



## Homes and Community Renewal



# New York Main Street Program Guide

# New York Main Street Program Guide

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## I. INTRODUCTION

The New York Main Street program (NYMS) is administered by the Office of Community Renewal (OCR) under the direction of the Housing Trust Fund Corporation (HTFC). HTFC contracts with NYS Homes and Community Renewal (HCR) to administer the Corporation's activities and manage its affairs. Article XXVI of the Private Housing Finance Law defines the objectives and requirements of the New York Main Street program.

NYMS provides funds to stimulate reinvestment in properties located within mixed-use commercial districts located in urban, small town, and rural areas of New York State. NYMS is a comprehensive grant program that provides funding for local revitalization efforts and technical assistance to help communities build the capacity required to grow their downtown or neighborhood retail district.

HCR contracts with eligible not-for-profit organizations and municipalities to act as Local Program Administrators (LPAs). Throughout the administration of a NYMS program, an LPA must be mindful that it is responsible for compliance with all applicable NYMS program requirements. OCR has developed the following Program Guide to outline NYMS program rules and procedures to assist Recipients with the administration of their grant.

This manual is one of the main resources for the successful administration of a NYMS project. OCR staff members are also committed to working with grantees to prevent or correct issues of non-compliance and assist throughout the administration of a NYMS grant.

NYMS program rules and requirements have changed since program inception. This Program Guide serves as a manual for administrators of NYMS grants from several different funding years with different program rules and requirements. Please refer to the rules applicable to the grant funding year by referencing the Funding Round Rules & Requirements Summary table at the end of this Program Guide.

## II. PROGRAM DESCRIPTION

A holistic approach to Main Street revitalization that involves aesthetics, business creation/retention, and housing will lead to healthy and economically vibrant communities. A combination of capacity and capital is needed to revitalize Main Streets across the state. The NYMS program is designed to help address these needs.

Successful local NYMS programs involve residents, governments, businesses, and property owners. Coordinated program implementation involves planning for contextually-appropriate design; following a coordinated outreach and communication strategy to publicize activities; implementation of an effective business strategy to recruit appropriate businesses; and measuring and evaluating progress in meeting established goals.

Housing is a key component in any successful main street revitalization. Affordable, marketable housing in upper-floor spaces and on adjacent streets helps to strengthen the social and economic vitality of the business district. Assisted buildings are not required to include both residential and civic or commercial spaces; however, applications should propose a comprehensive approach to strengthen both the commercial and residential sectors by including a mix of residential, commercial, and civic buildings.

The NYMS program provides resources to assist New York communities with Main Street and downtown revitalization efforts. NYMS provides funds to stimulate reinvestment in mixed-use (commercial-civic-residential) “main street” buildings or neighborhoods to:

- Foster small business development, thereby providing economic opportunities and promoting economic activity in traditional downtown or neighborhood business locations;
- Expand affordable housing opportunities in mixed-use districts, including accessible upper floor units;
- Increase the capacity of local government and community-based not-for-profit organizations to undertake community renewal programs at the local level and market the district to prospective businesses and residents;
- Facilitate an effective planning process that ensures that capital investments of public funds will enhance the aesthetics and economics of the commercial district through appropriate design that respects the historic architecture of the target area;
- Preserve significant or historic buildings and provide an environment that attracts new investment to enable the adaptive reuse of these buildings for new Main Street enterprises;
- Address issues of code enforcement, energy efficiency, Americans with Disabilities Act (ADA) compliance, and fair housing to bring vacant commercial space into code compliance, so that it can be utilized by new businesses.

### III. PROGRAM ELIGIBILITY

#### A. Eligible Applicants

To be eligible, applicants must be either a unit of local government or an organization incorporated under the NYS Not-for-Profit Corporation Law that has been providing relevant service to the community for at least one year prior to application.

##### 1. Not-for-Profit LPA Boards and Activities

The Board of Directors of the not-for-profit LPA should be representative of the residents and other public and private interests of the area being served.

Elected officials serving at or above the state level may not serve on the board of the LPA, unless that participation is otherwise mandated by federal or state statute. No member of a political party's executive committee, at any level, shall serve on the board of the LPA. In urban areas, chief executive officials and members of local legislative bodies are prohibited from serving on LPA boards. In all cases, elected officials should constitute less than half of the board of the LPA.

#### B. Eligible Target Areas

The NYMS program is a statewide community development program. A NYMS program target area should be an established mixed-use (commercial, civic and residential) "Main Street" or downtown retail district that is pedestrian-oriented and comprised of traditional mixed-use buildings.

Applicants are encouraged to identify concentrated and well-defined Main Street areas to maximize the impact that the local program will have on the community. Appropriate NYMS program target areas are generally no more than three contiguous blocks. There is a preference for funding proposals where contiguous buildings will be assisted, maximizing the impact of the investment. OCR will, however, consider proposals that will assist two or more non-contiguous program districts. To be considered for more than one target area, an applicant must demonstrate that it has the capacity to administer such projects and that the service area proposed is not so broad that it diminishes program impact.

Article XXVI of the Private Housing Finance Law indicates that an eligible target area shall mean an area:

- (i) that has experienced sustained physical deterioration, decay, neglect, or disinvestment;
- (ii) has a number of substandard buildings or vacant residential or commercial units;

**and** (iii) in which more than fifty percent of the residents are persons whose incomes do not exceed ninety percent of the area median income for the county or metropolitan statistical area (MSA) in which the project is located, **or** which is designated by a state or federal agency to be eligible for a community or economic development program.

CDBG eligible census tracts, those with an LMI % greater than 50%, meet the third criterion of the eligible target area definition. A mapping tool available online allows a user to search by address to locate the LMI % for a census tract:

<http://www.arcgis.com/home/item.html?id=9642c475e56f49efb6e62f2d8a846a78>

Areas within a Neighborhood Preservation Company (NPC) or Rural Preservation Company (RPC) also meet the third criterion of the eligible target area definition. Service area descriptions are available online, here:

<http://www.nyshcr.org/Programs/NPP/HousingOrgs.htm>

Target area eligibility must be based on the specific target area that will be assisted by the NYMS program. Eligibility must be presented using relevant, current, and verifiable data, including but not limited to, the most recent Census data pertaining to the target area, [www.census.gov](http://www.census.gov). Applications that fail to present a clear, eligible target area will be deemed ineligible.

## **C. Program Activities**

### **1. Downtown Anchor Projects**

Applicants may request Downtown Anchor Project funds to support a standalone, single site, “shovel ready” renovation project. Downtown Anchor Projects typically involve substantial interior and/or exterior building renovations.

Anchor Project funds are intended to help establish or expand cultural, residential or business anchors that are key to local downtown revitalization efforts. Applicants are required to present a business plan and market analysis to demonstrate the viability and sustainability of the project, and to support the larger investment in a single property.

### **2. Target Area Building Renovations**

Applicants may request funds to assist property owners within a concentrated target area. Upon award, matching grants may be provided to selected property owners for exterior facade and storefront renovations or interior renovations for commercial or residential units.

#### **a. Streetscape Enhancement**

Streetscape enhancement funds may be requested to complement a Target Area Building Renovation program. An applicant may not request streetscape funds as a standalone activity, or with a Downtown Anchor Project.

Streetscape enhancement funds may be used for activities such as: planting trees; installing street furniture and trash receptacles; providing appropriate signs in accordance with a local signage plan; and performing other activities to enhance the NYMS program target area.

### **3. Administrative Funds**

LPAs may include NYMS Administrative funds in the proposed program budget at the time of application. The budgeted NYMS Administrative funds shall be only for payment of reasonable administration and planning costs related to a NYMS contract. Allowable uses of Administrative funds include salaries and related costs associated with the administration of the grant, including consultant expenses, or equipment and supplies used exclusively for the NYMS program.

If an LPA intends to use NYMS Administrative funds to hire another organization, or independent consultant to administer the NYMS contract, the LPA must receive and review at least two proposals to establish a reasonable cost. If the LPA chooses other than the lowest bidder for grant administration services, reimbursement will not exceed the amount of the lowest bid. The LPA's procurement process must also be consistent with established organizational procedures, and must be clearly documented in the project files. In addition, the LPA must enter into a formal contract with the selected consultant, outlining roles and responsibilities and ensuring compliance with the terms and conditions of the NYMS Grant Agreement and all applicable rules, regulation, policies, and procedures.

#### **4. Soft Costs**

Professional service costs, or "soft costs," that can be attributed directly to the delivery of the renovation activities may be eligible expenses. These expenses must be reasonable and necessary for the completion of a building renovation project. Soft costs must be included in the proposed program budget at the time of application, and cannot duplicate administrative expenses. In-kind staff time is not eligible for reimbursement with NYMS program funds as soft costs.

- Soft cost must be included within per building activity funding limits, and may not exceed 18% of the NYMS funds for the project.
- These expenses require matching funds, and in-kind match is not eligible.
- Invoices and proof of payment will be required to request reimbursement for soft cost.
- Costs incurred for work on buildings that eventually prove infeasible and do not receive other investments will not be reimbursed with NYMS funds. Therefore, reimbursements for soft costs may not be requested as part of a partial payment prior to project completion.

#### **D. Match / Leverage of Funds**

Investments of NYMS funds in eligible building activities must be matched by other funds. Any funds provided to administer the program or to support program activities beyond the required match amount are considered leveraged funds. The availability of funds to an LPA may increase the likelihood that an initial application will be funded.

- Match requirements must be realized on a building-by-building basis.
- Applicant must demonstrate that it will secure sufficient resources to administer the proposed Main Street program.

##### **1. Sources of Eligible Match or Leveraged Funds**

- Federal or state community development or economic development programs, may be eligible sources of matching funds. Coordinating applications with other programs is encouraged. These sources may be considered leveraged funds for application review purposes if the funds are committed at the time of application.
- The required match may come from the building owner and/or other public funds. Building owners may take out a loan for construction financing and the match. The equity of a property that is free and clear of a mortgage obligation can be considered



as a cash match, only if funds are borrowed against the equity from a financial institution and used in the renovation.

- Applicants are encouraged to consider energy efficiency programs through NYSERDA or HCR's Weatherization Assistance Program if affordable residential units will be part of a NYMS project. Energy efficiency programs, such as NYSERDA or HCR's Weatherization Assistance may be eligible matching funds.
- Professional service costs, or "soft costs," incurred such as architectural services, are recognized matches, provided they are reasonable, sufficiently documented, and related to a specific building project. Two cost estimates or bids are required for all professional services.
- The award or contract date of the matching funds does not impact its eligibility as match if the matching funds are expended on the NYMS renovation projects after the execution of the NYMS grant agreement. Any funds expended before the execution of the grant agreement will not be eligible as match.
- Acquisition is not an eligible use of program funds and not an eligible source of match.

## IV. GRANT AGREEMENT

The Grant Agreement is the legal document that governs the relationship between the NYMS grant recipient (LPA) and the Housing Trust Fund Corporation (HTFC). An LPA must ensure it has a clear understanding of all NYMS program rules and regulations. The sole responsibility of compliance lies with the LPA. The period of performance for a NYMS contract is twenty-four months.

### A. Grant Agreement Exhibits / Schedules

- **Awarded Budget & Projected Accomplishments**

The first contract schedule is a summary of the proposal included in the LPA's application for funding. The proposed activities, target area, budget, and estimated units assisted are included on this schedule. LPAs must work within the identified target area and budget and endeavor to meet the proposed unit goals.

- **Administrative Plan**

The Administrative Plan provides an overview of the processes required to administer a NYMS program contract. LPAs are required to supplement the identified processes to develop a local NYMS program. The supplemental procedures must ensure transparency and compliance with the NYMS contract. For reference, a copy of the NYMS boilerplate Administrative Plan is available on the OCR website:

<http://www.nyshcr.org/Forms/NYMainStreet/AdminPlanTemplate.pdf>

### B. Grant Agreement Processing

Each Grant Agreement provision is legally enforceable and designed to clearly identify the obligations of both HTFC and the LPA. NYMS Awardees will receive two copies of the Grant Agreement with Schedules and supplemental documents. LPAs will be required to prepare and return the following:

- Two original signed copies of the Grant Agreement.
- Proof of adequate insurance, including: comprehensive general liability insurance coverage; automotive insurance; workers compensation and disability insurance.
- Forms related to payments including: Authorized Signatory form and Designation of Depository Forms.
- MWBE Utilization Plan
- Equal Employment Opportunity (EEO) Employment Report
- Not-for-profit LPAs must also submit a copy of the organization's Certificate of Incorporation and filing receipt.

After the Grant Agreement is fully executed, one copy will be returned to the LPA.

## **V. PROGRAM ADMINISTRATION**

LPAs assume responsibility for: ensuring successful completion of all assisted projects; evaluating and selecting activities to be supported; entering into contracts with participating property owners; and assuring compliance with all local, state and federal laws and regulations. OCR encourages collaborative efforts between municipalities and local not-for-profits to achieve the goals and objectives of this program.

### **A. First Steps**

#### **1. Overall Administrative Structure**

The LPA must make a formal determination of how the administration of the NYMS program will be integrated into its existing organizational structure. The LPA should designate each individual who will be involved in the grant administration process, including any officials who will be authorized to sign requests for NYMS funds. It is a good practice to develop and provide a list to an Office of Community Renewal representative, with names, titles, telephone and fax numbers, email addresses, and a brief description of staff responsibilities related to administration of the NYMS contract. This list should include an Executive Director, Board Member, the LPA's financial officer, and consultants or any additional involved staff. The LPA must notify OCR of staffing changes that impact the administration of a NYMS grant.

#### **2. SEQR**

Prior to the commitment or expenditure of NYMS program funds, the environmental effects of each activity must be assessed in accordance with the State Environmental Quality Review Act (SEQR).

LPAs must first submit the New York Main Street Program Environmental Compliance Checklist and Program Description Form, and develop appropriate, program-specific environmental review procedures. Both forms, as well as a step-by-step guide, the Environmental Compliance Checklist Handbook, are available on the Office of Community Renewal's website: <http://www.nyshcr.org/Forms/NYMainStreet/>

After the HTFC Environmental Analysis Unit (EAU) has reviewed the completed Environmental Compliance Checklist and Program Description Form, the LPA will receive a determination letter that provides guidance on how to proceed. The LPA will then be responsible for performing and documenting the program's specific environmental review procedures for each building project or other activity undertaken by completing a building specific Environmental Compliance Checklist. The building specific or activity specific checklists must be submitted to OCR with Project Set ups to formally commit NYMS program funds. The designated representative from OCR will also review compliance with these procedures at the time of the program monitoring visit.

#### **3. Accessing Funds**

##### **a. Forms**

Two forms must be completed and submitted to OCR to establish the procedure for requesting and receiving NYMS funds. Awardees must submit these forms with the original signed Grant Agreements, and provide updates throughout the term of

grant administration in the event of staff changes. The forms and instructions for completing the forms are available on OCR's website: <http://www.nyshcr.org/Forms/NYMainStreet/>

- **Authorized Signature Form**

The LPA must complete the Authorized Signature Form to designate the representative(s) authorized to sign disbursement requests. For example, a board member may authorize the executive director or fiduciary staff member to sign disbursement requests. To maintain effective internal controls, the OCR suggests that the person responsible for preparing paperwork for disbursement requests should not also be authorized to sign disbursement requests. Please contact an OCR representative for additional guidance. The LPA must submit a revised Authorized Signature Form if staffing changes impact the signatories identified.

- **Designation of Depository Form**

LPAs must submit the Designation of Depository form to designate a bank account to receive NYMS funds directly from HTFC. Once the LPA has completed projects with expenses eligible for reimbursement, and submitted the required paperwork with supporting documentation, HTFC will transfer funds to the LPA's designated account through an Automated Clearing House (ACH), i.e. direct deposit, procedure.

**b. Commitment of NYMS Funds**

LPAs must submit a NYMS Project Set up form to reserve, or formally commit, funds for each project. This Project Set up process first requires a commitment at the local level to the project, State Historic Preservation Office (SHPO) clearance of the project, and completion of a building specific environmental compliance checklist. LPAs should refer to the NYMS Commitment & Disbursement Procedures for detailed instructions on the Project Set up process:

<http://www.nyshcr.org/Forms/NYMainStreet/>

**c. Disbursement Process**

- The NYMS program operates fully as a reimbursement program and payment will be made only upon satisfactory completion of building projects.
- Requests for progress payments will be considered based on demonstrated need and upon written request. Prior approval is required. A request must outline a proposed payment schedule.
- OCR will make payments to LPAs through an automated deposit system, which is usually completed within 2-3 weeks from the time of the request. Incomplete paperwork or insufficient supporting documentation will delay payments.
- To substantiate work costs, LPAs must provide copies of work write-ups, invoices for materials and labor, cancelled checks, lien releases, and any other documents deemed necessary by OCR to maintain effective internal controls. LPAs must clearly communicate the necessity of this documentation to the

participating building owners and contractors prior to the start of construction. Cash payments will not be reimbursed.

- By contract, all NYMS funds paid to the LPA for building renovation projects must be disbursed to the property owner within five business days of receipt.
- The NYMS LPA Commitment & Disbursement Instructions provide detailed instructions for preparing a disbursement request. The document is available online, here: <http://www.nyshcr.org/Forms/NYMainStreet/>

## **B. Administrative Plan Processes**

The Local Program Administrator must follow the processes identified in the Administrative Plan included as part of the NYMS Grant Agreement. LPAs are required to supplement the identified processes to develop a local NYMS program.

### **1. Program Development**

#### **a. Marketing the Program**

The Local Program Administrator (LPA) shall conduct outreach in the awarded target area to make all property owners aware of the availability of financial assistance through the New York Main Street (NYMS) program.

- The LPA will develop and distribute informational materials to market program availability and explain program requirements. These will be distributed to property owners in the target area and made available for distribution by local governments, libraries, chambers of commerce, business associations, and other local partners.
- Instructions on how to apply for assistance and required forms will be available at the offices of the LPA and other local partners.
- Public informational meetings will be held at one or more locations within the community to present information and answer questions.
- The LPA must retain distribution lists, public notices and other documentation of marketing and outreach efforts in program files.

#### **b. Project Selection**

- The LPA must develop and formalize project selection criteria and a clear project selection process. This process must be used consistently throughout the term of the NYMS contract.
- The LPA must identify a Project Selection Committee to implement the project selection process and generate funding decisions. The Committee should include a diverse group with relevant experience.
- Project selection criteria must afford priority to:
  - Projects that are visually prominent on Main Street.

- Projects that include renovation of upper story residential units.
  - Projects with historic value or historic properties in danger of being lost in part or in total to disrepair or damage.
  - Projects that with the assistance of grant funds will reduce blight, contribute to the economic recovery of the target area, or realize a stabilization or expansion of a Main Street business.
- The LPA should develop local project selection criteria to supplement the priority project selection criteria required by the NYMS grant agreement. These review criteria should be developed to prioritize projects that meet the goals and accomplishments proposed by the LPA at the time of application.
  - The LPA will advise applicants on the disposition of an application within 30 business days of the submission of a complete application.
  - It is imperative that LPAs clearly document each project selection committee decision in the program files. This must include an eligibility determination for each application reviewed, and a justification for each project selection decision. This documentation should include project review or scoring memos, Project Selection Committee meeting minutes, board approval of projects or other related correspondence.

i. Municipal and Civic Buildings

NYMS funds can be used to assist civic buildings, such as museums, cultural centers, performing arts centers, and libraries, if the property is owned or operated by a not-for-profit corporation.

NYMS funds cannot be used for renovations to municipally owned and operated buildings. If a building is owned by a municipality and has a formal agreement, structure, or lease with a not-for-profit organization or business for use of the building, the not-for-profit or the business can apply to the LPA for NYMS funds following the conditions identified under Commercial Tenant Participation in this Program Guide.

An agreement between the municipality and tenant for the required regulatory term will be required, and the LPA must receive approval from OCR prior to approving these projects for award.

ii. Projects in Progress

Projects in progress are eligible for NYMS funding if the work has been approved under the State Environmental Quality Review Act (SEQR) and the New York State Historic Preservation Office (SHPO).

However, NYMS funds cannot be used to substitute for other committed funding and the applicant must show that without NYMS funding the proposed project could not be completed.

NYMS funds may only be requested for reimbursement for eligible program costs incurred pursuant to the NYMS grant agreement. Costs incurred prior

to the effective date of the NYMS grant agreement are not eligible for reimbursement and not eligible as a match.

iii. Conflict of Interest

All LPAs must have a formal, written Conflict of Interest policy. At a minimum, the policy should outline which parties are covered and what measures will be taken to allow eligible parties access to program benefits while avoiding actual and perceived conflicts of interest.

- Municipal LPAs must adhere to Article 18, “Conflicts of Interest of Municipal Officers and Employees,” of the NYS General Municipal Law.

- Not-for-Profit Organization LPAs

*Building owned by LPA*

A not-for-profit LPA may allocate funds to improve a property that it owns under certain circumstances. The allocation must be consistent with the selection procedures described in the Administrative Plan. There must be a public disclosure in the pertinent community of this activity and funding determination, and it must be necessary to carry out the Main Street program or project proposed.

*Building owned by Board Member*

It may be permitted for a not-for-profit LPA to allocate funds for a property owned by a member of its board. The allocation must be consistent with the selection procedures described in 1.b. Project Selection, as well as in the written supplemental procedures. The allocation must also be consistent with the organization’s adopted bylaws or other policies and the material facts of the potential conflict of interest must be disclosed to the not-for profit board. The board must authorize this project selection and contract by a vote sufficient for such purpose, without counting the vote of the interested board member. The board member whose property may receive assistance may not vote on or participate in discussions concerning that matter. This vote must be clearly documented in the board’s meeting minutes. LPA must request prior approval from OCR.

## 2. Project Development

### a. Work Write-up / Scope of Work

Once a project application has been selected for assistance, the LPA will meet with the property owner to develop a scope of work and initial estimate of costs. The LPA will explain program requirements related to design, environmental hazards, energy efficiency and other required work scope items.

A formal written scope of work is a NYMS program requirement. The scope of work for participating projects must address:

- Immediate health and safety concerns;
- The correction of existing code violations;
- Environmental hazards as described in the program environmental compliance checklist.

- Installation of energy conservation measures;
- Improvement of accessibility for persons with disabilities;
- Consistency with any other local program design guidelines; and
- Preservation of historical elements of the building.

The LPA is responsible for coordinating work write-ups with local code officials, the State Historic Preservation Office, and other regulators. If needed, additional experts must be consulted. Both the LPA and the property owner must sign-off on the formal scope of work before the LPA may seek bids for the work.

The property owner will be responsible for paying for all agreed upon repairs, but the LPA will not reimburse more than the costs identified as available per building for the funding year. Reimbursements will be issued only upon satisfactory completion of all work as described in the written scope of work. Satisfactory completion will be determined by the LPA.

i. Lead-Based Paint Hazards

Lead-based paint is a serious health threat. Federal law has prohibited the use of lead in residential paints since 1978, but thousands of structures built in New York State prior to 1978 contain lead-based paint. HUD has required safe work practices in HUD funded housing rehabilitation activities since 1999. In 2010, EPA regulations went into effect extending a minimum level of safe work practices to all residential renovations, whether or not federally funded. While NYMS is not subject to HUD regulations, and the EPA regulations apply only when residential units are renovated, the State of New York has a compelling interest in protecting all of its residents from lead dust that may be generated by state-funded rehabilitation activities. As it funds the renovation of buildings on main street and commercial centers, the New York Main Street Program can reduce the hazards of lead-based paint, for the workers doing the rehabilitation and families that live in the renovated buildings.

Consequently, OCR has extended the EPA renovation requirements to NYMS rehabilitation activities, and is extending extra protections based on HUD requirements for residential units that are undergoing significant renovations.

The objectives of the New York State Main Street Program lead-based paint policy are to:

- Comply with the EPA Renovation, Repair and Painting rule.
- Ensure and document that NYMS-funded rehabilitation work does not create or contribute to LBP hazards.
- Provide lead-safe residential units to tenants where significant in-unit renovations occur.
- Protect residential occupants of any mixed-use pre-1978 building undergoing rehabilitation, particularly at-risk households with pregnant women and children under the age of 6.



The NYMS Lead Based Paint Policy applies to all interior residential renovation projects, and exterior projects that impact window openings into residential floors. Contractors performing renovation, repair and painting projects that may disturb lead-based paint must be EPA certified and must follow specific work practices to prevent lead contamination. NYMS funded rehabilitation projects must adhere to the NYMS Lead Based Paint Policy outlined in [Section VIII of the Program Guide](#).

Local Program Administrators are responsible for ensuring compliance with the NYMS Lead Based Paint Policy, and documenting compliance with the Policy.

ii. Wage and Hour Provisions

New York State labor laws may impact activities supported by New York Main Street program funds. It is the responsibility of the NYMS Local Program Administrator to fully understand and comply with the requirements of labor laws that impact the activities supported by NYMS program funds.

If the project includes public work contracts covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, a contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by HTFC of any approved sums due and owing for work done upon the project.

iii. Accessibility Compliance

The LPA must ensure that projects comply with the Americans with Disabilities Act (ADA) and the Rehabilitation Act. Refer to Titles II & III of the ADA, and their associated regulations, and Section 504 of the Rehabilitation Act. Qualified staff must attest to compliance with these regulations for all NYMS-funded projects.

iv. Design

The LPA will develop design guidelines for exterior renovations if the municipality in which the project is located does not already require participating renovation projects to undergo an architectural or design review process. These guidelines will be consistent with the requirements of the State Historic Preservation Office, Housing Trust Fund Corporation, municipality in

which the project is located and the LPA. The LPA will enforce the standards throughout the development process.

LPAs must consider design while developing a participating building's scope of work. The goal is to respect the original building design while maintaining consistency with the overall design of the Main Street area. Historic renderings, old photographs, and postcards may be useful in developing a design for the renovation project.

The Secretary of the Interior's Standards for Rehabilitation (Standards) provide extensive guidance on working effectively with historic buildings and adapting historic buildings for modern uses. Issues such as window replacement/repair, siding replacement, and masonry repair are fully addressed by the Standards. The Standards provide LPAs with valuable and appropriate repair guidance and design inspiration. The Standards are available online on the U.S. Department of the Interior's National Park Service website: <https://www.nps.gov/tps/standards/rehabilitation/rehab/stand.htm>

The NYMS program does not require full architectural drawings for every participating building's renovation. An LPA may, however, determine that detailed plans or drawings are required when a scope of work includes reconstruction of structural elements.

When NYMS funds are used in the rehabilitation or construction of residential units, HCR/HTFC design standards are recommended.

v. State Historic Preservation Office (SHPO) Review

Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law of 1980 requires publicly-funded projects to be reviewed for their potential impact/effect on historic properties. LPAs must submit building information and proposed project scopes of work for each participating project to the New York State Office of Parks, Recreation and Historic Preservation (OPRHP or SHPO) for review. This review is required for all NYMS funded projects: interior building renovations, exterior building renovation and streetscape activities.

OPRHP review will require photos of the building, a map locating the building in the community, real property information, and the full proposed project scope of work. LPAs and property owners cannot segment the NYMS scope of work from the full renovation plan and provide only a portion of the project for OPRHP review. OPRHP must be provided with the full project scope of work.

OPRHP will first make a determination of whether the property is currently listed, or is eligible for listing, on the National Register of Historic Places. Following that, OPRHP will determine if the proposed scope of the project will have an effect on significant historic or cultural resources. If OPRHP determines the proposed project will not adversely impact historic or cultural resources, a letter will be sent to the LPA advising of this determination.

OPRHP may follow up with the LPA to request additional information, or issue a conditional clearance for the project. In the event that OPRHP issues conditions, recommendations will be provided to advise the LPA of the required alterations to the project scope of work.

OCR will not commit NYMS program funds without a copy of a building-specific environmental checklist including a copy of the OPRHP clearance letter. Please note that LPAs must also obtain an OPRHP clearance letter for streetscape projects.

The required submission forms and a SHPO Project Submission Guide explaining the review process are available on the NYMS program web site: <http://nyshcr.org/Forms/NYMainStreet/>.

vi. Scope of Work & Project Development Considerations

- Projects including NYMS funds must produce a finished commercial or residential space, ready for occupancy. NYMS funds will be disbursed only for completed projects. Work can be completed on part of a building, leaving another part unfinished as a holdover for future use, provided that the project can be completed in compliance with all applicable codes and ordinances, and the unfinished space does not present a hazard to occupants or users of the building, nor does it have a negative visual impact on the Main Street façade. This will be approved only when the investment of NYMS funds will result in occupied commercial or residential space in addition to the unfinished space.
- To award NYMS funds for projects to rehabilitate a building's facade only, LPAs must ensure that there are no outstanding code violations or health and safety issues, and the building will be used for a purpose consistent with the proposed revitalization of the Main Street target area.
- Funding for a project to erect a false façade where there is no building would be viewed as a Streetscape enhancement, not a building renovation project.
- NYMS funds may be used for improvement of accessibility for persons with disabilities. Applicants must comply with the provision of the Americans with Disabilities Act (1990), the Fair Housing Act (1968), and the Rehabilitation Act (1973). The cost of installing an elevator or other similar measures to make second floor space or rear spaces accessible are eligible expenses.
- Renovations to address energy efficiency and green-building measures are eligible uses of NYMS funds. Improving energy efficiency in residential and/or commercial units is encouraged, and may be an appropriate component of a NYMS project scope of work.
- Projects that include a proposed change in the use of a building are an eligible use of NYMS funds as long as all local approvals are obtained, and the appropriate site specific environmental review documents are submitted prior to the start of construction.

- Signage is an eligible expense, provided it is context-sensitive to the overall facade renovation and must not mask the architectural elements of the building. Signage should be installed as part of an overall facade renovation. NYMS funds cannot be used for interior-lit plastic/vinyl signs. Signs should be exterior-lit and made of appropriate, durable materials.
- Furnishings, appliances, electronics, tools, disposable supplies, business equipment, and non-permanent fixtures are not eligible uses of NYMS funding.
- A reasonable cost must be established for all project expenses through competitive bidding, therefore materials purchased outside of or in addition to competitively bid construction activities are not eligible for reimbursement. If a project requires a separate, materials only purchase, please contact an OCR representative for additional guidance.

vii. Streetscape Project Development Considerations

- Public improvements that are ordinary operation and maintenance responsibilities of local government, such as street paving, parking facilities, sidewalks, curbing and general landscaping are generally not eligible for funding.
- Distinctive street lighting may be eligible for funding if the recipient can demonstrate that it is not an ordinary expense of the existing unit of local government.
- Temporary or seasonal improvements including annual flowers and holiday decorations are not eligible for funding.
- Streetscape improvements may be on privately-owned property or on a public right-of-way. An easement assuring public access to such improvements will be required.
- The State Historic Preservation Office (SHPO) must be provided an opportunity to review the proposed work items for Streetscape projects prior to installation.
- Prior to the local commitment of funds (Project Set Up), recipient must request an Eligibility Determination from OCR staff to confirm that the project is an allowable use of NYMS program funds.
- A project-specific Environmental Compliance Checklist must be completed and submitted at the time of commitment of funds (Project Set Up).

viii. Residential / Upper Floor Housing

A residential unit assisted with NYMS funds that is vacant at the time of the renovation or becomes vacant during the regulatory term must be marketed to, and affordable to, households with incomes at or below 80% or 90% of the median family income (depending on the funding year), as adjusted for family size. Please refer to the Funding Round Rules & Requirements Summary table at the end of this Program Guide to confirm the applicable regulatory term.

LPA and property owners must meet this requirement through marketing the available units to households at or below the median family income indicated for the funding year, **and** imposing a rent limit on the assisted unit(s) during the regulatory term. OCR will provide annual rent limits for the applicable county upon request. Marketing efforts and documentation of annual rent charged must be documented in LPA program files.

- Incorporating market-rate rental units may strengthen many Main Street districts. While NYMS funds cannot be used to assist market-rate units, investment in renovation of market-rate units may be considered as an eligible match for NYMS investments in commercial or civic spaces, and affordable rental units if the improvements are part of a single project phase. Please contact an OCR representative to discuss project eligibility.
- NYMS funds can be used to subsidize rehabilitation costs of cooperatives and condominiums that will be sold to low-income households with prior approval from OCR.
- If NYMS funds are used to renovate the commercial space and other funds are used to renovate the residential space, rent limits do not apply to the commercial space. Only residential units receiving direct investment of NYMS funds will be rent-restricted under NYMS.

ix. Ineligible or Restricted Project Activities

- Ineligible uses of funds include: acquisition costs; new construction (including in-fill buildings); capitalizing a revolving loan fund; improvements to structures owned by religious or private membership based organizations; or improvements to municipally owned and municipally operated buildings.
- NYMS funds cannot be used for demolition of an entire structure. Necessary interior demolition may be permitted.
- NYMS funds cannot be used for construction of an additional story on an existing building. Costs to construct an architecturally-consistent addition to provide residential space above existing commercial space may be considered an eligible match of funds if activities are completed in a single project phase.
- NYMS funds cannot generally be used for vinyl or aluminum siding. Wooden window treatments should not be replaced with vinyl or aluminum treatments. Where it is determined that window replacement is necessary, the new windows should match the original window design. Approval of replacement windows by SHPO will also be required.
- NYMS funds should not generally be used for the improvement of single family homes. In certain cases where a single-family home is available as a rental property, and key to revitalization of a proposed target area, renovation of a single family home may be an eligible expense. No more

than 10% of the contract award amount can be used to improve single family homes.

- Program funds generally may not be used to renovate owner-occupied apartments, or apartments renovated for use by family members. An LPA may request special consideration to assist these apartments if the building contains other residential units not occupied by the owner or owner's family, and these other residential units are also renovated as part of the NYMS project using comparable finishes.
- NYMS funds may not be used for site work or ancillary activities on a property including but not limited to: septic systems/laterals, grading, parking lots, sidewalks, patios, decks, garages, sheds, landscaping, fences, free standing signs, general maintenance or repairs.
- Furnishings, appliances, electronics, tools, disposable supplies, business equipment, and non-permanent fixtures are not eligible uses of NYMS funding.

## **b. Contractor Selection**

### **i. Bid Process**

The LPA will establish a list of contractors able to perform work in compliance with applicable standards. The LPA may choose to develop this list through a formal Request for Qualifications (RFQ) process to provide contractors and professional service providers an equal opportunity for consideration. All contractors must supply references and proof of proper insurance. The LPA will use this list to solicit bids or quotes for the project activities. Additional contractors can be added to the list at any time, however, references and proof of proper insurance must be supplied to the LPA and approved.

The LPA will ensure that Minority and Women-owned Business Enterprises are represented on contractor lists.

An appropriate procurement process must be completed for all activities to be reimbursed with program funds. At a minimum, two bids or proposals must be obtained and reviewed for all renovation, administration or professional service activities to establish the reasonableness of project costs.

The procurement process must be free of collusion or intimidation, and the LPA must exercise appropriate oversight over the entire process to ensure that it is fair, efficient and free of actual and perceived conflicts of interest. A clear, written, scope of work for the project, as outlined in Work Write-up / Scope of Work above, must be the basis for the bids or proposals. All bidders must have equal access to relevant information, including information on the property itself.

The bids or proposals for all activities must be submitted directly to the LPA by the contractor. The LPA will advise the property owner of acceptability of

bids/proposed cost. If the property owner chooses other than the lowest bidder, re-imbursement will be based on the amount of the lowest bid.

ii. Conflicts of Interest in Procurement

Certain principles must be upheld in seeking bids or quotes. There must be a clear, written, scope of work for the project for which bids or quotes are sought, as outlined above in Work Write-up / Scope of Work. All bidders must have equal access to relevant information, including information on the property itself. The process should be free of collusion or intimidation, and the LPA should exercise appropriate oversight over the entire process to ensure that it is fair and efficient and avoids actual and perceived conflicts of interest.

Perceived or actual conflicts of interest may arise when certain individuals have access to inside information regarding the award of a contract or property assistance, or have undue influence on the process by which a contract or property assistance is awarded.

To avoid such situations, LPAs must have a written policy statement that specifies which parties are covered and what measures will be taken to allow eligible individuals access to program benefits while avoiding actual and perceived conflicts of interest.

A contractor cannot receive NYMS funds for work done on property that s/he owns. A conflict of interest exists due to the unique information and influence that the building owner has in areas such as: developing work scopes; choosing which contractors to solicit; evaluating bids; use of material and determining satisfactory performance of the contract. Please note a conflict of interest exists when an immediate family member is involved in the bidding process. NYS HCR defines immediate family as including a spouse, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law or daughter-in-law.

OCR may allow exceptions to this rule if the LPA formally requests an exception and can provide a policy statement that addresses the concerns listed above. The policy must include third party inspection, verification of costs and overall project certification by an architect or project estimator. In these instances, NYMS will reimburse permanently installed material costs only. Therefore, the verification of costs provided must include a clear breakdown of costs for labor and materials. The LPA must obtain written consent from OCR prior to entering into contract with the business owner/ contractor. Projects that do not comply with these rules will not be eligible for reimbursement.

iii. Municipal Officials & Staff

Municipal officials and municipal staff are prohibited from participating as a recipient of grant funds, or as a contractor for NYMS grant activities conducted in the community. This policy is intended to prevent an actual or perceived

conflict of interest and to remain consistent with the spirit of Article 18 of the General Municipal Law.

iv. Equal Opportunity Requirements and Procedures

Recipients are required to comply with Articles 15 A and 17 B of the New York State Executive Law. These requirements include equal employment opportunities for minority group members and women (“EEO”), and contracting opportunities for certified minority and women owned business enterprises (“MWBEs”) and Service Disabled Veteran Owned Businesses (“SDVOBs”). Recipient’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements.

The Recipient will promote and assist the participation of certified M/WBEs and SDVOBs as outlined and in accordance with Participation by Minority Group Members, Women and Service Disabled Veterans with Respect to State Contracts: Requirements and Procedures attached to the grant agreement with Housing Trust Fund Corporation.

Please visit NYS Empire State Development’s Division of Minority & Women Business Development website for a directory of certified Minority and Women-Owned Businesses: <http://www.esd.ny.gov/MWBE.html>

Forms and instructions for NYMS program projects are available online, here: <http://www.nyshcr.org/Forms/NYMainStreet/>

**c. Contracting Procedures**

The LPA will enter into a contract with the property owner to provide the program financial assistance. The contract will outline the roles and responsibilities for both the LPA and the participating property owner. At a minimum, the contract must specify:

- Agreed upon scope of work;
- Projected amount of financial assistance awarded;
- Estimated project timeline;
- Requirement to sign and file the NYMS Property Maintenance Declaration form;
- Requirement to sign the NYMS Property Release form permitting HTFC to use photographs of the assisted properties;
- Requirement to engage a contractor and begin construction within 30 days of LPA approval;
- Payments will be made only after work is complete, and on a reimbursement basis;
- LPA has the right to inspect work at any time;
- LPA may terminate the award and cancel the contract should the work be inconsistent with the program rules outlined, agreed upon scope of work or project design, stated timeline or if insurance is not maintained by the participating contractor;



- Property owner will cooperate with the LPA requirement to monitor the ongoing maintenance of the property, including the rent limits for assisted residential units for the five year regulatory term.

A template LPA and Property Owner Agreement is available online, here: <http://www.nyshcr.org/Forms/NYMainStreet/>

i. Commercial Tenant Participation

Typically, a building owner is the NYMS program participant, but occasionally a business owner that is a building tenant or leaseholder may apply for participation. An LPA, at its discretion, may allow a building tenant to participate provided that several conditions are met:

- A contract between the property owner and tenant must be developed to specify the terms of the arrangement, including the source and use of the investment.
- The property owner must affirm acceptance of the maintenance responsibility attached to the use of NYMS funds.
- The property owner must sign the Property Maintenance Declaration committing to the responsibility. The tenant cannot sign this document.
- A long-term lease to protect the investment of the tenant must be in place. The lease must extend at least through the “termination date” stated on the Property Maintenance Declaration notarized and filed for the property.

ii. Site Control and Commitments

At the time of application it is acceptable for an LPA to propose to assist properties for which site control has not been secured. However, lack of site control may impact application feasibility and delay a NYMS contract as the program requires completion of renovation activities within the two-year contract period.

An LPA may not, however, commit funds and enter into a contract with a prospective property owner. A current property owner must be a party to the contract with the LPA to participate in the NYMS program.

### **3. Construction Management / Quality Control**

#### **a. Construction Monitoring**

The LPA retains the right to inspect work in progress at any point. The LPA must perform periodic inspections of renovation activities to monitor adherence with program rules, environmental hazard compliance and general project progress. These visits must be documented in the LPA project files.

#### **b. Final Inspection**

A final inspection is required before submitted a final payment request. The LPA, property owner and other relevant professionals must verify that the work was completed properly and is consistent with the contracted scope of work. A final

inspection report must be documented in the LPA project files, and submitted with the request for reimbursement.

**c. Project Funding Sign**

All projects receiving funding from New York State Homes and Community Renewal (HCR) shall post a Project Funding Sign within one week from commencement of work at the project construction site(s). Sign graphics shall be in accordance with the HCR Sign Specification available for download here: <http://www.nyshcr.org/Funding/SignSpec/>

Signs must be installed in accordance with all laws and codes having jurisdiction while still in a prominent location secure from vandalism. LPAs should submit a photograph of the installed project sign to OCR. All signs must be maintained and in good condition, and level for the duration of construction and 60 days after completion.

The OCR may, in its discretion, waive certain requirements if the Project Funding Sign cannot be reasonably installed and/or maintained at the project site. The LPA must notify an OCR representative prior to project commencement and request, in writing, the necessary amendments to the requirements. OCR may request documentation such as photographs of the building or project location to support the request. If amendments are permitted, the LPA will be required to submit the proposed sign layout to OCR for approval.

**4. Financial Management**

**a. Staff**

The LPA's chief financial officer will be responsible for all financial transactions under the contract with HTFC. The LPA should have a written policy on internal controls, and use this policy to determine the process for review and approval of requests for disbursement of NYMS funds. The Authorized Signature Form must be completed to designate the representative(s) authorized to sign disbursement requests and must reflect the LPA's written policy on internal controls.

**b. Interim / Construction Financing**

The property owner will be responsible for paying for all agreed upon repairs, but the LPA will not reimburse more than the costs identified as available per building for the funding year. Participating property owners will be responsible for obtaining construction or interim financing for the renovation projects.

**c. Taxes**

Housing Trust Fund Corporation is not able to advise on the taxable status of grant funds for participating property owners and LPAs. Seek consultation with a tax professional for advice on the taxable status of the grant funds.

## 5. Ongoing Maintenance

### a. Obligations

Property owners are required to maintain property assisted with NYMS funds for the required regulatory period. This period is determined by the funding year and can be confirmed by reviewing the LPA's grant agreement with Housing Trust Fund Corporation or referencing the Funding Round Rules and Requirements Summary Table. The terms of this ongoing maintenance responsibility are outlined below.

#### i. Property Maintenance Declaration

For projects receiving NYMS program funds, the property owner must execute a Property Maintenance Declaration. The Declaration must be signed, notarized and filed in the County Clerk's Office in the county in which the assisted property is located. Written instructions for completing the Property Maintenance Declaration are available on the NYS HCR website.

#### ii. Maintenance of Assisted Residential Units

The Declaration includes additional requirements for residential units assisted with NYMS funds. Residential units assisted with NYMS funds, that are vacant at the time of application or become vacant during the applicable regulatory term must be marketed to and affordable to households with incomes at or below 80% or 90% (depending on the funding year) of the area median income, as adjusted for family size. This requirement is met through a rent limit imposed on the assisted unit(s) during the regulatory term. OCR will provide annual rent limits for the applicable county upon request. Please contact an OCR representative to confirm the units indicated as NYMS assisted in a building.

#### iii. Streetscape Project Maintenance

Streetscape projects require a property maintenance Declaration. For Streetscape projects completed on private property, the property owner is responsible for completing and filing the Declaration. For Streetscape projects completed in the public right of way, the Local Program Administrator is responsible for the Declaration. Streetscape activities completed in the public right of way may not be eligible for filing. In these cases, the Local Program Administrator must complete the Declaration, affirming the maintenance responsibility, and provide a copy to OCR.

#### iv. Repayment / Recapture Terms

The property owner must ensure the improvements are maintained for the minimum term specified in the NYMS Grant Agreement. If the property is transferred or sold during that period the new owner must agree to assume the responsibility of maintaining the asset by completing and filing an amended Declaration form or the grant funds are subject to recapture by the Local Program Administrator to be returned to OCR/HTFC.

For NYMS grants awarded in funding years **2004 - 2009**, a seven year maintenance term applies. Required repayment of NYMS funds will be calculated in accordance with the following schedule:

Months 0-12:	100% repayment due.
Months 13-24:	86% repayment due.
Months 25-36:	72% repayment due.
Months 37-48:	58% repayment due.
Months 49-60:	44% repayment due.
Months 61-72:	30% repayment due.
Months 73-84:	16% repayment due.
Months 84 and beyond:	0% repayment due.

For NYMS grants awarded in funding years **2010 - present**, a five year maintenance term applies. Required repayment of NYMS funds will be calculated in accordance with the following schedule:

Months 0-12:	100% repayment due.
Months 13-24:	80% repayment due.
Months 25-36:	60% repayment due.
Months 37-48:	40% repayment due.
Months 49-60:	20% repayment due.
Months 60 and beyond:	0% repayment due.

The maintenance term, or regulatory period, must be calculated from the date of Project Completion. The date of Project Completion is the date of the final inspection and must be documented by a formal, final inspection report. The LPA must use this date to calculate the termination date specified on the Declaration form. If the final inspection report is not formally documented or available in the LPA files, the maintenance term will begin on the date of final disbursement of NYMS program funds. Please consult an OCR representative to confirm this date.

The LPA must ensure that program participants are aware of the maintenance responsibilities and the Declaration requirement early in the process. The Property Maintenance Declaration requirement must be clearly stated in the contract with the property owner. LPAs must submit a copy of the signed Property Maintenance Declaration to OCR staff prior to the disbursement of program funds for the applicable property. **Property owners must not be reimbursed with NYMS Funds before the signed, notarized Declaration is secured.**

v. Repayment / Recapture Process

If the maintenance and affordability requirements stipulated by the Property Maintenance Declaration cannot be met during the regulatory term by an existing or prospective property owner, the LPA must notify their OCR representative of the circumstances. OCR staff will confirm whether the recapture of funds is required and will confirm the appropriate percentage of funds to be recaptured, based on the repayment schedule, above.

The property owner must remit payment to the LPA and then the LPA will remit payment to OCR / HTFC using the Returned Funds Coversheet available on

the NYS HCR website. The property owner must not submit payment directly to OCR / HTFC. Upon receipt of the funds, HTFC or the LPA will release the property owner from the obligations of the Property Maintenance Declaration.

**b. Responsible Parties / Maintenance & Monitoring Plan**

In addition to filing a Property Maintenance Declaration for each assisted building/project, an LPA is required to ensure that all participating properties are in compliance with NYMS program rules and requirements for the full maintenance term. The LPA must develop a formal plan for monitoring the assisted properties and ensuring compliance for the full maintenance term. The plan must address staff assignment of this responsibility and address continuity of operations. As part of this plan, the LPA will periodically inspect assisted properties and conduct any inspections directed by HTFC.

**6. Recordkeeping and Reporting**

LPAs are responsible for tracking project commitments, matching funds and expenditures throughout the NYMS contract term. OCR representatives will occasionally request this information as part of a program status update, specifically when program modifications are requested. LPAs must be prepared to report on this information when requested, and may use the Project Commitment Log, available on the NYMS program website: <http://www.nyshcr.org/Forms/NYMainStreet/>

**7. File Maintenance**

Maintaining an efficient filing system is critical to the administration of the New York Main Street program. Thorough documentation of program activities through well organized and consistent filing procedures ensures transparency and will assist in continuity of operations in the event of staffing changes. OCR has developed two file maintenance checklists to assist LPAs in NYMS program administration. The checklists outline each document that should be included in an LPA's NYMS program files, and both checklists are available on the NYMS program website: <http://www.nyshcr.org/Forms/NYMainStreet/>

File Maintenance Checklist 1 – General Program Files

File Maintenance Checklist 2 – Project/Building Files

## VI. CONTRACT COMPLETION

### A. Monitoring Visit

When an LPA has fully expended NYMS program funds, or notified OCR of program completion, OCR staff will conduct a monitoring visit. The objectives of the NYMS program monitoring visit are to ensure that LPAs:

- Carried out their New York Main Street programs as described in their grant agreement with the Housing Trust Fund Corporation and have obtained and organized documentation and approvals to support all expenditures;
- Completed their New York Main Street programs in accordance with the time-frames required by the Grant Agreement;
- Complied with all applicable procedures, policies, laws, regulations and terms of the Grant Agreement;
- Conducted the program in a manner which minimizes the opportunity for fraud, waste and mismanagement; and
- Have a continuing capacity to comply with the 5 or 7 year maintenance requirements of the program.

It is OCR's policy to conduct monitoring activities in a positive, helpful manner. The monitoring system adopted by OCR is designed not as a means of levying sanctions on LPAs, but rather to assist LPAs in solving problems and completing projects in accordance with all program requirements. If the problems cannot be resolved and there are disallowed costs, funds must be repaid to the HTFC.

Problems should be identified and addressed as they happen, rather than waiting until the monitoring visit. Routine telephone contact with OCR staff can be helpful in avoiding problems during implementation of local NYMS programs, as well as at the end of the program.

The Monitoring visit will cover all aspects of NYMS grant administration. An LPA should refer to the program requirements outlined in the NYMS grant agreement and Administrative Plan for guidance on preparation for a monitoring visit. At a minimum, the areas identified below will be reviewed during the monitoring visit:

- Program Administration
  - File Maintenance
  - Program Marketing
  - Environmental Determinations
  - Program Goals and Accomplishments
  - Application Review and Project Selection Process
- Project Development
  - Scope of Work

- Bids/Proposals
  - Bids/Proposal Review Forms
  - Women- and Minority-owned Business Enterprise Marketing and Outreach
  - Contracts (Contractor/Property Owner, Property Owner/LPA)
  - Design standards and review process
  - OPRHP (SHPO) Review
  - Environmental Compliance Checklist and Supporting Documentation
  - Lead and Radon Clearance Tests
  - Inspections (Interim and Final)
- Financial Management
    - Activity Limits
    - Matching Funds
    - Reimbursement to Property Owners
  - Ongoing Maintenance
    - Declaration
    - Procedures for five or seven-year maintenance obligation
    - Affordability of Assisted Residential Units, monitoring of rent limits

## **B. Monitoring Report**

Following a monitoring visit, OCR staff mail a monitoring report to the LPA to outline the results of the visit. The report will state at least one of the following:

- The LPA is in compliance with all requirements and there are no recommendations.
- A “Recommendation” is a suggestion that may be followed to assist in implementation of the program. It is up to the community to determine if recommendations will be followed or not. No action is required and no “concerns” or “findings” will result if the recipient chooses not to follow the recommendations.
- A “Concern” is a potential problem that, if not addressed and corrected, may later result in a “Finding.” Office of Community Renewal staff will closely examine areas of “concern” during future monitoring visits.
- A “Finding” is specific noncompliance with New York Main Street program requirements. The LPA must respond to findings within 30 days of the receipt of the monitoring report.

If the monitoring report identifies findings, the LPA must provide documentation within the stated time period that those issues have been corrected. NYMS program staff will advise the LPA if the responses or corrective actions are determined to be acceptable.

If the monitoring report did not identify additional requirements, the Office of Community Renewal will begin to prepare Contract Closeout materials.

### **C. Contract Closeout**

The Contract Closeout process will begin when OCR determines that all applicable administrative actions and all work required by the Local Program Administrator have been completed in accordance with the terms and conditions of its Grant Agreement. An LPA contract is ready for closeout when each of the following stages have been completed:

- All funds have been expended, or deobligation of funds has been requested;
- The recipient has fulfilled all of its contractual obligations as identified in the Grant Agreement;
- The program has been monitored by the Office of Community Renewal and the recipient has resolved any identified findings.

OCR staff will work with LPA staff to confirm buildings and units assisted, and final expenditures. Once all figures are reconciled, both the LPA and OCR will sign a Certificate of Completion to document successful completion of a NYMS program contract.

Closeout of a NYMS contract does not relieve an LPA of the obligation to continue to administer the grant according to the rules, regulations and management practices noted in the HTFC Grant Agreement. LPAs remain responsible for monitoring and documenting ongoing maintenance responsibilities for each assisted project for the 5 or 7 year term specified in the HTFC Grant Agreement.



## VII. FUNDING ROUND RULES AND REQUIREMENTS SUMMARY TABLE

Program Year*	Funding Limits	Admin.	Building Renovation			Match**	Downtown Anchor	Streetscape	Regulatory Term***
			Per Building	+ Residential	Maximum				
2011	\$50k-500k	7.50%	\$50,000	\$25,000/ unit	\$150,000	25% TPC / 0% Owner	\$250,000 or 40% TPC	\$60,000	5 years
2012	\$50k-250k	7.5%	\$50,000	\$10,000/ unit	\$100,000	25% TPC / 10% Owner	N/A	\$15,000	5 years
2013	\$50k-200k	7.5%	\$50,000	\$10,000/ unit	\$100,000	25% TPC / 10% Owner	N/A	\$15,000	5 years
2014	\$50k-250k	7.5%	\$50,000	\$10,000/ unit	\$100,000	25% TPC / 10% Owner	\$250,000 or 75% TPC (5% Admin Limit)	\$15,000	5 years
<b>BMSI 2015</b>	\$50k-500k	7.5%	\$50,000	\$25,000/ unit	\$150,000	25% TPC	\$500,000 or 50% TPC	\$25,000	5 years
2015	\$50k-500k	7.5%	\$50,000	\$25,000/ unit	\$100,000	25% TPC / 10% Owner	\$500,000 or 75% TPC (5% Admin Limit)	\$15,000	5 years
<b>BMSI 2016</b>	\$50k-500k	7.5%	\$50,000	\$25,000/ unit	\$150,000	25% TPC	\$500,000 or 50% TPC	\$25,000	5 years
2016	\$50k-500k	7.5%	\$50,000	\$25,000/ unit	\$100,000	25% TPC / 10% Owner	\$500,000 or 75% TPC (5% Admin Limit)	\$15,000	5 years
2017	\$50k-500k	7.5%	\$50,000	\$25,000/ unit	\$100,000	25% TPC / 10% Owner	\$500,000 or 75% TPC (5% Admin Limit)	\$15,000	5 years
<b>BMSI 2018</b>	\$50k-300k	10%	\$50,000	\$25,000/ unit	\$150,000	25% TPC	\$500,000 or 50% TPC	\$25,000	5 years
2018	\$50k-500k	7.5%	\$50,000	\$25,000/ unit	\$100,000	25% TPC / 10% Owner	\$500,000 or 75% TPC (5% Admin Limit)	\$15,000	5 years

\*The first four digits of the contract ID number (SHARS ID) will indicate the Program Year.

\*\* TPC is an abbreviation for Total Project Cost.

\*\*\* NYMS assisted residential units must comply with a rent limit during the five-year regulatory term.

VIII. LEAD-BASED PAINT POLICY TABLE

<b>Structure</b>	<b>Pre-1978 structures with a child-occupied facility or residential units</b>	<b>Pre-1978 structures with a child-occupied facility or residential units</b>	<b>Pre-1978 structures with a child-occupied facility or residential units</b>
<b>Workscope</b>	<b>Workscope: Exterior renovations that include residential window repair or replacement, repair of exterior sills and lintels.</b>	<b>Workscope: Interior renovations, including residential unit(s). &lt; \$5,000 Unit Rehab Cost</b>	<b>Workscope: Interior renovations, including residential unit(s). &gt; \$5,000 Unit Rehab Cost</b>
<b>Evaluation</b>	<ul style="list-style-type: none"> <li>• Test painted surfaces to be disturbed using EPA recognized test kits (40 CFR 745.88) or XRF Survey</li> <li>• <i>Documentation: Renovator records or reports certifying that a determination has been made whether or not lead-based paint was present on the components affected by the renovation per 745.86(b)(1)</i></li> </ul>	<ul style="list-style-type: none"> <li>• Test exterior &amp; residential unit interior painted surfaces to be disturbed using EPA recognized test kits (40 CFR 745.88) or XRF Survey</li> <li>• <i>Documentation: Renovator records or reports certifying that a determination has been made whether or not lead-based paint was present on the components affected by the renovation per 745.86(b)(1)</i></li> </ul>	<ul style="list-style-type: none"> <li>• Test exterior painted surfaces to be disturbed using EPA recognized test kits (40 CFR 745.88) or XRF Survey</li> <li>• Conduct LBP risk assessment by EPA certified Risk Assessor of any residential unit with more than \$5,000 in-unit rehab cost (or child-occupied facility) &amp; tenant means of egress per 745.227(d)</li> <li>• <i>Documentation: Renovator records or reports per 745.86(b)(1) and risk assessment report explaining the results of the investigation and options for reducing lead-based paint hazards.</i></li> </ul>
<b>Disclosure to owner and/or occupants</b>	<p><u>To owner:</u></p> <ul style="list-style-type: none"> <li>• EPA Renovate Right pamphlet to owner</li> <li>• <i>Documentation: owner acknowledgement of receipt per 745.84(b)</i></li> </ul>	<p><u>To owner:</u></p> <ul style="list-style-type: none"> <li>• EPA Renovate Right pamphlet to owner</li> <li>• <i>Documentation: owner acknowledgement of receipt per 745.84(b)</i></li> </ul> <p><u>Owner to residential tenants:</u></p> <ul style="list-style-type: none"> <li>• EPA Renovate Right pamphlet</li> <li>• HUD/EPA Protect Your Family from Lead pamphlet</li> <li>• HUD/EPA Lessor's Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards</li> <li>• <i>Documentation: owner certification of tenant disclosure</i></li> </ul>	<p><u>To owner:</u></p> <ul style="list-style-type: none"> <li>• EPA Renovate Right pamphlet</li> <li>• Disclosure of risk assessment results</li> <li>• Disclosure of clearance results</li> <li>• <i>Documentation: owner acknowledgement of receipt per 745.84(b)</i></li> </ul> <p><u>Owner to residential tenants:</u></p> <ul style="list-style-type: none"> <li>• EPA Renovate Right pamphlet</li> <li>• HUD/EPA Protect Your Family from Lead pamphlet</li> <li>• HUD/EPA Lessor's Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards</li> <li>• <i>Documentation: owner certification of tenant disclosure</i></li> </ul>
<ul style="list-style-type: none"> <li>• If the certified renovator has tested each component affected by the renovation and determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 mg/cm<sup>2</sup> or 0.5% by weight, document the test results and no further action concerning lead-based paint is required.</li> <li>• If lead-containing (equal to or in excess of 1.0 mg/cm<sup>2</sup> or 0.5% by weight) painted surfaces will be disturbed or if lead-based paint hazards were identified during a risk assessment the procedures subsequently outlined in this document must be followed.</li> <li>• When conducting renovation work that disturbs any painted surface of the building exterior beyond any residential window openings, it is strongly recommended to test the painted surfaces and if lead-containing paint is detected, to utilize an EPA certified contractor and implement EPA safe work practice standards found at 40 CFR 745.85(a).</li> </ul>			
<b>Eligible contractors</b>	<ul style="list-style-type: none"> <li>• EPA certified renovation firm (current)</li> <li>• <i>Documentation: firm certification per 745.89 &amp; Renovator training certification per 745.90</i></li> </ul>		
<b>Work practices</b>	<ul style="list-style-type: none"> <li>• EPA work standards at 40 CFR 745.85(a)</li> <li>• <i>Documentation: Contract reflecting LBP hazard controls &amp; work requirements; Renovator certification per 745.86(b)(6) and completion documentation per 745.86(c)</i></li> </ul>		
<b>Occupant protections</b>	<ul style="list-style-type: none"> <li>• Residential units: contain work areas and post signs per 745.85(a)</li> <li>• <i>Documentation: Renovator certification per 745.86</i></li> </ul>	<ul style="list-style-type: none"> <li>• Residential units: contain work areas and post signs per 745.85(a)</li> <li>• <i>Documentation: Renovator certification per 745.86</i></li> </ul>	<ul style="list-style-type: none"> <li>• Residential units and egresses: contain work areas and post signs per 745.85(a)</li> <li>• Households with pregnant women or child under the age of 6: relocate during lead hazard control activities</li> <li>• Child-occupied facility: not is use during hazard control activities</li> <li>• <i>Documentation: evidence of temporary relocation</i></li> </ul>
<b>Clearance</b>	<ul style="list-style-type: none"> <li>• EPA post-renovation verification methods (745.85(b))</li> <li>• <i>Documentation: Renovator certification per 745.86</i></li> </ul>	<ul style="list-style-type: none"> <li>• Clearance testing per 24 CFR 35.1340</li> <li>• <i>Documentation: clearance report</i></li> </ul>	<ul style="list-style-type: none"> <li>• Clearance testing per 24 CFR 35.1340</li> <li>• <i>Documentation: clearance report</i></li> </ul>
<b>Records of compliance</b>	<p>Contractor: Records required by 745.86 must be maintained 3 years after completion of the renovation.          Program administrator: Records of compliance 5 years after completion of the 5-year performance period (see compliance checklist)</p>		
<b>Ongoing maintenance</b>	<p>During the 5-year performance period, owner certifies to maintain the paint in all residential spaces using safe work practices</p>		

## D. Definitions

### Child-occupied facility

A child-occupied facility means a building, or portion of a building containing a day care center, preschool, kindergarten classroom, or other use visited regularly by the same child under 6 years of age on at least two days within any week in which each day's visit lasts at least 3 hours and the combined annual visits last at least 60 hours.

### EPA Renovation, Repair and Painting (RRP) Rule 40 CFR Part 745

EPA's Lead Renovation, Repair and Painting Rule (RRP Rule) requires that firms performing renovation, repair, and painting projects that disturb lead-based paint in homes, child care facilities and pre-schools built before 1978 have their firm certified by EPA (or an EPA authorized state), use certified renovators who are trained by EPA-approved training providers and follow lead-safe work practices. The Rule is located at 40 CFR Part 745, Subpart E, sections 745.80 – 745.92.

### Pre-1978 building or structure

A building for which any portion of the building was originally placed in service prior to January 1, 1978.

### Residential Unit Rehabilitation Cost

The "hard costs" of rehabilitation within a specific unit, excluding exterior window repair/replacement, lead hazard control costs and soft costs.

### Risk Assessment

One (1) an on-site investigation by a certified risk assessor to determine the existence, nature, severity, and location of lead-based paint hazards, and (2) the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

## E. Covered Projects

This policy applies to **any pre-1978** structure that is rehabilitated with NYMS funds, regardless of its current or expected use.

If appropriate documentation is available, exempt projects that are **not** subject to any of the requirements in this policy include:

- Entire buildings or structures that were originally placed in service after 1/1/78.
- Buildings or structures that were originally placed in service prior to 1/1/78 but which have been professionally inspected and certified to contain no lead-based paint according to EPA standards. This does not include buildings that have only been determined by risk assessment to contain no lead hazards.
- Buildings with residential units restricted by financing, regulatory agreement or deed restriction exclusively for occupancy by the elderly.

Appropriate exemptions, with supporting documentation, must be submitted as part of the site-specific environmental review.

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