. Management and Oversight

(1) establish a project team with the experience and capability to lead and administer the program; and (2) set up a system for managing CDBG funds. Administering a CDBG Housing program can

take several forms. In some cases, Recipients may designate existing employee(s), hire new employees, and/or engage a not-for-profit subrecipient or procure an administrative consultant. Chapter 1 of the NYS CDBG Grant Administration Manual has detailed guidance on these options.

b. Environmental Review

Recipients must comply with 24 CFR Part 58 and conduct assessments to determine the degree to which the National Environmental Policy Act of 1969 (NEPA), the State Environmental Quality Review Act (SEQRA), the State Historic Preservation Office (SHPO) and Tribal Historic Preservation Office (THPO) requirements impact the projects. Recipients must complete an environmental review of all project activities prior to obligating CDBG funds. Detailed environmental and clearance requirements can be found in Chapter 2 of the NYS CDBG Grant Administration Manual. In general, a programmatic review must be completed during grant startup (Tier 1). As individual sites are identified for assistance, additional review must be performed based on the plan established at the programmatic level (Tier 2).

Recipients are prohibited from taking "choice-limiting actions", including execution of participant agreements or expenditure of CDBG funds, until the environmental review has been completed and a Release of Funds has been issued by OCR.

c. Recordkeeping

Program and project files must be securely stored, maintained and comply with requirements outlined in Chapter 8 of the NYS Grant Administration Manual and the Project File Checklist found on the CDBG website. Accurate recordkeeping for reporting compliance is crucial for the successful management of a CDBG-funded project.

When establishing a file system, Recipients should consider using two categories to set up their files: program files and project files.

- Program Files: should contain documentation and information that relate to the overall funding and administration of the program.
- Project Files: should contain specific documentation and information pertaining to an assisted participant/beneficiary case as part of their overall program file.

All documentation is subject to periodic OCR monitoring review. A list of required documents can be found here: https://hcr.ny.gov/cdbg-project-file-checklist. This checklist will be used during monitoring of the project.

III. Marketing & Outreach

The Recipient must conduct and document marketing and outreach efforts in the eligible service area to make potential participants aware of the availability of program funds. This outreach may have been conducted initially during development of the funding application to determine interest in

the program. Additional outreach must also be conducted following award and during program start-up. This outreach could include, but may not be limited to:

- Develop & disseminate program and application information through traditional (print, advertisement, etc.) and online outlets (email, social media, etc.)
- Partner with not-for-profits or related local government to establish a referral process, e.g. local weatherization provider, county office for the aging, housing advocacy group, etc.
- Identify specific marketing channels and approaches to reach the target audience. Program materials should be distributed to property owners in the service area and made available for distribution to local governments and other local partners.
- Outreach efforts should consider the socioeconomic character of the service area and provide equal opportunity to apply for program resources.
- Retain distribution lists, public notices, and other documentation of marketing and outreach efforts in program files.

Marketing and outreach approaches must align with the purpose of the program, which is to support repairs for low- and moderate-income homeowners and renters, and must comply with Fair Housing and Equal Opportunity requirements. The Recipient shall consider language access needs and conduct multi-lingual outreach and marketing as appropriate and document such efforts.

IV. Participant Intake, Eligibility and Selection

a. Intake Procedure and Documentation

The Recipient must establish a formal procedure for application intake that standardizes the collection and review of applications to ensure fairness and avoids conflicts of interest. Application intake involves collecting detailed applicant information, income verification, and property documentation to determine eligibility based on CDBG rules and regulations. Applications must be accepted in a manner that ensures fair access, including reasonable time periods and methods of submission. Assistance must be offered to any household requesting assistance in completing the application.

The Recipient must retain documentation outlined in the Project File Checklist found on the NYS CDBG website and any other required documentation per the program policies and procedures, which is subject to periodic HCR monitoring review.

b. Application Prioritization and Selection

The Recipient must establish and document application review and selection criteria for making awards. The criteria must align with the stated objectives and purpose of the CDBG program and the Recipient is encouraged to adopt prioritization criteria that reflect local demographic, housing conditions and homeowner need.

The Recipient must make prioritization and other selection criteria available to prospective applicants to maintain transparency in the selection process.

Accepting applications on a “first come, first serve” basis will generally not enable the Recipient to adequately prioritize applications in accordance with program policies. Options for the Recipient to consider include, but are not limited to:

- Establishing threshold funding levels
- Utilizing short application rounds or collecting and reviewing applications in batches
- Establishing criteria or thresholds for short-term wait lists
- Considerations such as
    - Previously identified priority properties
    - Investing in identified target areas
    - Severity of property/unit condition
    - Status on existing waiting list for rehab assistance
    - Order of applications received

The review and selection decision related to each application must be documented and kept in each project file.

The method for establishing a wait list must be disclosed in application materials and briefings. While priority or preference households may be placed on a separate waiting list, and processed according to the priority, applications must be accepted from any household within the eligible service area. Income eligibility need not be verified to place an applicant on a waiting list but can be based on the applicant’s representation of income, with disclosure that income will be verified prior to selection. Recipients may use an already established wait list from a prior program; however, income documentation must be no more than 12 months old at the time of assistance.

c. Eligible Activities

Recipients must define the types of eligible activities in all local application materials. Allowable activities must align with Schedule B of the executed HTFC grant agreement. Recipients must observe and communicate the activity-specific policies below:

- Housing rehabilitation program funding will be used toward the repair or rehabilitation of single-family homes for low-and moderate-income owners and multi-family properties where at least 51% of the units are occupied by low-and moderate-income households.
- Infrastructure in support of housing funding will be used for replacement or new installation of utilities for existing owner-occupied housing, manufactured home units, and single site multi-unit housing. All activities must primarily benefit low- and moderate-income households.
- CDBG assisted units should meet NYS and/or local building code upon completion of construction activities.
- A multi-family property must contain 2-4 units and for owner occupied rental, the owner must be determined to be of low-and-moderate income.
- Replacing a housing unit may be eligible, with HCR approval, when the cost of rehabilitation is more than 75 percent of the total estimated cost of replacement after

rehabilitation. If replacement is necessary, the new unit must be sited on the same lot in substantially the same manner as the original unit.
- Rehabilitation of manufactured housing units is ineligible unless CDBG funds are used solely for accessibility modifications, and/or septic and well replacement.
- Work completed prior to selection and award by a Recipient is not eligible for reimbursement.

d. Eligible Participants

The Recipient shall adopt a clear written policy on applicant eligibility that is detailed in marketing and application materials. The policy must detail procedures to determine eligibility and be consistently applied to all applications.

The Recipient must document award decisions based on this policy within each Project File, including verification that the applicant is current on mortgage payments, property taxes, utilities, and any other locally established criteria.

An eligible participant must meet the following minimum criteria:

- **Property Ownership**: Participant must be legal owner of a 1- to 4- unit residential property. Property ownership rules require that assisted properties generally must be held in fee-simple title, life estate, or a 99-year leasehold to ensure long-term stability and compliance. Ownership must be documented in the Participant file.

  Applicants must provide proof of homeowners insurance at application that covers full (100%) home replacement value and flood insurance, if applicable, to keep with the file.

- **Income Eligibility**: To meet the CDBG LMI National Objective, the project must meet one of the following:
  - One-unit structures must be occupied by LMI households
  - Two-unit structures must have at least one unit occupied by LMI households
  - Structures containing 2-4 units must have at least 51% of the units occupied by LMI households, and for owner occupied rental, the owner must be determined to be of low-to-moderate income.

  The Recipient must establish an intake process to document that every participant meets income eligibility criteria. This includes maintaining supporting documentation to confirm eligibility and participant selection.

  Verify the household's total annual income against HUD's Area Median Income (AMI) limits for their specific county and household size. The most current and up to date HUD income limits are available online. For purposes of determining whether a household is low- to-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.

The household income verification process must follow one of the methodologies listed above and apply it consistently across all assisted households within the program. The project file must contain the income documentation and signed and dated certification or similar document indicating that the Recipient or its agent(s) has determined eligibility.

All housing activities must meet the low-and-moderate income housing national objective (LMH) pursuant to 24CFR 570.208. Refer to the CDBG Grant Administration Manual for information on meeting a National Objective and the types of household income to be included in the calculations.

e. Conflict of Interest

Recipients of state and federal funds have a responsibility to ensure that public resources are used in the best interest of the public and within the confines of the funding source. Conflicts of interest are strictly prohibited by CDBG regulations 24 CFR 570.611 as addressed in the Conflict of Interest clause included in NYS Housing Trust Fund Corporation's Office of Community Renewal ("OCR") executed contracts.

Recipients must maintain conflict of interest policy that includes written standards of conduct governing the performance of their employees and contractors in the selection, award, administration and implementation of grant-funded activities including the contractor procurement process. This policy should apply to elected officials, employees, consultants, subrecipients, and their immediate family members or business associates.

Recipients should submit an OCR Conflict of Interest Disclosure Form as soon as they believe a conflict may exist. More information on OCR's Conflict of Interest Policy can be found in the NYS CDBG Grant Administration Manual.

V. Project Development

a. Work Write-up / Scope of Work

Once a participant has been determined eligible and has been selected for assistance the Recipient (or subrecipient) will meet with the property owner to develop a scope of work and initial estimate of costs. The Recipient must explain program requirements and process. Both the Recipient and the property owner must sign off on the scope of work before the Recipient may begin to seek bids for the work.

A formal written scope of work is a CDBG program requirement, and a professional evaluation must be conducted by qualified personnel with relevant experience to establish and document the scope of repairs. Recipients must formally document necessity of repairs and rationale for scope items, including photographs of current conditions. Refer to the NYS CDBG Grant Administration

Manual for specific requirements related to lead based paint, radon, asbestos and other health and safety standards.

b. Participant Agreement

Participant agreement must be executed prior to the execution of a contractor agreement and start of construction. The Participant Agreement is between the Recipient and the homeowner/participant and specifies the award amount and outlines the roles and responsibilities for the respective parties. At a minimum, the Agreement must specify:

- Agreed upon scope of work, and estimated grant amount and completion deadline
- Contractor bidding & selection process
- Securing permits (work may not begin until all required permits have been issued, or formally confirmed as not required)
- Site Inspections (Recipient reserves right to inspect at any time to confirm eligibility of work, monitor progress, and inspect quality of work)
- Right to terminate or withhold payment (Recipient reserves right to terminate contract or withhold payment if work is not completed as agreed, change orders are implemented without approval, ineligible scope of work items are included on invoice, for failing to satisfy contract terms, or for violating program rules.)
- Compliance monitoring (Recipient reserves right to share information about participant and project consistent with OCR monitoring.)
- Dispute resolution policy
- Declaration of interest

c. Contractor Procurement

The Recipient must establish a clear and consistent process to procure contractors. Open and fair competition should be demonstrated by soliciting at least 3 bids for all projects. The Recipient, contractor and homeowner must enter into a tri-party agreement for the work to be performed. A sample agreement can be found on the CDBG website.

In all cases, the procurement process must be free of collusion or intimidation, and the Recipient must exercise appropriate oversight over the entire process to ensure that it is fair, efficient, and free of actual and perceived conflicts of interest. A contractor cannot receive CDBG funds for any type of work done or services performed for a property they, a family member or business partner own.

Documentation and formal tracking of RFPs, solicitation of contractors, bids received, cost estimates, award decisions, and other related procurement documentation must be kept on file for review. Recipients must record how each procurement selection is made documenting compliance with their Procurement Policy and Procedure and federal regulations. Certain principles must be upheld in seeking bids or quotes. There must be a clear, written, scope of work for which bids or quotes are sought, and all bidders must have equal access to relevant information, including information on the property itself.

It is recommended for activities involving rehabilitation that require a home repair contractor, the homeowner is considered the entity making the selection for the purposes of procurement of contractor rehabilitation services and is therefore not subject to federal procurement regulations at 2 CFR Part 200.317-327. However, Recipients shall facilitate the following on behalf of the homeowner and in compliance with their procurement policy and procedure:

- Compiling lists of eligible contractors (documenting best efforts to include MWBE and/or Section 3 contractors, and verifying insurance and relevant experience)
- Developing a scope of work, technical specifications, and cost estimate
- Soliciting, receiving, and comparing bids
- Documenting how the contractor was selected
- Resolving disputes between the contractor and homeowner
- Processing contractor invoices and making payments to contractors
- Any other administrative tasks that may arise during the term of assistance to that household

Additional contractor procurement guidelines include:

- A clear, written, scope of work for the project must be the basis for the bids.
- The Recipient must complete an internal cost estimate for each work scope for reasonableness comparison. Compare all bid proposals to internal cost estimates.
- The Recipient may establish bid selection criteria that consider cost and other factors.
- These criteria must be included in a written contractor selection procedure prior to initiating the bid solicitation process.
- The Recipient must collect and maintain all documentation needed from the contractor to verify they are insured, and meet local requirements, codes, rules and/or regulations for contractors. Proof of insurance must include general liability coverage in a minimum amount of one million dollars and workers' compensation coverage. It is recommended that the Recipient, State of New York and the Housing Trust Fund Corporation be listed as additional insured.
- If pre-1978 property with a scope that includes paint disturbance, the work must be conducted by an EPA RRP Certified Renovator. Determination of applicability should be documented. Certificates should be retained in program files.

Additional procedures and guidance for contractor procurement are provided in the CDBG Grant Administration Manual.

VI. Financial Management

a. Financial Policies and Internal Controls

Recipients are responsible for the management and control of NYS CDBG funds and must implement procedures that will allow for the tracking of all NYS CDBG funding to document how grant funds were spent as well as how the intended objectives and outcomes were accomplished.

Recipients must maintain financial records that demonstrate NYS CDBG funds have been administered in accordance with all applicable federal, state and local laws, rules, regulations and requirements, and generally accepted accounting principles and the policies and procedures of the OCR.

b. Disbursement Procedures

CDBG is a reimbursement-based program. The Recipient may request disbursement of CDBG funds only for eligible costs that are determined appropriate, eligible, have been incurred and are supported by appropriate documentation, including executed contracts, invoices, proof of payment, and inspection approval, as applicable.

The Recipient may permit a contractor deposits or partial payments when to secure materials or initiate work, provided they are funded by non-CDBG sources.

Recipients may not charge applicants servicing, origination, or other fees for the purpose of covering costs of administering the CDBG program.

Refer to the Grant Administration Manual chapter on Financial Management for additional requirements.

VII. Construction Monitoring & Quality Control

a. Construction Monitoring

The Recipient must conduct and document inspections at key stages of construction, with dates and signatures, including inspections signed by the Recipient, homeowner, tenant (if applicable) and construction professional. A standard practice for monitoring must be established and consider, frequency, work progress, quality of workmanship, code compliance, adherence to approved scope of work, program rules, environmental compliance, and consistency with the approved construction timeline. The Recipient must ensure compliance with all applicable federal labor standards requirements, including Davis-Bacon, where applicable.

Inspection reports must be consistently documented in the Recipient's project files. All requests for progress payments, if allowable, must include photographs of the completed work. A project photo release form can be found here: https://hcr.ny.gov/project-photo-release-form.

b. Final Inspection

A final inspection is required prior to the release of final payment to the contractor to ensure the entire scope of work has been satisfactorily completed according to the Participant Agreement and Contractor Agreement.

The Recipient must obtain participant sign off on all completed work. The Recipient must retain documentation in the project files supporting the release of final payment.

c. Dispute Resolution

Primary responsibility for resolving homeowner/participant and contractor disputes rests with the Recipient. A Dispute Resolution policy must establish a standard practice to administratively resolve disputes related to the Participant Agreement, contract, or written agreement with the contractor. Examples of common issues which may be amenable to conflict resolution include

project timeline, quality of work, scope of work, inability, or failure of parties to uphold obligations, final homeowner/participant completion sign off, or contractor payment.

In the event there is a dispute between a homeowner/participant and contractor, whenever feasible the Recipient must require notice in writing. The Recipient must make best effort to resolve the dispute as soon as possible. This may include conducting an inspection to evaluate claims and meeting with the parties to attempt to reach a satisfactory result through negotiation. All efforts must be documented in project files, and whenever possible include photos. If a dispute cannot be resolved within a reasonable timeframe despite documented good-faith efforts, the Recipient must notify OCR and provide a recommended course of action for consideration.

VIII. Security and Maintaining Affordability

Property owners are required to maintain a property assisted with NYS CDBG funds for a period of up to 15 years, known as the "Regulatory Period." This oversight ensures homeowners continue to occupy their properties as primary residences and maintain them in good condition. The length of the Regulatory Period shall be established based on the Participant award amount with varying terms for owner-occupied and non-owner occupied rehabilitation projects, in accordance with the following schedule:

Owner Occupied Housing Rehabilitation (1-4 units)
Period of Affordability: 5 years (Any investment)
Security Instrument: Declaration of Interest in Property

Non-Owner Housing Rehabilitation (1-4 units)
Period of Affordability (Rehabilitation Per Unit):
Less than $15,000 Investment: 5 years
$15,000 - $40,000 Investment: 10 years
Greater than $40,000 Investment: 15 years

The legal framework for this oversight includes the execution and filing of a "Declaration of Interest" by all property owners with the clerk of the county in which the property is located. The Recipient must clearly communicate these homeowner obligations and monitor compliance throughout the Regulatory Period. The Recipient must approve any significant changes to the property, including sale or alteration, during this period.

While the Regulatory Period is determined by the total CDBG funds invested, the amount subject to recapture entered in the Declaration of Interest should not include administrative costs. The amount to be recaptured should include project costs only in the lien amount.

The Recipient also manages the potential repayment of grant funds in instances of non-compliance or property transfer, with provisions for hardship exceptions.