

**REQUEST FOR PROPOSALS**  
**For**  
**PROFESSIONAL HOUSING CONSULTING SERVICES**

**City of Olean**  
**Department of Community Development**  
**101 East State Street**  
**Olean, NY 14760**

**ISSUE DATE: September 8, 2017**

**RESPONSE DEADLINE: September 21, 2017**

## **REQUEST FOR PROPOSALS – HOUSING COUNSELING SERVICES**

### **OVERVIEW**

This Request For Proposals (RFP) is being issued by the City of Olean (Olean). The purpose of this notice is to solicit proposals from interested professional housing consulting agencies/organizations to provide technical assistance in connection with the administration of the Olean Homeownership Assistance Program funded, in part, by the NYS Housing Trust Fund Corporation under the 2016-2017 NYS HOME Local Program. To be considered for this assignment, housing counseling agencies must meet the following criteria:

1. The organization must be authorized to do business in, and have an office in the State of New York.
2. The organization should have knowledge of the New York State Homes & Community Renewal HOME Local Program; and
3. The organization must have experience in administering NYS HOME or similar homeownership assistance programs.

Nothing in this RFP will be construed to create any legal obligation on the part of Olean or any respondents. Olean reserves the right, in its sole discretion, to amend, suspend, terminate or reissue this RFP in whole or in part, at any stage. In no event will Olean be liable to respondents for any costs or damages incurred in connection with the RFP or any other costs incurred in reliance on the RFP. No respondent will be entitled to repayment from Olean for any costs or expenses for fees related to this RFP. All supporting documentation submitted in response to this RFP will become property of Olean.

### **SCOPE OF WORK**

#### **A. NYS HOME Administration.**

Olean is seeking technical assistance from professional housing consulting agencies/organizations to assist City staff in administering activities and services outlined in the attached Administration Plan in connection with the Olean Homeownership Assistance Program (OHAP) including, but not limited to:

- Outreach/Marketing: Implementing the City's Affirmative Marketing Plan advertising the OHAP to households least likely to apply for homeownership assistance. Such assistance would include developing brochures; outlining program guidelines for distribution; contacting and meeting with area organizations to outline the OHAP process.

- Working with prospective home buyers to review and verify household income, determine homeownership affordability, home financing options, etc.
- Analyzing household total debt-to-income ratio and housing debt-to-income ratio to compare with HOME qualifying ratios and conducting subsidy layering analysis to determine appropriateness of HOME assistance.
- Complying with site specific environmental clearance procedures.
- Coordinating loan closing and recording mortgage liens.

Olean expects to assist 28 eligible buyers who have successfully completed 8 hours of housing counseling. The provision of housing counseling services is not included in this RFP.

**B. Reporting**

- Providing monthly activity and progress reports to designated Olean staff.
- Submitting monthly vouchers and corresponding invoices with backup materials.
- Maintaining all records and files in accordance with HUD, NYS HCR and Olean’s local OHAP guidelines.

**EVALUATION CRITERIA AND SCORING**

Organizations will be evaluated on the basis of their written responses to this RFP, additional written information as requested by CD staff, and oral interviews, if any, based on the following criteria:

1. Experience in providing professional housing assistance services on HUD & NYS funded projects	30%
2. Qualifications of personnel	20%
3. Organization and approach	20%
4. Fees	15%
5. Location/geographic area	15%

**REQUESTED INFORMATION**

Please provide the following information:

1. A brief description of your organization, its history and main areas of business. Indicate the total number of staff and the team available to Olean.
2. A summary of the key strengths and qualifications of your organization.
3. A brief summary of the professional background of any individuals who would be assigned to work with Olean on the OHAP.
4. Pricing proposal. The proposed pricing should be based on a fixed fee per person/household.

5. Current documentation regarding your organization's liability insurance.

### **SELECTION PROCESS**

The Selection Committee comprised of Olean Community Development staff will review qualifications in accordance with the evaluation criteria set forth herein. Any contract resulting from this RFP will not necessarily be awarded to the vendor with the lowest price. Instead, contract will be awarded to vendor whose proposal received the most points in accordance with criteria set forth in this RFP.

### **QUESTIONS**

Questions that arise prior to submission of proposal must be submitted in writing by September 15, 2017 via email to: [mgeorge@cityofolean.com](mailto:mgeorge@cityofolean.com). Please call the Community Development office at 376-5647 to confirm that your email was received.

### **SUBMITTAL DUE DATE**

Each respondent must submit one (1) original and two (2) copies as a response to this RFP by **Thursday, September 21, 2017** via hard mail to:

**Department of Community Development  
101 East State Street  
Olean, NY 14760**

# 1 General Program Administration Requirements

## 1.1 Use of Funds

### 1.1.1 Eligible Activities

- i. Homebuyer Purchase Assistance: funds may be used to assist a homebuyer to provide down payment and/or closing cost assistance to purchase a single family (1-4) unit, non-HOME assisted existing home or newly constructed home.
- ii. Homebuyer Purchase Assistance with Housing Rehabilitation: funds may be used to assist a homebuyer to provide down payment and/or closing cost assistance and funds for housing rehabilitation, to purchase a single family (1-4) unit, non-HOME assisted existing home. The housing rehabilitation must be complete within 6 months of purchase by the homebuyer.
- iii. LPAs may assist HOME eligible applicants making less than 80% of Area Median Income (AMI). There is no requirement that the applicant be a first-time homebuyer, however, the applicant must not own a home at the time of application for assistance.
- iv. If the LPA is going to assist homeowner occupied properties with rental units, Chapter 4 of this Plan applies and the questions must be completed by the LPA. If the property does not have rental units, Chapter 4 does not apply.

### 1.1.2 Planned Activities:

**Q1. Respond in the order of the question: please tell us what your agency wants to do with HOME funds, who you want to help, what specific assistance you will provide the HOME applicant, how HOME administrative and staff costs of project delivery will directly help your agency, who are your partners, what other funds are in the program, describe your specific interaction with the prospective homebuyer, describe what is already in place to begin the program, describe any unique features of program design and what will make your agency successful in completing the program within 2 years.**

*The City of Olean seeks to utilize \$400,000 in HOME funds to provide assistance to 28 low- to moderate-income eligible homebuyers (no rehabilitation and no target population) to purchase single family homes in the City. We plan to right size the assistance for each homebuyer and estimate we will offer \$11,000 per unit for downpayment & closing costs, budgeting an additional \$1,500 per unit for minor improvements. City funds in the amount of \$13,776 will supplement the HOME budget for project delivery and*

*administration. The City has administered the Olean Homeownership Assistance Program (OHAP) since 2001 using CDBG funds via the Small Cities program. To date, we have provided assistance to approximately 90+ individuals and households. However, the majority of CDBG funding has been depleted (\$22,000+ remaining will assist two recently approved applicants), and we currently have two eligible homebuyer applicants on a waiting list anxious to take advantage of our program. If successful in securing HOME funding we will be able to reach out and increase our pool of applicants to include those who may not necessarily be "first time" homebuyers. HOME administration and project delivery funds are crucial to the City's ability to manage this program. Through a RFP process consistent with HOME procurement standards, we will procure the services of a HUD certified homeownership counseling service to assist with pre-purchase counseling.*

*Our CD staff has 15+ years of experience in administering the OHAP, and we understand the important link between sustainable homeownership and quality pre- and post-counseling and education. Our existing policies and procedures in place for our OHAP will need only minor revisions in order to implement the HOME program. Our internal housing committee reviews all requests for assistance under the OHAP and makes recommendation to the City Council who authorizes approval of all applications. City staff has regular interaction with potential homebuyers, conducting intake interviews, reviewing credit reports, offering homeownership counseling, etc. Our goal has been to empower our applicants with a strong knowledge in the area of homeownership – specifically the home buying process, budgeting, money management, credit, banking, mortgage financing, insurance, community involvement, home maintenance, foreclosure prevention, etc.*

*We have administered 3 consecutive homeownership programs (2000, 2002 & 2004) consistent with CDBG guidelines and regulations. All three programs expended funding within the required two year time frame (with the exception of program income).*

*In addition, the City of Olean was recently awarded \$100,000 in funding from LISC to address housing vacancy and blight. Our LISC budget includes funding for post-homeownership counseling which we expect to incorporate into our counseling services for a more comprehensive approach to homeownership sustainability. Securing HOME funds will advance an important community goal--to increase affordable homeownership opportunities to existing and new residents which will improve their quality of life and help preserve and stabilize our local neighborhoods.*

**Q2. List which homebuyer activity from above will be performed in this program.**

**Q3. Describe the priority household type(s), including special needs or other target populations, income targets and the target area.**

*As with the City's existing homeownership program, we will assist households with no target populations between 50% and 80% of median income. We will actively reach out to all populations, including underserved, within a 30+ mile radius of the City of Olean that includes 5 counties. We believe that applicants between the income range referenced above who receive homeownership counseling and are able to secure financing via conventional private/public lending institutions have the most success in sustainable homeownership.*

**1.1.3 Market Need:**

LPA's must conduct and document a market analysis to support there is a need for the specific type of HOME assisted homebuyer program to be offered in the service area. This analysis must be based on current relevant data from the service area that demonstrates a local market need for HOME funded down payment and closing cost assistance and if applicable, the need for funds for housing rehabilitation.

**Q4. Please provide a detailed description and document, using current local data sources for the service area, the need for the homebuyer assistance program being proposed.**

*The City's housing market has seen minor gains in recent years and has not shown signs of major swings that were evidenced in most of the country during the past 5-7 years, according to a recent market analysis performed by Susan Payne, Strategic Planning & Economic Development consultant. Rather, the median value of an owner-occupied house has remained constant at about \$70,000, which was the same number reported in the 2012 US Census data. An affordable housing market study completed for STEL, Inc. by GAR Associates, Inc., (while the emphasis was on need for multi-family housing in the City of Olean) also considered the demand for homeownership units. The study concluded that the housing market within the City of Olean reflects a fairly stable housing environment, an adequate supply of, and demand for low- to moderate affordable housing. A recent review of the Realtor.com website indicates that 69 homes with a listing maximum price of \$75,000 are currently offered for sale in the City of Olean.*

**1.1.4 Form(s) of Assistance**

- A. HTFC requires that the HOME assistance be secured with the HTFC Note and Mortgage. The LPA will be given the template for this document at contract execution. No other forms to secure the HOME investment will be accepted. The note and mortgage requires execution and public recording, as described below in Section 1.5.

### 1.1.5 Program Budget

- A. The Program Budget is approved prior to contract execution and is included as an attachment to the contract and this Plan. It is enforceable along with all contract provisions. The budget must be in compliance with the NYS HOME Local Program Budget Policy available on the HCR HOME Program website.
- B. The total budget cannot be exceeded. HOME funds will not be disbursed over the amount originally approved.
- C. A variation from this budget in any line item by more than 10% requires HTFC prior approval. Offsetting decreases to HOME funds from another line item is required.
- D. Reimbursement for amounts over any line item will be withheld until approved by HTFC.
- E. Requests for budget revisions should be submitted to the LPAs assigned NYS HOME Local Program Manager.
- F. Requests for reimbursement must include a status of line items against the program budget.
- G. Other funds provided as HOME Match cannot be reduced in the budget without prior HTFC approval.

***Describe the typical amount of HOME funds to be invested per unit for direct homebuyer assistance (down payment and/or closing costs). An estimated \$11,000 will be invested per unit for down payment and/or closing costs assistance.***

***Q5. Describe how much will be charged per unit for LPA staff costs of project delivery.***

*A total of \$701.50 (\$591.50 in HOME funds and \$110 in City funds) will be charged per unit for City staff costs of project delivery.*

***Q6. If housing rehabilitation is included, describe the typical amount of HOME funds to be invested per unit for housing rehabilitation.***

*Rehabilitation is not a funded activity.*



### 1.1.6 Program Schedule

- A. The Program Schedule is approved prior to contract execution and is included as an attachment to the contract and this Plan. It is enforceable along with all other contract provisions.
- B. A sample Schedule format is available on the HCR HOME Program website.
- C. The Schedule contains progress milestones that the LPA must report on a quarterly basis to HTFC. Failure to achieve milestones could result in suspension of funds, increased monitoring and possible required changes to program administration. Changes to the quarterly milestones that need to be met require HTFC approval.
- D. The term of the contract is 2 years (8 quarters) from the date of execution of the contract.
- E. Requests for extended time to complete the program must be approved by HTFC and will be limited or not approved.

- o **Complete the following 8 quarter plan for unit production:**

<i>Period</i>	<i>Estimate # of units acquired</i>	<i>Estimate # of sold/ transfer of title</i>	<i>Estimate # of units completed in IDIS</i>	<i>Estimate total HOME expenditures</i>
<i>Quarter 1</i>	10	1	1	\$14,285.71
<i>Quarter 2</i>	0	5	5	\$71,428.55
<i>Quarter 3</i>	8	6	6	\$85,714.26
<i>Quarter 4</i>	10	7	7	\$99,999.97
<i>Quarter 5</i>	0	5	5	\$71,428.55
<i>Quarter 6</i>	0	3	3	\$42,857.13
<i>Quarter 7</i>	0	1	1	\$14,285.83
<i>Quarter 8</i>	0	0	0	\$0.00
<b>TOTALS</b>	28	28	28	\$400,000

### 1.1.7 Staffing

**Q7. Identify staff (by name and title) to be paid with HOME funds and describe their experience (within the last 3 years) of working with a HOME funded homebuyer purchase assistance program.**

*Mary George, Community Development Program Coordinator has worked for the City for 32 years, managing and providing general oversight of the City's current home ownership program since 2001. She has knowledge of HUD, CDBG and NEPA regulations and experience in affirmative marketing efforts, fair housing and civil rights acts, homebuyer education, real estate and underwriting procedures, etc. Since 2004, Keri Kerper has assisted Ms. George with homeownership program administration activities including customer intake and eligibility, loan closing coordination, homebuyer education, program bookkeeping and environmental procedures. City Attorney Nicholas DiCerbo has 16+ years of real estate experience in his private practice and over the last 3 years as City Attorney has assisted the CD department with real estate closings for our current program.*

### 1.1.8 Eligible Administrative and LPA Staff Costs of Project Delivery

- A. Administrative costs are costs that the LPA incurs in order to administer or manage its overall HOME program. LPAs may use up to 5% of their award for eligible administration costs.
- B. Staff costs of project delivery are costs that the LPA incurs to pay staff to implement activities for specific units. LPAs may use up to 13% of their award for eligible staff costs of project delivery.
- C. Eligible staff costs for administration and LPA staff costs of project delivery are described in the NYS HOME Local Program Budget Policy, available on the HCR HOME Program website.
- D. LPA staff costs of project delivery are required to be tied to a specific address, including documentation of specific projects in timesheets. The LPA must certify that it is keeping timesheets allocating time to specific projects to be able to invoice and must provide documentation of time sheets when requesting payment.
- E. LPA staff costs charged as project delivery may not be charged as Administrative costs.

- F. If a project is not completed, the LPA staff costs of project delivery may not be charged as project delivery, and may only be charged as an Administrative cost.
- G. All project delivery costs are subject to the maximum per unit assistance limits.
- H. Administrative and Staff Costs of Project Delivery paid with HOME funds may not be charged to the homebuyer or included in the homebuyer's note and mortgage.
- I. If an LPA hires a consultant to administer the program, the charge to the HOME program must be paid out of HOME administrative funds only.

**Q8. Describe the expected per unit cost for administrative and LPA staff costs of project delivery.**

*Per unit cost for administration is \$1,016.21 (HOME: \$714.21; City: \$302); City staff costs of project delivery total \$701.50 per unit (HOME: \$591.50 & City: \$110).*

**Q9. Describe how staff time will be charged and how the LPA will document staff hours tied to specific units.**

*Detailed time sheets will be kept for all staff involved in eligible administration and project delivery services in accordance with procedures outlined in the Local Program Budget Policy.*

## 1.2 Environmental Review:

- A. 24 CFR 58.22 prohibits the commitment or expenditure of HOME funds or other funds until the environmental review process is completed and the environmental clearance and subsequent release of funds has been received. If prohibited activities are undertaken by an LPA prior to receiving the approval or release of funds, the applicant is at risk for the denial of assistance and repayment of HOME funds.
- B. Individual properties (units) and structures will need to have project environmental clearance before funds can be committed and the project set up the unit in IDIS.

### 1.2.1 Tier 1 (Programmatic) Clearance

- A. Prior to contract execution the HTFC and the LPA conducted a programmatic Tier 1 review, which generally approved that the program activities would not harm the environment in the service area. As a part of this process, the LPA must maintain a copy of the Environmental Review Record (ERR) and make it available for public review. It should contain the project description and all environmental analysis, findings and complaints.

- B. LPA instructions to complete the programmatic review are available on the HCR HOME Program website.

### 1.2.2 Tier 2 (Individual Site Specific) Clearance

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

**Q10. Describe who will complete the Tier 2 Review and the per-unit cost.**

*City Council will appoint Mary George, Community Development Program Coordinator, as Certifying Officer who will complete the Tier 2 environmental review and per cost unit.*

## 1.3 Other Federal Requirements

### 1.3.1 Non-Discrimination and Equal Access

- A. No person in the United States shall, on the grounds of race, color, national origin, religion, or sex be excluded, denied benefits, or subjected to discrimination under any program funded in whole or in part by HOME funds. LPAs are subject to all federal and State fair housing and equal opportunity laws and orders, as referenced in 24 CFR Parts 92.350 and 92.351 to include: Title V of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), The Fair Housing Act (42 U.S.C. 3601-3620.), Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259), Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107.)
- B. LPAs should refer to the HOME Local Program Fair Housing-Equal Opportunity-Affirmative Marketing Policy available on the HCR HOME Program website when responding to the question below.

**Q11. Describe how the LPA will ensure this HOME funded program is not discriminatory and will provide equal access.**

*CD Program Coordinator Mary George was appointed in 2000 as the Fair Housing Officer for the City of Olean. On April 26, 2016, the City Council approved a Fair Housing Plan that encompasses specific actions to further fair housing and ensure that residents are aware of fair housing provisions under Federal and State law and of the processes and assistance available. The City has, and will continue, to disseminate market information concerning*

*its homeownership program through agencies and organizations that provide services to protected groups. We routinely examine our criteria for: selecting recipients of our program; our legal documents used in connection with our downpayment and closing cost fees assistance; and our program information for any discriminatory effect and to ensure fair housing language and logos are used.*

## **1.4 Workplace Requirements**

A. LPAs are subject to the Equal Employment Opportunity requirements related to nondiscrimination and equal access: The LPA shall comply with the following, as applicable. LPAs must not discriminate in hiring and employment practices. To comply, LPAs must:

- i. Post an Equal Employment Opportunity Poster in a conspicuous place (poster available at: <http://www.dol.gov/regs/compliance/posters/eeopost.pdf>);
- ii. Include the EEO tagline in all employment advertising: "All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin."
- iii. Keep records of all employment actions and decisions, including job descriptions, postings, applications/resumes, interviews, tests, offers, written employment policies and procedures, and personnel files, and make available for inspection by state and federal agencies if requested.
- iv. If the LPA has 50 or more employees and a contract in excess of \$50,000, submit an annual EEO-1 Report (report form available at: <http://www.eeoc.gov/employers/reporting.cfm>).

B. LPAs with contracts in excess of \$100,000 are subject to the Drug-Free Workplace Act of 1988, which requires:

- i. Distribution of a policy statement to all employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy
- ii. Notification of employees that as a condition of employment on a Federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within five calendar days, if he or she is convicted of a criminal drug violation in the workplace

- iii. Establishment of a drug-free awareness program
- iv. If a covered employee is convicted of a criminal drug offense in the workplace, notify HTFC within 10 days, and require the employee to participate in drug abuse assistance or rehab program.

#### 1.4.1 Affirmative Marketing & Minority Outreach

Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability.

- A. LPAs should refer to the HOME Local Program Fair Housing-Equal Opportunity-Affirmative Marketing Policy available on the HCR HOME Program website for additional information as a basis for the creation of the LPAs Affirmative Marketing Plan.
- B. Each LPA HOME-funded program must have and follow an affirmative marketing plan consistent with the HOME regulations at 24 CFR 02.351. The plan must define the affirmative marketing procedures that will take place to provide information and otherwise attract eligible persons in the program service area to the available housing or assistance without regard to race, color, national origin, sex, religion, familial status or disability. Required elements of the plan include:
  - i. Identification of those persons across the protected classes that are expected to be least likely to apply.”
  - ii. Description of how the LPA will inform potential participants about fair housing and affirmative marketing policy.
  - iii. Description of specific procedures or activities that will be used to inform and solicit applications from those "least likely to apply" without special outreach.
  - iv. Delineation of the records that will be kept to document the affirmative efforts.
  - v. Description of how the LPA will assess the results of the affirmative actions and make corrective actions if necessary.
- A. If the program is targeted to a special need or population, the Plan should describe:
  - i. How the program will be marketed across all protected classes within the special need preference.

- ii. If the program targets persons with disabilities, how the program will be marketed to all disabilities (however, advertisements can identify the specific services available based on the targeted disability).

**Q12. Please describe in detail the LPAs Affirmative Marketing Plan for this program.**

*The City's Affirmative Marketing Plan consists of four components: 1) Targeting. City staff will determine the primary and secondary housing market areas and review the demographic data of each. We will then identify which populations (protected classes) as the least likely to apply for housing assistance without actively seeking them out with this marketing plan. 2) Outreach. City staff will develop an outreach program that includes special measures designed to attract those groups, in addition to other efforts designed to attract persons from the total population. Strategies will include identifying media outlets and groups that have direct contact with these populations we are attempting to reach. Those groups could include: Catt. County Dept. of Social Services, Directions in Independent Living, area religious organizations, advocacy groups, and HCR-funded preservation groups such as Rural Revitalization Corporation and Cattaraugus Community Action. 3) Assessment. We will develop a plan to determine if the marketing effort effectively attracted applicants who are from the majority and minority groups. 4) Staff Training. City staff will continue its training on Federal, State and local fair housing laws.*

**1.4.2 Accessibility**

- A. HOME regulations require adherence to the following three regulations governing the accessibility of Federally-assisted buildings, facilities and programs: Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155,201,218, and 225.), The Fair Housing Act and Section 504 of the Rehabilitation Act of 1973.
- B. All HOME projects are subject to accessibility requirements of 92.251(b) (1) (iv). For homebuyer assistance, reasonable accommodations are required to make the program accessible to persons with disabilities, including affirmative outreach, accessible office locations and assistance with applications. Reasonable accommodations and reasonable modifications are required for households with accessibility needs. Program funds may be used to make such modifications, as long as the entire unit will meet NYS and/or Local Code upon completion.
- C.

**Q13. Describe actions to ensure accessibility to apply for the program and how the LPA will address households with accessibility needs.**

*The City of Olean is familiar and complies with all regulations governing the accessibility of Federally-assisted buildings, facilities and programs. All City-owned buildings are ADA compliant and affirmative outreach efforts are made when advertising our programs and services. The City is currently updating its Section 504 Plan and as done with our current homeownership program, we will ensure the HOME program is accessible to persons with disabilities.*

**1.5 Written Agreements & Legal Documents**

- A. All households receiving assistance must execute a written agreement for HOME program assistance with the LPA and contractor (if applicable) that is consistent with HOME requirements at 92.504(c) (4). The template for this agreement must be approved by HTFC at contract execution. This agreement must be executed with the homebuyer prior to setting up the unit in IDIS.
- B. LPAs must secure the HOME funds invested. Prior to contract execution, the LPA must document in writing and the HTFC must approve of the decision to use either Resale (restrictive covenant) or Recapture (note and mortgage) provisions to secure the HOME investment, no other forms will be accepted. The template for these documents will be made available to LPAs at contract execution. There may be situations where either instrument could be used to more appropriately assist the homebuyer. The decision for either option must be for the entire awarded program and in compliance with NYS HOME Local Program Homebuyer Recapture/Resale Provisions Guidelines dated 7/21/2014 available on the HCR Home Program website.
- C. The POA is based on the amount of HOME funds invested in the unit as follows: less than \$15,000 = 5 year POA, between \$15,000 and \$40,000 = 10 year POA, \$40,000 and over = 15 year POA.
- D. LPAs must record the note and mortgage or restrictive covenant and have the original document returned to the HTFC at the following address:
  - Housing Trust Fund Corporation (HTFC)
  - Office of Community Renewal - NYS HOME Local Program
  - Hampton Plaza 4<sup>th</sup> Floor South
  - 38-40 State Street
  - Albany, New York 12207
- E. The HTFC will provide LPAs with an affidavit of exemption at contract execution that will exempt State filing fees for recording the note and mortgage or restrictive covenant.



- F. For the note and mortgage, the lien is at zero percent interest and the principal balance is reduced annually, on the anniversary date of when the unit was closed in IDIS. No repayment is required if the homebuyer remains as principal resident throughout the POA. If the home is sold or the owner no longer resides as principal resident, the pro-rated portion of the lien must be repaid to the HTFC per the NYS HOME Local Program Homebuyer Recapture/Resale Provisions Guidelines dated 7/21/2014 available on the HCR Home Program website.
- G. For the restrictive covenant, the document requires no re-repayment of HOME funds; rather it requires that the home must be sold to another HOME eligible buyer during the POA. The LPA must assist the owner to qualify the new purchaser as HOME eligible. Funds can't be re-paid to remove this restriction.
- H. The note and mortgage or restrictive covenant must be prepared by the LPA and must be executed and recorded at the closing/sale of the unit to the HOME eligible buyer
- I. LPAs should refer to the HOME Local Memo "Guidance on what to include in the lien amount" available on the HCR HOME Program website.
- J. LPAs should refer to the HOME Local Memo "Guidance on when to execute and record the note and mortgage lien or restrictive covenant to secure the HOME investment" dated July 22, 2016.
- K. If no funds for housing rehabilitation are included, the unit must be documented to meet NYS and/or Local Code before the sale of the unit to the HOME eligible buyer.
- L. The note and mortgage and restrictive covenant terms and conditions are assumable by a new HOME eligible buyer during the POA.

**Q14. Describe where the LPA will incorporate the HTFC note and mortgage or restrictive covenant terms and conditions into the program materials.**  
*Information relating to the note and mortgage and associated terms and conditions will be incorporated into our program guidelines. Consistent with HOME requirements 92.504(c)(4), we will also incorporate said language into the written agreement between the City and the household receiving assistance.*

**Q15. Describe the process for ensuring the homebuyer understands the note and mortgage or restrictive covenant terms and conditions.**  
*One of the challenges we encountered early on in administering our homeownership assistance program was the applicant's lack of clear understanding of the terms and conditions of our note and mortgage,*

*particularity our recapture clause. We decided to begin the process of educating our applicants when we first meet with them for intake and income eligibility. We continue to provide information both verbally and in our commitment letter to our applicants up to the time of closing. Staff will continue this process when administering the HOME program.*

**Q16. Explain the schedule and process for how the LPA will publicly record the HTFC note and mortgage or restrictive covenant.**

*Using the HTFC provided note and mortgage template, the homebuyer and the City (on behalf of HTFC) will execute this document at the time of closing. Closing on the HOME funds will take place simultaneously with the homebuyer's closing with the primary lender. Since the HTFC legal document is filed as a second lien, as with our current homebuyer program, the lending institution's attorney will record and file both liens in the Cattaraugus County Clerk's office. The original recorded document will be returned to the City and forwarded to the HTFC.*

## **1.6 Recordkeeping**

- A. Program files must be kept to document compliance with all of the requirements of the contract and this Administrative Plan. Project files must be kept to meet the requirements of 92.508(a)(3).
- B. The LPA shall retain all applicable administrative and project records to include underwriting guidelines and evaluation, property description and location, copies of written agreements, records regarding project requirements, subsidy layering analysis, maximum subsidy determination, compliance with property standards and on-going inspections, information about contractors and vendors to include verification of non-debarment, verification of qualifications and experience, invoices and payment records, related correspondence, audits, indirect cost analysis, operating budgets and a schedule for completion or other information as requested by HTFC. The Program File Checklist and Project File Checklist is included in Section 1.10 and are also available on the HCR HOME Program website.
- C. The LPA will maintain records of the use of funds pursuant to the contract submit reports and cooperate with audits and inspections by HTFC or HUD.
- D. The LPA shall submit performance reports, in such format and at such times as HTFC or HUD may prescribe and shall provide to HTFC any document, report or information that HTFC deems necessary.

- E. The LPA shall retain all applicable administrative and project records and documentation pertinent to Other Federal Requirements, as specified in 24 CFR 92.508, for a period of five (5) years after the termination of all activities and throughout the POA.
- F. Representatives of HTFC, HUD or their designees may examine any records or information pursuant to the contract.
- G. The "Catalogue of Federal Domestic Assistance Number" for this Program is 14.239.

## **1.7 Reporting**

### **1.7.1 Project set-up report**

- A. A Homebuyer Set-Up Report Form should be submitted when a project commitment is ready – that is:
  - i. A written agreement has been executed by the LPA, homebuyer and contractor (if applicable) and the site to be HOME assisted has site specific, Tier 2 environmental approval.
  - ii. The unit has been inspected within the last 90 days
  - iii. The closing is imminent.
  - iv. For homebuyer assistance with housing rehabilitation, LPAs must total the amount of expected direct homebuyer assistance (down payment/closing cost assistance) and the amount expected for housing rehabilitation and submit in one set up.
- B. The set-up form and instructions are available on the HCR HOME Program website.
- C. The completed form should be submitted to the NYS HOME IDIS mailbox at: [homeidis@nyshcr.org](mailto:homeidis@nyshcr.org)

### **1.7.2 Project Completion Report – Closing Report**

- A. The Purchase Assistance/Closing Costs Project Detail Sheet should be submitted when a unit is completed. If requesting funds for rehabilitation expenses associated with a purchase assistance project, the rehabilitation detail sheet should also be attached along with back up documentation for the construction expenses. In order to complete the unit:
  - i. The assisted unit must have been sold to a HOME eligible buyer.

- ii. If applicable, all housing rehabilitation is complete to satisfaction, signed off on by the LPA, homebuyer and contractor and that it meets all HOME property standards.
- iii. The home is documented to meet NYS and/or Local Code.
- iv. The LPA, homebuyer and contractor (if applicable) have signed off that all work has been completed to satisfaction.
- v. The note and mortgage or restrictive covenant has been publicly recorded.
- vi. All funds have been disbursed.

B. The completed form(s) should be submitted to the HOME IDIS mailbox at: [homeidis@nyshcr.org](mailto:homeidis@nyshcr.org).

### 1.7.3 Quarterly Report

- A. LPAs must submit quarterly reports on current progress as compared to the schedule and milestones contained in the contract and this Plan.
- B. The Quarterly Report will be made available at the time of contract execution.

### 1.7.4 Program Closeout Report

- A. At the end of the contract term and upon final completion of all units to be assisted in the program, the LPA will be sent a completion report from their Program Manager detailing the units assisted and funds expended. Any remaining funds not expended will be de-obligated and re-allocated according to the State's Action Plan. Issuance of this report will terminate the contract and officially close out the program.

## 1.8 LPA Project Monitoring

- A. The LPA is responsible for ensuring full compliance of every project with HOME requirements, and for monitoring all projects and maintaining records of monitoring.
- B. During housing rehabilitation (if applicable), the LPA must monitor construction activities to ensure implementation of the construction contract, as outlined below in Section 5.4.

- C. The LPA is responsible for ensuring full compliance of every project with HOME requirements, and for monitoring all projects and maintaining records of monitoring.
  - i. The LPA will check annually that the homebuyer remains in the unit as principal resident.
- D. The LPA must notify HTFC of sales and recapture of HOME funds, and the receipt of program income.
- E. HTFC will monitor the LPA annually through desk reviews and conduct onsite monitoring as needed throughout the contract term.

#### 1.8.1 Project Records

- A. Records demonstrating compliance with HOME requirements are to be retained in the project file. Required documentation is specified in the LPA Homebuyer Assistance Project File Checklist available in Section 1.10 and on the HCR HOME Program website.
- B. Project file records must be retained for a minimum of five years after project close out and throughout the POA.

#### 1.8.2 Post-Completion Monitoring

- A. The LPA is responsible for annual monitoring of the HOME assisted owner-occupied housing throughout the POA.
- B. For homebuyer projects, the recapture requirements are self-enforcing through the recorded HTFC note and mortgage or restrictive covenant. However, LPAs are required to annually verify that the unit meets principal residency and insurance requirements.
- C. The LPA must notify HTFC of any expected sales of HOME assisted units or non-compliance with residency requirements related to the HTFC note and mortgage or restrictive covenant throughout the POA.
- D. The LPA must assist the HTFC to work with HOME assisted households when requesting refinancing, subordination, request for payment and satisfactions of the HTFC Note and Mortgage or restrictive covenant.
  - i. A 5, 10 or 15 year POA (depending on the amount of HOME funds invested) applies to all homebuyer programs.

- ii. The affordability period is regulated by the recapture provisions defined in the HTFC note and mortgage or restrictive covenant.
  - iii. Recapture of HOME funds is required if the HOME assisted unit is not occupied by the homebuyer as principal resident during the POA. (24 CFR 92.254 (a) (5)).
  - iv. The written agreement with the homebuyer must document the recapture requirements and restrictive covenant provisions.
  - v. The HTFC Note and Mortgage or restrictive covenant must be used to secure the HOME investment and replaces the LPA with the HTFC as the mortgagee.
- E. The original recorded note and mortgage or restrictive covenant is to be publicly recorded and returned to:

Housing Trust Fund Corporation (HTFC)  
 Office of Community Renewal - NYS HOME Local Program  
 Hampton Plaza 4<sup>th</sup> Floor South  
 38-40 State Street  
 Albany, New York 12207

F. LPA requirements for continued affordability monitoring:

- i. Annually, the LPA must verify that the homebuyer continues to reside in the HOME assisted housing throughout the POA. The LPA must annually mail a letter to the homebuyer requesting verification that the home is occupied by the HOME assisted applicant. The mailing envelope must include the following: "Address Correction Requested/Do Not Forward".
- ii. The Homeowner's Insurance policy must include the HTFC as a loss payee during the POA. Annual documentation of principal residency and insurance requirements must be maintained in the project file.

1.8.3 Rental Unit Monitoring

- A. If rental units are part of a HOME assisted homebuyer rehab project, the LPA must monitor the rental units for compliance as described in Section 4.8, and certify annually to HTFC that such oversight has occurred.

## 1.9 HTFC Monitoring of LPAs

- A. HTFC will monitor the LPA annually through desk audits, review of quarterly reports and may conduct risk based, on-site monitoring, as needed throughout the contract term.
- i. The State has implemented a risk based monitoring system (RAS), in compliance with federal HOME program regulations at 92.504(d). The RAS will use a risk analysis tool and scoring system to inform HTFC of which LPAs may need increased monitoring and/or technical assistance.
  - ii. HTFC will review the first project file for completeness and accuracy prior to IDIS set-up and draws. The LPA will submit the first project file information specified in the Initial Project File Submission Checklist referenced in Section 2.7.3 when the project is ready for set-up in IDIS. HTFC reserves the right to require additional file submissions if the first file submission is not adequate.
  - iii. The LPA is required to send in quarterly reports documenting program progress. The data from the quarterly reports will be used to inform the risk analysis tool of the RAS system. Programs determined to be at high risk and are not performing successfully, will be monitored more frequently and may require on-site monitoring. The RAS will identify programs that are at risk which will allow for earlier HTFC intervention to prevent program close out and/or de-obligation of HOME funds.
  - iv. Other monitoring of LPAs: routine processing of setup reports, disbursement requests and other paperwork submitted to HTFC provides additional opportunities to monitor program activities.
  - v. Requests for reimbursement are examined to ensure that only reimbursement is for approved program expenditures. If a program report does not accompany the voucher or if information submitted is problematic, the voucher is returned.
- B. At program close out, the closed contract will be transferred to the HCR Asset Management Unit to continue to monitor the projects for the remaining term of the POA.

## 1.10 Attachments

### 1.10.1 LPA Homebuyer Assistance With or Without Housing Rehabilitation

#### Program File Checklist

File	Check if in file	Date	Notes
<b>Program Application &amp; Contract</b>			
Application			
Award letter			
Executed Agreement			
Admin Plan (& approved amendments)			
Budget (& approved amendments)			
Schedule (& approved amendments)			
<b>Program Standards/Documents</b>			
Income limits – by year			
Underwriting/subsidy layering guidelines			
Maximum price/value limits – by year			
Property standards - acquisition			
Written rehab standards			
Homebuyer agreement addendum			
Homebuyer agreement addendum (if rental unit(s))			
Homebuyer note/mortgage			
<b>Financial Management Files</b>			
Program budget & eligible costs			
Admin/project delivery costs documentation			
Draw requests			
Disbursement documentation			
Receipt/disposition of recaptured funds & program income (if applicable)			
Audit			
<b>Monitoring Files</b>			
Quarterly reports to OCR			
Annual verification of owner occupancy			
If HOME rental units:			
- Annual rent/utility allowance approval			
- Annual owner report review			
- 1 <sup>st</sup> yr & 3 yr unit & file inspections			
Resale – notification to OCR			



1.10.2 LPA Homebuyer Assistance With or Without Housing Rehabilitation

Project File Checklist

Property Address: \_\_\_\_\_ SHARS: \_\_\_\_\_

Property file documents	Check if in file	Date entered in file	Notes
Application			
Applicant income determination			
Authorization to release information			
Initial property inspection			
Property environmental clearance (if needed)			
Property price/value determination			
Property inspection – HOME prop stds			
Buyer underwriting			
Homebuyer counseling			
Homebuyer approval (income eligibility, price, assistance, inspection, affordability period)			
Executed sales contract with HOME written agreement addendum			
Relocation letter to seller			
IDIS project set-up form			
Recorded note & mortgage			
Final reconciliation – use of HOME funds			
Disposition of net proceeds of sale			
IDIS project completion form			
<b><i>If rehabilitation:</i></b>			
Work write-up			
LBP risk assessment (if pre-1978)			
Bid package & selection documentation			
Rehabilitation contract			
MWBE/Section 3 documentation			
Building permit			
Project relocation records (if applicable)			
Progress inspections			
Contractor invoices, approvals, payments			
Occupancy permit/local inspection			
Final inspection – HOME standards			
<b><i>If rental units:</i></b>			
Cost allocation (if not all HOME assisted)			
Approved lease form/addendum			
Rent approval			
Tenant income approval			
<b>Ongoing Project Monitoring</b>			
Annual verification of owner occupancy			

Property file documents	Check if in file	Date entered in file	Notes
If HOME rental units: - Annual rent/utility allowance approval - Annual owner report review - 1 <sup>st</sup> yr & 3 yr unit & file inspections			
Resale – notification to OCR			
Receipt/disposition of recaptured funds			

## 2 Project Requirements

### 2.1 Eligible Project Costs & Maximum Subsidy

#### 2.1.1 Eligible Project Costs

- A. Eligible project costs are those permitted by the NYS HOME Local Program Budget Policy available on the HOME Program website and as approved by HTFC at contract execution. Please review the policy for specific eligible and in-eligible costs. In general, eligible project costs include:
- i. Acquisition costs
  - ii. Rehabilitation hard costs necessary to address the improvements indicated by the property standards, HTFC Housing Rehabilitation Standards and to meet NYS and/or Local Code upon completion.
  - iii. Site improvements and connections to off-site utilities necessary to complete the rehabilitation.
  - iv. Soft costs related to the rehabilitation, including:
    1. Project delivery
    2. LPA staff costs of project delivery as permitted in Section 1.1.8 and in the NYS HOME Local Program Budget Policy
    3. Other third party costs necessary to implement the improvements, such as permits, inspections, legal and recording fees
    4. Relocation costs as necessary (if tenant occupied)
- B. In general, ineligible costs include:
- i. Acquisition of property owned by the participating jurisdiction or the LPA, except for property acquired by the participating jurisdiction with HOME funds, or property acquired in anticipation of carrying out a HOME project
  - ii. Delinquent taxes, fees or charges on properties to be assisted with HOME funds
  - iii. Luxury improvements that are not consistent with the standard of “non-luxury housing with suitable amenities

- iv. Payment of any deposits or operating costs
- v. Off-site infrastructure, except for necessary connections to offsite utilities for the assisted unit
- vi. Payment of any escrows, deposits or operating costs (although HUD permits payment of up to one year of mortgage insurance premiums)
- vii. Payment of premium for homeowner's or flood insurance
- viii. Refinancing or payment of other debt
- ix. Non-capital equipment such as new appliances.

C. The above list is not inclusive. For more details, please refer to the NYS HOME Local Program Budget Policy located on the HCR HOME Program website.

### 2.1.2 Project Assistance Limits

- A. Homebuyer Purchase Assistance without Housing Rehabilitation: funds may be used to assist a homebuyer to provide down payment and/or closing cost assistance to purchase a single family (1-4) unit, non-HOME assisted existing home or newly constructed home and may not exceed \$40,000 per unit, inclusive of all costs. As no funds for rehabilitation are included, the home to be purchased must meet NYS and/or Local Code at the time of purchase by the homebuyer.
- B. Homebuyer Purchase Assistance with Housing Rehabilitation: funds may be used to assist a homebuyer to provide down payment and/or closing cost assistance and funds for housing rehabilitation to purchase a single family (1-4) unit, non-HOME assisted existing home and may not exceed \$60,000 per unit, inclusive of all costs.
  - i. The amount of HOME funds necessary for down payment assistance and housing rehabilitation must be "right sized" for the individual homebuyer's financial situation and on the cost of housing rehabilitation necessary to meet program property standards.
  - ii. LPAs must assist homebuyers after to purchase to complete the housing rehabilitation within 6 months. The homebuyer may not reside in the property if health and safety hazards are present. The property must meet NYS and /or Local Code upon completion of housing rehabilitation.

## 2.2 Homebuyer Eligibility, Underwriting Guidelines and Subsidy Layering

- A. Housing Counseling: each applicant must receive a Certificate of Completion for pre-purchase homeownership counseling per the requirements listed in Section 2.39.
- B. HTFC Underwriting Guidelines for Homebuyer Qualifying Ratios: housing debt to income ratio: max 35%, total debt to income ratio: max 45%, the housing debt ratio can be a maximum of 40%, provided there is no other total debt.
- C. LPAs must conduct and document a subsidy layering analysis to determine the appropriateness of the amount of HOME assistance being made available to the homebuyer. LPAs should “right size” the assistance in relation to the individual homebuyer’s financial need for direct homebuyer assistance and if applicable, the need for housing rehabilitation to meet property standards.
- D. LPAs must conduct and document a sources and uses analysis to demonstrate there are enough assets/funds available to purchase and if applicable, rehabilitate the home (mortgage commitment, down payment assistance, savings, gift letter, funds for housing rehabilitation if applicable, other funds).
- E. LPAs providing funds for housing rehabilitation must document the LPA and homebuyer role in the housing rehabilitation process. The LPA must document the contractor selection, hiring and construction management process to ensure there is capacity to complete the housing rehabilitation within 6 months of purchase.
- F. LPAs must document that financial resources are available to sustain future homeownership: document that the first mortgage product is not predatory (high fees, high interest rates, etc.) and that it conforms to standard affordable housing lending criteria (fixed rate, no balloon payments, etc.), review the expected income and job stability, estimate future adjustments to property taxes, fees to the municipality, homeowners insurance, estimate average monthly cost of utilities, review liquid assets to ensure the homebuyer will have the minimum equivalent of 1 month housing payment in personal savings following the purchase.

***Q17. Describe the process for how the LPA will meet the underwriting requirements listed above and will ensure the homebuyer will have the financial resources to sustain future homeownership, to include the minimum equivalent of 1 month housing payment in personal saving following the purchase.***

*City staff will meet with prospective homebuyers to calculate their debt to income ratio based on HTFC underwriting guidelines. The homebuyer will be required to have a minimum of 1 month Principal Interest Taxes Insurance (PITI) in liquid assets.*

*Through a subsidy layering analysis, City staff will right size the assistance based on the financing need of the homebuyer.*

### 2.2.1 Preferences and Priorities

- A. Assistance can be limited to units within the identified service area of the program in the application and contract.
- B. Assistance cannot be limited to current or prior residents of the jurisdiction of the target area.
- C. Priorities or preferences for certain types of housing or household type is only permissible to the extent that:
  - i. The priority or preference does not violate nondiscrimination and fair housing requirements.
  - ii. The priority housing and household type has been identified in the application and approved by HTFC at contract execution.
  - iii. The priority or preference is fully disclosed in all program documents, advertisements and presentations.
  - iv. The HTFC may allow LPAs to design eligible program activities that may limit beneficiaries to veterans, the elderly, the physically disabled, and/or or give preferences to persons in certain occupations, such as police officers, firefighters, or teachers.
  - v. If the program elects to serve a special needs population, the LPA must have a current service provider agreement that will send direct referrals of clients in the special needs population to be served in the HOME assisted program.
  - vi. Any limitation or preference must not violate nondiscrimination requirements in 24 CFR 92.350.
  - vii. Limiting programs or giving preferences to students or a group of all employees is not permitted.
  - viii. The preference or limitation must be approved by the HTFC at contract execution.

***Q18. Describe if the program will limit beneficiaries or have a preference in the program design.***

*The program will not limit beneficiaries or give preference to persons, i.e., in certain occupations; however, assistance will be limited to the purchase of single family homes within the City of Olean.*

**Q19. Describe the preferences and priorities that will be used to select households and housing units to receive HOME assistance.**

N/A

**Q20. Describe how applicants will be made aware of the preference or priority.**

N/A

### 2.2.2 Applicant Fees - Charges to Homebuyers

- A. The LPA may not charge homebuyers servicing, origination, or other fees for the purpose of covering costs of administering the HOME program, except that the LPA may charge:
- i. Nominal application fees to discourage frivolous applications – the amount of application fees must be appropriate to the type of application and may not create an undue impediment to a low-income family's participation in the program
  - ii. Housing counseling fees – only to the extent that such costs are not paid by HOME or other funds.

Any such fees collected must be treated as applicable credits under OMB cost guidelines.

**Q21. Describe if the LPA expects to charge any direct fees to homebuyers.**

N/A

## 2.3 Applicant Eligibility

### 2.3.1 Applicant Intake & Waiting List

- A. Applications must be taken in a manner that ensures fair access, including reasonable time periods and methods of submission. Assistance must be offered to any household requesting assistance in completing the application.
- B. The method for establishing the queue and waiting lists must be disclosed in this Plan and in application materials and briefings.
- C. While priority or preference households may be placed on a separate waiting list, and processed according to the priority, applications must be accepted from any household within the eligible service area.
- D. Waiting lists must be updated within the last 6 months, maintained and available for inspection.

- E. Income eligibility need not be verified to place an applicant in the queue or on a waiting list. Placement on the list can be based upon the applicant's representation of income, with disclosure that income will be verified prior to the offering of assistance.
- F. LPAs may use an already established wait list from a prior program, however, all applicants must have been pre-qualified to be on the list within the past 6 months.

**Q22. Describe the procedure for accepting applications.**

*Applications will be received and accepted in the Community Development office of the Olean Municipal Building via regular mail or in person. Staff will help any household requesting assistance to complete the application.*

**Q23. Describe how applications will be processed and added to the wait list.**

*Applications will be processed in the order received and will be reviewed by City staff for completeness; households that are determined income eligible (prior to verification) will be placed on a wait list. City staff will advise applicants who are over income via written correspondence.*

**Q24. Describe how the wait list will be maintained and how applicants will move up on the list.**

*City staff will update the wait list every 6 months, verifying income eligibility. As applications are processed and commitment letters issued, applicants will be removed from the wait list and applicants moved up on the list.*

**Q25. Describe how applicants will be advised of the wait list requirements.**

*Information about the wait list requirements will be made available to the public, including hard to reach target populations via various outreach activities, including program workshops and the City's website/twitter, as well as verbal and written communications to the applicant.*

**Q26. Does the LPA have a current waiting list of prospective homebuyers that have been qualified as "ready to proceed" to purchase a home and if yes, how many?**

*The City's program currently has 4 eligible households qualified as "ready to proceed".*

### 2.3.2 Income Eligibility

- A. All households assisted must be under 80% of median income as defined by HUD HOME income limits posted at: <https://www.hudexchange.info/manage-a-program/home-income-limits/>.



- B. Income will be determined using the Section 8 or known as the Part 5 method, defined at 92.203(b). LPAs may use the HUD CPD Income Eligibility Calculator at: <https://www.hudexchange.info/incomecalculator/>.
- C. All income sources must have at least two months of source documentation (92.203(a) (2)).
- D. Income certifications must sign and dated by the LPA and homebuyer.
- E. The income certification is valid for 6 months. The sale of the unit to the HOME eligible buyer must occur within 6 months of the income certification or the certification must be updated.

### 2.3.3 Conflict of Interest

- A. The LPA, including its officers, board members and employees, are subject to the presumption of conflict of interest as stated in 92.356(a) – (c). As such, all such covered persons of the LPA may not receive either program assistance or any contract without the prior written exception granted by HUD.
- B. No person(s) who exercises or has exercised any functions or responsibilities with respect to the activities being assisted with HOME funds or who is or was in a position to participate in the decision-making process or gain inside information related to HOME assisted-activities may obtain a financial interest or financial benefit from a HOME assisted activity or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties during their tenure or for one year thereafter.
- C. Immediate family ties include, whether related by blood, marriage, or adoption: spouse, parent (including step-parent), child (including stepchild), brother, sister (including step brother or step sister) grandparent, grandchild, and in-laws or a covered person.
- D. Further, no officer, employee, agent, or consultant of a covered person or entity may occupy a HOME assisted affordable housing unit in the Project. However, this provision does not apply to an employee or agent of a rental developer who occupies a housing unit in a HOME-assisted project as a project manager or maintenance worker.
- E. Exceptions: requests for exceptions to this policy must be submitted to HTFC in advance of selection with the information required by 92.356(d) – (e). HTFC will forward the request to HUD for review. Upon written request, exceptions may be granted by HUD on a case-by-case basis. In the request to HUD, the LPA must disclose the full nature of the conflict, submit proof that the disclosure has been made public and also provide a legal opinion stating that there would be no violation of State or Local law if the exception were granted by HUD.

#### 2.3.4 Underwriting the HOME assistance

- A. Before committing funds to a project, the LPA must ensure that no more HOME funds are invested than needed to provide quality, affordable, and financially viable housing throughout POA.
- B. Before committing funds to a project, the LPA must conduct and document the following underwriting analysis:
  - i. Sources – all project funding must be reviewed to determine that all sources are firmly committed.
  - ii. Uses – all project costs must be reviewed and determined to be necessary and reasonable.
  - iii. HOME funding – the amount of HOME funding (in consideration of all available sources, including other public sources) is reasonable and necessary to provide quality housing that is sustainable throughout the POA and is not excessive, and is within stated program guidelines.
  - iv. The home buyer is qualified (or expected to be qualified) for a first mortgage under normal underwriting guidelines that are consistent with typical affordable housing lending practices and that are non-predatory.
  - v. The buyer must have sufficient post-closing cash and income to be able to handle all obligations with respect to homeownership – including mortgages, taxes, insurance, utilities and maintenance – for at least the POA.
- C. Evidence and documentation of this analysis must be maintained in the project file.

**Q27. Describe how the underwriting assessment will be conducted.**

*Applicants will need to complete pre-purchase homeownership counseling. City staff will analyze household total debt-to-income ratio and housing debt-to-income ratio to compare with HOME qualifying ratios. City staff will also conduct 1) a subsidy layering analysis to determine appropriateness of HOME assistance; and 2) sources and uses analysis to assure there are enough funds available to purchase a home.*

**Q28. Describe what documentation will be used to determine this assessment.**

*City staff will review household's expected income and job stability, project out future taxes, homeowners insurance, monthly utility costs, etc.; and review household liquid assets to ensure homebuyer has, at minimum, 1 month PITI.*

### 2.3.5 Other Homebuyer Eligibility Requirements

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

**Q29. Describe how the LPA will ensure the applicant is a legal resident.**

*To receive HOME assistance, all applicants will need to meet HUD requirements on citizenship or immigration status. The City will require applicants to submit a signed declaration of US citizenship or US nationality to the City. The City may request verification of the declaration by requiring the presentation of a US passport or other appropriate documentation.*

### 2.3.6 Feasibility Determination – Denial of Assistance

- A. Properties/households should be assisted only if sufficient funds exist to assist the buyer to purchase the home.
- B. If assistance includes housing rehabilitation, properties/households should be assisted only if sufficient funding exists to address the items to be repaired, as identified in the housing rehabilitation inspection; and in order for the unit to meet the program property standards at completion.
- C. The household must have the capacity to sustain the housing throughout the POA.
- D. If inadequate funding exists, the family cannot sustain the housing or it is determined that this is not a cost effective use of funds, the project should be determined infeasible unless the LPA can correct these conditions.
- E. Infeasibility determinations should be documented, and the household provided notification including an appeals process.
- F. Any household denied assistance must be contacted in writing with the reasons for denial disclosed and the process for appealing the denial identified.

**Q30. Describe the process for appeal.**

*City staff will determine and document the feasibility of the project. A household denied assistance will be notified in writing with the reason(s) for denial disclosed and offered the opportunity to appeal the decision. All appeals must be requested in writing and received within 15 working days from the date of the City's correspondence advising of the decision. Appeals will be considered by City staff and the homeownership committee whose responsibility is to review all applications for*

*assistance and make recommendation to the City Council who will make a final determination.*

### 2.3.7 Homebuyer Counseling and Qualifying Ratios

- A. HOME requires each homebuyer to receive pre-purchase homeownership counseling and be qualified to purchase a home with the following homebuyer qualifying ratios:
- i. Housing debt to income ratio: max 35%
  - ii. Total debt to income ratio: max 45%
  - iii. The housing debt to income ratio may be a maximum of 40%, provided there is no other total debt.
- B. The applicant must receive a Certificate of Completion for pre-purchase homeownership counseling from a HUD-Certified Counseling Agency. The prospective homebuyer must be deemed by the counseling agency as "ready to proceed" to purchase a home.
- C. The HUD-certified counseling agency may have funds from Federal sources other than HOME that will pay the cost for pre-purchase counseling. If so, the cost may not be charged to the HOME program.
- D. Counseling costs may be charged to only one of the following (as permitted in the approved budget):
- i. To HOME administrative funds (if applicant does not purchase a home)
  - ii. As a project delivery cost charged to HOME (if applicant purchases a home)
  - iii. To the homebuyer, if the fee is cost-based and reasonable and not charged to the HOME program.
- E. Counseling costs may also be paid with other non-HOME funds provided by the LPA. If the direct cost of homebuyer counseling services provided to families that acquire properties with HOME funds is paid with other non-federal funds, it may be counted as HOME match.

**Q31. Describe which HUD certified counseling agency will perform pre-purchase homebuyer counseling.**

*Per Federal procurement standards when soliciting RFPs, there will be no preference given to consultants within a nearby geographic area. However, at least 3 HUD certified agencies exist within our area and may respond to the RFP: ACCORD, Chautauqua Opportunities, Inc. and West Side Neighborhood Housing Services, Inc.*

**Q32. Describe how the counseling cost will be paid.**

*The City will pay for pre- and post counseling services via HOME and City funds. In addition, the City was awarded grant funds from LISC, a portion of which will be utilized for post-counseling services.*

## **2.4 Forms of Ownership**

### **2.4.1 Eligible Forms of Ownership**

- A. The home and land must be transferred to the homebuyer in fee simple title or if in a condominium or cooperative or land trust:
  - i. The land may be under a 99- year ground lease or a community land trust lease of at least 50 years.
  - ii. Lease-purchase that culminates in ownership is eligible per Section 2.34 below

### **2.4.2 Ineligible Forms of Ownership**

- A. Right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made) is not ownership.

**Q33. Describe what documents the LPA will review to determine the buyer is purchasing through an eligible form of ownership.**

*The City Attorney will review all real estate Purchase Contracts, subsequent title abstracts, etc. to assure the home and land will be transferred to the homebuyer in fee simple title.*

### **2.4.3 Lease-Purchase**

- A. HOME funds may be used for lease-purchase programs for existing housing and for housing to be newly constructed. The lease-purchase program must be pre-approved by HTFC. Lease-purchase that culminates in ownership is eligible, but must be disclosed and approved up front by the HTFC prior to contract execution.

- B. The housing must be purchased by a homebuyer within 36 months of signing the lease purchase agreement.
- C. The homebuyer must qualify as a low-income family within six months of the time the lease-purchase agreement is signed.
- D. If the housing is not transferred to a homebuyer within forty-two months after project completion, the HOME affordability requirements for rental housing in § 92.252 must be applied to the unit.

**Q34. Describe the program design if the LPA plans to offer a lease-purchase option.**

N/A.

## 2.5 Property Eligibility

### 2.5.1 Eligible Property Types

- A. Permitted property types include:
  - i. Single family (1-4 units) housing.
  - ii. Condominiums & cooperative units.
- B. Homebuyer with rental units – If HOME funds are used to assist a homebuyer purchase a property that has rental units (e.g., a two, three or 4 unit structure), the LPA must determine if the HOME assistance is being used in the homebuyers unit, unit, the rental units or both. See Section 4.1.
- C. As referred to in Section 2.3.3 of this plan, If the rental unit is being assisted with HOME funds, then rental rules apply – including low-income tenant occupancy, lease requirements, rent limits, income recertification, and ongoing property standards during the POA.
- D. HTFC prefers a “whole house” approach to housing rehabilitation when assisting a homebuyer to purchase a property that includes rental units and prefers the entire property to be rehabilitated. If the homebuyer unit and all rental units qualify for HOME assistance, then all units should be HOME assisted as a single undertaking. All units and common areas must be rehabilitated to meet NYS and/or Local Code upon completion.
- E. The HTFC prefers the households assisted to receive some form of landlord and HOME Program rental requirements training prior to renting the HOME eligible units.

- F. The LPA must verify that the purchase price for the type of single family housing (1-4 units) cannot exceed the median purchase price for the area where the home is located, as defined by HUD's HOME Homeownership Value limits provided by HUD for existing housing.
- G. The property must be documented to be decent, safe, sanitary, and in good condition and must meet NYS and/or Local Code upon completion. For down payment and closing cost assistance only, the home must meet NYS and/or Local Code at purchase.
- H. The Code inspection can't take place more than 90 days before the execution of the purchase agreement.
- I. If the homebuyer is approved for down payment and closing cost assistance with funds for housing rehabilitation, the unit must meet NYS and/or Local Code within 6 months of purchase. The homebuyer is not able to reside in the unit until after all health and safety issues and code violations (related to health and safety issues) are repaired.

***Q35. Describe the property type(s) that will be considered for assistance.***

*Homebuyer assistance will be limited to the purchase of single family (1 unit) homes.*

**2.5.2 Maximum Purchase Price and After Rehab Value Limits**

- A. If home is purchase with no funds for housing rehabilitation, the purchase price for the homebuyer cannot exceed the HOME Maximum Purchase Price/after Rehab Value limit as published annually by HUD for the local jurisdiction at the time of commitment, available at: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>.
- B. If the home is purchased and includes funds for housing rehabilitation and the property will be rehabilitated after acquisition to meet program property standards, this limit applies to the after-rehab value.
- C. The after-rehab value must be estimated up front, before work is started. The after rehab value must be considered when determining the scope of work for the unit and the calculation documented using one of the following methods:
  - i. Licensed Appraisal
  - ii. Real Estate Market Assessment
  - iii. Independent estimate of value by a "knowledgeable" professional

**Q36. Describe the method that will be used to determine the maximum purchase price or after rehab value, as applicable.**

*City staff will reference HUD's publication published annually for the HOME Maximum Purchase Price/after Rehab Value limit for Cattaraugus County. (The 2016 limit for Cattaraugus County is \$129,000.) Assistance to the homebuyer cannot exceed this value (or future values published by HUD).*

**Q37. Describe when in the process the maximum purchase price or after rehab value will be determined, as applicable.**

*The maximum purchase price will be determined at the time that the City offers a commitment letter to the applicant.*

## **2.6 Property Standards**

### **2.6.1 Property Standards for Acquisition**

- A. If a home is being acquired by a homebuyer with HOME assistance and there are no funds for housing rehabilitation, the LPA shall ensure that the property meets the property standards of 24 CFR Part 92.251, as applicable and as amended, for HOME assisted activities, to ensure that the housing is decent, safe and sanitary, and meets all applicable New York State and/or Local Code requirements at sale to homebuyer.
  - i. HUD has deferred the implementation of new property standard requirements. These new requirements are applicable to any project with a commitment after the effective date of the new requirements as may be announced by HUD. These standards are subject to update as HUD issues additional guidance.
- B. If the housing was originally placed in service before 1/1/78, and will not be rehabilitated, then LBP requirements at 35.1000 - .1030 also apply.
- C. As part of the inspection, any deteriorated paint must be identified and repaired. If it is known to be LBP or is unknown (i.e., was not tested), then repairs should be done using paint stabilization techniques. LBP clearance is required for all applicable housing rehabilitation. The HTFC will allow the LPA to charge the program for a single LBP clearance test. If it does not pass clearance the first time, the LPA or the contractor (per the agreement between the LPA and contractor) must pay for all subsequent clearance testing.
  - i. If housing rehabilitation is required to meet the property standards, then the HUD LBP requirements at 24 CFR 35.900 - .930 and the EPA requirements at 40 CFR Part 745 apply.



- D. Minor repairs needed to meet program property standards are not considered rehabilitation, and can be made without triggering rehabilitation standards.
- E. Housing inspections must be performed in compliance with 24 CFR 92.251. The LPA must inspect the housing no earlier than 90 days before the commitment of HOME assistance.
- F. If the existing housing does not meet these standards, it must be rehabilitated under the standards or it cannot be assisted with HOME funds.

**Q38. Describe who will perform the inspection to determine compliance with property standards.**

*The City of Olean Code Enforcement Office will perform the required inspections of all properties seeking assistance from HOME for compliance with 24 CFR Par 92.251 HUD regulations and State and local building code regulations.*

**2.6.2 Accessibility: Reasonable Accommodations and Modifications**

- A. The LPA must work with any household with accessibility needs to address those needs as part of the scope of work for housing rehabilitation and must be in compliance with the Fair Housing Act, Section 504, as applicable.
- B. Accommodations and modifications to address accessibility needs can and should be paid with HOME funds. Exceptions to per-unit assistance limits due to such modifications will be considered.

**2.7 Project Approval & Commitment**

**2.7.1 Tier 2 Site Specific Environmental Clearance**

- A. As noted above in Section 1.2.2, prior to the commitment of any funds to a HOME-assisted project, a Tier 2 site specific clearance must be approved by HTFC.
- B. All NYS HOME funded LPAs must submit a Tier 2 site specific clearance letter in order for HTFC to set up the unit in the IDIS system.
- C. The Site Specific Statutory Checklist and Tier 1 and Tier 2 environmental review procedures/instructions for LPAs are available on the HCR HOME Program website.

**2.7.2 Project Commitment and Set Up**

- A. A project commitment can be made and the project set up in IDIS when:
  - i. The unit has received Tier 2 environmental approval

- ii. Project underwriting has been completed
- iii. The LPA and homebuyer have executed a written legally binding agreement meeting the requirements noted in Section 1.5
- iv. A purchase offer has been accepted by the homebuyer
- v. If applicable, the rehabilitation scope of work has been approved by HTFC, the construction contract has been let (as described in Section **Error! Reference source not found.**) and the work is scheduled to start immediately after purchase by homebuyer.

### 2.7.3 First File Review by OCR

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

**LPA Homebuyer Assistance  
With or Without Housing Rehabilitation  
Initial File Submission Checklist**

**SHARS:** \_\_\_\_\_ **Project Address:** \_\_\_\_\_

File	Submitted	HTFC Review Notes
<b>Part 1: Submitted at Project Setup</b>		
Set Up/Completion Form		
Applicant income eligibility certification		
Supporting documentation – all income		
Buyer underwriting: <ul style="list-style-type: none"> <li>• Affordability analysis</li> <li>• 1<sup>st</sup> mortgage review</li> <li>• Assistance amount determination</li> </ul>		
Unit inspection report		
Tier 2 Site-specific Statutory Checklist		
Sale price v. program limit		
Executed homebuyer written agreement		
<b>If Rehab:</b>		
After rehab value estimate v. limit		
If pre-1978, LBP risk assessment		
Building permit		
Rehabilitation contract		
<b>Part 2: Submitted after closing</b>		
Recorded note & mortgage		
<b>If Rehab:</b>		
Homeowner Rehab Completion Form		
LBP clearance report (If pre-1978)		
Recorded note & mortgage		
Final project budget – all sources & uses		

\_\_\_\_\_  
LPA Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
HTFC Reviewer

## 2.8 Relocation

- A. The HOME Program is subject to an overall policy of minimizing displacement, and is subject to the Uniform Relocation Act and Section 104(d) of the Housing and Community Development Act of 1974, as amended. The HOME & CDBG Residential Anti displacement & Relocation Assistance Plan establishes the HCR/HTFC HOME Program policy to minimize displacement.
  
- B. THE URA protects the seller and any legal occupants of the property as of the purchase agreement, and requires notices and assistance that varies by the circumstances.
  
- C. HUD Handbook 1378 contains the guidance and sample forms and notices that must be used in the event of acquisition and relocation. It is available at: <https://www.hudexchange.info/resource/310/hud-handbook-1378-tenant-assistance-relocation-and-real-property-acquisition/>.
  
- D. HTFC requires the LPA/CHDO to comply with the requirements, and discourages the acquisition of occupied properties if the LPA/CHDO does not have detailed knowledge of URA requirements and Handbook 1378. The LPA/CHDO must consult with HCR/HTFC prior to making an offer on a property occupied by individuals or entities other than the seller.

**Q39. Describe any situations where the need for relocation assistance may be anticipated for this program, how relocation requirements will be managed and the expected per unit cost.**

N/A.

### 2.8.1 Notices to the Seller (and Tenants)

- A. The seller must receive and acknowledge receipt of a notice of voluntary sale (Appendix 31 of HUD Handbook 1378).
  
- B. If rental units are included as part of the acquisition, the tenants of the structure are protected as of the date of offer to purchase, and the appropriate notices must be

given to tenants, depending on whether they are going to be permanently displaced, temporarily displaced or not displaced. Refer to Handbook 1378.

### 2.8.2 Permanent Displacement

- A. Permanent displacement will occur if a tenant in an assisted unit is over-income or otherwise not expected to be housed after rehabilitation. Consult with HCR/HTFC before proceeding with the project.
- B. Individuals that are relocated are entitled to assistance and various payments. HOME funds can be used for permanent relocation costs in compliance with URA. Refer to the HUD Handbook 1378.
- C. Also, if rents are increased due to the rehabilitation and are considered unaffordable, otherwise non-displaced tenants can claim economic displacement and be entitled to benefits. LPAs should review pre- and post-rehab rents to determine if this could occur.

### 2.8.3 Temporary Relocation

- A. Temporary relocation may be necessary due to extensive rehabilitation or reconstruction making the home unusable while work is progressing. Temporary relocation may also be triggered by lead hazard control work following the requirements of 24 CFR 35. 1345(a) (2).
  - i. Tenants are considered involuntarily displaced and their costs of temporary relocation must be paid. HOME funds may be used for this purpose.
  - ii. Federal requirements give administrators flexibility in determining and paying the costs of temporary relocation. Consult with HCR/HTFC if there are questions regarding appropriate eligible HOME program costs of temporary relocation.

## 2.9 Project Completion

- A. A project is completed when:
  - i. The project complies with the required property standards

- ii. The unit has been sold to the HOME eligible buyer
- iii. The project complies with NYS and/or Local Code requirements
- iv. If applicable, all construction activities are complete and the homebuyer, LPA and contractor have signed a statement that all construction activity is complete and satisfactory according to program requirements
- v. The final drawdown of HOME funds has been disbursed for the project
- vi. The HTFC note and mortgage or restrictive covenant has been recorded and documents forwarded to HTFC.

## 2.10 Insurance Requirements

- A. During the term of the contract, the LPA shall take all adequate measures to safeguard against the risk of liability for injuries or death of employees of the LPA, contractors and subcontractors, and any other persons.
- B. The LPA shall provide HTFC with a certificate for comprehensive general liability coverage in a minimum amount of one million dollars (\$1,000,000) naming the HTFC and the State of New York as additional insured and fidelity bond/crime coverage in an amount not less than the largest anticipated disbursement request for program funds naming the HTFC as loss payee, together with certificates for automobile insurance (if applicable), fire insurance, workers' compensation and disability benefits. The LPA must also extend these insurance requirements to contractors hired under this contract.
- C. Disbursements requested in excess of the fidelity bond/crime coverage will be reduced to the maximum amount of the fidelity bond in effect.
- D. HTFC also reserves the right to further reduce such disbursement or to refuse payment of a disbursement if it is determined that previous disbursements have not yet been distributed to contractors or vendors, and such current disbursement will cause the fidelity bond / crime coverage to be exceeded.
- E. All insurance certificates shall be with a New York State licensed carrier of insurance rated "A" or higher.

- F. Within two (2) business days of having received any notice of non-renewal, cancellation, termination, or rescindment for any type of insurance required herein, the LPA shall provide HTFC with a copy of such notice, either by facsimile or email (in pdf format) to the signatory hereof, together with an explanation of any efforts taken to reinstate such coverage.
  
- G. The LPA may not cancel, terminate or fail to renew any insurance policy required herein, unless and until the LPA has received HTFC written consent.

### 3 Financial Management Requirements

#### 3.1 Uniform Administrative Requirements for Financial Management

- A. LPAs must have financial management systems that meet uniform federal administrative requirements (now restated at 2 CFR 200.301 - .316) that:
- i. Provide effective control over and accountability for all funds, property and other assets.
  - ii. Identify the source and application of funds for federally-sponsored activities including records and reports that verify the eligibility, reasonableness, allowability and allocability of costs.
  - iii. Permit the accurate, complete and timely disclosure of financial results in accordance with HUD reporting requirements or, for sub recipients, grantee reporting requirements
  - iv. Minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the grantee or sub recipient.
  - v. The LPA shall comply with the Uniform Administrative Requirements, as applicable as set forth in 2 CFR Part 200 and the Uniform Administrative Requirements, Cost Principals and Audit Requirements and as described in 24CFR Part 92.205, as applicable and as may be amended from time to time.
- B. The financial management standards should provide for:
- i. Internal Controls – The combination of policies, procedures, job responsibilities, personnel and records that together create accountability in an organization’s financial system and safeguard its cash, property and other assets.
  - ii. Budget Controls – procedures to compare and control expenditures against approved budgets.
  - iii. Accounting Records – records that sufficiently identify the source and application of HOME funds provided.
  - iv. Cash Management – procedures in place to minimize the amount of time that elapses between receipt of HOME funds and the actual disbursement of those funds.



**Q40. Describe the financial management systems and procedures in place to ensure compliance with federal requirements.**

*As recipient of past federal funding, including CDBG, the City maintains a financial management system that demonstrates compliance with all applicable federal, state and local laws and regulations. City staff will ensure: 1) effective control over and accountability for all funds; 2) procedures for determining that costs are reasonable, allowable and accountable in accordance with OMB Circular A-87; 3) accounting records supported by source documentation; 4) accurate, current and complete disclosure of the current status and financial results of the program; and 5) internal controls and segregation of duties designed to eliminate fraud and abuse. The recently completed independent audit issued November 10, 2016 confirmed a clean audit in accordance with Government Auditing Standards.*

**Q41. Describe the cost review and disbursement management procedures in place to ensure that costs are reasonable and in compliance with the budget.**

*City staff is familiar with principles for determining costs as outlined in Chapter 3 of the OCR Grant Manual and OMB Circular A-87. The City will ensure that OCR funds will be used for eligible activities that meet one or more of the National objectives.*

## **3.2 Disbursements and IDIS**

- A. Disbursement instructions are available on the HCR HOME Program website.
- B. The LPA shall not request disbursement of funds under the contract until the funds are needed for payment of eligible costs. Advances of funds are not permitted.
- C. Requests for disbursement of funds for homebuyer assisted housing rehabilitation will require submission of a certification, signed by the LPAs construction professional, the homebuyer and contractor, stating that the work has been satisfactorily completed and the unit meet program property standards and NYS and/or Local Code requirements at completion .
- D. The amount of each request shall be limited to the amount needed to pay such costs incurred. Payments of funds under the contract are also subject to the LPA compliance with the requirements of HUD's Integrated Disbursement and Information System or any other similar or successor system used by HUD and all further documentation which may be demanded by HTFC related to any request for funds.

- E. Funds may be requested when the homebuyer closing has been scheduled and must be expended within 10 days of receipt by the LPA. If the scheduled closing does not happen within 10 days of receipt of the funds by the LPA, the funds must be returned to the HTFC and re-requested by the LPA when the closing is rescheduled.
- F. HTFC will not disburse funds if the LPA is in default of any of the provisions of the contract.
- G. The LPA shall commit all funds within 12 months of the start date of the contract and expend all funds within 24 months of the start date of the contract.
- H. The LPA must submit an Authorized Signature Form prior to contract execution; the form is available on the HCR HOME Program website.
- I. Disbursement requests must be submitted in compliance with the instructions available on the HCR HOME Program website.
- J. The NYS HOME Local Program will not pay for work that has not been completed; no advance or up-front payments will be permitted.
- H. Request for payment of LPA administrative funds must be within 15% of project cost expenditure.
- K. Integrated Disbursement Information System (IDIS) requirements:
  - i. The POA starts when the unit is completed in IDIS; this requirement is referenced in the HTFC note and mortgage and restrictive covenant.
  - ii. LPAs must ensure unit completion in IDIS and are required to submit the project completion report along with the request for final payment.
  - iii. The IDIS Red Flag Report details infrequent draw status, final draw for 30 days or more, auto cancellation pending within 30 days, auto cancellation pending within 90 days and auto cancelled within the past year. LPAs must respond immediately to program manager requests to resolve issues and remove red flagged units from the report.
  - iv. Due to IDIS automatically cancelling projects in the system for no activity, LPAs should not set up units in IDIS unless the project is ready to be sold, start construction and/or the LPA is ready request the first disbursement.

### 3.3 Match

- A. HOME has a program match requirement of 25% of the HOME funds expended that must be provided as permanent contributions from non-federal sources.
- B. Match must be reported on the required quarterly report to HTFC.

**Q42. List each source of match and the dollar value of match to be provided.**  
*Private mortgage funding will be used as match against HOME funds. The City estimates providing up to 20% of the purchase cost from HOME funds to assist 28 households (\$308,000) with the remaining 80% (\$1,232,000) to be provided to the homebuyers via private lending institutions.*

### 3.4 Program Income

- A. Program income is any funds received by the LPA from a HOME investment. In most homebuyer program circumstances, the program income will be derived from the repayment of HTFC note and mortgage used to secure the HOME investment. This typically occurs in the event of resale, prepayment, or repayment in the event of noncompliance or default, such as the homebuyer no longer residing in the property as principal residence.
- B. All program income, proceeds, unexpended funds, recaptured funds or other assets, interest income or other income deriving from funds provided pursuant to the program that are received by the LPA shall be returned to the HTFC.
- C. The LPA shall furnish financial records detailing all program income and must remit all program income to the HTFC within 30 days of receipt by the LPA.
- D. All program income must be reported on the quarterly report form.

### 3.5 Audit

- A. LPAs that expend more than \$750,000 in federal funds (not limited to HOME) are subject to the audit requirements at 2 CFR 200.501-.512 (formerly A-133.).
- B. The LPA must notify HTFC within 60 days of the end of its fiscal year whether or not if it is subject to this requirement using the Federal Assistance Expenditure Form available on the HCR HOME Program website.

### 3.6 Contract Closeout

- A. A contract is eligible for closeout when:
  - i. All program funds for HOME assisted units have been disbursed.
  - ii. All units have been reported as completed in IDIS.
  - iii. All required reports have been submitted, except for the most recent audit if it is not yet due.
- B. Any program income funds on hand at closeout have been returned to the HTFC.
- C. Due to federal HOME program commitment and expenditure requirements, the HTFC reserves the right to de-obligate committed HOME funds for non-compliance with the terms of the contract. All remaining program funds not expended at contract close out will be de-obligated and reallocated for future HOME eligible activities according to the State's Action Plan.
- D. The LPA is required to maintain all program files and documentation, including financial information, for a period of at least five years after the close out of the contract and throughout the POA.
- E. The LPA shall comply with HOME Local Program project close out procedures and verify the grant is 100% complete with all required project completion reports and single audits have been submitted.
- F. The LPA must have been monitored with all monitoring findings resolved.
- G. HTFC will issue a close out letter to the LPA detailing that the project is complete.
- H. HTFC will officially close out the contract and de-obligate any remaining unexpended HOME funds.

## 4 Homebuyer Properties with Rental Units

**NOTE: This Chapter applies only if the LPA is going to assist buyers to purchase properties that contain rental units, that is, a two-family, three-family or four-family homebuyer occupied property.**

- A. While the primary purpose of Homebuyer Assistance programs is to help low income buyers purchase homes for their own occupancy, funds may also be used to assist with the purchase of a 2-4 unit property where the homebuyer will occupy one of the units.
- B. If rehabilitation is required, HTFC prefers a “whole house” approach to rehabilitate all units and common areas in an owner-occupied property. If the owner’s and all rental units qualify for HOME assistance, then all units should be HOME assisted as a single undertaking. See Chapter 5.
- C. Assisted rental units are subject to the HOME occupancy, affordability and lease up requirements described in this Addendum.
- D. 2 – 4 unit owner-occupied properties may not be assisted if this Section to the Administrative Plan is not completed and approved by HTFC.

### 4.1 Cost Allocation & Determination of Assistance to Rental Unit(s)

- A. If funds other than HOME funds are used to assist the project, the LPA must determine if the HOME assistance is being used in the homebuyer’s unit, the rental units or both via cost allocation.
- B. The LPA must complete the Cost Allocation Worksheet for Homebuyer Projects with Rental Units attached in Section 4.9.1.
- C. If HOME pays for all costs associated with the project, or if cost allocation is not conducted, it is assumed that all units are HOME-assisted and subject to HOME requirements.

***Q43. If other non-HOME funds are to be provided and not all units in the property will be HOME-assisted, provide a description of how the cost allocation will be conducted.***

***N/A***

## 4.2 Property Eligibility

- A. HOME Maximum Purchase Price/after Rehab Value limit are published for 2 – 4 family units as well as single family. The limit applicable to the project unit count limit should be applied to the after-rehab value of the property for this determination of eligibility. The limits are available at: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>. All other details covering property eligibility and determination of after rehab value are covered in Section 2.5.2 **Error! Reference source not found.**

## 4.3 Homebuyer Underwriting

- A. The LPA must ensure that the property will be sustainable for the homebuyer throughout the POA. If amortizing loan funds are being used for any part of the rehabilitation, the LPA must underwrite the homebuyer to determine that the owner can afford to sustain ownership, and determine the revenue associated with any rental units is sufficient to pay the operating and maintenance costs of the rental units. If only HOME funds are being used for the rehabilitation, the LPA should review existing debt and financial obligations are manageable for the owner.

***Q44. Describe how the LPA will determine that the owner can sustain the ownership and operation of the property, including the rental unit(s).***  
***N/A***

## 4.4 Rental Unit Requirements

- A. If HOME funds are also used to assist the low-income homebuyer to rehabilitate one or more of the rental units in the single-family housing, the affordability requirements of § 92.252 apply to assisted rental units for the POA, including:
- i. Low income occupancy – at or below 80% of AMI;
  - ii. Tenant income eligibility certification
  - iii. HOME rent limits & utility allowances
  - iv. HOME lease provisions in §92.253
  - v. Maintenance of the rental units to §92.251 property standards.

- B. These requirements are imposed for the POA, and enforceable through the HTFC Note and Mortgage with the Rental Unit Addendum.
- C. If it is determined that HOME funds are NOT used to rehabilitate rental units, a cost allocation must be on file to back up this conclusion and the above requirements are not applicable.

**Q45. Describe how the lease form will be reviewed for compliance with HOME requirements.**

**N/A**

**Q46. Describe how initial rents will be approved.**

**N/A**

#### 4.4.1 Tenant Income Eligibility

- A. All tenants assisted must be under 80% of median income as defined by HUD HOME income limits posted at: <https://www.hudexchange.info/manage-a-program/home-income-limits/>.
- B. Existing tenants must be certified as income eligible prior to commitment of the funds to the project. New tenants for vacant units must be certified as income eligible prior to lease execution and occupancy.
- C. Income will be determined using the Section 8 or known as the Part 5 method, defined at 92.203(b). LPAs may use the HUD CPD Income Eligibility Calculator at: <https://www.hudexchange.info/incomecalculator/>.
- D. All income sources must have at least two months of source documentation (92.203(a)(2)).
- E. Income certifications must signed and dated by the LPA and the tenant.

**Q47. Describe how applicants will be screened and certified for income eligibility.**

**N/A**

#### 4.4.2 Written Agreement

- A. If the homebuyer is receiving HOME assistance to rehabilitate one or more rental units, the written agreement must include the Rental Unit Addendum included in Section 4.9.3.

#### 4.4.3 Note & Mortgage

- A. If rental units are assisted, the Note and Mortgage must include the Rental Unit Addendum as specified by HTFC.
- B. If the home is sold during the POA to another HOME eligible homebuyer, the note and mortgage terms may be assumed by the new HOME eligible homebuyer, including the Rental Unit Addendum provisions included in Section 4.9.4.

### 4.5 Initial Project Approval

- A. As noted in Section 2.7.3, HTFC must approve the initial project prior to set-up in IDIS and the initial project draw. This requirement applies to the first project with rental units, whether or not an initial project approval has already been conducted for a homebuyer assistance project without rental units.
- B. In addition to those items specified in Section 2.7.3, the information that must be submitted for the rental units is contained in the Initial File Submission Checklist - Rental Unit Supplement below, and also is available on the HCR HOME Program website.



**LPA Homebuyer Assistance  
With or Without Housing Rehabilitation  
Initial File Submission Checklist - Rental Unit Supplement**

**SHARS:** \_\_\_\_\_ **Project address:** \_\_\_\_\_

File	Submitted	HTFC Review Notes
<b>Part 1: Submitted at Project Setup</b>		
Executed rental unit addendum to written agreement		
Cost allocation		
Initial rent & utility allowance		
Tenant income certification & documentation – if existing tenant		
Lease form/addendum		
<b>Part 2: Submitted at Project Completion</b>		
Final unit inspection		
Tenant income certification & documentation – if not submitted at setup		
Executed lease/addendum		

\_\_\_\_\_  
LPA Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
HTFC Reviewer

## 4.6 LPA Eligible Administrative and Staff Costs of Project Delivery

- A. Eligible project costs are those permitted by the NYS HOME Local Program Budget Policy available on the HCR HOME Program website and as approved by HTFC at contract execution. Please review the policy for specific eligible and in-eligible costs.
- B. In addition to those project delivery costs listed in 1.1.8, and subject to the same limits, the LPA may incur staff costs of project delivery specifically for the rental units, including:
  - i. Determination of tenant selection requirements & rents;
  - vi. Completion of tenant income documentation and certification; and
  - vii. Development and execution of leases compliant with HOME requirements.

## 4.7 Recordkeeping

- A. In addition to program records listed in Section 1.6 and the project files listed in Section 1.8.1 **Error! Reference source not found.**, the LPA must maintain additional records specifically for each rental unit assisted with HOME funds. These items are summarized in the Rental Unit Supplemental File Checklist in Section 4.9.2, and also available on the website.

## 4.8 Project Monitoring – Rental Units

- A. In addition to the monitoring specified in Section 1.8, and for monitoring the rental units and maintaining records of monitoring and provision of appropriate documentation to HTFC.
- B. If rental units are part of a homebuyer project, the LPA must monitor the rental units for compliance through the POA, including the following activities:
  - i. Approve the rents annually, based on updated HOME rent limits and utility allowances, prior to the implementation of rent changes;
  - ii. Conduct (or review) tenant income recertification's during the POA (tenants self-certifications are permitted and source documentation is not required for recertification's);
  - iii. Approve new tenants (including full source documentation) and leases;

- iv. Conduct unit inspections to certify compliance with HOME ongoing property standards at 92.251 in the first year and every three years thereafter during the POA.

***Q48. Describe how ongoing rents during the POA will be approved.***

***N/A***

***Q49. Describe how tenant income re-certifications during the POA will be conducted and approved.***

***N/A***

***Q50. Describe how unit inspections will be conducted during the POA.***

***N/A***

## **4.9 Attachments**

4.9.1 Cost Allocation Worksheet

LPA Homebuyer Assistance With or Without Housing Rehabilitation  
 With Rental Units  
 Cost Allocation Worksheet

*\*\*Double click anywhere on the form below to add data fields.*

<b>Project Costs</b>						
Rehabilitation/Construction						
Site/infrastructure						
Hard costs						
Soft costs						
-----						
Total Project Costs	\$					
<b>Project Funds</b>						
HOME Funds	\$					#DIV/0!
Other Funds	\$					#DIV/0!
					HOME	Cost
		% of			assisted	allocated to
Units	Square Ft	Total SF	Unit Cost	(Yes/No)	unit	HOME
Owner's Unit	0	#DIV/0!	#DIV/0!	Yes		#DIV/0!
Rental Unit 1	0	#DIV/0!	#DIV/0!			-
Rental Unit 2	0	#DIV/0!	#DIV/0!			-
Rental Unit 3	0	#DIV/0!	#DIV/0!			-
-----						
Total Sq Ft	0				<b>Costs allocated to HOME units</b>	#DIV/0!

Are the costs allocated to the HOME units equal to or greater than the HOME funds in the project?

Yes  No  (if not, increase assisted units)

\_\_\_\_\_  
 LPA signature Date

4.9.2 LPA Homebuyer Assistance With or Without Housing Rehabilitation

**Rental Unit Supplemental File Checklist**

Property Address: \_\_\_\_\_ SHARS: \_\_\_\_\_

Project Files (for each project)	Check if in file	Date	Notes
<b>Project Documents</b>			
Executed rental unit addendum to written agreement			
Cost allocation			
Approved tenant selection plan			
Approved tenant lease/addendum			
Initial rent & utility allowance approved			
Completion inspection – HOME prop stds			
<b>Individual Tenant Documents</b>			
Tenant application			
Tenant income certification & source documentation			
Executed lease/addendum			
LBP disclosures (if pre-1978)			
<b>Ongoing Rental Monitoring</b>			
Annual rent/utility approvals			
Tenant recertification – annual			
Unit inspections 1 <sup>st</sup> year			
Unit inspections 3 <sup>rd</sup> year			

#### **4.9.3 Written Agreement Addendum for Rental Units**

The template addendum for the written agreement for homebuyers with HOME assisted rental units will be made available to LPAs at contract execution.

#### **4.9.4 Note & Mortgage Addendum for Rental Units**

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

## 5 Rehabilitation (Homebuyer and Rental Units)

**NOTE: This Chapter applies only if the LPA is going to assist buyers to purchase properties that require rehabilitation to meet program property standards.**

### 5.1 Rehabilitation Scope of Work & Cost Estimate (if applicable)

- A. All rehabilitation performed under this contract must be in compliance with HTFC Housing Rehabilitation Standards for One- to Four-Unit Structures, available on the HCR HOME program website.
- B. An addition was made to the standards in January 2016 pertaining to mold containing components. LPAs should refer to the HTFC HOME Local Memo "REV. 1.2016 Mold Requirements" added into the housing rehabilitation standards at Section VIII -Interior standards available on the HCR HOME Program website.
- C. HOME rules require that each of the major systems must have a remaining useful life for a minimum of 5 years. If not, the major systems must be rehabilitated or replaced as part of the rehabilitation work. Major systems include structural support; roofing; cladding and weatherproofing (e.g., windows, doors, siding, gutters); plumbing; electrical; and heating, ventilation, and air conditioning.
- D. LPAs must develop the scope of work based on the following construction order of priority:
  - i. Address Health and safety issues
  - ii. Address NYS State and/or Local Code violations
  - iii. Ensure major systems have a useful life of at least 5 years
  - iv. Include disaster mitigation standards as necessary
  - v. And in addition, when done in the overall scope to deliver a code compliant unit at completion, address special purpose needs such as weatherization and energy efficiency.
- E. 92.251(b) (2) requires a scope of work in sufficient detail to be the basis for inspection to determine compliance with rehabilitation and property standards. The LPA must

prepare a written cost estimate for rehabilitation, after determining that costs are reasonable.

**Q51. If housing rehabilitation is included, describe how the LPA will determine the order of priority for housing rehabilitation and if energy efficiency and/or weatherization measures will be incorporated into the scope of work.**

N/A

**Q52. Describe how the scope of work will be prepared, by whom and the per-unit cost to complete.**

N/A

**Q53. Describe how the cost estimate will be prepared, by whom and the per-unit cost to prepare.**

N/A

#### 5.1.1 Lead Based Paint (LBP)

- A. Housing Rehabilitation assisted with HOME (and other HUD or federal funding) is subject to the HUD LBP rule at 24 CFR Part 35. Rehabilitation is subject to the requirements at 35.900 - .930.
- B. All renovation is also subject to the EPA Renovation, Repair and Painting Rule at 40 CFR Part 745. Effectively, this means that rehabilitation work (other than work that must be done by abatement contractors) must be done by an EPA Renovator following HUD rules.
- C. Risk assessments (by an EPA certified Risk Assessor) are required for any rehabilitation project where the federal rehabilitation assistance is over \$5,000. Presumption of LBP in lieu of a risk assessment is not permitted. HTFC requires lead based paint testing of all areas to be rehabilitated.
- D. The results of the risk assessment must be incorporated into the scope of work.
- E. LBP clearance is required for all applicable housing rehabilitation. The HTFC will allow the LPA to charge the program for a single LBP clearance test. If it does not pass clearance the first time, the LPA or the contractor (per the agreement between the LPA and contractor) must pay for all subsequent clearance testing.



**Q54. Describe the per-unit cost, how a risk assessment will be obtained and who will perform it.**

N/A

### 5.1.2 Energy Audit Requirements

- A. HTFC requires an energy audit be conducted for each house that includes housing rehabilitation to identify energy-related improvements that can be incorporated into the scope of work.
- B. The HTFC requires the LPA to certify at project completion that the energy efficiency measures, as recommended in the energy audit, have been incorporated into the scope of work, to the best of ability.

**Q55. Describe in detail how the LPA plans to ensure energy efficiency and/or weatherization measures are incorporated into the scope of work.**

N/A

**Q56. Describe weatherization partners that may provide assistance to the program.**

N/A

**Q57. Describe other additional methods to be taken to ensure energy efficiency measures are incorporated into the housing rehabilitation (such as choice of heating systems and lighting).**

N/A

## 5.2 Procurement

- A. The LPA is considered the "procurer" (i.e., it effectively controls the decision of who gets the contract) and the procurement requirements of 2 CFR 200.318 - .326 apply. (The combined Omni-Circular replaces Parts 85 and 84 circulars.)
- B. The LPA must receive a minimum of 3 bids for all procured projects to be paid with HOME funds and may select the lowest, responsible bid. LPASs must ensure an adequate level of competition in bidding to establish cost reasonableness.

**Q58. If applicable, describe how the LPA will procure contractors.**

N/A

**Q59. If applicable, describe how the LPA will ensure contractors are not debarred from working on HUD funded projects?**

N/A

**5.2.1 Required Construction Contract Provisions**

- A. Required contract provisions are attached to 2 CFR Part 200 as Appendix II.
- B. A contract must be executed with each contractor providing services.
- C. The LPA, homebuyer and contractor must be signatories to the contract.
- D. The LPA may should be a third party to the contract able to approve payment and mediate disputes.
- E. Bonding is not required for contracts under \$150,000.
- F. LPAs must hold back a minimum 10% of the final payment to the contractor until after final completion of construction work and all required documentation has been submitted.
- G. The homebuyer, LPA and the contractor must have signed off that the work has been completed satisfactorily and meets all NYS HOME Local Program property standards requirements.
- H. LPAs must require that all contractors sign a release of lien form for all construction activity completed and paid for with HOME funds.
  - a. LPAs should refer to and review the HOME Local Program Section 3 Participation Plan available on the HCR HOME Program website when responding to the questions below.

**A. Required HOME contract provisions:**

- i. Labor Standards: Davis-Bacon is only for construction contracts of 12 or more HOME-assisted units.
- ii. Section 3 requirements for individual contractors are triggered at \$100,000.
- iii. MWBE: All contractors should be encouraged to utilize minority and women owned business enterprises. Section 3 and MWBE reporting forms are available at: <http://www.nyshcr.org/Forms/FairHousing/>.

**Q60. Describe how the LPA will comply with federal and State MWBE requirements.**

N/A

**Q61. Describe how the LPA will comply with federal Section 3 requirements.**

N/A

### **5.3 Project Commitment and Set Up**

- A. As noted in Section 2.7.2, a project commitment can be made only when the rehabilitation contract has been let (as described in Section 5.2) and the work is scheduled to start immediately after purchase by homebuyer.

### **5.4 Construction Management**

- A. HOME rules require progress and final inspections to determine that work was done in accordance with the work scope and contract and required property standards. All progress and final payments to contractors must be signed off by the LPA construction professional, homebuyer and the contractor, if applicable.
- B. If Lead based paint (LBP) is present, any hazard control work must be cleared according to the requirements of Part 35.
- C. The final inspection must certify completion of the scope of work and that the property meets NYS and/ or Local Code. The inspection must be performed by an independent NYS Code certified inspector. Documentation of this inspection must include a signed and dated report from the inspector documenting the property meets the above requirements.

**Q62. Describe the progress and final inspection procedure.**

N/A

**Q63. Describe the LBP clearance procedure and when it will be completed.**

N/A