

NEW YORK STATE HOME PROGRAM

**ENVIRONMENTAL REVIEW PROCEDURES
FOR LOCAL PROGRAM ADMINISTRATOR (LPA) PROGRAMS**



Photo: M. Binder

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Where any discrepancy exists between recommendations in these procedures and HUD environmental review regulations at 24 CFR Part 58, or other statutes and regulations cited, the statutes or regulations take precedence over the recommendation.

For further information, contact:

eau@nyshcr.org

THE HTFC LPA ENVIRONMENTAL REVIEW PROCESS - STEP BY STEP

Caution: the HUD environmental review process must be completed before HOME funds:

1. can be accessed for LPA program activities; or
2. before the purchase of any land or buildings; or
3. start of any work on a proposed project, even with non-HUD funds.

This limitation applies to all participants in the development process, including public or private nonprofit or for-profit entities, or any of their contractors.

Failure to comply with this requirement can result in recapture of the HOME award

Local Program Administrator (LPA) awards made under the New York State HOME Program are subject to requirements of HUD environmental review regulations at 24 CFR Part 58. These regulations implement HUD's responsibilities for use of federal funds under the National Environmental Policy Act (NEPA). The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites and to develop procedures to ensure compliance with regulations pertaining to these factors. Because LPA programs vary in terms of applicant type, scope of program activities, and geography, there is no standard set of review procedures that makes sense for every program.

When the programmatic process is complete, the LPA is notified that it is authorized to access HUD grant funds. THE LPA IS THEN RESPONSIBLE FOR CARRYING OUT THE [SITE SPECIFIC ENVIRONMENTAL REVIEW PROCEDURES](#) FOR EACH SITE THEY WOULD LIKE TO ACCEPT INTO THE PROGRAM. Set-up of individual sites will not be processed until the site specific Statutory Checklist is accepted. HTFC will monitor compliance with these procedures as part of annual monitoring.

The programmatic review process may also be referred to as Tier 1 Review and the site specific review process may be referred to as Tier 2.

The [HCR Environmental Review Homepage](#) is full of helpful information to get you started. View the [Frequently Asked Questions](#) Page to provide useful details on how to conduct both programmatic and site specific review. Also, copies of all necessary blank, fillable forms can be found here. Also, view the "New For 2014" [page](#) for updated procedures and substantive compliance measures.

The following is a step-by-step process of requirements necessary to obtain authorization to use grant funds and develop an appropriate set of Tier1 programmatic environmental review procedures. Information about where to go to find guidance for complying with specific requirements is included in each section.

For all 2013 and later Awards to non-profits, CHDOs and public housing authorities, a HCR-assigned consultant will prepare the Tier 1 Programmatic Review documents for the LPA (Steps 1-16).

The Tier 1 Programmatic Review will develop a template Tier 2 Statutory Checklist that must be used for the 2013 and after projects. Using the pre-approved Tier 2 template will allow for faster HCR review.

Non-profit, CHDO and public housing authorities must still complete their own Tier 2 site specific review documents and submit to EAU for review and approval. For guidance and information on completing the Tier 2 Statutory Checklist, see Appendix C&D.

STEP 1: OBTAIN BLANK ERR FORM

Discussion: All LPAs awarded funding of HUD- HOME funding must complete the Environmental Review Record (**ERR**) Form (Appendix A).

Guidance: The complete ERR must include the ERR Form, Statutory Checklist, reference documents, agency letters, other sources used to make environmental determinations and required public notices. See Appendix A of this manual.

Action required: ***Begin completing the ERR Form by entering the Program Name, HTFC Project Number, name of the Program Sponsor, and mailing address, including telephone, fax and email address.***

Download a [fillable MSWord version of the ERR Form](#)

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STEP 2: IDENTIFY THE RESPONSIBLE ENTITY AND CERTIFYING OFFICER

Discussion: A state or local government or agency, called the Responsible Entity must certify the HUD environmental review.

Each Responsible Entity must appoint a Certifying Officer. The Certifying Officer is a person with legal authority to approve the action for the Responsible Entity and assume responsibility for compliance with HUD environmental review requirements.

Guidance: Applicants that are nonprofit or other private organizations (including Community Housing Development Organizations (CHDOs) and Public Housing Authorities) must have HTFC certify the environmental review to HUD.

LPAs that apply as state recipients (municipal governments or their agencies) certify the environmental review to HTFC.

Action required: ***On the ERR Form, enter the name of the Responsible Entity and Certifying Officer:***

- ***Nonprofit or other private organizations (including CHDOs and Public Housing Authorities), enter “New York State Housing Trust Fund Corporation (HTFC)” as the Responsible Entity, and “Director, Environmental Analysis Unit” as the Certifying Officer.***
- ***Municipal governments or agencies, enter the name of the municipality or agency, and the name and/or title of the designated Certifying Officer.***

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STEP 3: DESCRIBE THE PROGRAM LOCATION OR TARGET AREA

Discussion: LPA program activities may be conducted at a single site, or on multiple or scattered sites within a specified target area. Scattered-site programs may have specific properties already selected, or may plan to select sites as the program is implemented. The HUD environmental review process allows any of these types of programs to receive authorization to use grant funds.

Guidance: LPAs conduct a site-specific review when they have already identified a project site or sites.

LPAs conduct a programmatic review when they have yet to identify specific sites.

The Tier 1 programmatic review identifies environmental factors that may affect one or more of the potential project sites and develops procedures to review these sites once they are identified.

Action required: ***For programs where sites have been identified, list the addresses on the ERR Form.***

For programs where sites have not yet been identified, describe the program target area. Include a map of the target area in the ERR.

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STEP 4: DESCRIBE PROPOSED PROGRAM ACTIVITIES

Discussion: In order to properly classify the level of environmental review required for an LPA program, the scope of activities must be described. Keep in mind that the scope of program activities includes all actions associated with the program, **including those that have received additional funding from other sources.**

Guidance: For example, a homebuyer program that uses HOME funds for down payment assistance may require rehabilitation to bring the building up to HTFC Rehabilitation Standards.

For purposes of classification for the HUD environmental review, the scope of activities would include both the HOME-funded purchase assistance *and* rehabilitation, even if the funding for the rehabilitation were from another source.

Action required ***In Section 1.0 of the ERR Form, Program Activities, describe the scope of activities included in the program.***

- ***List all program activities, including those that will use non-HUD funds and those measures to bring the program into compliance with HTFC Rehabilitation Standards.***
- ***A copy of the Local Program Proposal Summary from the funding application must be submitted with the ERR Form.***

STEP 5: DETERMINE THE NEPA CLASSIFICATION FOR THE PROGRAM

Discussion: LPA programs are subject to different levels of environmental review, depending on the type of proposed activities.

Guidance: See classifications of typical LPA program activities below:

2.1 24 CFR 58.34 Exempt - subject to related laws at 24 CFR 58.6 - ERR Attachment 2.1 - See Appendix A

- No LPA programs funded under the New York State HOME program are automatically exempt.

2.2 24 CFR 58.35(b) Categorically Excluded - subject to related laws at 24 CFR 58.6 - ERR Attachment 2.2 - See Appendix A

- Tenant-based rental assistance
- Purchase assistance for existing one- to four-family residences, without rehabilitation

2.3 24 CFR 58.35(a) Categorically Excluded - subject to related laws at 24 CFR 58.5 and 58.6 - ERR Attachment 2.3 - See Appendix A

- Moderate rehabilitation of rental housing
- Moderate rehabilitation of owner-occupied single-family housing
- Purchase assistance for existing one- to four-family residences, with rehabilitation
- New construction of one- to four-family residences, (with no more than four units on one site, or scattered site programs of five or more units when the sites are more than 2,000 feet apart)

2.4 24 CFR 58.36 Environmental Assessment required (See Appendix A)
New construction of residences, (with more than four units on one site, or scattered site programs of five or more units when the sites are less than 2,000 feet apart).

Action required: ***In Section 2.0 of the ERR Form, check the proper classification for the proposed program. On the corresponding ERR Attachment, check the exclusion that matches the activities proposed in the program. For programs classified Environmental Assessment 2.4, there is no corresponding ERR Attachment.***

- CONTINUE TO NEXT PAGE-

STEP 6: DETERMINE THE SEQR CLASSIFICATION FOR THE PROGRAM

Discussion: In addition to federal NEPA requirements, HTFC funding is also subject to compliance with the State Environmental Quality Review Act (SEQR).

Guidance: Most LPA programs are classified as Type II actions, which require no further SEQR review. New construction of more than three residential units on one site, conversion of nonresidential uses to residential use, or projects that require a zoning change, subdivision approval, special use permit or use variance are Unlisted actions that require an individual SEQR determination to be made by HTFC.

Action required: ***In Section 3.0 of the ERR Form, check 3.1, Type II action, unless the program will include actions identified above as Unlisted. If the program will include activities classified as Unlisted, check 3.2 and contact the HTFC Environmental Analysis Unit for further guidance.***

- CONTINUE TO NEXT PAGE-

STEP 7A: FILL OUT STATUTORY CHECKLIST - REVIEW THE PROGRAM ACCORDING TO THREE 24 CFR 58.6 ITEMS (ALL PROGRAMS)

Discussion: All LPA programs must demonstrate compliance with related laws and regulations cited at 24 CFR 58.6, which include the Flood Disaster Protection Act of 1973, the Coastal Barrier Resources Act and Runway Clear Zones (notification). Complete Section 4.1 of the Statutory Checklist (Appendix B).

Guidance: Refer to Appendix C to review these regulations.

Action required:

- *If one or more of the regulations at 24 CFR 58.6 are found to be applicable to the program, describe the procedures to review specific sites for these regulations in the Statutory Checklist.*
- *If none of the regulations at 24 CFR 58.6 is found to be applicable to the program, make a statement to that effect in the Statutory Checklist.*
- *The procedures or inapplicability of the three items will be noted on the Tier 2 Site Specific Template for the LPA's Program*

Download a [fillable MSWord version of the Statutory Checklist](#)

WHAT DO I DO NOW?

For programs classified Exempt or Categorically Excluded according to ERR Section 2.1 (24 CFR 58.34 or 2.2 (24 CFR 58.35(b)), proceed directly to STEP 12.

For programs classified Categorically Excluded 2.3 (24 CFR 58.35(a)) or Environmental Assessment 2.4 (24 CFR 58.36), continue to STEP 8.

STEP 7B: FILL OUT STATUTORY CHECKLIST - REVIEW THE PROGRAM ACCORDING TO 24 CFR 58.5

Discussion: LPA programs classified as Categorically Excluded 2.3 (24 CFR 58.35(a), or Environmental Assessment 2.4 (24 CFR 58.36), must demonstrate compliance with related laws and regulations cited in 24 CFR 58.5, which include:

- Historic Properties,
- Floodplain Management,
- Wetlands Protection,
- Coastal Zone Management,
- Sole-Source Aquifers,
- Endangered Species,
- Wild and Scenic Rivers,
- Air Quality,
- Farmlands Protection,
- Noise,
- Thermal/Explosive Hazards,
- Runway Clear Zones (development),
- Hazardous Materials and HUD Environmental Standards,
- Environmental Justice,
- Lead-Based Paint and Asbestos-Containing Materials.

Guidance: Refer to Appendix D to review these regulations.

Action required:

- *Describe the Tier 2 procedures to review specific sites for these regulations in the Statutory Checklist.*
- *If a particular criteria is inapplicable (i.e. there are no coastal zones in the program area) check “A” and state “no Tier 2 review required” and describe why the criteria is inapplicable on the Statutory Checklist.*
- *If a particular criteria is applicable (i.e. there are coastal zones in the program area) check “B” and state “Tier 2 review required” and describe review instructions on the Statutory Checklist.*

WHAT DO I DO NOW?

For programs classified Categorically Excluded 2.3 (24 CFR 58.35(a)), proceed directly to STEP 12.

For programs classified Environmental Assessment 2.4 (24 CFR 58.36), continue to STEP 9.

STEP 8: COMPLETE THE ENVIRONMENTAL ASSESSMENT CHECKLIST

Discussion: LPA programs classified Environmental Assessment 2.4 (24 CFR 58.36) must complete the Environmental Assessment Checklist (Appendix E) in addition to the Statutory Checklist because of their potential for significant impact to the environment.

The Environmental Assessment (EA) goes beyond the strict requirements of the Statutory Checklist, and is used to determine if the proposed action will result in an adverse impact, either at an individual site or throughout the program target area and may require mitigation.

Guidance: For example, an EA for a program to build ten new single family homes at infill sites in a two-block area, for sale to income-eligible home buyers, may identify safety hazards associated with deteriorated sidewalks or an unmarked school crossing.

Mitigation of these potential impacts might include an agreement with the municipality to repair and maintain sidewalks, or provide traffic signals or other improvements to school crosswalks.

Action required: ***If assessment according to one or more of the categories on the Environmental Assessment Checklist reveals potentially adverse environmental impacts, describe the nature of these impacts in Section 5.0 of the ERR Form. Describe mitigation measures to reduce the severity of these impacts in Section 5.1 of the ERR Form.***

Download a [fillable MSWord version of the Environmental Assessment Checklist](#).

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STEP 9: IDENTIFY ALTERNATIVES TO THE PROPOSED ACTION

Discussion: The EA must also include consideration of reasonable alternatives to the proposed action, including the “no action” alternative.

Guidance: Alternatives to the proposed action, including the “no action” alternative, must be identified in Section 5.2 of the ERR, with a designation of the preferred alternative.

The preferred alternative may be the program as proposed, a modification of the program as proposed, including alternative sites or site selection criteria, or “no action”.

Action required: ***In Section 5.3 of the ERR, describe alternatives to the proposed action, including the “no action” and other reasonable alternatives, and concluding with the preferred alternative.***

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STEP 10: MAKE AN ENVIRONMENTAL FINDING

Discussion: Section 5.3, an environmental finding must be made.

Guidance: If the EA does not identify a potential for significant adverse environmental impacts related to the proposed action, the review will result in a Finding of No Significant Impact.

Action required: ***In Section 5.3 of the ERR Form, check the appropriate environmental finding. HCR will confirm this finding.***

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STEP 11: DETERMINE PUBLIC NOTICE REQUIREMENTS

Discussion: Public notice requirements and formats are based on the program classification made in ERR Sections 2.1-2.4 (24 CFR 58.34 – 58.36).

Guidance: For programs classified as Exempt or Categorical Excluded according to ERR Section 2.1 or 2.2 (24 CFR 58.34 or 58.35(b)), no public notice is required.

For programs classified as Categorical Excluded according to ERR Section 2.3 (24 CFR 58.35(a)), a Notice of Intent to Request Release of Funds (NOIRROF, the 24-day notice) must be prepared.

For programs which require and Environmental Assessment (EA), ERR Section 2.4 (24 CFR 58.36), a combined Finding of No Significant Impact (FONSI/ NOIRROF, the 32-day notice) must be prepared.

Action required: ***If the program is classified Exempt or Categorical Excluded according to ERR Section 2.1 or 2.2 (24 CFR 58.34 or 58.35(b)), check 6.1 on the ERR Form. If the program is classified Categorical Excluded according to ERR Section 2.3 (24 CFR 58.35(a)), check 6.2 on the ERR Form. If the program is classified Environmental Assessment according to ERR Section 2.4 (24 CFR 58.36), check 6.3 on the ERR Form.***

WHAT DO I DO NOW?

For Nonprofit or other private organizations (including CHDOs and Public Housing Authorities), continue to STEP 13.

For LPAs that are State recipients (municipal governments or their agencies) that certify the environmental review to HTFC, and the program is classified Exempt or Categorical Excluded according to ERR Section 2.1 or 2.2 (24 CFR 58.34 or 58.35(b)), proceed directly to STEP 17.

For LPAs that are State recipients (municipal governments or their agencies) that certify the environmental review to HTFC, and the program is classified Categorical Excluded 2.3 or Environmental Assessment 2.4 (24 CFR 58.35(a) or 58.36), proceed directly to STEP 14.

STEP 12: SUBMIT DRAFT ERR FOR REVIEW/REVISION, FINALIZATION

Discussion: A draft copy of the ERR prepared by a nonprofit or other private organization (including CHDOs and Public Housing Authorities) must be submitted to the HTFC Environmental Analysis Unit (EAU), for review and approval.

Guidance: The draft ERR must include the ERR Form, Statutory Checklist, map of target area, and other supporting documentation.

If the ERR is not complete, or requires revision, the EAU Analyst will assist the LPA to prepare a final ERR acceptable for certification by HTFC.

Action required: ***Send a complete draft copy of the ERR to the EAU Analyst assigned to review the program. Revise as necessary according to EAU recommendations. The final ERR must be signed, dated, and submitted to the EAU Analyst assigned to review the program.***

WHAT DO I DO NOW?

For programs classified Exempt or Categorically Excluded according to ERR Section 2.1 or 2.2, proceed (24 CFR 58.34 or 58.35(b)) directly to STEP 18.

For programs classified Categorically Excluded 2.3 or Environmental Assessment 2.4 (24 CFR 58.35(a) or 58.36), continue to STEP 14.

STEP 13: PREPARE DRAFT PUBLIC NOTICE FOR EAU REVIEW/APPROVAL

Discussion: Prepare the draft Public Notice with critical calendar dates and submit to EAU for review and approval.

Guidance: Types of Public Notices:

24 Day Notices:

- For the Notice of Intent to Request Release of Funds (NOIRROF, the 24-day notice), nonprofit or other private organizations (including CHDOs and Public Housing Authorities) must use the boilerplate language in Appendix F-1.
- State recipients (municipalities or their agencies) must use boilerplate language in Appendix F-2.

32 Day Notices:

- For the combined Finding of No Significant Impact (FONSI) and NOIRROF, nonprofit or other private organizations (including CHDOs and Public Housing Authorities) must use the boilerplate language in Appendix G-1.
- State recipients (municipalities or their agencies) must use boilerplate language in Appendix G-2.

Discussion: Determining critical calendar dates to be inserted into the boilerplate notice.

- The boilerplate notices include sections in ***bold italics*** where information specific to the LPA program must be inserted.
- It is critical that the correct dates are inserted in the text of the notice.
- Because this can be a confusing process, and to avoid the expense of having to republish, drafts of all public notices must be submitted to EAU staff for review prior to publication.

Guidance: For both the NOIRROF and FONSI/NOIRROF, timelines are included to show what actions occur at specific points in the public notice process.

- ***DAY 1*** is the date of publication. This calendar date must be inserted at both the beginning and end of the notice.
- The next date in the notice is the date that the Request for Release of Funds is anticipated to be sent to the appropriate agency.
 - For the NOIRROF alone, this is ***DAY 9***;
 - for the combined FONSI/NOIRROF, this is ***DAY 17***. This calendar date must be inserted here.
- In the section with the heading PUBLIC COMMENTS, insert the calendar date for ***DAY 8*** in the NOIRROF, or ***DAY 16*** in the combined FONSI/NOIRROF.
- In the section with the heading OBJECTIONS TO RELEASE OF FUNDS, insert the calendar date for ***DAY 24*** in the NOIRROF, or ***DAY 32*** in the combined FONSI/NOIRROF.

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Guidance (con't): For both the NOIRROF and FONSI/NOIRROF, timelines are included to show what actions occur at specific points in the public notice process.

- Note that except for the day of publication, all subsequent action dates (**DAYS 16, 17, and 32 for the combined FONSI/NOIRROF or DAYS 8, 9 and 24 for the NOIRROF**) must fall on non-holiday weekdays.
- If the public notice is published so that these dates don't automatically fall on business days, then that date must be moved forward to the **next business day**, and all subsequent dates counted from that date.
- For example, if **DAY 16** falls on a Saturday, move that date to the following Monday, which becomes **DAY 16**, Tuesday becomes **DAY 17**, and so forth.
- Otherwise, count comment periods in the public notices in calendar days; include weekends and holidays that occur in between the action days.

Example: *An LPA is ready to publish a Notice of Intent to Request Release of Funds (NOIRROF) in late August 2005. The chosen publication is a weekly newspaper, published every Tuesday. The date of publication (DAY 1) will be Tuesday, August 23, 2005. The notice states that comments on the ERR will be accepted until Tuesday, August 30, 2005 (DAY 8). In the first paragraph, the notice says that on or about August 31, 2005 (DAY 9), the request for release of grant funds will be submitted. Objections to the release of funds must be submitted by September 15, 2005 (DAY 24).*

Action required: ***For programs that require a public notice, submit a draft copy of the notice to the EAU Analyst assigned to review the program.***

Download a [fillable MSWord version of either the NOIRROF \(the 24 day notice\) or the FONSI/NOIRROF \(the 32 day notice\).](#)

CONTINUE TO NEXT PAGE-

STEP 14: PUBLISH AND DISTRIBUTE THE PUBLIC NOTICE

Discussion: After review and approval by the EAU Analyst, publish the public notice on the selected date of publication.

Additionally, the LPA must send the notice to interested agencies, individuals and groups, including the regional HCR office.

At a minimum, distribute the public notice to the agencies listed in Appendix H.

Guidance: Publish the public notices for one day in a newspaper of general circulation serving the program area:

- Acceptable newspapers include local or regional daily or weekly newspapers, or other circulars, which accept legal advertising.
- The publisher must be able to provide an “Affidavit of Publication”, a notarized document that verifies the date of publication.

Action required: ***Publish the public notice on the day shown as DAY 1 in the notice. Distribute the notice to agencies, individuals and groups known to be interested in the program.***

WHAT DO I DO NOW?

For Nonprofit and other private organizations (including CHDOs and Public Housing Authorities), continue to STEP 16.

For State recipients (municipal governments or their agencies) that certify the environmental review to HTFC, proceed directly to STEP 17.

STEP 15: SUBMIT THE PRINTED PUBLIC NOTICE AND AFFIDAVIT OF PUBLICATION

Discussion: HTFC as the Responsible Entity must submit the Request for Release of Funds and Environmental Certification to HUD for nonprofit and other private organizations (including CHDOs and Public Housing Authorities).

HUD requires that a copy of the published notice and an Affidavit of Publication be included with the HTFC's submission.

Action required: ***Submit copies of both the published notice and Affidavit of Publication from the newspaper. A photocopy is acceptable as long as it is legible and includes all portions of the notice and affidavit.***

WHAT DO I DO NOW?

For Nonprofit and other private organizations (including CHDOs and Public Housing Authorities), proceed directly to STEP 18.

STEP 16: SUBMIT THE CLASSIFICATION DETERMINATION OR REQUEST FOR RELEASE OF FUNDS (RROF) FORM TO HTFC

Discussion: **State recipients** (municipal governments or their agencies) must certify to HTFC that they met all requirements under 24 CFR Part 58.

Guidance: For programs classified as **Exempt or Categorically Excluded** according to ERR Section 2.1 or 2.2 (24 CFR 58.34 or 58.35(b)), the Responsible Entity must provide a classification determination letter, signed by the Certifying Officer, that includes:

- a program description,
- NEPA classification, and
- citation as referenced on ERR Attachment 2.1 or 2.2 (24 CFR 58.34 or 58.35(b)).

For programs classified as **Categorically Excluded 2.3 or Environmental Assessment 2.4 (24 CFR 58.35(a) or 24 CFR 58.36)**, the Responsible Entity must certify to HTFC by submitting: the Request for Release of Funds and Environmental Certification Form (RROF). See Appendix I for instructions for completing the RROF.

Action required: *For programs classified as Exempt or Categorically Excluded according to ERR Section 2.1 or 2.2 (24 CFR 58.34 or 58.35(b)), submit a letter, signed by the Certifying Officer that includes:*

- *a program description;*
- *NEPA classification; and*
- *citation as referenced on ERR Attachment 2.1 or 2.2 (24 CFR 58.34 or 58.35(b)), to the EAU Analyst assigned to review the program, at NYS HTFC, Environmental Analysis Unit, Hampton Plaza - 4th Floor, 38-40 State Street, Albany, New York 12207.*

For programs classified as Categorically Excluded 2.3 or Environmental Assessment 2.4 (24 CFR 58.35(a) or 58.36), submit:

- *the completed RROF,*
- *a copy of the published notice and Affidavit of Publication, to the EAU Analyst assigned to review the program, at NYS HTFC, Environmental Analysis Unit, Hampton Plaza - 4th Floor, 38-40 State Street, Albany, New York 12207.*

Download the [RROF \(HUD form 7015.15\)](#).

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STEP 17: HTFC ISSUES CLEARANCE LETTER TO LPA

Discussion: **For all programs, regardless of classification, the HUD environmental review process must be complete before HOME funds are available for LPA program activities, or before the purchase of any land or buildings, or start of any work on a proposed project, even with non-HUD funds.**

Guidance: For programs classified Exempt or Categorically Excluded according to ERR Section 2.1 or 2.2 (24 CFR Part 58.34 or 58.35(b)), HTFC issues a clearance letter to the LPA indicating the effective date of the environmental clearance and removal of the limitation on commitment of federal HOME funds, or other funds, for the program.

- For nonprofit and other private organizations - including CHDOs and Public Housing Authorities, the clearance letter is issued following receipt of a complete ERR. The clearance letter will attach a template Tier 2 Site Specific checklist that must be used for all 2013 awarded projects.
- For State recipients - municipal governments or their agencies, the clearance letter is issued following receipt of a classification determination letter.

Guidance: For programs classified as Categorically Excluded 2.3 or Environmental Assessment 2.4 (24 CFR 58.35(a) or 58.36), and the LPA is a nonprofit and other private organization (including CHDOs and Public Housing Authorities), HTFC must wait for HUD to issue an Authority to Use Grant Funds form (HUD 7015.16), which shows the effective date of HUD clearance. Upon receipt of this form from HUD, HTFC will issue a clearance letter to the LPA, with a copy of the HUD clearance form, indicating removal of the limitation on commitment of federal HOME funds, or other funds, for the program. The clearance letter will attach a template Tier 2 Site Specific checklist that must be used for all 2013 awarded projects.

For programs classified as Categorically Excluded 2.3 or Environmental Assessment 2.4 (24 CFR 58.35(a) or 58.36), and the LPA is a State recipient (municipal governments or their agencies), HTFC must wait a minimum of 15 days following receipt of the RROF form from the Responsible Entity before issuing an Authority to Use Grant Funds form (HUD 7015.16), which shows the effective date of HTFC clearance. HTFC will issue a clearance letter to the LPA, with a copy of the HTFC clearance form, indicating removal of the limitation on commitment of federal HOME funds, or other funds, for the program.

Action required: **Keep the HTFC clearance letter on file with the ERR, together with all other documentation related to the environmental review, including the ERR Form, Statutory Checklist, supporting documentation, public notices**

and affidavit of publication, and RROF, for subsequent HTFC monitoring.

-CONTINUE TO NEXT PAGE-

STEP 18: CONDUCT PROGRAM ACTIVITIES IN ACCORDANCE WITH INSTRUCTIONS DESCRIBED IN THE TIER 2 CHECKLIST

Discussion: The HUD environmental review record leading to the authorization to use grant funds results in either:

1. Measures to comply with environmental regulations, or mitigate adverse impacts, at previously selected project sites, or;
2. A “roadmap” for subsequent environmental review of individual project sites at the time they are selected.

Guidance: For each specific site, the LPA is responsible for following the procedures previously established in the ERR.

- HUD requires submission of each site specific Tier 2 Statutory Checklist and back up documentation for review and acceptance by the HTFC Certifying Officer.
- The LPA cannot “Set-up” individual sites until submission and acceptance of the site specific Tier 2 Statutory Checklist.
- The LPA must use the approved 2013 Tier 2 Template that EAU sent with the Tier 1 clearance letter for all 2013 funded programs.

Action required:

1. When project sites have been pre-selected, incorporate measures to comply with environmental regulations, or mitigate adverse impacts or;
2. When a specific site is selected after completion of the programmatic review, conduct a site-specific Tier 2 environmental reviews according to procedures previously established in the ERR.

NOTE: Should the program description change between the time the programmatic environmental clearance is issued and the time site selections are made, the EAU must be contacted to assist in completing a revised ERR, prior to any site selections.

For instance, if a program for substantial rehabilitation of 1-4 family units is changed to one that includes new construction of 5 or more units on one site, the NEPA classification would have to be changed from Categorically Excluded to an Environmental Assessment. This would require that the ERR be revised and a new notice published.

APPENDIX A: ENVIRONMENTAL REVIEW RECORD (ERR) FORM

Download a [fillable MSWord version of the ERR form.](#)

NEW YORK STATE HOUSING TRUST FUND
HOME PROGRAM

TIER 1 PROGRAMMATIC ENVIRONMENTAL REVIEW RECORD
FOR LOCAL PROGRAM ADMINISTRATOR (LPA) PROGRAMS

PROGRAM NAME:

SHARS NUMBER:

PROGRAM SPONSOR:

PRIMARY CONTACT:
(NAME AND TITLE)

ADDRESS:

TELEPHONE:

FAX:

EMAIL:

RESPONSIBLE ENTITY:

CERTIFYING OFFICER:

PROGRAM LOCATION (OR TARGET AREA):

1.0 PROGRAM ACTIVITIES *(Provide a complete description of the program. Include whether sites selected for the program may require a zone change, special use permit or subdivision approval and the number of units to be provided. Also determine any site disturbance will occur, including digging utility trenches and installing or improving wells or septic systems).*

ESTIMATED TOTAL PROJECT COSTS:

HTFC HOME AWARD AMOUNT:

2.0 PROGRAM CLASSIFICATION - NEPA (Check one)

- 2.1 – Exempt
- 2.2 – Categorically Excluded - subject only to regulations at 58.6
- 2.3 – Categorically Excluded - subject to 24 CFR 58.5 and 58.6
- 2.4 - Environmental Assessment Required

3.0 PROGRAM CLASSIFICATION - SEQR (Check one)

3.1 - Type II action.

3.2 - Unlisted action (*Contact HTFC environmental staff for further guidance*).

4.0 REGULATORY COMPLIANCE DOCUMENTATION

4.1 PROCEDURES TO COMPLY WITH RELATED LAWS AT 24 CFR 58.6
(*Use additional pages if necessary*)

See attached Checklist.

4.2 PROCEDURES TO COMPLY WITH RELATED LAWS AT 24 CFR 58.5
(*Use additional pages if necessary*)

See attached Checklist.

5.0 ENVIRONMENTAL ASSESSMENT (*This section to be completed only for programs which require an EA according to Section 2.4*).

5.1 MITIGATION MEASURES NEEDED (*This section to be completed only for programs which require an EA according to Section 2.4*).

5.2 ALTERNATIVES TO THE PROPOSED ACTION (*This section to be completed only for programs which require an EA according to Section 2.4*).

No Action:

Other alternatives:

Preferred alternative:

5.3 ENVIRONMENTAL FINDING: (*This section to be completed only for programs which require an EA according to Section 2.4 - Check one*)

Finding of No Significant Impact (FONSI)

Finding of Significant Impact (FOSI)

6.0 PUBLIC NOTICES (Check one)

- 6.1 No public notice is required in connection with this program (for program classifications 2.1 and 2.2, above).
- 6.2 A Notice of Intent to Request Release of Funds (NOIRROF) will be published and distributed in connection with this program (*for program classification 2.3, above*).
- 6.3 A combined Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOIRROF) will be published and distributed in connection with this program (*for program classification 2.4, above*).

Prepared by:

Signature: _____

Date:

ERR ATTACHMENT 2.1
EXEMPT ACTIVITIES (24 CFR 58.34, you may check more than one)

- Environmental and other studies, resource identification and development of plans and strategies [58.34(a)(1)].
- Information and financial services [58.34(a)(2)].
- Administration and management activities [58.34(a)(3)].
- Public services that will not have a physical impact or result in physical changes, such as services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs [58.34(a)(4)].
- Inspections and testing of properties for hazards or defects [58.34(a)(5)].
- Purchase of insurance [58.34(a)(6)].
- Purchase of tools [58.34(a)(7)].
- Engineering or design costs [58.34(a)(8)].
- Technical assistance and training [58.34(a)(9)].
- Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from physical disasters, imminent threats or physical deterioration [58.34(a)(10)].
- Payment of principal and interest on loans made or obligations guaranteed by HUD [58.34(a)(11)].
- Any of the categorical exclusions listed in 58.35(a), provided that there are no circumstances which require compliance with any other federal laws and authorities cited in 58.5 [58.34(a)(12)].

ERR ATTACHMENT 2.2
CATEGORICALLY EXCLUDED ACTIVITIES [58.35(b)]

Activities in this section require compliance with related laws and authorities at 58.6, but not 58.5. you may check more than one.*

- Tenant-based rental assistance [58.35(b)(1)].
- Supportive services including, but not limited to health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, state and federal government benefits and services [58.35(b)(2)].
- Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs [58.35(b)(3)].
- Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations [58.35(b)(4)].
- Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction**, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title [58.35(b)(5)].
- Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact [58.35(b)(6)].
- Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under Sec. 58.47 [58.35(b)(7)].

* If a responsible entity determines that an activity or project identified above, because of extraordinary circumstances or conditions at or affecting the location of the activity or project, may have a significant environmental effect, an environmental assessment must be prepared and a determination of significance made.

** **This exclusion applies only to financial assistance for purchase of existing for-sale homes or homes under construction. Homebuyer assistance for units not already under construction is classified as Categorically Excluded according to Section 2.3 of the ERR form, or an activity requiring Environmental Assessment according to Section 2.4 of the ERR form. In all cases, for this exclusion to apply, the prospective buyer must have discretion regarding selection of properties within the target area.**

ERR ATTACHMENT 2.3
CATEGORICALLY EXCLUDED ACTIVITIES [58.35(a)]

Activities in this section require compliance with related laws and authorities at 58.5 and 58.6, you may check more than one.

- Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent. Examples of this type of activity include replacement of water and sewer lines, reconstruction of curbs and sidewalks, street repaving [58.35(a)(1)].
- Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons [58.35(a)(2)].
- Rehabilitation of buildings and improvements for residential use (with one to four units), where the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland [58.35(a)(3)(i)].
- Rehabilitation of multifamily residential buildings (with five or more units), when the following conditions are met: a) unit density is not changed more than 20 percent, b) the project does not involve changes in land use from residential to non-residential, and c) the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation [58.35(a)(3)(ii)].
- Rehabilitation of non-residential structures, including commercial, industrial, and public buildings when the following conditions are met: a) the facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent, and b) the activity does not involve a change in land use, such as from non-residential to residential, or from one industrial use to another [58.35(a)(3)(iii)].
- An individual action on up to four dwelling units (not including rehabilitation - see 58.35(a)(3)(i) above) where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between [58.35(a)(4)(i)].
- An individual action on a project of five or more housing units (not including rehabilitation - see 58.35(a)(3)(i) above) developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site [58.35(a)(4)(ii)].
- Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed will be retained for the same use [58.35(a)(5)].
- Any combination of the above activities [58.35(a)(6)].

APPENDIX B: TIER 1 & TIER 2 STATUTORY CHECKLISTS

Download [fillable MSWord versions of the Tier 1 & Tier 2 Statutory Checklist.](#)

Statutory Checklist – TIER 1 PROGRAMMATIC REVIEW

SHARS No: _____
 LPA Name: _____
 Program Name: _____
 Program Description: _____
 Target Area: _____

*A - Not Applicable to this Program (No Tier 2 required for this criteria)
 B - Consultation, Permit and/or Mitigation Required (Tier 2 IS required for this criteria)-

| Area of Statutory -Regulatory Compliance | A* | B | Provide compliance documentation or Tier 2 review instructions Additional supporting material must be attached. |
|--|--------------------------|--------------------------|--|
| 24 CFR 58.6 Criteria | | | |
| Flood Disaster Protection Act of 1973 | <input type="checkbox"/> | <input type="checkbox"/> | |
| Coastal Barrier Resources Act | <input type="checkbox"/> | <input type="checkbox"/> | |
| Runway Clear Zones (development) | <input type="checkbox"/> | <input type="checkbox"/> | |
| 24 CFR 58.5 Criteria | | | |
| Historic Properties | <input type="checkbox"/> | <input type="checkbox"/> | |
| Floodplain Management | <input type="checkbox"/> | <input type="checkbox"/> | |
| Wetland Protection | <input type="checkbox"/> | <input type="checkbox"/> | |
| Coastal Zone Management | <input type="checkbox"/> | <input type="checkbox"/> | |
| Sole Source Aquifers | <input type="checkbox"/> | <input type="checkbox"/> | |
| Endangered Species | <input type="checkbox"/> | <input type="checkbox"/> | |
| Wild and Scenic Rivers | <input type="checkbox"/> | <input type="checkbox"/> | |
| Air Quality | <input type="checkbox"/> | <input type="checkbox"/> | |
| Farmlands Protection | <input type="checkbox"/> | <input type="checkbox"/> | |
| Noise Abatement and Control | <input type="checkbox"/> | <input type="checkbox"/> | |

| | | | |
|----------------------------------|--------------------------|--------------------------|--|
| Thermal/Explosive Hazards | <input type="checkbox"/> | <input type="checkbox"/> | |
| Runway Clear Zones (development) | <input type="checkbox"/> | <input type="checkbox"/> | |
| HUD Environmental Standards | <input type="checkbox"/> | <input type="checkbox"/> | |
| Environmental Justice | <input type="checkbox"/> | <input type="checkbox"/> | |
| Asbestos & Lead-Based Paint | <input type="checkbox"/> | <input type="checkbox"/> | |

“I am the authorized signatory for the HTFC HOME LPA award to the entity named below. I have read the Tier 1 Programmatic Environmental Review Record and Statutory Checklist and by signing these documents agree with the statements made therein and agree that all Tier 2 site specific reviews will be conducted in conformance with the described procedures.”

Signed

Name

Title

Group

Date

Prepared by:

Consultant Signature & Date

NYS HOUSING TRUST FUND CORPORATION
HOME LPA PROGRAM
Tier 2 Site Specific Statutory Checklist
Attachment to Tier 1 Programmatic ERR

APPROVED FOR:

SHARS No: To be filled in prior to Tier 1 completion
LPA Name: To be filled in prior to Tier 1 completion
Program Name: To be filled in prior to Tier 1 completion
Program Activities: To be filled in prior to Tier 1 completion
Target Area: To be filled in prior to Tier 1 completion

TIER 2 SITE SPECIFIC INFORMATION: (to be filled in by LPA upon choosing site)

1. Site address:
2. Number of units:
3. Project description (this project description must fit within the “Program Activities” described above):

Tier 2 examples:

Rehabilitation:

XYZ Company/Organization proposes rehabilitation of a __-story building for [families, persons 55 or older], with __ residential units at [address] in the [Village or Town or City] of _____, _____ County. The rehabilitation work includes _____. Public water and sewer [are or are not] available at the site. [An existing [structure] will be demolished on the site.] Site work will include [installation or repair of water supply system or septic system, clearing, grading and excavation, construction of driveways, parking areas and sidewalks, finish grading and landscaping]. There (will be/will not be) ground disturbance involved.

New Construction (with or without demolition):

XYZ Company/Organization proposes new construction of a __-story building for [families, persons 55 or older], with __ residential units at [address] in the [Village or Town or City] of _____, _____ County. [An existing building on the site will be demolished to make way for the new construction.] Public water and sewer [are or are not] available at the site. Site work will include [installation of water supply system or septic system, clearing, grading and excavation, construction of driveways, parking areas and sidewalks, finish grading and landscaping].

4. Ground disturbance:
5. If project involves rehabilitation, has work or site altering activities begun on the site (if yes, stop and contact EAU and Program, this site may not be eligible for funding):
6. If project involves acquisition, has acquisition already occurred for the site (if yes, stop and contact EAU and Program, this site may not be eligible for funding):

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Tier 2 Site Specific Statutory Checklist
Attachment to Tier 1 Programmatic ERR

Directions: Use this form to create a template Tier 2 Site Specific Checklist. It should include the instructions that were developed during the Tier 1 review and language options for the Tier 2 review. For each Tier 2 site specific review, choose the most appropriate language option.

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HOME LPA PROGRAM
Tier 2 Site Specific Statutory Checklist
Attachment to Tier 1 Programmatic ERR

| Area of Statutory -Regulatory Compliance | Provide description of compliance for all issues not resolved at the Tier 1 programmatic level Additional supporting material must be attached. |
|--|---|
| Flood Disaster Protection Act of 1973 | <p>Tier 1 Template Example:</p> <p>No 100-year floodzones occur in the target area. No further Tier 2 review required.</p> <p>OR</p> <p>All sites will be reviewed for their location on FIRM maps at: https://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1</p> <p>OR</p> <p>No sites within a floodway will be chosen. Any site within a 100-year floodzone will be required to maintain flood insurance.</p> <p>Sample Tier II Language: Resolved during Tier 1 review.</p> <p>OR</p> <p>According to FIRM No. _____, dated _____ (attached), this site is not located in a floodway or a 100-year floodzone.</p> <p>OR</p> <p>According to FIRM No. _____, dated _____ (attached), this site is not located in a floodway, but is located in a 100-year floodzone. Flood insurance will be purchased and maintained for this site, in compliance with the HOME Award Agreement.</p> |
| Coastal Barrier Resources Act | <p>Tier 1 Template Example:</p> <p>No Coastal Barrier Resource Areas exist in the target area. No further Tier 2 review required.</p> <p>OR</p> <p>Coastal Barrier Resource Areas (CBRA) exist in the target area. All sites will be reviewed for their location with regard</p> |

NYS HOUSING TRUST FUND CORPORATION
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Tier 2 Site Specific Statutory Checklist
Attachment to Tier 1 Programmatic ERR

| | |
|-----------------------------------|---|
| | <p>to CBRAs at:http://www.fws.gov/CBRA/Maps/index.html or https://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1</p> <p>OR</p> <p>No funding will be provided to sites within the CBRA.</p> <p>Sample Tier II Language: Resolved during Tier 1 review.</p> <p>OR</p> <p>According to the CBRA (or FIRM) map for this area (attached), the site is not located in a CBRA.</p> |
| Runway Clear Zones (notification) | <p>Tier 1 Template Example:</p> <p>No designated primary or commercial service airports exist within or near to the target area. No further Tier 2 review required.</p> <p>OR</p> <p>The Program only provides for rehabilitation, not homebuyer assistance. No further Tier 2 review is required.</p> <p>OR</p> <p>The following primary or commercial service airports exist within the target area: _____. All sites will be reviewed for their location with regard to the airport(s). If a site exists within the runway clear zone, the prospective buyers will be advised that the property is located in such a zone, including safety risks and that the property may be acquired by the airport operator at a later date. The buyer must sign a statement acknowledging receipt of this information and the notification must be submitted with the Tier 2 checklist.</p> <p>Sample Tier II language: Resolved during Tier 1 review.</p> |

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Tier 2 Site Specific Statutory Checklist
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| | |
|----------------------------|---|
| | <p>OR</p> <p>The site location was reviewed and determined to be outside the runway clear zone for _____ airport (map attached).</p> <p>OR</p> <p>The site location was reviewed and determined to be inside the runway clear zone for _____ airport (map attached). The potential buyer's acknowledged receipt of the required notification (attached).</p> |
| <p>Historic Properties</p> | <p>Tier 1 Template Example:</p> <p>For all projects that involve new construction on vacant property, any site disturbance, or demolition or rehabilitation of buildings 50 years old or older, a Historic Resource Inventory Form must be completed and submitted to the State Historic Preservation Office (SHPO) for an effect determination.</p> <p>AND</p> <p>THPO review is not required for the program area.</p> <p>OR</p> <p>The program does not allow for ground disturbance and no THPO review will be required.</p> <p>OR</p> <p>Evidence that a review was requested from the Tribal Historic Preservation Officer (THPO) will be submitted with the Tier 2 checklist if the project will conduct ground disturbance.</p> <p>Sample Tier 2 language:</p> <p>According to a _____ letter from OPRHP, there is no effect on historic or cultural resources.</p> |

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Tier 2 Site Specific Statutory Checklist
Attachment to Tier 1 Programmatic ERR

| | |
|------------------------------|---|
| | <p>OR</p> <p>The structure is not more than 50 years old (attachment demonstrating age of house) and no ground disturbance will be conducted so OPRHP was not contacted.</p> <p>AND</p> <p>THPO was not contacted because no ground disturbance will be conducted.</p> <p>OR</p> <p>THPO was contacted on _____ and no response was received (attached).</p> <p>OR</p> <p>THPO was contacted on ____ (attached) and a ____ response letter states: ____ (attached).</p> |
| <p>Floodplain Management</p> | <p>Tier 1 Template Example:</p> <p>No 100-year floodzones occur in the target area. No further Tier 2 review required.</p> <p>OR</p> <p>All sites will be reviewed for their location on FIRM maps at: https://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1 No sites within a floodway will be chosen.</p> <p>If a site is located outside of the 100-year-floodplain, no further action is required. If a site is within the 100-year-floodplain , the Floodplain Management Worksheet will be completed (Appendix J of the NYSHCR HOME LPA Manual). If the project does not constitute "substantial improvement," no further action is needed. If it does, EAU must be contacted for further instruction.</p> <p>Sample Tier 2 language:</p> |

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| | |
|--------------------|---|
| | <p>Resolved during Tier 1 review.</p> <p>OR</p> <p>According to FIRM No. _____, dated _____ (attached), this site is not located in a floodway or a 100-year floodzone. No further action is needed.</p> <p>OR</p> <p>According to FIRM No. _____, dated _____ (attached), this site is not located in a floodway, but is located in a 100-year floodzone. The Floodplain Management Worksheet has been completed (attached) and this project does not constitute "substantial improvement," no further action is needed.</p> <p>OR</p> <p>According to FIRM No. _____, dated _____ (attached), this site is not located in a floodway, but is located in a 100-year floodzone. The Floodplain Management Worksheet has been completed (attached) and this project does constitute "substantial improvement," A substantial rehab project in the 100 year floodplain must comply with the procedures specified in 24 CFR Part 55.</p> |
| Wetland Protection | <p>Tier 1 Template Example: The Program does not allow for ground disturbance. No Tier 2 review required.</p> <p>OR</p> <p>Any site intrusive work, even on previously disturbed land, will be constructed so as to reduce, minimize, or otherwise avoid impacts within wetlands or associated "buffers or check zones." Maps of jurisdictional wetlands will be consulted for each site. In addition to consultation of wetlands maps, if the Sponsor or EAU suspects the potential presence of wetlands in the areas to be disturbed, a formal jurisdictional review or qualified biologist delineation may be required to confirm whether wetlands will be disturbed. This will be decided in further consultation with EAU. If a site is located on or in proximity to wetlands the Sponsor will consult with the relevant regulator and obtain all necessary permits, after completing the Executive Order</p> |

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| | |
|-------------------------|--|
| | <p>11990 8-Step review process. If a site is located in any State associated buffers the Sponsor will consult with NYSDEC and obtain all necessary permits</p> <p>Sample Tier 2 language:</p> <p>Resolved during Tier 1 review.</p> <p>OR</p> <p>The project will not involve any ground disturbance.</p> <p>OR</p> <p>The project will involve ground disturbance</p> <p>AND</p> <p>State and Federal Wetland maps were checked and the project site work is not in or adjacent to a federal or state wetland area or a state wetland buffer (attachment).</p> <p>OR</p> <p>Site work will disturb a wetland (contact EAU to proceed).</p> <p>OR</p> <p>Site work will disturb a State wetland buffer and a copy of the necessary permit is attached.</p> |
| Coastal Zone Management | <p>Tier 1 Template Example:</p> <p>The target area does not contain areas in the NYS Coastal Zone. No Tier 2 review required.</p> <p>OR</p> <p>The target area contains NYS Coastal Zones according to the NYS Coastal Zone Atlas (attached). Each project site will be checked for its location with regard to a Coastal Zone. If a site is within a Coastal Zone, the sponsor must</p> |

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Attachment to Tier 1 Programmatic ERR

| | |
|----------------------|---|
| | <p>contact EAU and EAU will need to coordinate a submission of the project to New York State Department of State (DOS) prior to completion of the Tier 2 checklist for that site.</p> <p>Sample Tier 2 language:</p> <p>Resolved during Tier 1 review.</p> <p>OR</p> <p>The project site is not located within a NYS Coastal Zone according to the Coastal Zone Atlas (attached).</p> <p>OR</p> <p>The project site is located within a NYS Coastal Zone according to the Coastal Zone Atlas (attached). On ____, a Coastal Assessment Form (CAF) (or General Concurrence letter) was sent by EAU to NYS DOS. On ____, DOS responded _____.</p> |
| Sole Source Aquifers | <p>Tier 1 Template Example:</p> <p>The target area does not contain any SSAs. No Tier 2 review required.</p> <p>OR</p> <p>The target area contains the ____ SSA (attached). Project activities include only new construction of 1-4 family units or rehabilitation of residential units. No Tier 2 review required.</p> <p>Sample Tier 2 language.</p> <p>Resolved during Tier 1 review.</p> |
| Endangered Species | <p>Tier 1 Template Example:</p> <p>The Program does not allow for ground disturbanc. No Tier 2 review required.</p> <p>OR</p> |

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Attachment to Tier 1 Programmatic ERR

| | |
|------------------------|---|
| | <p>For every project requiring disturbance of previously undisturbed ground the sponsor will: (1) contact the NYS Natural Heritage Program to determine the potential for impacts of the proposed action on any rare, threatened, or endangered species; and (2) follow the USFWS directions for project reviews at http://www.fws.gov/northeast/nyfo/es/section7.htm. If the USFWS directions reveal the possibility of an endangered species on the site, EAU will be contacted to further consult with USFWS.</p> <p>Sample Tier 2 language:</p> <p>Resolved during Tier 1 review.</p> <p>OR</p> <p>The project does not involve disturbance of previously undisturbed ground.</p> <p>OR</p> <p>The project involves disturbance of previously undisturbed ground. A ___ letter from the NYS Natural Heritage Program states that there are no known occurrences of rare, threatened or endangered species on the project site. A review in accordance with the directions at the USFWS website indicated that there are no endangered species or habitat of concern at the site.</p> |
| Wild and Scenic Rivers | <p>Tier 1 Template Example:</p> <p>The target area does not contain any state or federal Wild, Scenic and Recreational rivers. No Tier 2 review required.</p> <p>OR</p> <p>The following state and/or federal Wild, Scenic and Recreational rivers (WSRR) are located within the target area: ____ All sites will be reviewed to determine their location with regard to the WSRRs. No Program activities should impact the WSRR, but EAU and/or NYSDEC will be contacted with regard to any site within 100 feet of a WSRR to determine any permitting requirements.</p> |

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Attachment to Tier 1 Programmatic ERR

| | |
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| | <p>Sample Tier 2 language:</p> <p>Resolved during Tier 1 review.</p> <p>OR</p> <p>The project is not in close proximity to a wild and scenic river.</p> <p>OR</p> <p>The project is in close proximity to the _____, a WSRR. Upon further consultation with _____, it was determined that _____.</p> |
| Air Quality | <p>Tier 1 Template Example:</p> <p>The Program is for _____, a categorically excluded activity. The proposed project work is not of a size or scope that contributes to air pollution or is expected to violate the State Implementation Plan (SIP). No Tier 2 review required.</p> <p>Sample Tier 2 language:</p> <p>Resolved during Tier 1 review.</p> |
| Farmlands Protection | <p>Tier 1 Template Example:</p> <p>The Program is for downpayment assistance and/or rehabilitation of a single-family home only. It will not convert farmland to a nonagricultural use. No Tier 2 review required.</p> <p>OR</p> <p>The Program may involve new construction on previously unimproved sites. The sites will be reviewed for the potential to convert farmland to nonagricultural use or to determine if the project will require a local land use approval within 500 feet of a NYS Agricultural District. This Website will be consulted to determine the soil types on the site and whether the site contains prime farmland: http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm. If the site contains prime farmland soils or is within 500 feet of</p> |

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| | <p>a NYS Agricultural District, EAU will be consulted to determine how to proceed.</p> <p>Sample Tier 2 language:</p> <p>Resolved during Tier 1 review.</p> <p>OR</p> <p>The project involves new construction on a previously unimproved site. The site does not contain prime farmland soils and is not located within 500 feet of a NYS Agricultural District (attached).</p> |
| Noise Abatement and Control | <p>Tier 1 Template Example:</p> <p>24 CFR Part 51 requires that noise criteria and standards be taken into consideration in the environmental review process and that ameliorative actions be considered for HUD funded development in noise exposed areas. For all sites, distances to major noise sources must be determined. Any project located within 1,000 feet of a roadway carrying more than 10,000 vehicles per day, 3,000 feet of an active railroad or 5 miles of a commercial airport on the FAA’s 239 list or 15 miles of a military airport must be assessed to determine if the site exposed to unacceptable noise.</p> <p>If a project located within critical distances of noise sources is new construction, the sponsor must demonstrate that the project falls within the acceptable noise guidelines. If the noise level is determined to be over 65 dB, noise mitigation will be required and if the noise level is over 75 dB the site will normally not be acceptable for HOME funding.</p> <p>Or</p> <p>If a project located within critical distances of noise sources is substantial rehabilitation, the sponsor must demonstrate that the project falls within the acceptable noise guidelines. If the noise level is determined to be over 65dB, noise mitigation will be strongly recommended and if the noise level is over 75 dB the site will normally not be acceptable for HOME funding.</p> <p>OR</p> |

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| | <p>If a project located within critical distances of noise sources qualifies as moderate rehabilitation, noise attenuation features will be recommended to be included in the project design to the extent that potential noise mitigating work is already contemplated in the project scope (e.g. new windows, insulation, siding, etc.). To demonstrate moderate rehabilitation, the Sponsor will attach an estimate and scope of work and value of the home using the Flood Management Worksheet in Appendix J of the HOME LPA Manual and attach it to each Tier 2.</p> <p>Sample Tier 2 language:</p> <p>The project is not within 1,000 feet of a roadway carrying more than 10,000 vehicles per day, 3,000 feet of a railroad or 5 miles of a commercial airport listed on the FAA’s 239 list or 15 miles of a military airport.</p> <p>OR</p> <p>The project is within 1,000 feet of a roadway carrying more than 10,000 vehicles per day (insert name of roadway) and/or, 3,000 feet of a (insert name of railroad) and/or 5 miles of (insert name of commercial airport listed on the FAA’s 239 list) and/or 15 miles of a (insert name of military airport), but the project is moderate rehabilitation (see attached). [Insert description of any noise mitigating work that is contemplated.]</p> <p>OR</p> <p>The project is substantial rehabilitation or new construction and is within (insert distance to relevant noise source(s)). The pertinent noise worksheets were prepared and forwarded to EAU, which determined that the noise levels are ____, which are acceptable.</p> |
| Thermal/Explosive Hazards | <p>Tier 1 Template Example:</p> <p>The Program will not allow for new construction, rehab to increase the number of units, conversion of non-residential buildings to residential, restoration of vacant or abandoned</p> |

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| | <p>buildings, or increase in the size of a mobile home by 122%. No Tier 2 review required.</p> <p>Or</p> <p>For each site involving new construction, increase in units, conversion of use to residential, restoration of vacant or abandoned buildings, or increase in mobile home size by more than 122% or mobile home replacement in a new footprint, a survey must be conducted by a qualified environmental professional to determine whether within 1,000 foot radius of the site there exist any above-ground stationary facilities which store flammable or explosive gasses (i.e. propane), regardless of tank size. The survey must also determine if there are any facilities which store flammable or explosive liquids in tanks exceeding 100 gallons. Tanks, which exceed 20,000 gallons and are within 1 mile of the site, must also be identified. If such tanks are identified, EAU will be provided with enough information to conduct a thermal explosive hazard analysis. If the distance from the site to the tank is less than the acceptable separation distance (ASD), modification of the proposed layout or construction of earthen berms or concrete barriers will need to be considered.</p> <p>Sample Tier 2 language:</p> <p>Resolved during Tier 1 review.</p> <p>Or</p> <p>The project is not new construction, conversion of non residential to residential use, an increase in unit density, restoration of an abandoned or vacant property or an increase in the size of a mobile home by 122% or more.</p> <p>OR</p> <p>A ____ survey demonstrates that no above-ground storage tanks are located on a line-of-sight basis within 1,000 feet of the site and no tanks exceeding 20,000 gallons are within 1 mile of the site.</p> <p>OR</p> |
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| | A ___ survey identified (insert description of tanks, including distance and location). EAU determined that an ASD exists. |
| Runway Clear Zones (development) | <p>Tier 1 Template Example:</p> <p>No civil or military service airports exist within or near to the target area. No further Tier 2 review required.</p> <p>OR</p> <p>The following civil and/or military airports exist within the target area: _____. However, the Program will not fund either (a) substantial rehabilitations as defined by work that is 75% or more of the total estimated cost of replacement after rehabilitation, in the case of civil airports; or (b) in the case of military airports, will change the use of the facility to a use that is not generally consistent with the DOD recommendations in the "Land Use Compatability Guidelines for Accident Potential Zones." Evidence of this must be submitted with each Tier 2 checklist.</p> <p>OR</p> <p>The following civil or military airports exist within the target area: _____. All sites will be reviewed for their location with regard to the airport(s). If a site exists within the runway clear zone, the site will be excluded from the Program.</p> <p>OR</p> <p>The following primary or commercial service airports exist within the target area: _____. All sites will be reviewed for their location with regard to the airport(s). If the site is within 2,500 feet of a civil airport or 15,000 feet from the end of a runway at a military airfield EAU will be contacted for further direction. The Tier 2 will include a written finding made by the airport or airfield operator stating whether or not the property proposed for assistance is located within the clear zone.</p> <p>Sample Tier 2 language:</p> <p>Resolved during Tier 1 review.</p> |

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| | <p>OR</p> <p>The site location was reviewed and determined to be outside the runway clear zone (or accident potential zone) for _____ airport (map attached).</p> |
| <p>HUD Environmental Standards</p> | <p>Tier 1 Template Example:</p> <p>Each site will be reviewed by an environmental professional, including a site visit, to determine that the site is not located on or near any hazardous materials or contamination. The site visit report will include a signed certification statement, that: "I, (Name, Title), certify that I am a qualified environmental professional as per ASTM 1527."</p> <p>Sample Tier 2 language:</p> <p>The site was visited by ____ on ____ and determined to be free from any hazardous materials or contamination (see attached report).</p> <p>Or</p> <p>The site was visited by ____ on ____ and determined to have the following contamination concerns: _____ (describe resolution).</p> |
| <p>Environmental Justice</p> | <p>Tier 1 Template Example:</p> <p>According to NYSDEC mapping at: http://www.dec.ny.gov/public/899.html, the target area does/not include any potential environmental justice areas. The Program is intended to serve an existing need for affordable housing and is not expected to facilitate development which would result in adverse environmental justice impacts. All substantial rehabilitation projects will be reviewed to determine whether they are within an acceptable noise level area. If applicable, there will not be unmitigated thermal explosive hazards in close proximity to the sites. Each site will be reviewed for compliance with HUD Environmental Standards.</p> <p>Sample Tier 2 language:</p> |

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| | <p>Resolved by Tier 1 review.</p> <p>OR</p> <p>The proposed project site is not located in an Environmental Justice Area according to NYSDEC mapping.</p> <p>OR</p> <p>The proposed project site is located in an Environmental Justice Area according to NYSDEC mapping. The project is intended to serve an existing need for affordable housing and is not expected to facilitate development which would result in adverse environmental justice impacts. It is within an acceptable noise area. There are no thermal explosive hazards in close proximity to the proposed project site. There are adequate services in the area for the residents.</p> |
| <p>Asbestos & Lead-Based Paint</p> | <p>Tier 1 & 2 language:</p> <p>Regarding asbestos containing materials (ACM), all project work will comply with NYS Department of Labor Part 56 requirements including the need for surveys and clearance reports, as required. A contractor will be involved in the project construction and will be instructed regarding the need for compliance with Part 56.</p> <p>Regarding lead-based paint (LBP), in homes constructed prior to 1978, all work will be conducted according to the HUD “Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing” and the EPA Renovation, Repair and Painting Rule (RRP rule).</p> <p>All ACM and LBP must be properly disposed of at a properly licensed facility.</p> <p>The LPA must maintain all compliance documentation for potential audit by EAU.</p> |

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“I am the authorized signatory for the HTFC HOME LPA award to the entity named below. I have read this Tier 2 Site Specific Statutory Checklist and by signing this document agree with the statements made herein and agree that this Tier 2 site specific review was conducted in conformance with the Tier 1 programmatic review procedures.”

Prepared by:

Date:

Title:

Email Address:

Preparer’s Signature:

Phone Number:

APPENDIX C: FILLING OUT THE STATUTORY CHECKLIST - PROCEDURES TO COMPLY WITH RELATED LAWS AT 24 CFR PART 58.6

- **Regulations related to the Flood Disaster Protection Act of 1973, the Coastal Barrier Resources Act and Runway Clear Zones (notification).**
-

The regulations in the 24 CFR 58.6 area of the Statutory Checklist must be reviewed for all LPA programs, regardless of the program classification in ERR Sections 2.1 - 2.4.

For Tier 1 programmatic review, the Statutory Checklist is intended to cover the program as a whole, to determine which regulations may apply to one or more individual project sites once identified, and those which will not be applicable under any circumstances. For each regulation that the LPA finds applicable, a written procedure must be established to review individual project sites according to the regulation. Summarize the procedure in the Statutory Checklist. Where a determination is made that under no circumstances will a specific regulation be applicable to any activities in the program, no further site specific review for that regulation is required and this will be noted on the Tier 2 template for the LPA's program.

The Tier 2 statutory checklist template created during the Tier 1 review of the program must be filled out by selecting the most appropriate response option provided in the template for each law. If the compliance with a regulation was accomplished during the Tier 1 review level, the option "Resolved during Tier 1 review" would be the appropriate selection. If Tier 2 action is required, select the template option that corresponds to the selected site.

Information sources used to make the determinations above must be documented on the checklist, in the compliance documentation column or as an attachment. For Tier 2 site-specific review, documentation of applicability and compliance with each item on the Statutory Checklist must be made for the specific site(s) identified.

FLOOD DISASTER PROTECTION ACT OF 1973

Discussion:

LPAs must determine if proposed projects may potentially be situated within a flood hazard area by referring to Flood Insurance Rate Maps (FIRM). If there is uncertainty about the flood hazard potential of a site, the project sponsor should consult with the Code Enforcement Officer (e.g., building inspector or other local official) to verify and to determine if revisions to the FIRM have been made which affect the subject property.

All actions in areas identified by FEMA as Special Flood Hazard Areas (SFHA) must be conducted in conformance with HUD regulations at 24 CFR Part 55, NYSDEC Regulation 6 NYCRR Part 502 and local regulations developed pursuant to a community's participation in the National Flood Insurance Program. Generally, the local Code Enforcement Officer is responsible for ensuring compliance with local regulations. And, HCR is responsible for ensuring compliance with 6 NYCRR Part 502.

No HUD funds may be used for purchase assistance or rehabilitation in the "regulatory floodway," that portion of the flood zone identified as necessary to adequately discharge a 100-year flood, and where flood velocities and associated hazards are the greatest, usually denoted with white lines on a FIRM.

If proposed purchase or rehabilitation sites are located in an SFHA (outside the "regulatory floodway"), HTFC encourages LPAs to consider other sites outside the 100-year floodplain. However, if a site is chosen within the SFHA, it is required that flood insurance be purchased and maintained, where available, as a program requirement. The cost of the first year of flood insurance is an eligible expense under the HOME Program.

FIRM maps are available from local or county environmental or planning agencies, the New York State Department of Environmental Conservation (DEC), or the Federal Emergency Management Agency (FEMA), or at the [FEMA Map Service Center](#) See also "How to Find FEMA Floodplain Maps Online" in Appendix J.

Action required:

The HTFC floodplain management worksheet (Appendix J) should be used to document compliance with floodplain regulations for each project. If the program may include activities in the SFHA as identified above, check "Consultation Required, Permit and/or Mitigation Required" on the Statutory Checklist, and indicate that procedures will be implemented to review individual projects to address the above considerations. Briefly describe the review procedures in the Statutory Checklist. If no project activities affect the SFHA, write "No Tier 2

review is required” on the Statutory Checklist, and attach documentation to verify this determination.

COASTAL BARRIER RESOURCES ACT

Discussion: Coastal Barrier Resource Areas (COBRAs) are sensitive areas along the coasts of the Atlantic Ocean or Great Lakes subject to severe damage by extreme weather conditions. HUD assistance may **not** be used for activities in a COBRA, including tenant-based rental assistance and first time homebuyer assistance.

Action required: ***If there are Coastal Barrier Resources within the program area, check “Consultation Required, Permit and/or Mitigation Required” and indicate that no HOME funds will be used for properties located in the Coastal Barrier Resources System, and briefly describe procedures to identify COBRAs on the Statutory Checklist. If there are no COBRAs in the program area, check “No Tier 2 review is required” on the Statutory Checklist.***

The Coastal Barrier Resources are located only in the following counties: Suffolk, Nassau, Kings, Queens, Jefferson, Oswego, Cayuga, Wayne, Monroe and Erie. Download [Maps of Coastal Barrier Resources System](#). Scroll down and click on NY. Additionally, some FIRM maps also identify COBRAs.

RUNWAY CLEAR ZONES (notification)

Discussion: If the proposed program includes assistance to purchase residential properties located in a Runway Clear Zone or Clear Zone, as defined in 24 CFR Part 51, prospective buyers must be advised that the property is located in such a zone. The implications of choosing this site include safety risks and the potential that the property may be acquired by the airport operator at a later date. The buyer must sign a statement acknowledging receipt of this information. The signed statement must be submitted with the Tier 2 Site Specific Checklist.

Action required: ***If the proposed program includes homebuyers assistance for properties potentially in proximity to airports as identified in 24 CFR Part 51, check “Consultation Required, Permit and/or Mitigation Required” on the Statutory Checklist, and briefly describe procedures to identify such properties and provide the required information in the Statutory Checklist.***

For a list of airports covered by this regulation go to [HUD-designated Primary and Commercial Service Airports](#). See the following link for the [sample notice to buyers of properties located in runway clear zones](#).

APPENDIX D: FILLING OUT THE STATUTORY CHECKLIST - PROCEDURES TO COMPLY WITH RELATED LAWS AT 24 CFR PART 58.5.

For Tier 1 Programmatic Review, make a determination regarding the applicability of each criteria:

- ❖ **Not Applicable to this Project** (for programmatic review, this means not applicable to *any* potentially funded project) - Check here, only when it is known that the project is located in an area where the environmental condition or resource is nonexistent (e.g., the program target area contains no locations in the Coastal Zone), or of a scale which does not exceed regulatory thresholds (e.g., minor rehabilitation of owner-occupied homes does not require consideration of thermal-explosive hazards).

- ❖ **Consultation Required, Permit and/or Mitigation Required** - Checking this box indicates that for each project, or for those projects which exceed a regulatory threshold, the appropriate federal or federally-authorized agency must be contacted to determine applicability of the regulation. Copies of correspondence should be included in the ERR. Attachments should indicate evidence of permits that have to be secured, or required procedures followed. In areas requiring consistency or where projects require federal permits, licenses, or other forms of approval, such requirements should be recorded here as having been met, (e.g., with a Local Waterfront Revitalization Plan). Conditions or mitigation actions should be listed and attached including any correspondence from reviewing agencies.

Information sources used to make the determinations above must be documented on the checklist, in the compliance documentation column or as an attachment. For Tier 2 review, documentation of applicability and compliance with each item on the Statutory Checklist must be made for the specific site(s) identified.

For programmatic review, the Statutory Checklist is intended to cover the program as a whole, to determine which regulations may apply to one or more individual project sites once identified, and those which will not be applicable under any circumstances. For each regulation that the LPA finds applicable, a written procedure must be established to review individual project sites according to the regulation. Summarize the procedure in the appropriate section of the Statutory Checklist. Where a determination is made that under no circumstances will a specific regulation be applicable to any activities in the program, no further site specific review for that regulation is required.

For Tier 2 Site Specific Review, utilize the preapproved template Type II Checklist that was provided with the clearance letter. Document that the Tier 1 Programmatic instructions were

followed for each criteria needing Tier 2 review.

HISTORIC RESOURCES

Discussion:

Section 106 of the National Historic Preservation Act of 1966 establishes procedures to be followed when federally-funded actions may directly or indirectly have an effect on historic resources. For all projects that involve new construction on vacant property, any site disturbance, or demolition or rehabilitation of buildings 50 years old or older, the applicant must submit the project for review by SHPO through the Cultural Resource Information System (CRIS) site found here: <https://cris.parks.ny.gov>. SHPO must be consulted for a determination before any rehabilitation, demolition or new construction is started on any program sites.

AND

Submit evidence that a review was requested from the Tribal Historic Preservation Officer (THPO) if the project will conduct ground disturbance. Documents submitted to SHPO may also be used for THPO. THPOs have a 30 day response time, after which you may consider the THPO review process closed. Sponsors plan for this time frame in their project development. The THPO review is exempt if the project is in the following counties: Washington, Rensselaer, Columbia, Dutchess, Putnam, Orange, Westchester, Richmond, Bronx, Queens, Kings, New York Nassau, Suffolk or Rockland.

Action required: ***For SHPO: If any proposed project involves new construction on vacant property, or demolition or rehabilitation of buildings 50 years or older, check “Consultation Required, Permit and/or Mitigation Required” on the Statutory Checklist, to indicate that procedures will be implemented to review individual project sites to address the above requirements. Describe the review procedures in the statutory checklist. If all structures proposed for demolition or rehabilitation are less than 50 years old, check “Not Applicable to the Project” on the Statutory Checklist. Documentation that the structure is less than 50 years old MUST be submitted with the Checklist. Acceptable documentation is a tax assessment, deed, statement from code enforcer, etc.***

For THPO: If any proposed project involves new construction on vacant property or site disturbance of any kind, check “Consultation Required, Permit and/or mitigation Required” on the Statutory Checklist, to indicate that procedures will be implemented to review individual project sites to address the above regulations. Describe the review procedures in the Statutory Checklist. If no ground disturbance is proposed, check “Not Applicable to the Project” on the Statutory Checklist.

The Cultural Resource Information System (CRIS) site found here:
<https://cris.parks.ny.gov>.

Look up [Tribal Historic Preservation Officer contact information](#).

FLOODPLAIN MANAGEMENT

Discussion:

In addition to flood insurance requirements described above, programs classified as Categorically Excluded 2.3 or Environmental Assessment 2.4 (24 CFR Part 58.35(a) or 58.36) must consider the following regulations for projects located in the Special Flood Hazard Area (SFHA).

24 CFR Part 55 (HUD regulations implementing Executive Order 11988) requires an eight-step procedure for agency review and public notification for federally-funded actions that involve new construction, substantial improvement of 1-4 family structures, or rehabilitation of structures with more than four units. To determine if a rehabilitation project is substantial improvement, use the Floodplain Management Worksheet (Appendix J) and submit the completed worksheet as part of your supporting documentation. LPAs must also comply with local regulations adopted according to a community's participation in the National Flood Insurance Program.

6 NYCRR Part 502, *Floodplain Management Criteria for State Projects*, requires new construction and substantial improvement projects in the SFHA to be built according to design requirements established by FEMA and state regulations. Note that Part 502 regulations require a finished floor elevation (including basement) of at least one foot above the 100-year flood level, or base flood elevation (BFE). Additionally, the Residential Building Code requires a finished floor elevation of at least two feet above the base flood elevation (BFE) for one and two family homes. This exceeds the federal elevation requirement. Most LPA programs will not involve new construction or substantial rehabilitation within the SFHA. If such an activity is proposed, contact the Environmental Analysis Unit for further guidance before proceeding.

Look for detailed information at:

[HUD regulations for development in flood zones.](#)

FIRM maps are available from local or county environmental or planning agencies, the New York State Department of Environmental Conservation (DEC), or the [FEMA Map Service Center](#).

See also "How to Find FEMA Floodplain Maps Online" in Appendix J.

Action required:

If any proposed project involves new construction or rehabilitation in an SFHA, check the box labeled "Consultation Required, Permit and/or Mitigation Required" on the Statutory Checklist. Describe procedures for individual site review in the Statutory Checklist. If the program will

include no sites within an SFHA, check “Not Applicable to the Project” on the Statutory Checklist. Source documentation for these determinations can include a copy of a FIRM map, with the Panel Number and Effective Date, or communication from the local Code Enforcement Officer responsible for a community’s participation in the National Flood Insurance Program.

WETLAND PROTECTION

Discussion:

Any intrusive work, even on previously disturbed land, will be constructed so as to reduce, minimize, or otherwise avoid impacts within jurisdictional wetlands or associated “buffers or check zones.” Both the NYSDEC and US Fish and Wildlife Maps of jurisdictional wetlands will be consulted. In addition to consultation of wetlands maps, if the Sponsor or HTFC suspects the potential presence of wetlands in the areas to be disturbed, a formal jurisdictional review or qualified biologist delineation may be required to confirm whether wetlands will be disturbed. This will be decided in further consultation with HTFC. If a site is located on or in proximity to wetlands or associated buffers or check zones one of two actions may be taken:

1. A formal jurisdictional review will be requested from ACOE, DEC or local authority depending on which type of wetland is in close proximity or
2. A qualified biologist will be consulted to determine if a formal on-site wetlands investigation or delineation is required.

Any required permits will be obtained prior to construction activities.

FEDERAL WETLAND PROCESS:

Executive Order 11990 requires federal agencies to avoid providing assistance for new construction in wetlands unless there is no practicable alternative, and the project includes all practicable measures to mitigate impacts. This rule also requires early public review according to the eight-step process prescribed in 24 CFR Part 55 for floodplain management. HTFC will be notified prior to undertaking any new construction projects in wetlands.

Section 404 of the Clean Water Act provides for jurisdiction by ACOE over “waters of the United States,” including most wetland areas, even those that may not be mapped by FWS or DEC. Activities disturbing these areas may be subject to ACOE permitting requirements in addition to review under Executive Order 11990.

STATE WETLAND PROCESS:

The NYS Freshwater Wetlands Act requires a permit to be obtained from DEC prior to conducting regulated activities in or within 100 feet of state-

protected freshwater wetland areas mapped by the agency. Within the boundaries of the Adirondack Park, state wetland regulations are administered by the Adirondack Park Agency (APA).

Maps of state-protected wetlands are available at DEC regional offices, as well as municipal and county offices. See [on-line wetland maps](#) for New York State.

Contact information for [ACOE offices](#) serving New York State can be found by looking under “Contact Us”. Maps of USFWS Federal Wetlands are located at [National Wetlands Inventory Mapper](#).

Detailed information on for development in wetlands can be found at [HUD wetland regulations](#).

Action required:

Any intrusive work, even on previously disturbed land, will be constructed so as to reduce, minimize, or otherwise avoid impacts within jurisdictional wetlands or associated “buffers or check zones.” Maps of jurisdictional wetlands will be consulted. In addition to consultation of wetlands maps, if the Sponsor or HTFC suspects the potential presence of wetlands in the areas to be disturbed, a formal jurisdictional review or qualified biologist delineation may be required to confirm whether wetlands will be disturbed. This will be decided in further consultation with HTFC. If a site is located on or in proximity to wetlands or associated buffers or check zones one of two actions may be taken:

- 1. A formal jurisdictional review will be requested from ACOE, DEC or local authority depending on which type of wetland is in close proximity or***
- 2. A qualified biologist will be consulted to determine if a formal on-site wetlands investigation or delineation is required.***

Describe procedures for individual site review in the Statutory Checklist. If no proposed project involves activities described above, or is located in an already built-up, urban area, check “Not Applicable to the Project” on the Statutory Checklist.

COASTAL ZONE MANAGEMENT

Discussion:

The Coastal Zone Management Act of 1972 establishes requirements for review of federally-funded projects in the Coastal Zone. In New York State, the Coastal Zone includes land areas adjacent to Lakes Erie and Ontario, the St. Lawrence, East, Harlem and Niagara Rivers, the Hudson River south of the Federal Dam in Troy, the Kill van Kull and Arthur Kill, Long Island Sound,

the Atlantic Ocean, and their connecting water bodies, bays, harbors, shallows and marshes.

If a target area is located within the designated coastal zone (determined by looking at the coastal atlas website listed below), the municipality should be contacted to determine if project sites are within the boundaries of a Local Waterfront Revitalization Program (LWRP). In addition, for all projects in the coastal zone, the LPA must consult with the EAU before taking any further action.

Download maps at the [NYS Coastal Atlas](#)

Action required: ***If any proposed target area lies within the Coastal Zone, check “Consultation Required, Permit and/or Mitigation Required” on the Statutory Checklist to indicate that the required interagency review will be conducted through the EAU. Describe procedures for individual site review in the Statutory Checklist stating that you will check the coastal atlas mapping for each site and that the EAU will be contacted if a site is located in the coastal zone. If there are no areas of the Coastal Zone in the project target area, check “Not Applicable” on the Statutory Checklist.***

SOLE SOURCE AQUIFERS

Discussion: **Section 1424(e) of the Safe Drinking Water Act** allows for aquifer areas to be designated by the Environmental Protection Agency (EPA) as Sole Source Aquifers (SSA) areas. Once an area is designated, EPA must review proposals for federal assistance which may adversely affect the SSA according to criteria at 40 CFR Part 149. A number of SSA areas have been designated in New York State. Under terms of a Memorandum of Understanding (MOU) between EPA and HUD, a Project/Activity Initial Screen Criteria form (available from HTFC) must be completed for any construction projects within a designated SSA, except for the following excluded activities: 1) New construction of 1-4 family units at any one site; 2) Funding of planning grants; 3) Rehabilitation of residential units; 4) Funding of all other grants for non-construction projects/activities, 5) Projects identified as exempt in 24 CFR Part 58.34. If any item on the form is answered “yes,” it must be submitted to EPA Region II for review and comment prior to undertaking the action.

To obtain a fillable MSWord version of the Project/Activity Initial Screen Criteria form, send an email request to the Environmental Analysis Unit at EAU@nyshcr.org.

[EPA Sole Source Aquifer](#) provides information and mapping.

Action required: ***If the program area contains an SSA designated by EPA, and the program may include construction activities not listed as excluded above, check “Consultation Required, Permit and/or Mitigation Required” on the Statutory Checklist, to indicate that for projects in the SSA, a Project/Activity Initial Screen Criteria form will be completed, and if any answer on the form is “yes,” it will be submitted to EPA Region II for review and comment prior to undertaking the action. Describe procedures for individual site review in the Statutory Checklist. If there is not a designated SSA area in the program area, or if all activities in the program are excluded according to the list above, check “Not Applicable.”***

ENDANGERED SPECIES

Discussion: **The Endangered Species Act of 1973** requires every federal agency to insure that any action that it authorizes, funds, or carries out, is not likely to jeopardize the continued existence of any threatened or endangered species or result in the destruction or adverse modification of critical habitat. For proposed projects that include ground disturbance of previously undisturbed ground, the LPA must: (1) consult with the NY Natural Heritage Program to determine if the project area is known to contain state listed rare, threatened or endangered species, or associated critical habitat. The Natural Heritage Program response letters must be kept in the LPA’s environmental review file; (2) Additionally, the sponsor must provide documentation demonstrating whether any federally-listed rare, threatened or endangered species or habitat exist on the site. Projects at infill sites in built-up urban areas, and rehabilitation projects with no associated site disturbance, are assumed to have no adverse impact on threatened or endangered species, therefore no action is required.

Contact information on documentation regarding [Fish and Wildlife federally-listed species](#).

Detailed information on requesting information from the can be found at [NYS Natural Heritage Program](#).

Action required: ***For REHAB only projects, with no ground disturbance of previously undisturbed areas, check A on the checklist. NO further Endangered Species review is necessary. If any proposed project includes ground disturbance of previously undisturbed land, check “Consultation Required, Permit and/or Mitigation Required,” to indicate that prior to commencement of any project where ground disturbance will occur, (1) the***

NYS Natural Heritage Program will be notified to determine the potential for impacts of the proposed action on any rare, threatened, or endangered species. The Natural Heritage Program response letters must be kept in the LPA's environmental review file; and (2) For programs with new construction or any type of ground disturbance of previously undeveloped land, provide documentation demonstrating whether any listed rare, threatened or endangered species exist on site, as per the US Fish and Wildlife Service instructions located above. For programs with new construction or any type of ground disturbance in previously undisturbed areas, it is recommended that the website be checked every 90 days after site selection up until time of site disturbance. New listings are added to the website. Describe procedures for individual site review in the Statutory Checklist. If proposed projects are located on infill sites in a built-up urban area, or are limited to rehabilitation with no site disturbance, check "Not Applicable" on the Statutory Checklist.

WILD AND SCENIC RIVERS

Discussion: **The Wild and Scenic Rivers Act** establishes review requirements for federal projects in or near rivers classified as wild, scenic, or recreational under this act, rivers under study for inclusion in the system, or rivers listed in the Nationwide Rivers Inventory.

Detailed information and a list of can be found at [Wild, Scenic and Recreational Rivers System](#).

Additionally, New York State has designated its own list of Wild, Scenic and Recreational [Rivers](#).

Action required: **If any proposed project involves new construction or rehabilitation involving site work within the target area in close proximity to a classified river, check "Consultation Required, Permit and/or Mitigation Required," to indicate that the NYS DEC will be contacted to determine permitting requirements. Describe procedures for individual site review in the Statutory Checklist. If the program does not involve any activities with potential to impact resources identified in this section, check "Not Applicable" on the Statutory Checklist.**

AIR QUALITY

Discussion: The Clean Air Act (CAA) was established to reduce air pollution and protect air quality. While most projects conducted by LPAs are typically not of a scale which requires consideration of the provisions of the CAA, a review is required to ensure compliance. In most cases, Categorically Excluded

programs are not of a size or scale that triggers review requirements. Programs requiring an Environmental Assessment generally only require a documentation procedure. HTFC will advise the LPA if additional review requirements are triggered.

Action required: ***The following language or procedure is suggested for the Statutory Checklist:***

For Categorically Excluded programs:

The proposed project work is not of a size or scope that contributes to air pollution.

For Environmental Assessment programs:

1. The LPA should first determine if the county is in nonattainment for any criteria pollutant using the link below. Note that the program-area county is only considered to be a nonattainment area if it is listed with 2012 in the “Nonattainment in Year” column.

<http://www3.epa.gov/airquality/greenbk/ancl.html>

2. The LPA should then document its determination on the Statutory Checklist with language such as:

The site location county is not a nonattainment area.

OR

The site location county is a nonattainment area, but the program activities are not of a size or scope that contribute to air pollution and conform with the State Implementation Plan (SIP).

FARMLANDS PROTECTION

Discussion: **The Farmland Protection Policy Act of 1981** requires proposals to use federal funds for residential development that result in conversion of farmland to nonagricultural use to be evaluated according to criteria found at 7 CFR Part 658(b). If evaluation is required, a Farmland Conversion Impact Rating Form AD-1006, from the U.S. Department of Agriculture’s Natural Resource Conservation Service (NRCS), must be completed and submitted to NRCS. For projects where this process is required, contact EAU for assistance in completing the form.

Download USDA [form AD-1006](#).

Action required: ***If any proposed project will convert farmland to nonagricultural use, check “Consultation Required, Permit and/or Mitigation Required,” to indicate that the project will be reviewed according to the Farmland Protection Policy Act. Describe procedures for individual site review in the Statutory Checklist. If the program does not involve any activities with potential to convert farmland to nonagricultural use, check “Not Applicable” on the Statutory Checklist.***

The New York State Department of Agriculture and Markets Law, Section 305, describes requirements for projects located in or near a NYS Agricultural District certified pursuant to Agriculture and Markets Law, Article 25-AA, Sections 303 and 304. Projects that convert farmland to nonagricultural use in an Agricultural District require the preparation of an Agricultural Impact Statement and 1 NYCRR Part 371, Notice of Intent, submitted to the NYS Department of Agriculture and Markets for their review and consideration. Any application requiring a special use permit, site plan or subdivision approval or use variance, which requires approval by a planning, zoning, town or village board must submit an Agricultural Data Statement (ADS) if the proposed project meets certain conditions. The conditions are if the proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located within an agricultural district. The clerk of the appropriate governmental entity is required to complete and submit the ADS.

NYS Agricultural District boundaries can be obtained from the county. [Cooperative Extension office](#) lists the contacts around the state or by doing a Google search in the county.

Action required: ***If any proposed project will convert farmland to nonagricultural use, or require a local land use approval within 500 feet of a NYS Agricultural District, check “Consultation Required, Permit and/or Mitigation Required,” to indicate that the project will be reviewed according to New York State Department of Agriculture and Markets Law, Part 305. Describe procedures for individual site review in the Statutory Checklist. If the program does not involve any activities with potential to convert farmland to nonagricultural use, check “Not Applicable” on the Statutory Checklist.***

NOISE ABATEMENT AND CONTROL

Discussion: **HUD Environmental Criteria and Standards at 24 CFR 51(b)** describe HUD’s general policy to provide minimum national standards applicable to

HUD programs to protect citizens against excessive noise in their communities and places of residence. Particular emphasis is placed on compatible land use planning in relation to airports, highways, and other source of high noise. HUD Noise Assessment Guidelines are used when a project site is located within 1,000 feet of a roadway carrying more than 10,000 vehicles per day, 3,000 feet of an active railroad line, or 5 miles of a commercial airport on the FAA's 239 list or 15 miles of a military airport.

For projects that include only moderate rehabilitation, noise attenuation (through the construction of barriers or architectural features) is encouraged in all projects where it is apparent that excessive noise levels exist.

For substantial rehabilitation projects, a noise assessment worksheet must be prepared according to procedures described in *The Noise Guidebook*, HUD-953-CPD, updated June 5, 2002. Rehabilitation is considered substantial if the proposed improvements are 50% or higher than the current market value of the structure before rehabilitation. Noise attenuation is strongly encouraged in substantial rehabilitation projects where the average ambient day-night noise level (DNL) exceeds 65 decibels (dB).

For new residential construction projects, a noise assessment **must** be prepared if the site is in close proximity to transportation noise sources as described above. The installation of manufactured homes in a new location on the same lot is considered new construction by HUD. **Metering for noise is not an accepted method of providing data for the worksheets.**

The installation of manufactured homes in a new location on the same lot is considered new construction by HUD. This will trigger the need for a noise assessment. Part 51 establishes the following thresholds for acceptability of new construction in a noise sensitive area:

| <u>DNL</u> | <u>Required Action</u> |
|--------------------|--|
| 65 dB or less | Acceptable - No further action required. |
| 65-70 dB | Normally Unacceptable - minimum 25 dB window-wall noise attenuation or other mitigation action required. |
| 70-75 dB | Normally Unacceptable - minimum 30 dB window-wall noise attenuation or other mitigation required. |
| Greater than 75 dB | Unacceptable - action allowed with adequate noise attenuation, or other mitigation, but only if an environmental impact statement (EIS) is prepared, or a waiver of the EIS requirement is issued. |

Review the on-line [Noise Guidebook](#). Use [Free Map Tools](#) for distance measurements.

Action required: ***If any proposed project is considered substantial rehabilitation or new construction and may be located less than 1,000 feet of a major four-lane highway, 3,000 feet of an active railroad line, 15 miles from a major commercial or military airport, or other major source of noise, check “Consultation Required, Permit and/or Mitigation Required” to indicate that sites will be reviewed according to HUD Noise Assessment Guidelines. Describe procedures for individual site review in the Statutory Checklist. If no proposed project will be located in a high noise area, check “Not Applicable” on the Statutory Checklist.***

THERMAL/EXPLOSIVE HAZARDS

Discussion: **HUD Environmental Criteria and Standards at 24 CFR 51(c)** are applicable to HUD-assisted projects which involve the following:

- new residential construction,
- conversion of nonresidential buildings to residential use,
- rehabilitation of residential properties that increases the number of units or
- restoration of abandoned or vacant buildings to habitable condition, (abandoned or vacant buildings means a habitable structure that has been vacant for more than one year).

For these activities, the acceptable separation distance (ASD) to the site from flammable or explosive materials stored aboveground must be calculated. A survey must be conducted by a qualified environmental professional within 1,000 foot radius of the site to determine if there exist any **above-ground stationary** facilities which store flammable or explosive gasses (i.e. propane), regardless of tank size. The survey must also determine if there are any facilities which store flammable or explosive liquids in tanks exceeding 100 gallons. Tanks, which exceed 20,000 gallons and are within 1 mile of the site, must also be identified.

The installation of manufactured homes in a new location on the same lot is considered new construction by HUD. HUD also considers placement of a new, larger home, on a smaller, existing footprint to be **New Construction IF the new unit’s footprint is at least 122% larger than the original footprint**. (Footprint is defined by HUD as the area of construction activity inside the perimeter of the foundation of a dwelling. Construction activities such as bay windows, extended patios, or any other structure that extends over the foundation perimeter do not count as part of the footprint.) This will

trigger a Thermal/Explosive Hazards review. Propane tanks used to heat the home are considered an explosive source and must maintain the adequate ASD for tanks of any size. For instance, if a home were heated by a 500 gallon propane tank, the tank must be located at least 210 feet from the nearest outdoor gathering area (driveway, patio, deck or play area). Modification of the proposed layout or construction of earthen berms or concrete barriers should be considered when a proposed project is less than the ASD from a hazardous facility.

View detailed information on HUD regulations for development near [thermal/explosive hazards](#). Use [Free Map Tools](#) for distance measurements.

Action required: ***For programs which may include new construction, conversion of nonresidential properties to residential use, rehabilitation which increases unit density, or restoration of abandoned residential properties to habitable condition, check “Consultation Required, Permit and/or Mitigation Required” on the Statutory Checklist to indicate that for these activities, the ASD from existing aboveground storage facilities which contain flammable or explosive materials, as defined by 24 CFR Part 51(c), will be determined, and appropriate decisions made according to regulatory requirements. A survey must be conducted by a qualified environmental professional within a 1,000 foot radius of the site to determine if there exist any above-ground stationary facilities which store flammable or explosive gasses (i.e. propane), regardless of tank size. The survey must also determine if there are any facilities which store flammable or explosive liquids in tanks exceeding 100 gallons. Tanks, which exceed 20,000 gallons and are within 1 mile of the site, must also be identified. Describe procedures for individual site review in the Statutory Checklist. For programs that do not include activities requiring compliance with Part 51(c) requirements, check “Not Applicable” on the Statutory Checklist.***

RUNWAY CLEAR ZONES (development)

Discussion: **HUD Environmental Criteria and Standards at 24 CFR 51(d)** describe HUD’s general policy to apply standards to prevent incompatible development around civil airports that operate scheduled commercial flights and military airfields. HUD funds may not be used for assistance, new construction, or substantial rehabilitation near civil airports (using a 75% standard) or change in use incompatible with DOD recommendations near military airfields. For Accident Potential Zones at Military Airfields, projects must generally be consistent with recommendations in the *Land Use Compatibility for Accident Potential Zones* contained in Department of Defense Instruction 4165.57, 32 CFR Part 256.

[HUD-designated primary and commercial service airports and](#) (Scroll down until you find Part 4, NY- note that the airports of concern are the Primary and Commercial Service Airports only) [Military airports](#) and [Airport Clear Zone](#) fact sheet.

Action required: ***If the program area includes a major commercial civilian or military airport identified by HUD, and the program proposes development activities in close proximity to these areas, check “Consultation Required, Permit and/or Mitigation Required” on the Statutory Checklist to indicate that the program will comply with requirements referenced above. Describe procedures for individual site review in the Statutory Checklist. For programs that do not include activities in these areas, check “Not Applicable” on the Statutory Checklist.***

HUD ENVIRONMENTAL STANDARDS

Discussion: It is HUD policy that all properties be free of hazards that could affect the health and safety of occupants or conflict with the intended utilization of the property.

1. **For buildings of five or more units WITH acquisition:** The LPA must submit the “executive summary” or “Conclusions and Recommendations” of a Phase 1 Environmental Site Assessment (ASTM Standard E1527).
2. **For any size building WITHOUT acquisition, or for a building of 4 units or less WITH acquisition,** submit a letter from a qualified environmental professional (on their own or the local building department letterhead) that states that a site visit was conducted and the site is not located on or near any hazardous materials or contamination. HCR will require the site visit report to include a signed certification statement as follows: “I, (Name, Title), certify that I am a qualified environmental professional as per ASTM 1527.”

Examples of a “qualified environmental professional”

- A person who holds a Baccalaureate or higher degree in a relevant science or engineering field plus the equivalent of five years relevant work experience OR
- A person who holds a current engineer’s or professional geologist license or registration from a state, tribe or U.S. territory OR
- An official of the site locality’s Building Department with expertise in assessing environmental conditions OR
- A person who has the equivalent of ten years relevant work and field experience in performing environmental site assessments.

Environmental professional means a person who possesses sufficient education, training, and experience to exercise professional judgment to develop opinions and conclusions regarding conditions indicative of releases or threatened releases on or at a property.

Mold: If mold is encountered during a project, all work must comply with NYS Department of Labor (DOL) regulations at Article 32 Section 930 *et al.*

Radon: HCR strongly recommends radon testing for all projects. The following testing protocol is recommended.

1. Determine if the target area is in a county with elevated radon levels at the [EPA website](#) and at [NYS Department of Health](#). Testing is strongly recommended at sites within these zones after construction or rehabilitation is completed.
2. For rehab projects where the tested radon levels exceed the EPA action level of 4.0 pCi/L, HCR recommends installation of a radon mitigation system.
3. For all new construction projects in areas of zone 1 and 2, it is advisable to install “passive” radon mitigation systems. Should radon test results exceed the EPA action level of 4.0 pCi/L, the system should be activated with a fan.

See the HUD guidance document [Choosing an Environmentally ‘Safe’ Site](#).

Action required:

1. ***If any proposed project will involve acquisition AND new construction or rehabilitation of multi-family housing, with five or more units, check “Consultation Required, Permit and/or Mitigation Required” to indicate that compliance with HUD Environmental Standards will be accomplished by conducting a Phase I Environmental Site Assessment using current techniques by a qualified professional. Discuss how radon will be addressed.***
2. ***If any proposed project will involve new construction or rehabilitation (with no acquisition) of 1-4 family residential units, check “Consultation Required, Permit and/or Mitigation Required” to indicate that compliance with HUD Environmental Standards will be accomplished a qualified environmental professional must conduct a site visit to determine if the site is not located on or near any hazardous materials or contamination. HCR will require the site visit report to include a signed certification statement as follows: “I, (Name, Title), certify that I am a qualified environmental professional as per ASTM 1527.”***

ENVIRONMENTAL JUSTICE

Discussion:

Executive Order 12898 requires each federal agency to include environmental justice as part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. If a project is determined to have adverse environmental impacts, a determination must be made under this regulation as to whether the adverse impacts disproportionately affect low-income or minority populations.

Detailed information at:

- [HUD Environmental Justice](#)
- [NYS DEC](#)

Action required:

1. *The LPA should first determine if the county or target area has any potential environmental justice areas using the link below.*

<http://www.dec.ny.gov/public/899.html>

2. *The LPA should then document its determination on the Statutory Checklist with language such as:*

- a. *The site or target location is not a potential environmental justice area*

OR

- b. *The site or target location is in a potential environmental justice area*

3. *The LPA should provide an analysis of any potential environmental justice impacts such as:*

- a. *The project site is located in a potential Environmental Justice Area according to NYSDEC mapping. The project is*

intended to serve an existing need for affordable housing and is not expected to facilitate development which would result in adverse environmental justice impacts. It is within an acceptable noise level area. Radon mitigation systems will be installed. There are no unmitigated thermal explosive hazards in close proximity to the site. And, there are adequate services in the area for the residents.

ASBESTOS AND LEAD-BASED PAINT (LBP)

Discussion:

Asbestos:

NYS Department of Labor (DOL) regulations at 12 NYCRR Part 56 govern the identification (Part 56-5.1), removal, encapsulation, enclosure, or disturbance of RACM in New York State. Contractors involved in these activities must have a valid asbestos license, displayed at the work site, and must perform all asbestos work in accordance with provisions of Part 56. Where all asbestos work on a project is subcontracted to a contractor with an asbestos handling license, only that part of the work involving asbestos is considered an asbestos project; other contractors not involved in the asbestos project are not required to have an asbestos handling license.

Information on [asbestos in buildings](#) is available from EPA. See [NYS Department of Labor asbestos regulations](#)

Lead-Based Paint:

HUD regulations at 24 CFR Part 35 require LBP hazard reduction as part of HUD-sponsored rehabilitation. Because HOME LPA rehabilitation programs may deal with residential buildings built prior to 1978, it is likely that lead-based paint (LBP) will be found during rehabilitation of these properties. The EPA Renovation, Repair and Painting Rule (RRP rule) requiring all contractors to get lead certified is also a requirement for projects receiving HTFC funding.

Action required:

Asbestos:

Any program involving rehabilitation must check “Consultation Required, Permit and/or Mitigation Required” to indicate that all work will be conducted according to NYS DOL Part 56 requirements

Lead-Based Paint: ***If proposed program will involve rehabilitation of a residence constructed prior to 1978, check “Consultation Required, Permit and/or Mitigation Required” on the Statutory Checklist and indicate that all work will be conducted according to the HUD “Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing” and the EPA Renovation, Repair and Painting Rule (RRP rule). Describe procedures for individual site review in the Statutory Checklist.***

APPENDIX E: ENVIRONMENTAL ASSESSMENT CHECKLIST

Download a [fillable MSWord version of the Environmental Assessment Checklist](#).

The Environmental Assessment (EA) for programmatic review is designed to adequately address, in a single environmental review, the separate and combined impacts of activities that are similar, connected, and closely related, or dependent upon other actions. [24 CFR Part 58.32(c)(1)]. The EA also includes consideration of reasonable alternatives to the proposed action, including the “no action” alternative, a schedule of any activities to resolve conflicts or mitigate individual, combined or cumulative effects, and mitigation measures, including project alternatives, applicable to individual project sites [24 CFR Part 58.32(c)(2-4)].

Issues identified in the EA, which may apply to one or more project sites in the program, or to the program as a whole, must be described in Section 5.0 of the ERR. Alternatives to the proposed action, including the “no action” alternative, must be identified in Section 5.1, with a designation of the preferred alternative. The preferred alternative may be the program as proposed, a modification of the program as proposed, including alternative sites or site selection criteria, or “no action.” Mitigation measures to address concerns in Section 5.0 must be described in Section 5.2. Finally, an environmental finding must be made in Section 5.3. Unless the EA identifies extraordinary circumstances related to the proposed action, the review will likely result in a Finding of No Significant Impact.

In preparing the EA Checklist, the LPA should consider relevant regulations as discussed in Appendix D of this manual, and HUD guidance documents listed below.

HUD Guidance Documents

- [Environmental Assessment Guide for Housing Projects \(Handbook 1390.2\)](#)
- [Manual for HUD Staff to Conduct an Environmental Review](#)



Homes and Community Renewal

ANDREW M. CUOMO
Governor

JAMES S. RUBIN
Commissioner/CEO

Environmental Assessment Determinations and Compliance Findings for HUD-assisted Projects 24 CFR Part 58

Project Information

Project Name & SHARS No.:

Responsible Entity: New York State Homes & Community Renewal

Grant Recipient:

State/Local Identifier:

Preparer:

Certifying Officer Name and Title: Heather Spitzberg, Director
Environmental Analysis Unit

Consultant (if applicable):

Direct Comments to: Heather Spitzberg
38-40 State Street
Albany, NY 12207
(518) 486-3379
heather.spitzberg@nyshcr.org

Project Location:

Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

Statement of Purpose and Need for the Proposal [40 CFR 1508.9(b)]:

Existing Conditions and Trends [24 CFR 58.40(a)]:

Funding Information

| Grant Number | HUD Program | Funding Amount |
|---------------------|--------------------|-----------------------|
| | | |
| | | |

Estimated Total HUD Funded Amount:

Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

NYSHCR has conducted a review for each of the compliance factors listed below and determined whether the activity affects the resources under consideration or whether formal compliance steps or mitigation is required. All compliance source documentation regarding the necessary reviews or consultation is attached to the Checklist and included in the ERR.

| Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6 | Are formal compliance steps or mitigation required? | Compliance determinations |
|---|--|---------------------------|
| STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 and 58.6 | | |
| Airport Hazards 24 CFR Part 51 Subpart D | Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| Coastal Barrier Resources | Yes <input type="checkbox"/> No <input type="checkbox"/> | |

| | | |
|---|--|--|
| Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501] | <input type="checkbox"/> <input type="checkbox"/> | |
| Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a] | Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5 | | |
| Clean Air Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93 | Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d) | Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2) | Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402 | Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| Explosive and Flammable Hazards 24 CFR Part 51 Subpart C | Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658 | Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55 | Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800 | Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B | Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149 | Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| Wetlands Protection | Yes <input type="checkbox"/> No <input type="checkbox"/> | |

| | | |
|--|---------------------------------|--------------------------------|
| Executive Order 11990, particularly sections 2 and 5 | | |
| Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c) | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| ENVIRONMENTAL JUSTICE | | |
| Environmental Justice Executive Order 12898 | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

Environmental Assessment Factors [24 CFR 58.40; Ref. 40 CFR 1508.8 &1508.27] NYSHCR has recorded below the qualitative and quantitative significance of the effects of the proposal on the character, features and resources of the project area. Each factor has been evaluated and documented, as appropriate and in proportion to its relevance to the proposed action. Verifiable source documentation has been provided and described in support of each determination, as appropriate. Credible, traceable and supportive source documentation for each authority has been provided. Where applicable, the necessary reviews or consultations have been completed and applicable permits of approvals have been obtained or noted. Citations, dates/names/titles of contacts, and page references are clear. Additional documentation is attached, as appropriate. **All conditions, attenuation or mitigation measures have been clearly identified.**

Impact Codes: Use an impact code from the following list to make the determination of impact for each factor.

- (1) Minor beneficial impact
- (2) No impact anticipated
- (3) Minor Adverse Impact – May require mitigation
- (4) Significant or potentially significant impact requiring avoidance or modification which may require an Environmental Impact Statement

| Environmental Assessment Factor | Impact Code | Impact Evaluation |
|--|-------------|-------------------|
| LAND DEVELOPMENT | | |
| Conformance with Plans / Compatible Land Use and Zoning / Scale and Urban Design | | |
| Soil Suitability/ Slope/ Erosion/ Drainage/ Storm Water Runoff | | |
| Hazards and Nuisances including Site Safety and Noise | | |
| Energy Consumption | | |

| Environmental Assessment Factor | Impact Code | Impact Evaluation |
|---|-------------|-------------------|
| SOCIOECONOMIC | | |
| Employment and Income Patterns | | |
| Demographic Character Changes, Displacement | | |

| Environmental Assessment Factor | Impact Code | Impact Evaluation |
|--|-------------|-------------------|
| COMMUNITY FACILITIES AND SERVICES | | |
| Educational and Cultural Facilities | | |
| Commercial Facilities | | |
| Health Care and Social Services | | |
| Solid Waste Disposal / Recycling | | |
| Waste Water / Sanitary Sewers | | |
| Water Supply | | |
| Public Safety - Police, Fire and Emergency Medical | | |
| Parks, Open Space and Recreation | | |
| Transportation and Accessibility | | |

| Environmental Assessment Factor | Impact Code | Impact Evaluation |
|--|-------------|-------------------|
| NATURAL FEATURES | | |
| Unique Natural Features, Water Resources | | |
| Vegetation, Wildlife | | |
| Other Factors | | |

Additional Studies Performed:

Field Inspection (Date and completed by):

List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]:

List of Permits Obtained:

Public Outreach [24 CFR 50.23 & 58.43]:

Cumulative Impact Analysis [24 CFR 58.32]:

Alternatives [24 CFR 58.40(e); 40 CFR 1508.9]

No Action Alternative [24 CFR 58.40(e)]:

Summary of Findings and Conclusions: This environmental review was conducted in accordance with requirements of NEPA, the Council on Environmental Quality regulations implementing NEPA (40 CFR 1500) and 24 CFR Part 58 HUD NEPA requirements for Responsible Entities. As discussed in this document, the project required an Environmental Assessment and has been analyzed for compliance with related laws and authorities at 24 CFR 58.5 & 58.6. The analysis concluded that_____

Mitigation Measures and Conditions [40 CFR 1505.2(c)]

NYSHCR summarizes below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

| Law, Authority, or Factor | Mitigation Measure |
|---------------------------|--------------------|
| | |
| | |
| | |
| | |

Determination:

Finding of No Significant Impact [24 CFR 58.40(g)(1); 40 CFR 1508.27]
 The project will not result in a significant impact on the quality of the human environment.

Finding of Significant Impact [24 CFR 58.40(g)(2); 40 CFR 1508.27]
 The project may significantly affect the quality of the human environment.

Preparer Signature: _____ Date: _____

Name/Title/Organization: _____

Certifying Officer Signature: _____ Date: _____

Name/Title: Heather Spitzberg, Director, Environmental Analysis Unit

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

**APPENDIX F-1: NONPROFIT NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS
(NOIRROF)**

for use by Nonprofit or other private organizations (including CHDOs and Public Housing Authorities)

Download a [fillable MSWord version of the NOIRROF.](#)

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (NOIRROF)

(DAY 1) - Date of publication

New York State Housing Trust Fund Corporation (HTFC)
38-40 State Street
Albany, New York 12207
(518) 486-3379

On or about **(DAY 9)**, the New York State Housing Trust Fund Corporation (HTFC) will submit a request to the U. S. Department of Housing and Urban Development (HUD) for the release of HOME funds under Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA) of 1990, in accordance with section 288 (42 U.S.C. 12838), to undertake a project known as the 2013 New York State HOME LPA Program. The 2013 HOME LPA Program funds a variety of activities through partnerships with counties, municipalities and non-profit community-based housing organizations, which are referred to as Local Program Administrators (LPA). Each LPA works within a specific geographic area – usually a county or municipality. The Program provides funds to acquire, rehabilitate or construct housing or to provide assistance to low- and moderate-income home-buyers and renters. Funds must be distributed in accordance with needs and priorities identified in the State’s Consolidated Plan.

The proposed activities that are the subject of this Notice are Categorically Excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act requirements. The specific LPA Programs that are the subject of this Notice do not constitute every LPA Program that is proposed for inclusion within the 2012 New York State HOME LPA Program. A full listing of the 2013 HOME LPA Programs is available at **(insert website, to be coordinated with OCR)**.

This is the first tier of review in a 2-tiered process. The specific addresses of homes are not known at this time because the participating property owner identification process is ongoing. Therefore, under 24 CFR Part 58.15 (Tiering) and 24 CFR Part 58.32 (Project Aggregation), HTFC will use a tiered approach and once specific sites are determined, each site will be reviewed in compliance with the instructions established in the Tier 1 Review. No physical work will begin on properties until all levels of environmental review are complete and found to be in compliance. Tier 1 review addresses specific environmental factors for which compliance has been documented, regardless of specific site locations. It prevents repeating the same compliance factors on a Tier 2 site-specific basis, once all participating homeowners are known.

The following 2013 HOME LPA Program(s) will be undertaken in this publishing area. An Environmental Review Record (ERR) that documents the environmental determinations for this/these Program(s) is on file at **(insert website, to be coordinated with OCR)** and the following location(s):

(YOUR Program Title), for purposes of **(YOUR Program description and Service Area)**.

The ERR is available at: (*ERR Location Address*) and may be examined or copied weekdays () A.M. to () P.M.

(State more Programs if necessary/feasible)

Additional LPA Programs in this publishing area may be the subject of additional public notices. A full listing of the 2013 HOME LPA Programs is available at (**insert website, to be coordinated with OCR**).

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR(s) to Heather Spitzberg, Esq., Environmental Analysis Unit, NYS Housing Trust Fund Corporation, 38-40 State Street, Albany, New York, 12207 or at eau@nyshcr.org. Please note to which LPA your comment pertains in your correspondence. All comments received by (**DAY 8**) will be considered by HTFC prior to authorizing submission of a request for release of funds.

RELEASE OF FUNDS

HTFC certifies to HUD that Ms. Heather Spitzberg, Esq. in her capacity as Certifying Officer consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows HTFC to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

HUD will consider objections to its release of funds and HTFC's certification received by (**DAY 24**) or for a period of fifteen days following its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of HTFC; (b) HTFC has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by HUD; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to

Director of Community Planning and Development
U.S. Department of Housing and Urban Development
26 Federal Plaza
New York, New York 10278-0068

Potential objectors should contact HUD to verify the actual last day of the objection period.

Ms. Heather Spitzberg, Esq.
Certifying Officer
(DAY 1) - Date of publication

Note: Be sure to submit a draft copy of this notice to the HTFC environmental analyst assigned to review your program before sending it for newspaper publication. Do not include this note as part of the public notice.

TIMELINE FOR REQUEST FOR RELEASE OF FUNDS AND ENVIRONMENTAL CERTIFICATION

| CALENDAR DAY | EVENT |
|--------------|--|
| 1 | PUBLICATION OF NOIRROF* |
| 2 | BEGIN COMMENT PERIOD ON ERR (COMMENTS TO HTFC) |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |
| 8** | END COMMENT PERIOD ON ERR |
| 9** | HTFC SUBMITS RROF AND ENVIRONMENTAL CERTIFICATION TO HUD |
| 10 | BEGIN HUD DECISION PERIOD |
| 11 | |
| 12 | |
| 13 | |
| 14 | |
| 15 | |
| 16 | |
| 17 | |
| 18 | |
| 19 | |
| 20 | |
| 21 | |
| 22 | |
| 23 | |
| 24** | END HUD DECISION PERIOD*** |

* Program sponsor must submit Affidavit of Publication and a copy of the notice as it appeared in the newspaper to HTFC.

** These action days must not occur on a weekend or holiday. Weekend and holidays may occur on the calendar days in between the action days.

*** HTFC will issue a clearance letter to sub-recipient when required comment period has expired.

**APPENDIX F-2: AGENCY NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS
(NOIRROF)**

for use by State recipients (municipal governments or agencies)

To obtain a see [fillable MSWord version of the NOIRROF.](#)

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (NOIRROF)

(DAY 1) - Date of publication

(Name of Responsible Entity)

(Address)

(Telephone number)

On or about ***(DAY 9)***, the ***(Name of Responsible Entity)*** will submit a request to the New York State Housing Trust Fund Corporation (HTFC) for the release of HOME funds under Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA) of 1990, in accordance with section 288 (42 U.S.C. 12838), to undertake a project known as ***(YOUR Program Title)***, for purposes of ***(YOUR Program description and Service Area)***.

This is the first tier of review in a 2-tiered process. The specific addresses of homes are not known at this time because the participating property owner identification process is ongoing. Therefore, under 24 CFR Part 58.15 (Tiering) and 24 CFR Part 58.32 (Project Aggregation), HTFC will use a tiered approach and once specific sites are determined, each site will be reviewed in compliance with the instructions established in the Tier 1 Review. No physical work will begin on properties until all levels of environmental review are complete and found to be in compliance. Tier 1 review addresses specific environmental factors for which compliance has been documented, regardless of specific site locations. It prevents repeating the same compliance factors on a Tier 2 site-specific basis, once all participating homeowners are known.

The activities proposed are Categorically Excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act requirements. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at:

(Location in project area accessible to public)

(Address)

and may be examined or copied weekdays A.M. to P.M.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to

(Contact person)

(Name of Responsible Entity)

(Address)

(Telephone number)

All comments received by **(DAY 8)** will be considered by **(Name of Responsible Entity)** prior to authorizing submission of a request for release of funds.

RELEASE OF FUNDS

(Name of Responsible Entity) certifies to HTFC that **(Name of Certifying Officer)** in his/her capacity as Certifying Officer consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HTFC's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows **(Name of Responsible Entity)** to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

HTFC will consider objections to its release of funds and **(Name of Responsible Entity's)** certification received by **(DAY 24)** or for a period of fifteen days following its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of **(Name of Responsible Entity)**; (b) **(Name of Responsible Entity)** has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by HTFC; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to

Director, Environmental Analysis Unit
New York State Housing Trust Fund Corporation
Hampton Plaza - 4th Floor
38-40 State Street
Albany, New York 12207

Potential objectors should contact HTFC to verify the actual last day of the objection period.

(Name of certifying officer)
Certifying Officer
(DAY 1) - Date of publication

Note: Be sure to submit a draft copy of this notice to the HTFC environmental analyst assigned to review your program before sending it for newspaper publication. Do not include this box in the public notice.

TIMELINE FOR REQUEST FOR RELEASE OF FUNDS AND ENVIRONMENTAL CERTIFICATION (APPENDIX F-2)

| CALENDAR DAY | EVENT |
|--------------|---|
| 1 | PUBLICATION OF NOIRROF |
| 2 | BEGIN COMMENT PERIOD ON ERR (COMMENTS TO RESPONSIBLE ENTITY) |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |
| 8* | |
| 9* | SUBMIT RROF AND ENVIRONMENTAL CERTIFICATION TO HTFC*** |
| 10 | BEGIN HTFC DECISION PERIOD |
| 11 | |
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| 17 | |
| 18 | |
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| 23 | |
| 24* | END HTFC DECISION PERIOD**** |

* These action days must not occur on a weekend or holiday. Weekend and holidays may occur on the calendar days in between the action days.

** Substantive comments received during the ERR comment period must be satisfactorily addressed prior to submission of RROF and Environmental Certification form to HTFC.

*** Program sponsor must submit Affidavit of Publication and a copy of the notice as it appeared in the newspaper to HTFC with submission of RROF. The HTFC decision period begins on the date that the RROF and Affidavit are received. By statute, HTFC must hold the RROF a minimum of 15 days after receipt of the RROF before issuing the environmental clearance.

**** An “Authority to Use Grant Funds” form, HUD form 7015.16, will be sent to the Responsible Entity.

APPENDIX G-1: NONPROFIT COMBINED FINDING OF NO SIGNIFICANT IMPACT (FONSI) AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (NOIRROF)
for use by Nonprofit or other private organizations (including CHDOs and Public Housing Authorities)

Download a [fillable MSWord version of the combined FONSI and NOIRROF.](#)

COMBINED NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND INTENT TO
REQUEST RELEASE OF FUNDS

(DAY 1) - Date of publication

New York State Housing Trust Fund Corporation (HTFC)
38-40 State Street
Albany, New York 12207
(518) 486-3379

This Notice shall satisfy the above-cited two separate but related procedural notification requirements.

REQUEST FOR RELEASE OF FUNDS

On or about *(DAY 17)*, the New York State Housing Trust Fund Corporation (HTFC) will submit a request to the U. S. Department of Housing and Urban Development (HUD) for the release of HOME funds under Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA) of 1990, in accordance with section 288 (42 U.S.C. 12838), to undertake a project known as the 2013 New York State HOME LPA Program. The 2013 HOME LPA Program funds a variety of activities through partnerships with counties, municipalities and non-profit community-based housing organizations, which are referred to as Local Program Administrators (LPA). Each LPA works within a specific geographic area – usually a county or municipality. The Program provides funds to acquire, rehabilitate or construct housing or to provide assistance to low- and moderate-income home-buyers and renters. Funds must be distributed in accordance with needs and priorities identified in the State’s Consolidated Plan.

The specific LPA Programs that are the subject of this Notice do not constitute every LPA Program that is proposed for inclusion within the 2013 New York State HOME LPA Program. A full listing of the 2013 HOME LPA Programs is available at **(insert website, to be coordinated with OCR)**.

The following 2013 HOME LPA Program(s) will be undertaken in this publishing area. An Environmental Review Record (ERR) that documents the environmental determinations for this/these Program(s) is on file at **(insert website, to be coordinated with OCR)** and the following location(s):

(YOUR Program Title), for purposes of *(YOUR Program description and Service Area)*.

The ERR is available at: *(ERR Location Address)* and may be examined or copied weekdays A.M. to P.M.

(State more Programs if necessary/feasible)

This is the first tier of review in a 2-tiered process. The specific addresses of homes are not known at this time because the participating property owner identification process is ongoing. Therefore, under 24 CFR Part 58.15 (Tiering) and 24 CFR Part 58.32 (Project Aggregation), HTFC will use a

tiered approach and once specific sites are determined, each site will be reviewed in compliance with the instructions established in the Tier 1 Review. No physical work will begin on properties until all levels of environmental review are complete and found to be in compliance. Tier 1 review addresses specific environmental factors for which compliance has been documented, regardless of specific site locations. It prevents repeating the same compliance factors on a Tier 2 site-specific basis, once all participating homeowners are known.

Additional LPA Programs in this publishing area may be the subject of additional public notices. A full listing of the 2013 HOME LPA Programs is available at **(insert website, to be coordinated with OCR)**.

FINDING OF NO SIGNIFICANT IMPACT

HTFC has determined that the Program(s) will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional Program information is contained in the ERR on file at the location(s) listed above.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR(s) to Heather Spitzberg, Esq., Environmental Analysis Unit, NYS Housing Trust Fund Corporation, 38-40 State Street, Albany, New York, 12207. All comments received by **(DAY 16)** will be considered by HTFC prior to authorizing submission of a request for release of funds. Those wishing to comment should specify which part of this Notice they are addressing.

RELEASE OF FUNDS

HTFC certifies to HUD that Ms. Heather Spitzberg, Esq. in her capacity as Certifying Officer consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows HTFC to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

HUD will consider objections to its release of funds and HTFC's certification received by **(DAY 32)** or for a period of fifteen days following its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of HTFC; (b) HTFC has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by HUD; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to:

Director of Community Planning and Development
U.S. Department of Housing and Urban Development
26 Federal Plaza
New York, New York 10278-0068

Potential objectors should contact HUD to verify the actual last day of the objection period.

Ms. Heather Spitzberg, Esq.
Certifying Officer
(DAY 1 - Date of publication)

**TIMELINE FOR REQUEST FOR RELEASE OF FUNDS
AND ENVIRONMENTAL CERTIFICATION**

| CALENDAR DAY | EVENT |
|--------------|---|
| 1 | PUBLICATION OF COMBINED FONSI AND NOIRROF |
| 2 | BEGIN COMMENT PERIOD ON FONSI (COMMENTS TO HTFC) |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |
| 8 | |
| 9 | |
| 10 | |
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| 12 | |
| 13 | |
| 14 | |
| 15 | |
| 16* | END COMMENT PERIOD ON FONSI** |
| 17* | HTFC SUBMITS RROF AND ENVIRONMENTAL CERTIFICATION TO HUD*** |
| 18 | BEGIN HUD DECISION PERIOD |
| 19 | |
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| 25 | |
| 26 | |
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| 30 | |
| 31 | |
| 32* | |

- * These action days must not occur on a weekend or holiday. Weekend and holidays may occur on the calendar days in between the action days.
- ** Substantive comments received during the ERR comment period must be satisfactorily addressed prior to HTFC submission of RROF and Environmental Certification form to HUD.
- *** Program sponsor must submit Affidavit of Publication and a copy of the notice as it appeared in the newspaper to HTFC for submission to HUD.
- **** HTFC will issue a clearance letter to sub-recipient when required comment period has expired.

APPENDIX G-2: AGENCY COMBINED FINDING OF NO SIGNIFICANT IMPACT (FONSI) AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (NOIRROF)
for use by State recipients (municipal governments or agencies)

Download a [fillable MSWord version of the combined FONSI and NOIRROF.](#)

COMBINED NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND INTENT TO
REQUEST RELEASE OF FUNDS

(DAY 1) - Date of publication

(Name of Responsible Entity)

(Address)

(Telephone number)

This Notice shall satisfy the above-cited two separate but related procedural notification requirements.

REQUEST FOR RELEASE OF FUNDS

On or about *(DAY 17)*, the *(Name of Responsible Entity)* will submit a request to the New York State Housing Trust Fund Corporation (HTFC) for the release of HOME funds under Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA) of 1990, in accordance with section 288 (42 U.S.C. 12838), to undertake a project known as *(YOUR Program Title)*, for purposes of *(YOUR Program description and Service Area)*.

This is the first tier of review in a 2-tiered process. The specific addresses of homes are not known at this time because the participating property owner identification process is ongoing. Therefore, under 24 CFR Part 58.15 (Tiering) and 24 CFR Part 58.32 (Project Aggregation), HTFC will use a tiered approach and once specific sites are determined, each site will be reviewed in compliance with the instructions established in the Tier 1 Review. No physical work will begin on properties until all levels of environmental review are complete and found to be in compliance. Tier 1 review addresses specific environmental factors for which compliance has been documented, regardless of specific site locations. It prevents repeating the same compliance factors on a Tier 2 site-specific basis, once all participating homeowners are known.

FINDING OF NO SIGNIFICANT IMPACT

(Name of Responsible Entity) has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at

(Location in project area accessible to public)

(Address)

and may be examined or copied weekdays A.M. to P.M.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to

(Contact person)
(Name of Responsible Entity)
(Address)
(Telephone number)

All comments received by **(DAY 16)** will be considered by *(Name of Responsible Entity)* prior to authorizing submission of a request for release of funds. Those wishing to comment should specify which part of this Notice they are addressing.

RELEASE OF FUNDS

(Name of Responsible Entity) certifies to HTFC that *(Name of Certifying Officer)* in his/her capacity as Certifying Officer consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HTFC's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows *(Name of Responsible Entity)* to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

HTFC will consider objections to its release of funds and *(Name of Responsible Entity's)* certification received by **(DAY 32)** or for a period of fifteen days following its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of *(Name of Responsible Entity)*; (b) *(Name of Responsible Entity)* has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by HTFC; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to

Director, Environmental Analysis Unit
New York State Housing Trust Fund Corporation
Hampton Plaza - 4th Floor
38-40 State Street
Albany, New York 12207

Potential objectors should contact HTFC to verify the actual last day of the objection period.

(Name of certifying officer)

Certifying Officer
(DAY 1) - Date of publication

Note: Be sure to submit a draft copy of this notice to the HTFC environmental analyst assigned to review your program before sending it for newspaper publication. Do not include this box in the public notice.

**TIMELINE FOR REQUEST FOR RELEASE OF FUNDS
AND ENVIRONMENTAL CERTIFICATION**

| CALENDAR DAY | EVENT |
|--------------|--|
| 1 | PUBLICATION OF COMBINED FONSI AND NOIRROF |
| 2 | BEGIN COMMENT PERIOD ON FONSI (COMMENTS TO RESPONSIBLE ENTITY) |
| 3 | |
| 4 | |
| 5 | |
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| 16* | |
| 17* | RESPONSIBLE ENTITY SUBMITS RROF AND ENVIRONMENTAL CERTIFICATION TO HTFC*** |
| 18 | BEGIN HTFC DECISION PERIOD |
| 19 | |
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| 25 | |
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| 29 | |
| 30 | |
| 31 | |
| 32* | |

* These action days must not occur on a weekend or holiday. Weekend and holidays may occur on the days in between the action days.

** Substantive comments received during the ERR comment period must be satisfactorily addressed prior to Responsible Entity submission of RROF and Environmental Certification form to HTFC.

*** Program sponsor must submit Affidavit of Publication and a copy of the notice as it appeared in the newspaper to HTFC with submission of RROF. The HTFC decision period begins on the date that the RROF and Affidavit are received. By statute, HTFC must hold the RROF a minimum of 15 days after receipt of the RROF before issuing the environmental clearance.

**** An "Authority to Use Grant Funds" form, HUD form 7015.16, will be sent to the Responsible Entity.

APPENDIX H: REQUIRED LIST OF AGENCIES TO RECEIVE PUBLIC NOTICES

VIA US MAIL

MUNICIPALITY MAYOR

DIVISION OF ENVIRONMENTAL PERMITS
NYS DEC
625 BROADWAY
ALBANY, NY 12223-1750

The public notice must also be distributed to the [Regional DEC office](#) and any other agencies, groups or individuals known to be interested in the program. Provide a copy of the distribution list to HTFC with the Affidavit of Publication.

VIA ELECTRONIC MAIL

GRACE MUSUMECI, CHIEF*
ENVIRONMENTAL REVIEW SECTION
U.S. ENVIRONMENTAL PROTECTION AGENCY
290 BROADWAY, 25TH FLOOR
NEW YORK, NY 10007
MUSUMECI.GRACE@EPA.GOV

MR. VINCENT HOM, DIRECTOR
HUD REGION 2 OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT
26 FEDERAL PLAZA, ROOM 3513
NEW YORK, NY 10278-0068
VINCENT.HOM@HUD.GOV

COPY TO: BARBARA.A.MAULTSBY@HUD.GOV

* Include a copy of the completed ERR Form (Appendix A) with the submission of the NOIRROF to the EPA Strategic Planning and Multimedia Programs office.

APPENDIX I: INSTRUCTIONS FOR COMPLETING THE REQUEST FOR RELEASE OF FUNDS AND CERTIFICATION FORM (RROF) - HUD-7015.15

For use by State recipients (municipal governments or their agencies)

Download the [RROF \(HUD form 7015.15\)](#).

The RROF form is completed by the Responsible Entity following publication of the Notice of Intent to Request Release of Funds (NOIRROF), either by itself, or combined with a Finding of No Significant Impact (FONSI), as applicable for the program. The NOIRROF specifies an anticipated date that this form will be submitted to HTFC. Do not submit the RROF to HTFC prior to this date. If comments raising substantive concerns are received by the Responsible Entity during the initial comment period (minimum 7 days for an NOIRROF alone; 15 days for a combined FONSI/NOIRROF), the Responsible Entity must delay submission of the RROF until issues raised in the comments have been satisfactorily addressed. After receipt of the RROF, HTFC is required to allow a 15-day period to accept objections to the environmental review. At the end of this comment period, HTFC will issue an “Authority to Use Grant Funds” form, HUD form 7015.16, indicating clearance of the environmental review and removal of the limitation on commitment of federal HOME funds, or other funds, for the program [24 CFR 58.22(a)]. In addition to the RROF, the Responsible Entity must also submit a copy of the published notice and an Affidavit of Publication.

Part 1. Program Description and Request for Release of Funds

- Program Title(s) - New York State HOME Program
- HUD/State Identification Number - M-09-SG-360100. Note the number after the “M” is an abbreviated form of the year, i.e. 09 is for 2009. This must be changed each calendar year.
- Recipient Identification Number - Indicate the SHARS number assigned to the program by HTFC.
- OMB Catalog Number - 14.239
- Name and address of responsible entity - Include this information as shown on the Environmental Review Record (ERR) Form.
- For information about this request, contact (name & phone number) - Include this information as shown on the ERR form.
- Name and address of recipient (if different than responsible entity) - This is not applicable. Leave blank.

- HUD or State Agency and office unit to receive request - New York State Housing Trust Fund Corporation (HTFC).
- Program Activity(ies)/Project Name(s) - Include the title of the program here.
- Location (Street address, city, county, State) - Describe the general location of the target area, as shown on the ERR form.
- Program Activity/Project Description - Briefly list and describe the activities to be undertaken under this program, as shown in Section 1.0 of the ERR. Include the estimated total program cost and the amount of the HTFC HOME award.

Part 2. Environmental Certification

The Certifying Officer must review the statements in this section, make the appropriate determination in statement 2, and sign the form in the space labeled “Signature of Certifying Officer of the Responsible Entity.” Include title, address and date in the appropriate spaces. The date of signature should not be earlier than the anticipated date of submission of the RROF stated in the published NOIRROF. Note that statements 6 and 8 apply only to Part 3, which is not applicable to this program.

Part 3. To be completed when the Recipient is not the Responsible Entity.

This is not applicable. Leave blank.

APPENDIX J: FLOODPLAIN MANAGEMENT GUIDELINES FOR HOME LPA PROGRAMS

These guidelines for proposed projects at sites within the Special Flood Hazard Area (SFHA), as defined by the Federal Emergency Management Agency (FEMA), are applicable to all HOME LPA programs, including those where the responsible entity is a unit of local government. This process is governed primarily by HUD regulations at 24 CFR Part 55, which implement the requirements of Executive Order 11988 and employ the principles of the Unified National Program for Floodplain Management, and state regulations at 6 NYCRR Part 502, *Flood Plain Management Criteria for State Projects*. Keep in mind that local floodplain management regulations developed pursuant to a particular community's participation in the National Flood Insurance Program (NFIP) may be more stringent than federal or state standards.

LPAs must determine whether or not any proposed projects are situated within an SFHA by referring to Flood Insurance Rate Maps (FIRM), available from local or county environmental or planning agencies, the New York State Department of Environmental Conservation, or from FEMA, by phone at (800) 358-9616, or online (See "How to Find FEMA Floodplain Maps Online," below). Where there is any uncertainty regarding the SFHA boundary, the municipal Code Enforcement Officer should be consulted. The code official may also identify amendments which may have been made to the FIRM which affect the subject property, and can describe applicable local floodplain regulations. The attached Floodplain Management Worksheet is designed to document HOME LPA compliance with these guidelines. A copy of the worksheet should be completed for each project site and maintained on file for subsequent monitoring by HTFC. It is not required to submit the worksheet to HTFC prior to commencement of each project.

No HUD funds may be used for purchase assistance or rehabilitation in the "regulatory floodway," that portion of the flood zone identified as necessary to adequately discharge a 100-year flood, and where flood velocities and associated hazards are the greatest.

HTFC requires LPAs to require flood insurance be purchased and maintained, where available, as a program requirement, for any purchase assistance or rehabilitation of homes within the SFHA. The cost of the first year of flood insurance is an eligible expense under the HOME Program. Although it is not required to employ FEMA design standards when minor rehabilitation is conducted on a home in a flood hazard area, it is prudent to consider some level of flood risk reduction for these homes, such as elevation of utilities above the 100-year flood level.

For rehabilitation of 1-4 family residential structures in the SFHA, it must be determined whether the action is *substantial improvement*. Substantial improvement means either: (A) Any repair, reconstruction, modernization or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (1) Before the improvement or repair is started; or (2) If the structure has been damaged, and is being restored, before the damage occurred; or (B) Any repair, reconstruction, modernization or improvement of a structure that results

in an increase of more than twenty percent in the number of dwelling units in a residential project or in the average peak number of customers and employees likely to be on-site at any one time for a commercial or industrial project. Substantial improvement may not be defined to include either: (A) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that is solely necessary to assure safe living conditions, or (B) Any alteration of a structure listed on the National Register of Historical Places or on a State Inventory of Historic Places. Structural repairs, reconstruction, or improvements not meeting this definition are considered “minor improvements” [24 CFR 55.2(b)(8)]. Items 3 - 9 of the Floodplain Management Worksheet can be used to calculate and document a determination regarding this definition for each project site.

New construction and substantial improvement projects in the SFHA must comply with a rigorous review process and design standards according to HUD floodplain management regulations at 24 CFR Part 55 and state regulations at 6 NYCRR Part 502. If a proposed project is new construction, or is determined to exceed the threshold for substantial improvement according to this worksheet, contact HTFC for further guidance before any further project planning.

Follow the Directions on FEMA website to create your own for your site. Open [FEMA Issued Flood Maps](#). Conduct Steps 1-3 by Selecting State, County and then community. Step 4 will provide the FEMA map requested. Locate the map for your site and click on View. Find the site on the map and click on “Make a Firmette”. Follow the directions to create a pdf file for the site.

FLOODPLAIN MANAGEMENT WORKSHEET INSTRUCTIONS

The attached worksheet is to be used to verify the location of a proposed project site in relation to the SFHA. For rehabilitation projects, it must be determined if the proposed renovation of a 1-4 family structure in the SFHA meets the definition of substantial improvement. Be sure to include the program name and SHARS # for each project site.

Line 1: Find the site of the proposed action on a Flood Insurance Rate Map (FIRM) to determine if it is located in the SFHA. List the street address and reference the FIRM map and effective date on the worksheet. In addition, contact the municipal Code Enforcement Officer to verify the SFHA boundary, determine if amendments to the FIRM have been made which affect the subject property, and identify local floodplain management regulations which may be more stringent than federal or state standards. If the project site is located in the SFHA, continue to Line 2. If the project site is not located in the SFHA, you *do not need to proceed further*. Sign and date the form and maintain in the project file.

Line 2: Identify the proposed project activities at this site. If the project is only rental or homebuyers assistance where no renovations are required (from any funding source, including private funds), no further action is required. Where rehabilitation is proposed on a 1 - 4 family structure (even if the LPA award is only for homebuyer assistance), items 3 - 9 must be completed to determine if the proposed action is substantial improvement. For new construction of residential units, or rehabilitation of residential buildings with 5 or more units, contact HTFC before proceeding with any further project planning at this site.

Line 3: If the structure proposed for renovation is listed on the State or National Register of Historic Places, you *do not need to proceed further*. The project is not substantial improvement. Check with the local Code Enforcement Officer to determine if the project is subject to local floodplain regulations. If the structure is not included on the list, continue with the worksheet to determine if the project is substantial improvement.

Line 4: List the current market value of the structure proposed for renovation (not including the value of the land on which the building is situated, or other detached buildings on the same lot). If the structure has been damaged and is proposed for restoration, use the established market value *before* the damage occurred. This figure must be adequately documented, e.g., real estate appraisal or full value assessment if structure and land are itemized separately.

Line 5: List the total cost of proposed improvements to the structure (do not include administrative costs and overhead).

Line 6: List the total cost of all improvements to the structure to address existing state or local health, sanitary or safety code violations that are *necessary solely to assure safe living conditions*. These items must be specified in writing by the local Code Enforcement Officer.

Line 7: Subtract line 6 from line 5.

Line 8: Divide line 7 by line 4. If the result is less than 50%, the project does not meet the definition of substantial improvement. *This determination does not exempt the project from local floodplain regulations*, which may be more stringent than federal or state guidelines. If the result is 50% or greater, the project is substantial improvement.

Line 9: Check whether or not the project meets the definition of substantial improvement. If yes, contact HTFC for further guidance before any further project planning. If no, proceed with the project. Maintain this worksheet in the project file for follow-up monitoring.

FLOODPLAIN MANAGEMENT WORKSHEET

PROGRAM NAME:

HTFC PROGRAM NUMBER:

1. Street address of proposed project. *Attach copy of street map showing project location.*

FIRM map number and effective date. *Attach copy of FIRM map showing project location, and correspondence from Code Enforcement Officer.*

Is proposed site within a Special Flood Hazard Area (SFHA)?

YES

NO

If no, do not proceed further. Sign and date the form on page 2 and place in project file. If yes, continue to determine if the proposal is "substantial improvement."

2. Proposed activities (*Check one*)

Rental or home purchase assistance with no renovation (from any funding source). *Do not proceed further. Sign and date the form on page 2 and place in project file.*

Rehabilitation of 1 - 4 family residential units. *Complete items 3 - 9 to determine if proposed rehabilitation is substantial improvement.*

New construction of residential units or rehabilitation of residential buildings with 5 or more units. *Contact HTFC prior to proceeding with any further project planning at this site.*

3. Is the structure proposed for renovation listed on the State or National Register of Historic Places?

YES

NO

If yes, stop here. The project is not substantial improvement. However, the project is subject to review by the Office of Parks, Recreation and Historic Preservation for impacts on cultural and historic resources. Also, check with the local Code Enforcement Officer to determine if the project is subject to local floodplain regulations. If no, continue to item 4.

- 4. Current market value of structure \$
Attach evidence for determined value.
- 5. Total cost of proposed improvements \$
- 6. Cost of improvements to assure safe living conditions \$
Attach statement from Code Enforcement Office.
- 7. Subtract line 6 from line 5. Enter total. \$
- 8. Divide line 7 by line 4.
Enter total as percentage %
- 9. Is the project substantial improvement?

YES *Notify HTFC before proceeding further with this action.*

NO *Proceed with action, maintain this form and attachments in project file.*

Prepared by:

Date:

If a project in the 100 year floodplain is determined to be substantial rehab, the project must comply with the procedures specified in 24 CFR Part 55.