

OFFICE OF COMMUNITY RENEWAL
NEW YORK STATE
HOUSING TRUST FUND CORPORATION



PROGRAM GUIDE

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NEW YORK STATE
Homes &
Community
Renewal

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 New York State Housing Trust Fund Corporation (HTFC). HTFC contracts with NYS Homes and Community Renewal (HCR) to administer the Corporation's activities and manage its affairs.

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, LPAs must be mindful that they are 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 to the successful administration of your NYMS project. Another important resource is the staff of OCR, which is committed to working with you to prevent or correct issues of non-compliance and to provide assistance throughout the administration of your 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 be sure to refer to the rules applicable to your contract's funding year by referencing the Funding Round Rules & Requirements Summary table at the end of this Program Guide. If you are unclear which funding year rules and requirements apply to your contract, please consult your OCR representative.

II. PROGRAM DESCRIPTION

OCR believes that 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 local residents, governments, businesses, and property owners in making decisions about program implementation; address design issues in a contextually-appropriate manner; follow a coordinated outreach and communication strategy to publicize district activities; implement an effective business strategy to recruit appropriate businesses and measure and evaluate progress in meeting district 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. A proposed service area should include a mix of uses, such as residential, commercial, and civic buildings.

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

- Stimulate the economic revitalization of mixed-use business centers in urban, small town, and rural areas by providing financial incentives for the rehabilitation of traditional commercial building stock;
- Foster small business development, thereby providing economic opportunities and promoting economic activity in traditional downtown or neighborhood business location;
- 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 a unit of local government or an organization incorporated under the NYS Not-for-Profit Corporation Law, which includes community-based organizations, business improvement districts, and other similar entities that have 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 they have the capacity to administer such projects and that the service area they have defined is not so broad that it diminishes program impact.

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.

This may include CDBG target areas, Empire Zones, areas served by a Neighborhood Preservation Company (NPC) or Rural Preservation Company (RPC) http://nysdhcr.gov/Apps/profiles/profile_CSBcnty.asp or other federal or state designations. OCR will accept these designations in lieu of a determination based on the income of residents in the area.

Target area eligibility can either be based on the specific target area that will be assisted by the NYMS program or the demographics of a larger service area in which the target area is contained.

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.

C. Eligible Program Activities

Local NYMS programs may include the following activities:

1. Building Renovation

LPAs may provide participating property owners with matching grants for exterior facade and storefront renovations or interior renovations for commercial or residential units. All work must comply with the standards of the State Office of Parks,

Recreation and Historic Preservation, for properties eligible for the historic register, and with local design guidelines.

2. Streetscape Enhancement

Funds for Streetscape enhancement may be requested only as an ancillary activity to building renovation activities. 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 appurtenant activities to enhance the NYMS target area. LPAs should plan streetscape enhancement activities that will enhance residential and commercial conditions in the target area. Distinctive street lighting may be eligible for funding where recipients can demonstrate that it is not an ordinary expense of the existing unit of local government.

- Public improvements that are ordinarily operation and maintenance responsibilities of local government, such as street paving, parking facilities, sidewalks and general landscaping are generally not eligible for funding.
- 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.
- At the time of 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.

3. Administrative Funds

Must be identified at the time of application, and shall not exceed 7.5% of the NYMS award.

4. Project Delivery

Professional service costs, or “soft costs,” such as architectural services are eligible expenses, and must be budgeted at the time of application.

- Project delivery costs may be an eligible use for NYMS funds provided that they are necessary and appropriate to the work being done.
- Project delivery expenses require matching funds, and must be included within activity funding limits.
- Project costs incurred for work on buildings that eventually prove infeasible and do not receive other investments will not be reimbursed with NYMS funds. Therefore, Project delivery expenses 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.
- Applicants must demonstrate that they will be able to secure sufficient resources to administer the proposed Main Street program.
- LPAs are not required to provide a cash match. A match can come from a variety of public and private sources.

1. Sources of Eligible Match or Leveraged Funds

- Federal or state community development or economic development programs, such as: CDBG, HOME, ESDC. Coordinating applications with other programs is strongly encouraged. These sources may be considered as leveraged funds for scoring purposes.
- 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 NYSEERDA or HCR's Weatherization Assistance Program if affordable residential units will be part of a NYMS project. Energy efficiency programs, such as NYSEERDA or HCR's Weatherization Assistance may be eligible matching funds.
- Professional service costs incurred, including project delivery, or "soft costs," such as architectural services are recognized matches, provided they are reasonable, sufficiently documented, and related to a specific building project. The owner should get two cost estimates for the same scope of work in every case.
- Revenue from a BID's special assessment can be recognized as a match when used in the building renovation projects.
- The award or contract date of the matching funds does not impact the eligibility as match, as long as the matching funds are expended following NYMS contract execution.
- Real Estate acquisition costs cannot be counted as 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). LPAs must ensure they have 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.

- **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://nysdhcr.gov/Forms/NYMainStreet/AdminPlanTemplate.pdf>

B. Grant Agreement Processing

Each grant agreement provision is legally enforceable and designed to clearly identify the respective obligations of HTFC and the LPA. Awardees of NYMS program contracts will be forwarded two copies of the Grant Agreement with the Schedules identified in the Grant Agreement. HTFC requires LPAs to return two signed copies of the Grant Agreement, and proof of comprehensive general liability insurance coverage. 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 your designated 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, consultants or any additional involved staff.

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://nysdhcr.gov/Forms/NYMainStreet/>

After OCR has reviewed the completed Environmental Compliance Checklist and Program Description Form, the LPA will generally receive a letter stating that the program has clearance 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 designated representative from OCR will review compliance with these procedures at the time of the program monitoring visit.

3. Accessing Funds

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 turnover. The forms and instructions for completing the forms are available on OCR's website: <http://nysdhcr.gov/Forms/NYMainStreet/>

a. 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. The person responsible for preparing paperwork for disbursement requests should generally not be authorized to sign disbursement requests.

b. Designation of Depository Form

Local Program Administrators must use 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 and supporting documentation, HTFC will transfer funds to the LPA's designated account through an Automated Clearing House (ACH), i.e. direct deposit, procedure.

c. Disbursement Process

- The NYMS program operates fully as a reimbursement program and payment will be made only upon satisfactory completion of building projects.

- 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. Factors such as unclear supporting documentation or multiple progress payments 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.
- For detailed instructions on completing disbursement paperwork LPAs should refer to the NYMS LPA Commitment & Disbursement Instructions located on the NYMS website: <http://nysdhcr.gov/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 businesses and 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 and funding decisions.
- 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 identified by the NYMS program. These criteria must be formally documented prior to the project selection decisions.
- 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 funding determinations. The LPA must retain clear documentation of each project selection committee decision in the program files. This must include a determination for each application reviewed, and each project selected. This documentation should include project selection memos, project selection committee meeting minutes 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 buildings that are used for municipal purposes. However, if a building is owned by a local government and has a formal agreement, structure, or lease with a not-for-profit organization or business to operate within the building, the business or not-for-profit can apply to the LPA for NYMS funds following the conditions identified under Commercial Tenant Participation in this Program Guide. Please note, an agreement between the municipality and tenant for the required maintenance term will be required.

ii. Projects in Progress

Projects in progress are eligible for NYMS funding if the work has been cleared 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 contract agreement.

iii. LPA or Board Member Owned Buildings

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.

- 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 adopted bylaws or other policies. If the identified Project Selection committee selects a property owned by a board member, 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.
- Municipal LPAs must adhere to Article 18, “Conflicts of Interest of Municipal Officers and Employees,” of the NYS General Municipal Law.
- An 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.

2. Project Development

a. Work Write-up / Scope of Work

If the LPA determines an initial application to be eligible for assistance, and the identified Project Selection Committee chooses to commit grant funds for the project, the LPA will meet with the property owner to develop a scope of work and an initial estimate of costs. This meeting may occur at the building site or after a

visit to the site. The LPA will discuss requirements related to lead-based paint hazards, energy efficiency, historic design standards, or any other work scope issues with the property owner.

A written scope of work is a NYMS program requirement. The scope of work must address:

- Immediate health and safety concerns;
- The correction of code violations;
- Lead-based paint hazards that may exist in buildings that contain residential units;
- Radon hazards in buildings that contain residential units;
- Installation of energy conservation measures;
- 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 owner is authorized to seek bids for the work. The LPA may assist owners in obtaining interim financing.

The property owner will be responsible for paying for all agreed upon repairs, and the LPA will not reimburse more than the costs identified as available per building for the funding year.

i. Lead-Based Paint Hazards

Lead-based paint is a serious health threat. NYMS funded residential rehabilitation projects must adhere to HUD’s Lead-Safe Housing Rule: The Residential Lead-Based Paint Hazard Reduction Act of 1992 (24 CFR Part 35). Local Program Administrators are responsible for ensuring compliance with these regulations.

Some exterior renovations may also require the Local Program Administrator to adhere to HUD’s Lead-Safe Housing Rule. For example, window repair or replacement on residential facades will likely require lead-safe work practices to be followed. The LPA is responsible for making this determination.

EPA requires that firms performing renovation, repair, and painting projects that disturb lead-based paint in pre-1978 homes, child care facilities and schools be certified by EPA and that they use certified renovators who are trained by EPA-approved training providers to follow lead-safe work practices.

ii. Design

LPAs are expected to develop design guidelines for building facade and storefront renovations if the municipality does not already require participating renovation projects to undergo an architectural or design review 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:

<http://www.cr.nps.gov/hps/tps/tax/rhb/>

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.

iii. 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 in the National Register of Historic Places. Following that, OPRHP will determine whether the proposed 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, they will provide recommendations via letter or directly 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 OPRHP clearance letter. Please note that LPAs must also obtain an OPRHP clearance letter for Streetscape projects.

The information must be submitted by mail directly to OPRHP. The required submission forms and a SHPO Project Submission Guide explaining the review process are available on the NYMS program web site: <http://nysdhcr.gov/Forms/NYMainStreet/>.

iv. Building Renovation 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 can only be done 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 handicap accessibility improvements. 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 is an eligible expense.

- 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.
- 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.
- Only permanent fixtures may be purchased as part of a building renovation grant. Non-permanent fixtures, furnishings, appliances and business equipment are not eligible uses of NYMS funding.

v. Residential / Upper Floor Housing

- Any residential unit assisted with NYMS funds that is vacant at the time of the application 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, as adjusted for family size depending on the funding year. Please refer to the Funding Round Rules & Requirements Summary table at the end of this Program Guide to confirm the applicable regulatory term. 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.
- OCR recognizes that 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 or affordable rental units.
- NYMS funds can be used to subsidize rehabilitation costs of cooperatives and condominiums that will be sold to low-income households.
- If NYMS funds are used to renovate the commercial space and other funds are used to renovate the residential space, affordable housing restrictions do not apply to the commercial space. Only residential units receiving direct investment of NYMS funds will be rent restricted under NYMS.

vi. Ineligible or Restricted Project Activities

- Ineligible uses of funds include: acquisition costs; new construction (including in-fill buildings); capitalizing a revolving loan fund; structure demolition; improvements to structures owned by religious or private membership based organizations, or improvements to municipally owned buildings used for municipal purposes.

- 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.
- 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 this may be an eligible expense. No more than 10% of the contract award amount can be used to improve single family homes.
- NYMS funds may not be used for site work or ancillary activities on a property including septic systems or laterals, grading, parking lots, sidewalks, landscaping, fences, free standing signs or general maintenance.

b. Contractor Selection

i. Bid Process

When possible, the LPA will establish a list of contractors who are able to perform work in compliance with applicable standards and to provide required insurance. This list should be developed through a formal Request for Qualifications (RFQ) process to ensure that contractors are provided an equal opportunity for consideration. The contractors must supply references and proof of proper insurance. The LPA should make this list available to participating property owners. If the property owner would like to use a contractor *not* on the list, references and proof of proper insurance must be supplied to the LPA.

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

At least two bids are required for each separate construction project or professional service to establish the reasonableness of project costs.

Although the property owner may select the contractors to supply quotes, the quotes should be received by the LPA. The LPA will advise the property owner of acceptability of bids/proposed cost. If the property owner chooses other than the lowest bidder, re-imburement will be based on the amount of the lowest bid.

ii. Conflicts of Interest

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 avoid 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.

Typically, a contractor cannot receive NYMS funds for work done on property that s/he owns. An apparent 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 only 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 can provide a policy statement that addresses the concerns listed above. The policy should require a form of third party inspection, verification of costs and overall project certification. In this instance, NYMS will only reimburse material costs. The LPA must obtain written consent prior to entering into contract with the business owner/ contractor.

iii. EEO/MWBE and Affirmative Action Policy

Under Article 15A of the New York State Executive Law, all award recipients and their contractors are required to comply with the Equal Employment Opportunity provisions of Section 312 of that Article. Also, all contractors and awardees are required to make affirmative efforts to ensure that New York State Certified Minority and Women-Owned Business Enterprises are afforded opportunities for meaningful participation in projects through inclusion on the list of contractors funded by HTFC pursuant to Section 313 of the Article. 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>

c. Contracting Procedures

The LPA will enter into a contract with the property owner to provide the agreed financial assistance, subject to the property owner entering into a contract based on the agreed scope of work and the work beginning within 30 days of LPA approval. The contract between the LPA and the property owner will specify that payments will be made after all work is complete. In addition, it will provide that the LPA has the right to inspect work at any time and cancel the contract should the work being done be inconsistent with the standards mentioned in the preceding sections, or if problems with the workmanship arise, or if insurance is not maintained by the contractor.

The LPA will develop a contract to outline the roles and responsibilities for both the LPA and the participating property owner. At a minimum, the contract must specify:

- The agreed upon scope of work;
- The amount of financial assistance awarded;
- The project timeline;
- That payments will be made only after work is complete;
- The LPA has the right to inspect work at any time and to cancel the contract should the work be inconsistent with the standards outlined or if insurance is not maintained by the contractor;
- NYMS ongoing maintenance requirements;
- The requirement to sign and file the NYMS Property Maintenance Declaration;
- The requirement to sign the NYMS Property Release form permitting Housing Trust Fund Corporation to use photographs of the assisted properties.

The contract should also specify that the contract is subject to the property owner engaging a contractor and beginning construction within 30 days of LPA approval. 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. Payment will only be made upon satisfactory completion of all work. Satisfactory completion will be determined by the LPA.

i. Commercial Tenant Participation

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.
- 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 delay a NYMS Contract and impact application feasibility. The program expectation is that the proposed owner will acquire the property and complete the renovations 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. Adherence to Design Standards

All work must be completed in accordance with design standards that are developed to meet the priorities listed in Section 2a Work Write-up / Scope of Work. These standards will be consistent with the requirements of the State Historic Preservation Office, the Housing Trust Fund Corporation (HTFC), and LPA. The LPA will enforce the standards and the agreed upon project design throughout the development process.

b. Inspections

The LPA retains the right to inspect work in progress at any point. Before a final payment can be made, a final inspection is required. The LPA, the local code enforcement officer, and the property owner will all verify that the work was completed properly and is consistent with the contracted scope of work. The LPA must clearly document each site visit and inspection in the project files. Inspection reports will be reviewed during the NYMS program monitoring visit.

4. Financial Management

a. Staff

The LPA’s chief financial officer will be responsible for all financial transactions under this contract. 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

NYMS is a reimbursement program. Participating property owners will be responsible for obtaining construction or interim financing for their project. The LPA may assist owners in obtaining financing where requested, but property owners are free to make their own arrangements.

NYMS funds may be allocated as a loan. However, approval will not be granted unless it is required to access other funding, such as tax credits. The loan should be for a sufficiently long term, and all repayments must be returned to HTFC. The LPA must seek written approval to operate a loan program.

5. Ongoing Maintenance

a. Obligations

Property owners will be required to maintain the property assisted with NYMS funds for the required maintenance 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 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. Repayment / Recapture

The property owner must ensure the improvements are maintained for the minimum term specified in the NYMS Grant Agreement. If the property is transferred 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 all 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.

HTFC considers the date of the final disbursement of NYMS Funds for the applicable building to be the formal project completion date, as described in the HTFC NYMS program grant agreement. This date should be used to calculate the termination date specified on the Declaration form. Please consult your OCR representative to confirm this date.

It is important to ensure that program participants are aware of the maintenance responsibilities and the Declaration requirement early in the process. The termination date and filing, however, should not be completed until the final disbursement date is known. Property owners should not be reimbursed with NYMS Funds until the signed, notarized Declaration is secured. LPAs must ensure that this requirement is clearly stated in the contract with property owners.

iii. 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 your designated OCR representative to confirm the units indicated as NYMS assisted in a building.

iv. Streetscape Project Maintenance

Streetscape projects also 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. Streetscapes 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.

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. 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://nysdhcr.gov/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 NYS 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
 - Women- and Minority-owned Business Enterprises
 - Contracts (Contractor/Property Owner, Property Owner/LPA)
 - Design
 - OPRHP (SHPO) Review
 - 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

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 your 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 you choose 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.	Façade	Building Renovation			Match	Downtown Anchor	Streetscape	Maintenance Term
				Commercial	Residential	Maximum				
2004	\$50k-200k	0	\$10,000	N/A	N/A	\$50,000	50% TPC / 25%Owner	\$100,000 or 25% TPC	\$25,000	7 years
2005	\$50k-200k	0	\$10,000	N/A	N/A	\$50,000	50% TPC / 25%Owner	\$100,000 or 25% TPC	\$25,000	7 years
2006	\$50k-200k	0	\$10,000	N/A	N/A	\$50,000	50% TPC / 25%Owner	\$100,000 or 25% TPC	\$25,000	7 years
2007	\$50k-200k	0	\$10,000	N/A	N/A	\$50,000	50% TPC / 25%Owner	\$100,000 or 25% TPC	\$25,000	7 years
2008	\$50k-200k	0	\$10,000	N/A	N/A	\$50,000	50% TPC / 25%Owner	\$100,000 or 25% TPC	\$25,000	7 years
Fall 2008	\$50k-500k	7.50%	N/A	\$30,000	\$30,000/ unit	\$120,000	25% TPC / 0%Owner	\$500,000 or 33% TPC	\$25,000	7 years
2009	\$50k-200k	0	N/A	\$40,000	\$20,000/ unit	\$100,000	25% TPC / 0%Owner	\$150,000 or 33% TPC	\$25,000	7 years
2010	\$50k-500k	7.50%	N/A	\$50,000	\$25,000/ unit	\$150,000	25% TPC / 0%Owner	\$250,000 or 40% TPC	\$60,000	5 years
2011	\$50k-500k	7.50%	N/A	\$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%	N/A	\$50,000	\$10,000/ unit	\$100,000	25% TPC / 10% Owner	N/A	\$15,000	5 years

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