



**Office of Temporary  
and Disability Assistance**

# **Request for Proposals**

## **Housing Opportunities for Persons With AIDS (HOPWA)**

**RFP Release Date: July 20, 2023**

**RFP Due Date: 3:00 PM - August 30, 2023**

**Designated Contact:**

**Name:** Kaitlin Hallissey

**Agency:** Office of Temporary & Disability Assistance

**Title:** Program Manager

**Address:** 40 N. Pearl St. Suite 10C Albany, NY 12243-0001

**Phone/Email:** (518) 474-8407 / [servicesRFP.qanda@otda.ny.gov](mailto:servicesRFP.qanda@otda.ny.gov)



## **Housing Opportunities for Persons With AIDS (HOPWA)**

### **Request for Proposals**

#### **Timeline of Key Events and Procurement Schedule**

<b>Event</b>	<b>Date</b>
Request for Proposals Release	July 20, 2023
Deadline to Submit Questions	July 28, 2023
Proposed Date of Answers (on or about)	August 04, 2023
Proposals Due	August 30, 2023
Award(s) Announced	October 2023
Contract Start Date	January 1, 2024
Contract End Date	December 31, 2028

#### **Inquiries:**

Any questions about this RFP must be submitted via email by 3:00pm on Friday, July 28, 2023, to the attention of Kaitlin Hallissey at [servicesRFP.ganda@otda.ny.gov](mailto:servicesRFP.ganda@otda.ny.gov).

All questions must be typed.

Along with your question(s), provide your name, organization, mailing address, email, and fax number. Questions must be submitted prior the 3:00pm Friday, July 28, 2023 deadline.

The written responses to all questions will be posted at [www.otda.ny.gov](http://www.otda.ny.gov). The NYS Office of Temporary and Disability Assistance will not entertain questions via telephone. Any question received after the specified deadline may be answered at the discretion of OTDA and if answered would be published in the Question and Answer document.

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## Section One – Summary Information

### I. Introduction

The New York State Office of Temporary and Disability Assistance (hereinafter "OTDA") announces a funding opportunity for the **Housing Opportunities for Persons With AIDS (HOPWA)** program. OTDA is requesting proposals from non-profit organizations and public housing agencies for funding to provide housing and related support services to low-income persons with AIDS or HIV-related illnesses and their families.

This RFP is issued pursuant to 24 Code of Federal Regulations (CFR) Part 574, entitled Housing Opportunities for Persons with AIDS (see Attachment A). The U.S. Department of Housing and Urban Development (HUD) annually allocates HOPWA funding to New York State. Funding of contracts under this RFP is contingent upon actual availability of Federal HOPWA funds and New York State legislative appropriation. Contracts awarded under HOPWA are 100% federally funded and HOPWA has a catalog of federal assistance (CFDA) number of 14.241.

While applicants may request funds through this New York State RFP for a number of different activities, priority will be given to proposals that will result in the continued or expanded availability of housing units and support services for persons with HIV/AIDS. Potential applicants should carefully review the attached HOPWA regulations before drafting their application in order to assure consistency with the regulations.

Funding under this RFP is primarily reserved for applications to serve areas of the State that do not receive direct HOPWA allocations from HUD. OTDA's goal is to reach geographic areas where persons with HIV/AIDS are underserved and fill the housing and support services gaps that cannot be funded through other sources. (Please see Section II – Eligible Applicants.) Because of the limited HOPWA funds available to New York State, applicants must demonstrate that funds are either not available from other sources to support the proposed activities or that HOPWA dollars are required to supplement the proposed activities.

Agencies applying for continued HOPWA funding must demonstrate the direct, positive impact their program has had on the availability of housing and support services.

If selected, the proposal and all parts of it submitted in response to this RFP may become part of a contract with OTDA subject to approval by the New York State Attorney General (OAG) and the New York State Office of the State Comptroller (OSC). At the time of contract development, awardees will be required to submit additional budget and program information for the contract. Successful applicants will be required to submit all final contract documents, narratives and budgets electronically. OTDA reserves the right to negotiate any aspect of a proposal to ensure that the final agreement meets OTDA objectives.

Successful applicants will be required to be prequalified through New York State's Grant Reform initiative, inclusive of the establishment of a data vault. For more information on NYS Grants Management please visit [www.grantsmanagement.ny.gov](http://www.grantsmanagement.ny.gov). Successful applicants are also



required to register with the OSC's Vendor Responsibility Program which can be found at the following address: <http://www.osc.state.ny.us/vendrep/enroll.htm>. In addition, Workers Compensation coverage, Disability coverage, and registration or exemption status with the OAG's Charities Bureau are required.

Successful applicants must certify that they will abide by all applicable State and Federal laws, regulations, and requirements, including the State's HIV confidentiality laws.

**Applications must be submitted electronically through Grants Gateway at <https://grantsgateway.ny.gov>.**

## **II. Eligible Applicants**

Non-profit organizations and public housing agencies may submit applications under this RFP. Applications may be made by one organization or by two or more organizations acting together. In the latter instance, a lead agency must be clearly identified.

While the Federal funds made available directly to New York State for distribution statewide are quite limited (approximately \$3.8 million), the Federal Fiscal Year 2023 HOPWA funding formula resulted in direct allocations to the following localities within New York State:

- a. \$45,930,651 to the City of New York to be shared with Westchester and Rockland Counties and the City of New Rochelle;
- b. \$1,125,914 to the City of Rochester to be shared with Monroe, Genesee, Livingston, Orleans, and Ontario Counties;
- c. \$2,595,586 to the City of Brookhaven to be shared with Nassau and Suffolk Counties;
- d. \$1,013,830 to the City of Buffalo to be shared with Erie and Niagara Counties;
- e. \$813,499 to the City of Albany to be shared with Albany, Rensselaer, Schenectady, Montgomery, Schoharie, and Saratoga Counties.

Potential applicants intending to serve clients who reside in the above listed municipalities and/or counties will not be given priority under this RFP, unless they are prohibited from applying for funds through one of the above-listed municipalities, or if they can clearly demonstrate that the need for HOPWA funds exceeds the availability of existing funding to address the need. In addition, applicants whose headquarters are located in the above-listed municipalities and/or counties but are intending to serve clients who reside outside those areas are given priority.

Per its Memorandum of Understanding (MOU) with the City of Syracuse and HUD, OTDA will ensure that at minimum the amount that would have been directly allocated to the City of Syracuse (\$479,223 for Federal Funding Year 2023) of the approximately \$3.8 million awarded to New York State is made available to agencies serving an eligible population residing in the City of Syracuse.

### **III. Prequalification in Grants Gateway**

All non-profits are subject to the Prequalification Requirement in Grants Gateway.

Pursuant to the New York State Division of Budget Bulletin H-1032, dated June 7, 2013, New York State has instituted key reform initiatives to the grant contract process which requires non-profits to register in Grants Gateway and complete the Vendor Prequalification process in order for proposals to be considered and evaluated. Information on these initiatives can be found on the Grants Management website <https://grantsmanagement.ny.gov/resources-grant-applicants>.

Below is a summary of the steps that must be completed to meet registration and prequalification requirements. The Grants Management website details the requirements and an online tutorial is available to walk users through the process. Prequalification details can be found at this link <https://grantsmanagement.ny.gov/get-prequalified>.

### 1. Register for the Grants Gateway

On the Grants Management Website, download a copy of the Registration Form, [Register Your Organization | Grants Management \(ny.gov\)](#) signed, notarized forms should be sent electronically to [GrantsReform@its.ny.gov](mailto:GrantsReform@its.ny.gov). You will be provided with a Username and Password allowing you to access the Grants Gateway.

If you have previously registered and do not know your Username please email [GrantsReform@its.ny.gov](mailto:GrantsReform@its.ny.gov). If you do not know your password, please click the [Forgot Password](#) link from the main log-in page and follow the prompts.

### 2. Complete your Prequalification Application- Nonprofits only

Log in to the [Grants Gateway](#). If this is your first time logging in, you will be prompted to change your password at the bottom of your Profile page. Enter a new password and click SAVE.

- Click the *Organization(s)* link at the top of the page and complete the required fields including selecting the State agency you have the most grants with. If you do not have contracts with a State agency, select OTDA. This page should be completed in its entirety before you SAVE. A *Document Vault* link will become available near the top of the page. Click this link to access the main Document Vault page.
- Answer the questions in the *Required Forms* and upload *Required Documents*. This constitutes your Prequalification Application. Optional Documents are not required unless specified in this Request for Proposal.
- Specific questions about the prequalification process should be referred to Grants Gateway at [GrantsGateway@its.ny.gov](mailto:GrantsGateway@its.ny.gov).

### 3. Submit Your Prequalification Application

- After completing your Prequalification Application, click the Submit Document Vault link located below the Required Documents section in order to submit your Prequalification Application for state agency review. The system will send you an email confirming that your Document Vault has been submitted for review. If you do not receive an email, you may not have actually submitted the vault. Once submitted the status of the Document Vault will change to In Review. If your Prequalification reviewer has questions or requests changes, you will receive an email notification from the Gateway system.
- Once your Prequalification Application has been approved, you will receive a Grants Gateway notification that you are now prequalified to do business with New York State.

## IV. Program Description / Eligibility Activities

All applicants receiving funds will be required, by contract, to comply with the Federal regulations governing this program. These regulations are found at 24 CFR Part 574, and are attached to this RFP as Attachment A. OMB Circulars A-110 and A-122, which apply to non-profit organizations receiving Federal funds and who are applying for funding under this RFP,

are available upon request and will be provided to all successful applicants. The Federal regulations list several basic program activities that are eligible for funding under HOPWA.

Activities eligible for funding under OTDA's HOPWA program have been grouped into two categories:

Group 1 – High Priority Activities (See below for details and limitations)

- a. Tenant-Based Rental Assistance (TBRA)
- b. Support Service Case Management/Housing Case Management (**with** HOPWA housing)
- c. Short-Term Rent/Mortgage/Utility Payments (STRMU)
- d. Permanent Housing Placement (PHP)

Group 2 – Lower Priority Activities (See below for details and information)

- a. Support Service Case Management/ Housing Case Management (**without** HOPWA housing)
- b. Housing Information and Referral Services
- c. Facility Based Housing Assistance (FBHA)
- d. Resource Identification

The State will not make use of its limited HOPWA funds for new construction, acquisition, minor rehabilitation, or conversion of housing sites, even though these activities are eligible under the Federal regulations. Contracts for capital development activities are available through OTDA's Homeless Housing and Assistance Program (HHAP) and other New York State sources.

Funding priority will be given to proposals that:

- Continue programs that have a demonstrated track record of success in providing eligible services;
- Place a specific emphasis on providing employment/vocational services;
- Result in the continuation or expansion of housing units available to low-income persons with HIV/AIDS and their families;
- Serve geographic areas in which persons with HIV/AIDS are underserved;
- Fill gaps in the continuum of housing and support services that cannot be funded through other Federal, State, local, and/or private sources; and,

- Help to create an integrated, comprehensive approach to meeting the housing needs of persons with HIV/AIDS within a given geographic area including linkages to medical care and HIV/AIDS related case management.

Several of the activities listed above may involve the use of the following types of housing and assistance, some of which must follow certain HUD guidelines and limitations on funding as well as applicable New York State guidelines.

- **Community residences:** Defined by HUD as a multi-unit residence designed for eligible persons to provide a lower cost residential alternative to institutional care and to provide a permanent or transitional residential setting with appropriate services. Applicants proposing to use HOPWA funds for the operation of community residences must comply with the HUD requirements listed in 24 CFR Section 574.340. (See Attachment A.)
- **Single room occupancy (SRO) dwellings:** HUD provides no specific guidelines for SRO units. However, New York State requires SRO units assisted with HOPWA funds to meet the minimum applicable State and/or local codes.
- **Short-term supported housing:** Defined by HUD (24 CFR Section 574.330) to include “facilities to provide temporary shelter.” Short-term supported housing may not provide residence to any individual for more than 60 days during any six-month period or house more than 50 families or individuals at a time. Short-term or transitional housing generally is not considered a priority by New York State, unless a compelling need for such housing can be demonstrated.
- **Other types of housing not listed above:** HOPWA regulations do not restrict funded activities to the types of housing listed above, although other types of housing may not be deemed a priority by New York State.

The following are general guidelines and requirements for the activities that can be funded under New York State’s HOPWA program.

### **Group 1 – High Priority Activities**

#### **Tenant-Based Rental Assistance (TBRA)**

Rental assistance programs under HOPWA must meet Federal and State requirements regarding eligibility, rental payment structure, maximum subsidies, and compliance with HUD Housing Quality Standards, etc. Applicants must demonstrate that funds to assist eligible persons with rental costs are not available through other sources (e.g.: Federal Section 8 housing certificates and vouchers or Emergency Shelter Allowances from local departments of social services).

#### **Support Service Case Management / Housing Case Management (with HOPWA housing)**

These include, but are not limited to the following services for residents of HOPWA housing: case management, employment/vocational services, crisis intervention, mental health services, drug and alcohol abuse counseling, child care, nutritional services, health and medical services, financial counseling and coordination of benefits.

### **Short- Term Rent/Mortgage/Utility Payments (STRMU)**

Such assistance may not be provided to any individual for costs accruing over a period of more than 21 weeks in any 52-week period. (This limitation does not apply to tenant based rental assistance.) Applicants must demonstrate a plan to help eligible individuals avoid the need for ongoing short-term assistance. Utility costs can include water, sewer, gas, electric, heat, etc.

### **Permanent Housing Placement (PHP)**

Permanent housing placement services may be used to help eligible persons establish a new residence where ongoing occupancy is expected to continue. It may be used to complement other forms of HOPWA housing assistance. For example, it can be used to adjust to changes in care needs by assisting persons transitioning from more supportive settings and programs with securing alternative housing arrangements. Costs may include fees for housing services or activities designed to assist individuals or families in locating suitable housing. This may include, counseling on tenant rights and responsibilities; assisting individuals and families to understand leases; securing utility services; making moving arrangements; paying for representative payee services for persons who use such services to better manage their own finances; and mediation services related to neighbor/landlord issues that may arise.

### **Group 2 – Lower Priority Activities**

While the following activities can represent useful components of an overall housing strategy, they are a lesser priority because they may not directly expand the number of new housing units available to persons with HIV/AIDS or there may be other resources available to meet these needs.

### **Support Service Case Management/ Housing Case Management (without HOPWA housing)**

These include, but are not limited to, the following services for persons with HIV/AIDS and their families who are not residents of HOPWA housing: case management, employment/vocational services, crisis intervention, mental health services, drug and alcohol abuse counseling, child care, nutritional services, health and medical services, financial counseling and coordination of benefits.

### **Facility Based Housing Assistance (FBHA)**

This includes costs for maintenance, security, insurance, utilities, furnishings, equipment, staff and other operating costs for community residences and SROs. Applicants requesting funds for operating costs must have housing units in operation whose operating costs cannot be covered by other funding sources.

### **Housing Information and Referral Services**

Services to help individuals with HIV/AIDS locate, acquire, finance and maintain housing. Such services may include counseling, information, and referral as well as fair housing counseling to

address housing discrimination. Applicants proposing this activity must demonstrate that the proposed services will have a significant impact on the persons served (i.e., leading to placement in permanent housing) and are services that are not available from existing providers.

### **Resource Identification**

Activities to identify, coordinate, and develop housing assistance resources for eligible persons.

HUD has determined that the following categories of activity are not subject to the HUD environmental review process:

- Tenant-Based Rental Assistance (TBRA)
- Support Service Case Management/Housing Case Management
- Short-Term Rent/Mortgage/Utility Payments (STRMU)
- Technical assistance
- Facility Based Housing Assistance (FBHA)
- Housing Information and Referral Services
- Resource identification
- Administrative expenses

Indirect Costs of up to 7% of the grant request are permissible for agencies that have a federally approved rate. Any cost that is budgeted completely or partially in an itemized direct cost category may not be part of the budgeted indirect costs. Normally, indirect costs are those that may apply to several programs, areas or functions of the provider agency and are not readily or easily assigned to a specific program. The sub-division of such costs on a direct basis to each specific provider, service and operation may cause detailed accounting and is not desirable. For this RFP, an indirect or administrative rate of up to 10% may be charged with a federally approved rate. Documentation establishing the federal rate is required to use an indirect rate.

With the absence of a federally approved rate, and/or documentation establishing indirect costs, itemization is required. A maximum of 7% of the grant request may be allocated to administrative costs, provided that the cost of such activities are itemized and sufficiently documented. Allowable administrative costs may include payroll costs, audit fees, and/or portions of administrative staff salaries and/or fringe costs.

### **V. Eligible Population**

Persons eligible to receive services or assistance under HOPWA are low-income individuals with documented HIV infection, HIV-related illness, or AIDS (hereinafter "HIV/AIDS") and their families. In the case of applications proposing to provide housing information and referral services, all individuals with HIV/AIDS are eligible for services, regardless of income. For the

purposes of this RFP, the definition of AIDS is that found in 24 CFR 574.3. OTDA will use the HUD definition of a “low income” person or family defined in 42 USC 12902, as one whose income does not exceed 80% of the median income for the area, as determined by the Secretary of HUD. HUD may establish other income ceilings due to varying local factors.

## **VI. Eligible and Ineligible Services and Costs**

Eligibility for individuals with HIV/AIDS receiving rental assistance must meet the guidelines in 24 CFR 574 found in Attachment A. Please see Section IV, Program Description/Eligible Activities for other eligible services.

Eligible costs for HOPWA shall be directly related to eligible activities (see Section IV) and shall include;

- Personnel costs incurred in the provision of eligible assistance and/or support services, maintenance and operation, program staff that support the direct service to HOPWA participants, or administrative activities;
- Other than personnel services costs directly associated with the eligible HOPWA activities, including subsidies for long-term and short-term rent assistance (see Section VI of the Application for a detailed explanation).

Ineligible costs shall include;

- **Equipment** costing over \$5,000 and having a useful life greater than one year should be leased rather than purchased. If a lease option is not possible, you are required to obtain three price quotes and must receive prior approval for the purchase from OTDA.
- **Mortgage payments** cannot be reimbursed under long-term rental assistance. In an emergency situation, mortgage payments may be reimbursed under short-term assistance for a term not to exceed twenty-one weeks to eligible recipients who are the owners of the mortgaged property.

## **VII. Maintenance of Effort**

Funds awarded through this RFP may be used to initiate services, expand services or enhance a program that is reapplying for HOPWA funding. Funds awarded through this RFP cannot be used to supplant or replace existing public or private funding used for ongoing activities. Applicants should clearly demonstrate that existing funds have not been supplanted.

## **VIII. Local Approval**

The HOPWA regulations require the approval of local government before OTDA enters into a contract with a non-profit organization to conduct HOPWA-related activities.

A Certification of Local Approval form is included in the Pre-Submission Upload Forms (Section XV). Depending on the nature and geographic scope of the project, this form could be signed by the County Planning Office, the County Executive, the Mayor of the locality, or whatever entity is



responsible for certifying the HUD Consolidated Plan in the locality. (The Consolidated Plan is a Federal mandate to coordinate planned housing activity at every level of government.)

While the completed form is required from the local government before a contract can be signed, we recognize that in rare instances it may not be available at the time of application. In such cases, the applicant must explain the circumstances in the application and describe efforts to obtain local approval. This approval must be obtained prior to execution of any contract.

## **IX. Reports and Record Keeping**

Narrative and tabular data reports will be required on at least a quarterly basis. These will describe the progress of HOPWA activities, the numbers of individuals and families served, and continuing needs for services. A reporting format will be distributed to funded grantees.

Contractors must ensure that books, case management records, documents and other evidence associated with expenses of the grant are maintained. These records must document all costs of materials, equipment, supplies, services, building costs and all other costs and expenses for which reimbursement are claimed or payment is made under the grant. All expenditures shall be reported on an accrual basis.

All records pertaining to awards made under this funding opportunity including financial audits, budget, plans/drafts, supporting documents, statistical records, etc., must be retained for a period of at least six (6) years following submission of the final expenditure report.

Successful applicants will be required to maintain case files which indicate client eligibility and document services provided.

Contractors shall provide OTDA or its designees access to program sites and records during the course of the contract. Failure to do so may result in immediate termination of the contract.

In the event that any claim, audit, litigation or State/Federal investigation is commenced before the expiration of the aforementioned record retention period, the records must be retained by the contractor until all claims or findings regarding the records are finally resolved.

OTDA or its designees shall have access to any records relevant to the project (including books, documents, photographs, correspondence, and records) for audits, examinations, transcripts, and excerpts. If OTDA determines that such records possess long term or historic value, they must, upon request of OTDA, be transferred to OTDA.

Projects will be monitored by OTDA on a regular basis throughout the term of the contract. Monitoring may include site visits as well as regular telephone contact. The goal of monitoring is to ensure that the terms of the contract are being met. In addition, monitoring enables OTDA to provide technical assistance, where necessary, in order to assist the contractor in meeting the terms of this contract.

To the extent permitted by Federal law and regulation, OTDA may, at its own discretion, make advance payments to the contractor of up to 25%, upon the submission of sufficient justification.

Said advance may be eligible for payment only upon approval of this AGREEMENT by the OAG and by OSC and upon the submission to OTDA by the Contractor of a properly executed State of New York Claim for Payment form (AC3253-s) acceptable to OTDA and to OSC. Any unexpended advance balance at the end of the contract period will be refunded by the contractor to OTDA. In the event either party terminates the contract prior to its expiration, the contractor agrees to refund to OTDA immediately any outstanding advance balance.

## **X. General Terms and Conditions**

Contracts resulting from this RFP will commence on or about January 1, 2024. It is anticipated that the successful applicant will receive a contract for up to five (5) years funded annually for one (1) year budget periods. All contract funding will be dependent upon the availability of continued HOPWA funding, the need for the services, satisfactory performance and at the sole discretion of OTDA.

OTDA reserves the right to consider proposals in response to this RFP, but not funded at this time, for any additional funding that may become available in the future. Updated information will be requested as deemed necessary by OTDA. OTDA also reserves the right to solicit and accept new proposals, as funding becomes available.

OTDA will conduct a review of all prospective contractors to provide reasonable assurances that the vendor is responsible. Vendor Responsibility will be determined regarding each bidder or offeror's authority to do business in New York, their business integrity, as well as financial and organizational capacity, and performance history.

Successful contractors will be required to submit all final contract documents, narratives and budgets electronically. The following may be incorporated into any contracts resulting from this RFP:

- The Master Contract
- Attachment A-1, (OTDA and HOPWA Program terms and conditions)
- Attachment A-2, (Federal Terms and Conditions)
- Attachment B-1 (Expenditure Based Budget)
- Attachment C (Workplan)
- Attachment D (Payment and Reporting Schedule)

As referenced in Sections IV J-K of the Master Contract and Attachment A-1, Equal Employment Opportunities (EEO) for Minorities and Women apply as do Minority and Women-Owned Business Enterprise (MWBE) goals on discretionary expenses.

The terms and conditions specified in a detailed contract must be signed by OTDA and approved by New York State's Attorney General's Office and the Office of the State Comptroller

before any work is begun or payments made. **Please note that no services may be reimbursed until a contract has been fully executed.**

**Contractor requirements and procedures for participation by New York State certified minority and women-owned business enterprises and equal employment opportunities for minority group members and women.**

### **New York State Law**

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations, OTDA is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of OTDA contracts.

### **Business Participation Opportunities for MWBEs**

For purposes of this solicitation, OTDA hereby establishes an overall 30% M/WBE participation goal, and specific participation goals for both New York State-certified Minority-owned Business Enterprises (“MBE”) and New York State-certified Women-owned Business Enterprises (“WBE”) will be assessed based on the nonprofit’s discretionary spending budget and participation opportunities therein. A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFP, the respondent agrees that OTDA may withhold payment pursuant to any Contract awarded as a result of this RFP pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how OTDA will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. [FOR CONSTRUCTION CONTRACTS – The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE]. [FOR ALL OTHER CONTRACTS - The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract]

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFP, such finding constitutes a breach of contract and OTDA may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting the Contract’s program manager at OTDA.

Additionally, a respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

- A. An MWBE Utilization Plan with their bid or proposal. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to OTDA for review and approval.

OTDA will review the submitted MWBE Utilization Plan and advise the respondent of OTDA acceptance or issue a notice of deficiency within 30 days of receipt.

- B. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the OTDA a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by OTDA to be inadequate, OTDA shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

OTDA may disqualify a respondent as being non-responsive under the following circumstances:

- a. If a respondent fails to submit an MWBE Utilization Plan;
- b. If a respondent fails to submit a written remedy to a notice of deficiency;
- c. If a respondent fails to submit a request for waiver; or
- d. If OTDA determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to OTDA, but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to OTDA, by the 7<sup>th</sup> day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

### **Equal Employment Opportunity and Workforce Utilization Reporting Requirements**

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of [Appendix A – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women OR Authority equivalent to Appendix A]. The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning, or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, Form OTDA-4970, to OTDA with its bid or proposal.

If awarded a Contract, respondent shall submit form OTDA-4971 Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by OTDA on a QUARTERLY basis during the term of the Contract.

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis. Note – NFP grantees are exempt from Executive Order #162. Further, pursuant to Article 15 of the Executive Law (the Human Rights Law), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

## **Participation Opportunities For New York State Certified Service-Disabled Veteran Owned Businesses**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. OTDA recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of OTDA contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, OTDA conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>

Bidder/Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or to discuss methods of maximizing participation by SDVOBs on the Contract.

### **Executive Order No. 190: Incorporating Health Across All Policies Into State Agency Activities**

Per Executive Order 190 (EO 190), this RFP incorporates the New York State Prevention Agenda and the World Health Organization (WHO) Eight Domains of Livability to further the Health Across All Policies initiative.

The New York State Prevention Agenda is the blueprint for action to improve the health of New Yorkers and become the healthiest state for people of all ages. The five priority areas of the New York State Prevention Agenda are:

1. Preventing Chronic Diseases
2. Promoting a Healthy and Safe Environment
3. Promoting Healthy Women, Infants and Children
4. Promoting Well-Being and Preventing Mental Health and Substance Use Disorders
5. Preventing Communicable Diseases

The WHO Eight Domains of Livability include:

1. Outdoor Spaces and Buildings

- Providing safe, accessible places for the public to gather indoors and outdoors. Ensuring that parks, sidewalks, safe streets, outdoor seating, and accessible buildings can be used and enjoyed by people of all ages.

2. Transportation

- Increasing the accessibility, availability and affordability of public transit options, as well as ensuring safe roadways.

3. Housing

- Expanding affordable housing options for varying life stages, and enacting programs that help people remain in their homes longer to age in place.

4. Social Participation

- Increasing access to affordable and community-based social activities can help address loneliness and isolation.

5. Respect and Social Inclusion

- Increasing the availability of intergenerational activities and programs.

6. Civic Participation and Employment

- Provide ways that all people, including older people, can, if they choose to, work for pay, volunteer their skills and be actively engaged in community life.

7. Communication and Information

- Providing information through a variety of means and in a culturally competent manner, recognizing that not everyone has a smartphone or internet access.

8. Community and Health Services

- Ensuring accessible and affordable health services in every community.

The Health Across All Policies initiative is a collaborative approach that integrates health considerations into policymaking across all sectors to improve community health and wellness. To successfully improve the health of all communities, health improvement strategies must target social determinants of health and other complex factors that are often the responsibility of non-health partners such as housing, transportation, education, environment, parks, and economic development.

Consistent with EO 190, where requested in this RFP, applicants must describe how their proposals can improve community health and wellness through alignment and coordination with the NYS Prevention Agenda priorities and the WHO Eight Domains of Livability.

## **XI. Selection Process**

All proposals will be reviewed by OTDA staff. Following the desk review of applications, several other steps may take place to further evaluate proposals. These steps may include a telephone interview with the designated contact person in the organization; a request for additional written information or documentation, and if necessary; a site visit; and/or a face-to-face meeting with agency representatives; and/or communication with references.

Applications will be judged on the following general criteria:

- the responsiveness of the proposal to the RFP (All information and documentation required by this RFP is provided in a satisfactory manner);
- evidence of the applicant's understanding of the needs of the target population and the applicant's ability to provide such services;
- the provision of services that are relevant to the needs of the populations being served;
- willingness of the applicant to adhere to all HUD guidelines and regulations regarding HOPWA; and
- Programmatic and fiscal feasibility related to:
  - the overall management and operation of the project, including the project operating budget and revenue streams;
  - the completeness of the "Program Specific Questions," "Budget," "Work Plan" and "Upload Submission" portions of the application;
  - the clarity of the measurable and quantifiable expected results and potential for their achievement;
  - evidence of need in the geographic area;
  - the overall cost reasonableness and effectiveness of the proposed project;
  - the applicant's standing with NYS (such as compliance with the requirements of the OAG, Workers' Compensation, other grants etc.);
  - assurances that duplication of services will be avoided in the geographic area in which the HOPWA program will operate;
  - a commitment to make all HOPWA related records available to OTDA or its designee(s) as required by this RFP and any resultant contract;



- the applicant's demonstrated coordination with the local social services district and the CoC or other relevant planning committee;
- the applicant's contractual performance history;
- cost effectiveness of the proposal in relation to the geographic area to be served;
- the urgency of need for HOPWA funds; and
- the speed with which funds under this program can be expended once a contract has been executed between OTDA and the applicant. The commitment of the grantee to fully expend funds by the end of the contract term will be a critical factor in rating.

Proposals will be evaluated on a comparative analysis basis among proposals received. Proposals will be reviewed and assigned an overall competitive score. Proposals will be funded based upon the application's score and will be subject to the availability of funds. Projects will be awarded HOPWA funds in descending order, beginning with the highest ranked proposal, until the initial year's funding is exhausted, with the following exceptions:

- **If there are other viable proposals, no one applicant will be awarded more than 30% of the total annual available funds**
- All awards may be proportionately reduced in order to fund multiple proposals.
- Awards may be reduced during the application process or contract term if another source of funding becomes available, and is deemed appropriate, in which case OTDA may choose to dedicate those funds to other activities at its discretion;
- The lowest scored awarded proposal may not receive the entire requested amount if there are insufficient funds remaining;
- Awards may be proportionately reduced to ensure the availability of funds;
- The requested amount of funding may be reduced by ineligible expenses; and
- The requested amount of funding may be reduced based on past HOPWA spending practices. In the event OTDA has determined via a competitive scoring process that an existing awardee with a history of unspent contract monies should be awarded new funds, OTDA reserves the right to calculate the initial award based on the contractual spending history and the reasonableness of the request. In such an instance, the new contract award amount would not exceed 125% of the contractor's average annual spending during the previous program cycle. Current contractors should thoroughly justify the need for the additional funds if requesting an amount in excess of past awards and expenditures.

In the event that two or more proposals receive an overall score that is tied and funding would be exhausted before an award could be made to each applicant for the requested amount, OTDA will award each applicant a prorated portion of the remaining funds based upon funds requested and amount available.

The following is provided as the relative weight for each section of the application:

<b>Section of Application</b>	<b>Relative Weight</b>
Program Specific Questions and Related Uploads	50%
Budget and Related Uploads	30%
Workplan	15%
Pre-Submission Uploads	5%

Regardless of score, OTDA reserves the right to award all, some or none of the available HOPWA funding, based on other relevant information, such as the occurrence of HOPWA funds supplanting existing funds; an agency's financial position; findings or issues raised by other Government funders; an agency's prequalification status in Grants Gateway; vendor responsibility determination; and the status of the vendor's OAG Charities Registration filing.

## **XII. Award Procedures**

Upon approval of funding by OTDA, an award notice and instructions about contract development will be sent to the successful applicant. OTDA reserves the right to negotiate any aspect of a proposal in order to ensure that the final agreement meets its objectives. The awardee will be required to develop a detailed implementation plan that sets forth the program goals and provides time frames for the performance of those goals. The selected contractor will develop a plan for a five (5) year contract cycle to be funded annually for one (1) year periods (subject to approval by the OAG and the OSC), depending upon the availability of continued HOPWA funding, the need for the services, satisfactory performance, and at the sole discretion of the OTDA. For those applicants selected as a result of this Request for Proposals (RFP), subsequent years' funding may vary, increase or decrease based on awards and appropriations. Successful applicants are encouraged to register with the OSC Vendor Responsibility System at <http://www.osc.state.ny.us/vendrep>. Entities not selected for funding also will be notified by mail of OTDA's decision.

Should additional funds become available, OTDA reserves the right to allocate additional funds to contractors that have attained their program goals and have expended 90% of their awarded funds by the end of an annual funding cycle, and/or to make additional awards based on the remaining proposals submitted to OTDA as a result of this RFP, in lieu of releasing a new RFP if deemed in the best interest of the State. In the event additional funds become available, projects would be awarded funding in a manner consistent with the award methodology set forth in this Request for Proposals. OTDA also reserves the right to solicit and accept new proposals, as funding becomes available.

Furthermore, should a contractor not expend at least 75% of the annual award amount by the end of an annual funding cycle, or should a contractor not attain 75% of their program goals by

the end of an annual funding cycle, OTDA reserves the right to adjust the award amount for future years.

### **XIII. Bid Protest Procedure**

#### **Procedure for Handling of Protests/Appeals of Bid Specification(s) and Proposed Awards**

It is the policy of OTDA to provide all Offerors with an opportunity to resolve complaints or inquiries related to bid solicitations or pending contract awards administratively. OTDA encourages all Offerors to seek resolution of complaints concerning the contract award process through consultation with OTDA. All such matters will be accorded impartial and timely consideration. Detailed procedures are as follows:

**Formal Written Protests** - Final agency decisions or recommendations for award generally may be reconsidered only in the context of a formal written protest as described below. Any Offeror or prospective Offeror who believes that there are errors or omissions in the procurement process or who otherwise has been aggrieved in the drafting or issuance of this RFP, proposal evaluation, award, or contract award phases of the procurement, may present a formal complaint to OTDA and request administrative relief concerning such action ("formal protest"). A formal protest must be submitted in writing to OTDA, by ground mail, except where alternate arrangements have been made, to the Director of the OTDA Bureau of Contract Management (BCM), 40 North Pearl Street, 12th Floor, Section D, Albany, NY 12243. A formal protest must include a statement of all legal and/or factual grounds for disagreement with an OTDA specification or purchasing decision; a description of all remedies or relief requested; and copies of any and all applicable supporting documentation.

**Deadline for Submission of Formal Protests for Errors or Omissions in the Procurement Process** – OTDA must receive formal protests concerning errors, omissions or prejudice, including patently obvious errors in this RFP specifications or documents, at least 10 calendar days before the Bid Submission Date.

**Deadline for Submission of Formal Protests of Contract Award** – OTDA must receive a formal protest concerning a contract award within 10 business days of the issuance of notice of contract award.

**Review and Final Determination of Protests** - Protests will be resolved through written correspondence. However, the protester may request a meeting to discuss a formal protest or OTDA may initiate a meeting on its own accord, at which time the participants may present their concerns. Either the protester or OTDA may decline such a meeting. Where further formal resolution is required, the Director of BCM may designate an OTDA employee ("designee") to determine and undertake the initial resolution or settlement of any protest. The designee will conduct a review of the records involved in the protest and provide a memorandum to the Director of BCM summarizing the facts as determined by the designee, an analysis of the substance of the protest and a preliminary recommendation. The Director of BCM shall: (a) evaluate the designee's findings and recommendations, the evaluation team's reports and recommendations; (b) review the materials presented by the protesting party and/or any

materials required of or submitted by other Offerors; (c) if necessary, consult with OTDA Counsel's Office; and, (d) prepare a response to the protest. A copy of the protest decision, stating the reason(s) upon which it is based and informing the protester of the right to appeal an unfavorable decision to OSC shall be sent to the protester or its agent within 45 calendar days of receipt of the protest, except that upon notice to the protester such period may be extended. The protest decision will be recorded and included in the procurement record, or otherwise forwarded to OSC upon issuance.

**Appeals** - Upon receipt of the OTDA's determination of a protest, a protester has 10 business days to file an appeal of the determination with OSC Bureau of Contracts. The appeal must be filed with the Bureau Director at [bidprotests@osc.ny.gov](mailto:bidprotests@osc.ny.gov) or New York State Office of the State Comptroller, 110 State Street, 11th Floor, Albany, NY 12236.

The protester's appeal must contain an affirmation in writing that a copy of the appeal has been served on OTDA, the successful bidder (except where the contracting agency upholds the protest and the successful bidder is the appealing party) and any other party that participated in the protest. In its appeal, the interested party shall set forth the basis on which it challenges OTDA's determination. The OSC Bureau of Contracts will conduct a formal review and issue its determination of the appeal in accordance with its established policy and procedures.

**Reservation of Rights and Responsibilities of the OTDA** - OTDA reserves the right to waive or extend the time requirements for protest submissions, decisions and appeals herein prescribed when, in its sole judgment, circumstances so warrant to serve the best interests of the state and OTDA. If OTDA determines that there are compelling circumstances, including the need to proceed immediately with the contract award in the best interest of the state, then these protest procedures may be suspended and such decision shall be documented in the procurement record. OTDA will consider all information relevant to the protest, and may, at its discretion, suspend, modify or cancel the protested procurement action including solicitation of bids or withdraw the recommendation of Contract award prior to issuance of a formal protest decision.

**Procurement Activity Prior to Final Protest Determination** - Receipt of a formal bid protest shall not stay action on a procurement unless otherwise determined by OTDA. If a formal protest or appeal is received by OTDA on a recommended award prior to the underlying contract being forwarded to OSC, notice of receipt of the protest and appeal must be included in the procurement record forwarded to OSC. If a final protest decision or final decision on appeal has been reached prior to transmittal to OSC, a copy of the final decision must be included in the procurement record and forwarded with the recommendation for award. If a final protest decision is made after the transmittal of a bid package to OSC, but prior to OSC approval under State Finance Law § 112, a copy of the final OTDA decision shall be forwarded to OSC when issued, along with a letter either: a) confirming the original OTDA recommendation for award and supporting the request for final § 112 approval, b) modifying the proposed award recommendation in part and supporting a request for final § 112 approval as modified; or c) withdrawing the original award recommendation.

**Record Retention of Bid Protests** - All records related to formal Offeror protests and appeals shall be retained for at least one year following resolution of the protest. All other records concerning the procurement shall be retained according to the statutory requirements for records retention.

#### **XIV. Application Instructions**

The entire HOPWA Application is to be submitted in Grants Gateway. Applications cannot be submitted in Grants Gateway after the deadline. Any application received after the deadline or outside of the Grants Gateway system will be reviewed solely at the discretion of OTDA.

Eligible entities are non-profit organizations and public housing agencies subject to Prequalification Requirements. Read and follow all instructions while completing the screens in Grants Gateway. Application questions are detailed in **Section XVI**.

#### **Here are some general guidelines for navigating the Grants Gateway system:**

- Log into Grants Gateway as a Grantee, Grantee Contract Signatory or Grantee System Administrator.
- Click the Available Opportunities button.
- From the Search by Funding Agency drop-down menu, select Office of Temporary and Disability Assistance. Click the Search button.
- Locate HOPWA Program 2024 and click on the blue link.
- Click the Apply for Opportunity button.
- From the Forms Menu go to Pre-submission uploads to download all required documents. Complete the documents and upload them where requested throughout the application. All required documents are shown on pages 30-91 in these instructions.
- From the Forms Menu complete all program specific questions, budget screens, workplan, and pre-submission Uploads.
- Sections from the Forms Menu do not have to be completed in any particular order. Certain forms may be left blank if they do not apply to your application, such as budget items not requested. There will be a Global Warning error if you try to submit an application without completing required forms.
- You must save your work before moving onto a new screen.
- If you do not complete the application in one session, it will be in your Tasks box labeled Application in Process. Another way to find an application in process is to click the Applications tab at the top of the screen.
- Please note: though those logged in as Grantees may work on the application, only those logged in as a Grantee Contract Signatory or a Grantee System Administrator can submit the application to the state. When the application is ready for submission, click the Status Changes tab, then click the Apply Status button under Application Submitted.

Other helpful information:

- Live Webinars on the Prequalification Process and on how to complete an application using the Grants Gateway are provided every Tuesday and Thursday. Please see the [Resources for Grant Applicants](#) page of the Grants Management website to sign up for a live webinar or for additional resources including instructional videos and step by step documents to help navigate the system.
- For any technical questions regarding the Grants Gateway, the Help Desk is available Monday – Friday, 8am – 5pm via phone (518.414.2784) or email at [GrantsGateway@its.ny.gov](mailto:GrantsGateway@its.ny.gov).

**The following bullet points correspond to the screens that must be completed for your HOPWA Application in Grants Gateway. Each screen is listed as a link under the Forms Menu. Click a link, complete the screen as directed, save the screen, go back to the Forms Menu and click another link. Continue in this manner until you have completed all the links/screens. Remember to save often.**

- **Project Site Address Screen** - Enter the agency administrative address.
- **Program Specific Questions Screen** - Follow instructions at the top of the screen. Answer all questions in this section. Note that while most narrative answer spaces allow unlimited text, OTDA expects answers to be concise. Upload forms when required. Upload optional forms when applicable. Forms for upload can be obtained in the *Pre-submission Uploads* section of the application. Make sure to save often.
- **Budget Section** - Complete the Budget section screens as directed below. Only use whole dollar amounts. Do not attempt to separate funds by HOPWA activity (listed in Section IV) in this section. This will be done on the HOPWA Budget Statement Excel upload. However, do ensure that the section totals here match the section totals on the HOPWA Budget Statement Excel upload. There is no matching funds requirement. Administrative Expenses up to 7% of the requested funds may be allocated in the budget and must appear on the Other line.  
**Consult Section VI Eligible and Ineligible Services and Costs. Use the following as a guideline for where expenses should appear in the budget.**
- **Personal Service - Salary Screen** - Include employees that will be paid in full or in part from contract funds. In the Role/Responsibility field, please briefly describe the title's role in relation to HOPWA. Click Save. Click Add to open a new screen for listing additional positions. Each position must be listed on a separate screen.  
The Personal Services - Salary Narrative screen should only be used to describe exceptions in staffing patterns, unusual salary costs, justification of staff funded by more than one funding source or explanation of percent time allocated to HOPWA. Click Save.
- **Fringe Benefit Screen** - Fringe benefits should be budgeted in line with your organization's Standard Fringe Benefit Policy and/or Negotiated Bargaining Agreements and should not exceed the current NYS rate. Provide a brief explanation of the percentage and composition of the fringe benefit structure in the Fringe Type/Description field. If fringe is not applicable, leave this section blank. For all employees listed in the Personnel Service Expense Detail, the following mandatory employer payroll taxes must be paid: Social Security (FICA), NYS Unemployment Insurance (SUI), NYS Disability Insurance and Workers' Compensation. Additional fringe benefits such as pension,

health, life, and/or dental insurance may be provided. If HOPWA funds are being requested to cover these expenses, the total fringe benefit and payroll taxes chargeable to this program cannot exceed OSC's rate, currently at 62.48%. No exceptions are granted to the maximum rate of 62.48%. You may allocate a lower percentage. You must explain all costs associated with this budget line in the Justification/Explanation section of this worksheet. Click Save.

The Fringe Narrative screen should not be used since all explanations should appear on the Fringe screen.

- **Contractual Services Screen** - These are costs for services rendered to the project under a formal or written agreement such as direct provision of services by contractual arrangement. Each type of contractual cost must be listed on its own screen and the cost justified. Only the pro-rated portion of the entire expenditure that is related to the HOPWA Program is allowed. This line includes institutions, individuals, or organizations external to the contractor which have entered into an agreement with the contractor to provide any services outlined in or associated with the contract and whose services are to be funded under the contract budget. This includes any other nonprofits performing work under the proposed HOPWA contract. All such agreements are to be bona fide written contracts: NYS OTDA reserves the right to request these documents at any time in the future. Click Save.
- **Travel Screen** - This Category includes travel costs and expenses for participant and personnel expenses. These costs may be reimbursed up to the NYS rate (currently the maximum rate is \$0.655 per mile). Only travel costs for personnel listed under Personal Services Costs and Participant Travel Costs are acceptable. In the Justification field, explain which staff and/or participants will be traveling in relation to the project, the destination, the purpose, and the frequency of the travel. Out-of-state travel is discouraged, although a contractor may pursue such travel with justification and pre-approval from OTDA. Click Save.
- **Equipment Screen** - This category includes purchase, rental and leasing of equipment. Equipment is any non-consumable, tangible property having a useful life of more than one year. Substantial equipment purchases (costing more than \$5,000) should be avoided. Acquisition costs must be in accordance with NYS requirements and may be evaluated to determine if leasing is a practical and cost-effective alternative. If the only alternative is to purchase such equipment using contract funds, an applicant is required to obtain three competitive bids and must receive OTDA prior approval. All things being equal, the contractor must purchase equipment from the lowest bidder. Complete the Equipment form for requested equipment. Complete the Equipment Narrative form if there is any substantial equipment costing more than \$5,000 per item. The Equipment Narrative form includes fields for bids received and explanations for justification. Click Save.
- **Space/Property Rent Screen** - This category includes costs associated with renting building space necessary to complete HOPWA program activities. In the Justification field, explain the location and building which is rented in relation to the project, including monthly rental cost. Click Save.  
Complete the Space/Property Rent Narrative form if there is any substantial information, or explanation required.

- **Space/Property Own Screen** - This category includes costs associated with owning building space necessary to complete HOPWA program activities. In the Justification field, explain the location and building which is owned in relation to the project, including monthly cost. Click Save.  
Complete the Space/Property Own Narrative form if there is any substantial information, or explanation required.
- **Utilities Screen** - This category includes costs associated with services necessary to run the project, such as, but not limited to: water, electricity, and gas expenses. In the Justification field, explain the type of utility and monthly cost. Click Save. Each utility should be listed on a separate screen. Click Add to open a new screen to list additional utilities.  
The Utilities Narrative should only be used to explain extraordinary costs.
- **Operating Expenses Screen** - This category should include costs directly associated with the maintenance and operating of the project and its grounds and contract funded program items that do not fit in other categories. Such activities include, but are not limited to supplies, renovations/repairs, furniture, replacement costs, insurance, postage, copies, food and/or clothing for residents. Describe expenses and anticipated costs fully in *Justification* field provided. Click Save. Each operating expense should be listed on a separate screen. Click Add to open a new screen to list additional operating expense.  
The Operating Expenses Narrative should only be used to explain extraordinary costs. Save.
- **Other Screen –**

  - Financial Assistance

    - Tenant based rental assistance funds are available to pay on-going rental assistance subsidies for eligible recipients. Please estimate the number and type of units (e.g. one-bedroom, two bed-room) to be provided, the counties in which the units will be provided, and the size of the subsidy to be provided. Rents must adhere to the fair market rents applicable to the area in which they will be provided. Target Population and Annual number of individuals and households served,
    - Short-term rental assistance funds are available to pay short-term rental assistance subsidies for eligible recipients. Please estimate the number and type of payments (e.g. rent, utilities, mortgage), and the size of the subsidy to be provided. Limitations on the duration of subsidies are listed in the HOPWA regulations. Services offered, hours of operation and location in which services will be provided,
    - Permanent Housing Placement funds are available to pay move-in costs for eligible recipients. Please estimate the number and type of payments (e.g. security deposit, first month's rent), and the size of the payment to be provided. Total placement costs cannot exceed the value of two months' rent in the new unit.
  - Administrative Expenses



- Administrative expenses or indirect rates of up to 7% of the annual requested amount may be charged. Administrative costs should not be included in the Personal Services category. Examples of administrative costs may include payroll costs, audit fees, and/or portions of administrative staff salaries and/or fringe costs. Click Save.
  - The Other Narrative screen can be utilized to provide details for any staff/position listed as administrative under Other. List the title, the annual salary, and the percentage of time spent on HOPWA administrative activities; also include a brief description of those activities. Click Save.
  - Indirect Costs of up to 7% of the grant request are permissible for agencies that have a federally approved rate. Any cost that is budgeted completely or partially in an itemized direct cost category may not be part of the budgeted indirect costs. Normally, indirect costs are those that may apply to several programs, areas or functions of the provider agency and are not readily or easily assigned to a specific program. The sub-division of such costs on a direct basis to each specific provider, service and operation may cause detailed accounting and is not desirable. For this RFP, an indirect or administrative rate of up to 10% may be charged with a federally approved rate. Documentation establishing the federal rate is required to use an indirect rate.
- **Work Plan Overview Form** - This section will be used to create the Work Plan portion of the contract. Some of the information requested will be duplicative of information provided earlier in the application. You may copy/paste previous responses where appropriate when developing your Project Summary and/or Organizational Capacity narratives. Be sure to follow the guidance provided below.

This section should be completed from an ANNUAL perspective. The Work Plan Period should state the annual award period. Therefore, the first annual work plan period should be January 1, 2024 – December 31, 2024.

- The **Project Summary** section should provide a high-level overview of the project as instructed. This narrative should include:
  - Service Area,
  - Target Population and Annual number of individuals and households served,
  - FBHA Only - Number of units (family), beds (singles);
  - FBHA Only - Type of housing units (permanent, transitional, or both);
  - Client Eligibility guidelines,
  - Services offered, hours of operation and location in which services will be provided,
  - A detailed description of how the project will help promote well-being and prevent mental illness and substance use disorders in target population consistent with EO 190,
  - How the program operates and a description of grant funded activities, and

- How the success of the program will be determined and evaluated.
- In the **Organizational Capacity** section, describe the staff needed for each category of programming for which you are applying, their responsibilities and qualifications. Describe staff development and training activities. Describe your organization's relevant experience in conducting all aspects of programming. Click Save.
- **Objectives and Tasks** This section will be used to set up quarterly reports and collect performance data. There are five pre-established Objectives-Tasks, they are listed below. Under the Forms menu click on Objectives-Tasks and the first objective with its description will appear along with an associated task. Click on view/add. For Performance Measure Name restate the Objective then enter the data requested in the box below; you may provide anticipated data where applicable. Click Save. Go back to Forms Menu → Objectives and Tasks →select the next Objective from the drop-down menu in upper right corner → Go; continue in this manner until all three objectives/tasks are completed.
  - Unduplicated Count – Individuals with HIV/AIDS who qualify their household for HOPWA assistance – Provide annual anticipated cumulative count.
  - Unduplicated Count – Other persons diagnosed as HIV positive who reside with the HOPWA qualifying individual counted above – Provide annual anticipated cumulative count.
  - Unduplicated Count – Other persons NOT diagnosed as HIV positive who reside with the HOPWA qualifying individual counted above – Provide annual anticipated cumulative count.

Please see Section 5.2.4 in the Grants Gateway User Manual for additional instructions regarding the work plan if needed:

<https://grantsmanagement.ny.gov/system/files/documents/2020/05/vendor-user-manual-3.2-5.7.20.pdf>

## XV. Grants Gateway Application Questions

A list of the Program Specific Questions (PSQ) starts below.

The Print Application button on the Forms Menu screen may be used to view the answers to questions as the application is being developed. Remember to save often! The application may also be printed at any time during the process for your reference. **Do not send a printed copy to OTDA. Applications submitted outside of the Grants Gateway system may not be reviewed.**

1. Provide a brief executive summary of the proposed project. Please include service area, target population, type of housing (permanent, transitional, or both), anticipated number of individuals and families to be served, and the HOPWA activities (Tenant-based Rental Assistance, Short Term Rent, Mortgage and Utility Assistance, Permanent Housing Placement, Facility Based Housing Assistance, Support Services) to be provided.

2. Describe the specific geographic area(s) to be served. (Be sure to include cities and counties).
3. What is your community's estimated number and percentage/population of individuals and/or families who are living with HIV/AIDS in the geographic area(s) to be served? (Use current statistical data)
4. What is the existing number of housing units dedicated solely for individuals and families living with HIV/AIDS for the geographic service area to be served?
5. Describe the specific need in your geographic service area for housing and support services for those individuals who are low-income and living with HIV/AIDS and their families. Use relevant statistics.
6. What other community agencies in the geographic area to be served provide services for individuals and families living with HIV/AIDS and how does your agency work with them to prevent duplication of effort?
7. Describe how your proposal will enhance the services provided by the community agencies listed above.
8. Please provide a comprehensive list of supportive services that are available to program participants. Briefly describe each and include information about how the project will promote a healthy and safe environment, by promoting healthy women, infants and children, and/or promoting well-being by preventing mental health and substance use disorders consistent with EO 190.
9. Provide the following information as it relates to the homeless service delivery system(s): who is the lead organization, and what is your organization's level of participation and role within the Continuum of Care (CoC)? For those agencies that are not active in the CoC planning process or are not CoC participants, please describe what efforts will be undertaken to engage in or to seek an active role.
10. Provide your insight into the community. Based on your agency's specific experience working with individuals/families with HIV/AIDS, discuss any relevant trends/changes not accurately represented by the statistics listed above. What is the availability and quality of affordable housing for the population you wish to serve? (permanent, transitional, both).
11. Identify the employment needs of individuals and families living with HIV/AIDS. Describe the employment resources provided by your agency and available to them within the service area and how they are accessed by those served under this application.
12. Does your agency currently participate in the Homeless Management Information System (HMIS)? If not, discuss what steps your agency will take towards participating in HMIS.
13. Does your agency currently participate in an HIV Care Continuum? If yes, please describe those efforts.
14. Describe the population demographics and characteristics of the HIV/AIDS population to be served under this application.

15. Describe the typical living situation of the majority of proposed program participants prior to being referred to your agency. Be sure to identify anticipated referral sources.
16. Describe the special needs of the HIV/AIDS population. Include how these needs impact their ability to secure and/or maintain permanent housing and achieve self-sufficiency.
17. Provide the estimated number of individuals to be served under this proposal per HOPWA activity (Tenant-based Rental Assistance, Short Term Rent, Mortgage and Utility Assistance, Permanent Housing Placement, Facility Based Housing Assistance, Support Services).
18. Describe any critical gaps in services to those low-income individuals living with HIV/AIDS in the area that you propose to serve as supported by the description of the community.
19. How will the services you are proposing respond to the gaps in services identified in the question above? Be sure to identify the specific types of services to be provided under this proposal.
20. Provide a detailed description of the day-to-day operations of the proposed program. Describe the process for program participants from the point of referral to discharge (if applicable). Describe the intake process, including how eligibility is determined, the main source of referrals, and include anticipated program referrals and participant turnover procedures.
21. Describe your agency's experience in providing housing support services, and employment assistance to this population.
22. Describe how your program addresses the needs of marginalized populations, including individuals of color; diverse cultural identities or ethnicities; people who identify as LGBTQ; persons who are gender non-conforming, etc. How does your program conduct outreach and provide welcoming, inclusive and culturally-sensitive services?
23. Explain how the proposed program will meet the needs of the participants and enhance their self-sufficiency.
24. How does your program integrate trauma informed care into its policies, procedures and practices? How do you ensure that all staff are trained and providing trauma-responsive services that address tenants' needs resulting from various adverse childhood experiences (ACES), adult or life-long trauma, including those caused by poverty, racism, victimization, physical or emotional injury, illness, etc.?
25. How does your program provide language access for individuals with limited English proficiency? Describe to what extent the following are available to tenants: translated materials, multilingual staff and/or interpretation and translation services.
26. Describe and quantify the expected outcomes for the HOPWA activities outlined in question 16 Describe and quantify the expected outcomes for the services listed in question 18.
27. Describe what form of follow-up will be used to measure participant program success and recidivism.

28. Explain how the proposed program will provide program participants with appropriate medical care and/or referrals and case management. Specify the frequency of meetings with participants and strategies you have found to be successful. What is an average caseload for your case managers?
29. Explain/discuss staffing for the project. Identify by title (do not include specific names) those within your organization who will perform the activities you've described. Provide a brief job description for each title, explain the staffing pattern and discuss any consultant roles. Include any special provisions (i.e. bilingual services) and availability during non-traditional hours.
30. If proposing to provide rental assistance, detail the proposed mechanism for assuring compliance with HUD's Housing Quality Standards and rent reasonableness.
31. Facility Based Housing Assistance Only, Otherwise Enter "N/A." Briefly describe the facility site(s), including location, size, type of building(s), and type of housing (e.g. emergency, transitional, permanent, scattered site). Indicate the operational status of each project for which funding is sought (e.g. "in development", "in construction", "operational"). If the site is not yet operational, when is it scheduled to become operational?
32. Facility Based Housing Assistance Only, Otherwise Enter "N/A." What is the total number of units and beds? What is the total number of units and beds serving persons with HIV/AIDS?
33. In the past three years, has your agency been audited or reviewed by a government agency? If so, what was the result? Describe any negative findings and how they were resolved.
34. If you currently receive HOPWA funding from OTDA, describe the potential impact on those currently housed by your agency should your application not be funded.
35. Discuss/explain your ability to operate the program for the full contract term. If all units/staff will not be available on the contract start date, discuss when the program will be fully operational. Discuss how your agency intends to fully expend all funds within the full five year contract term.
36. Describe how the amount of HOPWA funding requested was determined and how it relates to your overall program.

## **XVI. Pre-Submission Uploads**

- **Pre-Submission Uploads Screen** – This section contains forms for completion with recommended formats. You may download applicable forms by clicking on the appropriate link. Once a form is opened, click 'Enable Editing' at the top of the document to be able to enter data. Rename and save the completed form to your computer. Upload your completed form in the Pre-Submission Upload section and/or where indicated throughout the application. If required information is not available or cannot be produced, an explanation must be uploaded. You should complete and upload MWBE forms if requesting HOPWA funds for supplies, contractual, and/or equipment categories. If a contractual expense is with another nonprofit, MWBE forms are not

applicable. The following is a list of the forms; copies of the forms begin on the next page.

- HOPWA Budget Statement: Use the excel form provided to show how funds will be split between eligible HOPWA activities (listed in Section IV). Upload.
- Continuum of Care (CoC)/Planning Entity Letter of support: Notify your local Continuum of Care or planning entity of your intent to apply and request a letter of support. A format document is provided. Upload the support letter once it is received.
- Agency Agreement: Sign and date as indicated. Upload.
- Agency Contact Information: Fill in the excel form provided. Upload.
- All MWBE Documents: Sign and date as indicated. Upload.
- Documentation of Continuing Financial Support: Complete all sections as indicated. Upload.
- Federal Certifications: Complete all sections as indicated. Upload.
- Certification of General Local Government Approval: Notify the unit of general local government in every county in which the project is to be located of your intent to apply and request that the approval letter be completed. Upload the approval letter once it is received.
- Acknowledgement of Post-Employment Provisions, Assurance of No Conflict, Sexual Harassment Prevention, EO 177 Certification and Non-Collusive Bidding: Sign and date as indicated. Upload.

If the applicant would like to include any additional uploads, these may be uploaded in the Grantee Document Folder. OTDA will not use any items included in the Grantee Document Folder for the review of the application.

### **HOPWA Budget Statement**

The following is a list and description of HUD approved HOPWA activities. Your HOPWA Budget Statement Excel upload must be broken down in terms of the activities listed below.

- Tenant-based Rental Assistance Activities (TBRA) Include:
  - Rent subsidy dollars
  - Staff time spent assessing a client specifically for TBRA assistance and orienting the client to the program requirements
  - Staff time spent on communicating with TBRA landlords
  - Staff time spent processing the landlord checks
  - Staff time spent traveling and to conduct housing inspections

- Staff time spent on re-assessing continued eligibility for TBRA annually
- Cost of check stock, envelopes and postage for mailing checks to landlords (even if the accounting department staff handles the process)
- Short-Term Rent, Mortgage, and Utility Assistance Activities (STRMU) Include:
  - The rent, mortgage, or utility dollars
  - Staff time spent assessing a new client for STRMU assistance and orienting the client to the program requirements
  - Staff time spent on communicating with landlords and/or utility companies
  - Staff time spent on re-assessing continued eligibility for STRMU annually
  - A portion of staff time spent overseeing the STRMU staff performance and processes
  - Cost of check stock, envelopes and postage for mailing checks to landlords and utility companies (even if the accounting department staff handles the process)
- Permanent Housing Placement (PHP) for move-in costs:
  - Application fees, credit check fees and security deposits necessary to move persons into permanent housing, provided such deposits do not exceed two months of rent.
  - Staff time spent assessing a new client for move-in assistance and orienting the client to the program requirements
  - Staff time spent on communicating with landlords
  - Staff time spent processing the landlord and/or utility company checks
  - Cost of check stock, envelopes and postage for mailing checks to landlords and utility companies (even if the accounting department staff handles the process)
  - Total placement costs cannot exceed the value of two months' rent in the new unit.
- Facility Based Housing Assistance (FBHA) Activities Include:
  - Staff time for new resident intake and move-in to unit
  - Staff for grounds and building inspection and maintenance
  - Staff time and equipment for building and grounds security

- Staff time spent as a cook for common meals for all residents
- Payments for facility water, sewer, garbage, and/or other utility costs
- Supplies for grounds and building maintenance
- Food and nutrition supplies for a community kitchen if food is prepared on site
- Furniture and bedding and towels and supplies for the units if the facility is short-term or transitional
- Furniture and supplies for the common areas
- TV, cable and phone for resident use in the common areas only
- Supplies for facility resident meetings and events
- Lease or minor repair of facilities to provide housing and services.
- Rent subsidy dollars
- Staff time spent assessing a client specifically for FBHA assistance and orienting the client to the program requirements
- Staff time spent processing the landlord checks
- Staff time spent on communicating with FBHA landlords
- Staff time spent traveling and to conduct housing inspections
- Staff time spent on re-assessing continued eligibility for FBHA annually
- Cost of check stock, envelopes and postage for mailing checks to landlords (even if the accounting department staff handles the process)
- HOPWA Support Service Case Management/Housing Case Management (without HOPWA housing) Includes:
  - Staff time spent working with the client to connect them with other benefits and employment activities other than HOPWA housing (HOPWA housing staff time is billed as a direct service delivery cost to the housing activity)
  - Staff time spent on all other activities, such as counseling, transportation issues, food, school, training, budgeting etc.
  - Staff time spent connecting clients to medical care and other health care services
  - Staff time spent checking in with clients to assess wellbeing and ongoing needs.



- Staff time spent creating, documenting and overseeing housing and client care plans
- Staff time spent drug, alcohol and or financial counseling
- HOPWA Support Service Case Management/Housing Case Management (with HOPWA housing) Includes:
  - Once clients are moved into HOPWA housing, staff time spent on activities, such as drug, alcohol and or financial counseling, transportation issues, food, school, training, budgeting etc.
  - Staff time spent connecting clients to medical care and other health care services
  - Staff time spent checking in with clients to assess wellbeing and ongoing needs.
  - Staff time spent creating, documenting and overseeing housing and client care plans.
  - Staff time spent drug, alcohol and or financial counseling.
  - Costs for individual clients such as bus fare, supplies for the living unit food pantry vouchers etc. (if provided)
  - Note: Staff time spent working with the client to enroll them in a HOPWA housing unit is billed as a direct service delivery cost to the housing activity (STRMU, TBRA, PHP, FBHA).
- Housing Information and Referral Services: (Only HOPWA service that can assist those who are not confirmed to have HIV or AIDS)
  - Staff time in person or via phone and email spent on housing counseling, fair housing information, and referral services to assist an eligible person to locate, acquire, finance and maintain housing.
  - Brochures discussing the HOPWA program services available in the Eligible Metropolitan Service Area (EMSA).
  - Cost of supplies and postage for mailing out information to the public.
  - Up to 3% of HOPWA award as Housing Info Services for Homeless Management Information System (HMIS) or HMIS-compliant systems to build upon or integrate with Ryan White CARE Act data systems (or other systems) as a tool for housing information services to support case manager activities, such as an electronic case file, reduce duplication in services, and provide essential data on client utilization to assess the effectiveness of the housing assistance. Also as a

database tool to facilitate beneficiary access to available housing and related services, track available housing units.

- Resource Identification:
  - Up to 10% of award for Resource Identification for staff time spent on comprehensive planning, community meetings, and other activities to plan, establish, coordinate and develop housing assistance resources for eligible persons (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives such as pre-development).
- Technical Assistance:
  - Costs include activities to coordinate and assist in the development of housing resources for persons with HIV/AIDS and their families. Applicants proposing these activities must demonstrate that, if funded, their efforts are likely to result in making additional housing available to people with HIV/AIDS.
- Lease or Repair of Facilities to Provide Housing and Services:
  - Very limited funds may be available for the lease or minor repair of facilities that house persons with HIV/AIDS. However, compelling need must be demonstrated. Applicants must show that they have been unable to access other sources of financing for these purposes.
- HOPWA Administrative Costs Include:
  - Includes those costs for general management, oversight, coordination, evaluation, and reporting on eligible activities. Such costs do not include costs directly related to carrying out eligible activities, since those costs are eligible as part of the activity delivery costs of such activities.

## HOPWA Budget Statement

<b>HOPWA Budget Statement</b>						
On the budget form below, indicate the amount of annual funds being requested to support the proposed project for both Personal Services and Non-Personal Services.						
<b>Personnel Costs</b>						
Item	Annual P/TBRA	Annual STRMU	Annual PHP	Annual FBHA	Annual Supportive Services	Annual Total
Salary	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Fringe Benefits	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Personnel Services	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Non-Personnel Services Total</b>						
Item	Annual P/TBRA	Annual STRMU	Annual PHP	Annual FBHA	Annual Supportive Services	Annual Total
Contractual	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Travel	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Equipment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Space/Property & Utilities	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Operating	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Non-Personnel Services Total	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

<b>Personnel Service Expense Detail</b>						
Position Title	Annual P/TBRA	Annual STRMU	Annual PHP	Annual FBHA	Annual Supportive Services	Total Annual Salary
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Personnel Total	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Fringe Benefits Total Rate: 62.48%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Personnel Services Cost	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Contractual Costs</b>						
Item	Annual P/TBRA	Annual STRMU	Annual PHP	Annual FBHA	Annual Supportive Services	Total
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Contractual Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

<b>Travel Costs</b>						
Item	Annual P/TBRA	Annual STRMU	Annual PHP	Annual FBHA	Annual Supportive Services	Total
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Travel Costs</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

<b>Equipment Costs</b>						
Item	Annual P/TBRA	Annual STRMU	Annual PHP	Annual Facilities	Annual Supportive Services	Total
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Equipment Costs</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

<b>Space/Property &amp; Utilities Costs</b>						
Item	Annual P/TBRA	Annual STRMU	Annual PHP	Annual Facilities	Annual Supportive Services	Total
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Space/Property &amp; Utilities Costs</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Operating Costs</b>						
Item	Annual P/TBRA	Annual STRMU	Annual PHP	Annual FBHA	Annual Supportive Services	Total
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Operating Costs</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

<b>Other Costs</b>						
Item	Annual P/TBRA	Annual STRMU	Annual PHP	Annual FBHA	Annual Supportive Services	Total
Admin	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Long-term Rental Assistance	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Short-term Rental Assistance	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Other Costs</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

**Instructions for Completion of the Budget Request**

A brief narrative explanation/justification is required for all budgeted costs. Please use the Explanation Worksheet for the explanation/justification portion of each category of expense. Before completing the actual budget, please refer to the definitions and budget limitations set forth below.

**Personnel Expense Detail**

Employees who should be included on this form are those who will be paid (in full or in part) from the contract. List the titles of the appropriate personnel, salary or hourly, who provide both direct and eligible program support services. For hourly personnel, enter their anticipated annual wages under this column.

Please provide us the title and a brief job description for each position funded by this budget in the explanation/justification cell above.

**Explanation/Justification for Personnel Expenses:**

**Fringe Benefits Expense Detail**

For all employees, both salaried and hourly, it is required to pay mandatory employer payroll taxes: Social Security (FICA), NYS Unemployment Insurance (SUI), NYS Disability Insurance and Workers' Compensation. Additional fringe benefits such as pension, health, life and/or dental insurance may be provided. The total fringe benefit and payroll taxes chargeable to this program cannot exceed the Office of the State Comptroller's rate. This rate is currently a maximum of **62.48%**. The percentage of fringe benefits allocated for each position cannot be greater than the percentage of Salaries/Hourly Wages charged to the project, lower percentage may be allocated. For example if the project director spends 50% of her time on the project, only 50% of her total fringe benefits for the number of months in the term of the contract may be allocated to the project.

**Explanation/Justification for Fringe Benefits Expenses:**



**Contractual Services Expense Detail**

This section should include any costs that have a formal (written) or informal (oral) contract. Examples include any **consultants**, rental/lease of equipment, printing, photocopying, etc.

If contractual services are to be paid for by the contract, documentation must be included. Leases exceeding \$5000 will require three competitive bids for review by OTDA. If documentation is not available, include a reasonable estimate along with the basis for the calculation used to determine the cost.

Consultants may be institutions or organizations, as well as individuals who are self-employed, and are not supervised by your organization. They perform jobs as they determine appropriate, according to general descriptions provided in written agreements. Since they are not employees, they are responsible for their own mandatory fringe benefits, i.e., employer share of Social Security, Workers' Compensation and SUI, and are responsible for remitting their own State and Federal Income Taxes.

Please describe why the expenses are needed for the project on the explanation/justification worksheet. Requests in support of this grant category, if not with another not for profit or unit of local government, are required to demonstrate how they will use these purchases to meet MWBE goals. If the costs to be paid for by the contract are estimated (there is no contractual agreement as of yet), include a statement that documentation will be submitted prior to vouchering and will be subject to prior approval. All things being equal, the sponsor must lease with the lowest bidder. Attach a copy of the Consultant Agreement(s) with the application. If the consultant has not been selected and/or no Agreement is attached, indicate how the consultant costs were estimated and include a statement that the Agreement will be submitted prior to vouchering and will be subject to prior approval by the OTDA. **Paid consultants may not be members of the Board of Directors.** Indicate how each consultant will be paid, e.g. \$20 per hour x 80 hours or 6 days at \$75/day.

**Explanation/Justification for Contractual Expenses:**

**Travel Expense Detail**

Explain which staff will be traveling in relation to the project, the destination, purpose, and frequency of the travel. Consultant travel expenses should be included under consultant costs.

NYS has travel rates established for its employees. The rates charged may not exceed the current approved NYS rates. The mileage rate is currently **\$0.655** per mile for personal car. Hotel and per diem rates vary based on the destination. If more than the established NYS rates are spent, reimbursement will only be up to the NYS rates. A guide is available upon request for both in-state and out-of-state travel. Out of state travel is discouraged and expenses must be approved prior to claiming.

Please describe who is traveling, to where they are traveling, and how it is necessary to the project in the explanation/justification cell above. Consultant travel should not be included here, but should be included in the consultant rate.

**Explanation/Justification for Travel Expenses:**

**Equipment Expense Detail**

Equipment is any non-consumable, tangible property having a useful life of more than one year. Three written bids in response to written specifications are required for any item costing \$5,000 and over. Three telephone bids are required for items costing between \$501 and \$5,000. These bids must be attached to the contract. The amount of the selected bid should be in the budget. If bids have not yet been sought or if it has not been decided which bid to select, include a statement that bids will be provided prior to vouchering. The acquisition cost of general purpose and special equipment which exceed \$5,000 will be evaluated to determine if leasing is a practical and cost effective alternative. Substantial equipment purchases with contract dollars should be avoided. Equipment rental should be listed under "Contractual Services." Additionally, items costing \$500 or less per item are considered supplies.

If other than the low bidder is selected, provide a statement indicating why that vendor was selected. Factors that may influence selection are free delivery and installation, special features, better warranty or maintenance agreement, etc.

Describe the equipment looking to be purchased and how it relates to the project in the explanation/justification cell above.

**Explanation/Justification for Equipment Expenses:**

**Space/Property & Utilities Expense Detail**

Please list each utility expense separately.

Provide a brief description of each space and utility expense and how it is necessary for the project to operate successfully in the explanation/justification cell above.

**Explanation/Justification for Space/Property & Utility Expenses:**

**Operating Expense Detail**

These expenses are directly associated with the maintenance and operation of the project and its grounds. Such activities include, but are not limited to supplies, renovations/repairs, furniture, replacement costs, food and/or clothing for residents and other related activities for which a need is clearly articulated.

Describe how these expenses relate to the project and their necessity in the explanation/justification cell above. Provide costs for each type of item. If purchasing large ticket items that do not qualify as equipment (less than \$500 per item, for example, a copier or office furniture) please provide per item prices. If purchasing consumable supplies less detail may be provided (for example, file folders, copy paper, pens, etc. may be grouped together and listed as consumable office supplies, without the need for a per item cost).

**Explanation/Justification for Operating Expenses:**

**Other Expense Detail**

This section should only include **Administrative** and **Financial Assistance** costs.

Allowable administrative costs are those costs relative to administering the HOPWA program, and which are directly related. Any personnel that provide both direct services and administrative duties may be split accordingly between the personnel and administrative cost categories. All administrative costs should be itemized in the explanation/justification cell below, not on the actual budget.

Tenant based rental assistance funds are available to pay on-going rental assistance subsidies for eligible recipients. Please estimate the number and type of units (e.g. one-bedroom, two bed-room) to be provided, the counties in which the units will be provided, and the size of the subsidy to be provided. Rents must adhere to the fair market rents applicable to the area in which they will be provided. The total figure should appear in the TBRA column.

Short-term rental assistance funds are available to pay short-term rental assistance subsidies for eligible recipients. Please estimate the number and type of payments to be made (e.g. rent, utilities, mortgage) to be provided, and the size of the subsidy to be provided. Limitations on the duration of subsidies are listed in the HOPWA regulations. The total figure should appear in the STRMU column.

Security Deposit and first month's rent funds are available to pay subsidies for eligible recipients. Please estimate the number and type of payments to be made (e.g. security deposit) to be provided, and the size of the subsidy to be provided. The total figure should appear in the PHP column.

**Explanation/Justification for Other Expenses:**

**Other:**

**For Reference Only**

## Continuum of Care (CoC) / Planning Entity Letter of Support

I, (name), as the representative of (Continuum of Care / Planning Entity), acknowledge that the aforementioned body fully supports the (Program / Project) administrated by the (Agency) and that this agency is a regular member of our coordinating body.

(Signature of official authorized to sign for applicant)

(Date)

(Typed Name and Title)

(Date)

## **Required Document – Agency Agreement**

**Sign and date as indicated. Upload.**

### **AGREEMENT**

It is understood and agreed to by the applicant that (1) This RFP does not commit the New York State Office of Temporary and Disability Assistance (OTDA) to award any contracts, pay the costs incurred in the preparation of response to this RFP, or to procure or contract services. (2) OTDA reserves the right to amend, modify or withdraw this RFP and to reject any proposals submitted, and may exercise such right at any time and without notice and without liability to any offeror or other parties for their expenses incurred in the preparation of a proposal or otherwise. Proposals will be prepared at the sole cost and expense of the offeror. (3) OTDA reserves the right to accept or reject any or all proposals that do not completely conform to the instructions given in the RFP, including time frames for submission thereof. (4) Submission of a proposal will be deemed to be the consent of the applicant to any inquiry made by OTDA of third parties with regard to the applicant's experience or other matters deemed by OTDA relevant to the proposal. (5) Funds awarded for this project will be used only for the conduct of the project as approved. (6) The contract may be terminated in whole, or in part, by OTDA. Such termination shall not affect obligations incurred under the contract prior to the effective date of such termination. (7) When funds are advanced any unexpended balance or funds unaccounted for at the end of the approved period must be returned. (8) Any significant revision of the approved project proposal must be requested in writing by the contractor prior to enactment of the change. (9) Progress reports must be submitted as required by OTDA. The final program and financial reports must be submitted within a specified time period after the project terminates. Necessary records and accounts including financial and property controls will be maintained and made available to OTDA for audit purposes. (10) All reports of investigations, studies, and publications made as a result of this proposal must acknowledge the support provided by OTDA. (11) All personal information concerning individuals served or studies conducted under the project are confidential and such information may not be disclosed to unauthorized persons, corporations, or agencies. (12) OTDA reserves a royalty free non-exclusive license to use and to authorize others to use all copyrighted material resulting from this project. (13) Successful applicants will be subject to the State's prompt contracting law. (14) Selected contractors agree to be bound by the Affirmative Action/Equal Opportunities anti-discrimination provisions as more fully set forth in Section XV, General Terms and Conditions of this RFP.

OTDA reserves the right, if funds become available, to make additional awards based on the remaining proposals submitted to this RFP, in lieu of releasing a new RFP, if deemed to be in the best interest of the State. The same evaluation criteria shall apply as used in the original selection process.

OTDA anticipates making an award to administer projects for a five (5) year contract cycle to be funded annually for one (1) year periods with a possibility of renewal beyond five years. For those applicants selected as a result of this Request for Proposals (RFP), subsequent year's funding may be at a decreased level.

The applicant certifies that to the best of his/her knowledge and belief the information in this application is true and correct, and that he/she will comply with the above agreement if the contract is received.

(Signature of official authorized to sign for applicant)

(Date)

(Typed Name and Title)

(Date)

## Agency Contact Form

Complete all sections as indicated. Upload.

# Housing Opportunities for Persons with AIDS Agency Contact Information

**Agency Name:**

**Program Name:**

<b>Title/Responsibility</b>	<b>Name</b>	<b>Direct Phone Number</b>	<b>Email Address</b>
Executive Director			
Program Manager			
Claim for Payment			
Quarterly Program Report			
Other Contact Name & Title			



## MWBE DOCUMENTS

Office of Temporary and Disability Assistance  
40 North Pearl Street, Albany, NY 12243  
www.otda.ny.gov

OTDA – 4938 (Rev. 1/2016)

## M/WBE GOAL REQUIREMENTS

### CERTIFICATION OF GOOD FAITH EFFORTS

**Contractors** (to include those who submit bids/proposals in an effort to be selected for contract award as well as those successful bidders/proposers with whom OTDA enters into State contracts) must document “good faith efforts” to provide meaningful participation by New York State Certified M/WBE subcontractors or suppliers/vendors in the performance of this contract.

The undersigned hereby acknowledges that he/she took or may need to take the following actions on behalf of the Contractor to demonstrate, and upon request by OTDA, to provide written verification to document the aforesaid good faith efforts:

- (a) The Contractor attended any pre-bid, pre-award, or other meetings scheduled by the contracting agency or the NYS Department of Economic Development or its designee to inform certified minority- or women-owned business enterprises of contracting and subcontracting opportunities available on the project, for purposes of complying with contract participation goal requirements;
- (b) The Contractor identified economically feasible units of the project that could be contracted or subcontracted to certified minority- and women-owned business enterprises in order to increase the likelihood of participation by such enterprises on the contract;
- (c) The Contractor undertook efforts to reasonably structure the contract scope of work for purposes of subcontracting with certified minority- and- women-owned business enterprises;
- (d) The Contractor advertised in a timely fashion and in appropriate general circulation, trade and minority- and women-oriented publications, if any, concerning the contracting or subcontracting opportunity;
- (e) The Contractor made written solicitations in a timely fashion to a reasonable number of certified minority- and women- owned business enterprises identified from current certified lists of such business enterprises provided or maintained by the NYS Empire State Development’s Division of Minority and Women Owned Business Development, or its designee, of the contracting or subcontracting opportunity. The directory of certified businesses can be viewed at: <http://esd.ny.gov/index.html>
- (f) The Contractor can document if any timely responses to any such advertisements and solicitations were provided by certified minority- and women-owned business enterprises;
- (g) The Contractor followed-up initial solicitations by contacting the enterprises to determine whether the enterprises were interested in such contracting or subcontracting opportunity;

- (h) The Contractor provided interested certified minority- and women-owned business enterprises in a timely fashion with adequate information about the plans, specifications or terms and conditions of the State contract and requirements for the contracting or subcontracting opportunity so as to prepare an informed response to a contractor solicitation;
- (i) The Contractor submitted a completed, acceptable utilization plan in accordance with applicable requirements to meet goals for participation of certified minority-and women-owned business enterprises established in the State contract;
- (j) The Contractor used the services of community organizations, contractor groups, state and federal business assistance offices and other organizations identified by the NYS Department of Economic Development or its designee that provide assistance in the recruitment and placement of minority and women business enterprises;
- (k) The Contractor negotiated in good faith with certified minority- and women-owned business enterprises submitting bids, proposals, or quotations and did not, without justifiable reason, reject as unsatisfactory any bids, proposals or quotations prepared by any certified minority- or women-owned business enterprise. "Good faith" negotiating means engaging in good faith discussions with certified minority- or women-owned business enterprises about the nature of the work, scheduling, requirements for special equipment, opportunities for dividing of work among the bidders, proposers, and various subcontractors and the bids of the minority or women businesses, including sharing with them any cost estimates from the request for proposal or invitation to bid documents, if available; and,
- (l) The Contractor undertook efforts to make payments for any work performed by certified minority- and women-owned business enterprises in a timely fashion so as to facilitate continued performance by certified minority- and women-owned business enterprises.

---

Signature Date

---

Print Name

---

Title

---

Company

---

Contract Number

---

Program/Solicitation Name

### M/WBE SUBCONTRACTORS AND SUPPLIERS LETTER OF INTENT TO PARTICIPATE

Contractor: [REDACTED]

Contract No.: [REDACTED]

Address: [REDACTED]

Federal ID#: [REDACTED]

Dear Contractor:

I, [REDACTED] intend to perform work for [REDACTED]  
(Name of Subcontractor/Supplier) (Name of Prime Contractor)

My Minority/Women Business Enterprise (M/WBE) status as a MBE () and/or WBE () is certified as of [REDACTED].  
(Certification date)

[REDACTED] is prepared to do the following:  
(Name of Subcontractor/Supplier)

(Describe work to be performed on the above project)	Unit Price	Total Amount
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

You have projected [REDACTED] for such work to start.  
(Commencement Date)

[REDACTED] will sign a formal contract for the above work conditioned  
(Name of Subcontractor/Supplier)

upon the approval of your executed contract with the contractor.

Please choose one of the following options:

**MBE: Subcontractor [REDACTED] Supplier [REDACTED]**

**WBE: Subcontractor [REDACTED] Supplier [REDACTED]**

Company Official's Name: [REDACTED]

Title: [REDACTED]

Company Official's Signature

Date: [REDACTED]

Address: [REDACTED]

**\*\*\*This section is to be completed by the prime contractor\*\*\***

Company Official's Name: [REDACTED]

Title: [REDACTED]

Company Official's Signature

Date: [REDACTED]

Telephone Number: [REDACTED]

Fax Number: [REDACTED]

**M/WBE UTILIZATION PLAN**

**INSTRUCTIONS:** This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (M/WBE) under the contract. Note – A dually certified firm cannot be counted toward both the MBE and WBE participation goals. Attach additional sheets if necessary.

Offeror's Name: [Redacted]  
 Address: [Redacted]  
 City, State, Zip Code: [Redacted]  
 Telephone No.: [Redacted]  
 Region/Location of Work: [Redacted]

Federal Identification No.: [Redacted]  
 Solicitation Name/Contract No.: [Redacted]  
 M/WBE Certified: Y/N [Redacted]  
 M/WBE Participation Goals: MBE [Redacted] % WBE [Redacted] %

1. Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts/Supplies/Services and intended performance dates of each component of the contract.
A. [Redacted]	NY'S ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE	[Redacted]	[Redacted]	[Redacted]
B. [Redacted]	NY'S ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE	[Redacted]	[Redacted]	[Redacted]

6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM - OTDA - 4969.

PREPARED BY (Signature): [Redacted]  
 DATE: [Redacted]

TELEPHONE NO.: [Redacted] EMAIL ADDRESS: [Redacted]

NAME AND TITLE OF PREPARER (Print or Type): [Redacted]

FOR M/WBE USE ONLY

REVIEWED BY: [Redacted] DATE: [Redacted]

UTILIZATION PLAN APPROVED:  YES  NO Date: [Redacted]  
 Contract No.: [Redacted]  
 Contract Award Date: [Redacted]  
 Estimated Date of Completion: [Redacted]  
 Amount Obligated Under the Contract: [Redacted]  
 Description of Work: [Redacted]

NOTICE OF DEFICIENCY ISSUED:  YES  NO Date: [Redacted]  
 NOTICE OF ACCEPTANCE ISSUED:  YES  NO Date: [Redacted]

SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.

**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES-  
EQUAL EMPLOYMENT OPPORTUNITY  
POLICY STATEMENT**

**M/WBE AND EEO POLICY STATEMENT**

I, \_\_\_\_\_, the (awardee/contractor) \_\_\_\_\_ agree to adopt the following policies with respect to the project being developed or services rendered at \_\_\_\_\_

**M/WBE**

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that, if legally permissible, bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

**EEO**

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2 \_\_\_\_\_

By \_\_\_\_\_

Print: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_ is designated as the Minority Business Enterprise Liaison  
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

**M/WBE Contract Goals**

\_\_\_\_\_ % Minority and Women’s Business Enterprise Participation

\_\_\_\_\_ % Minority Business Enterprise Participation

\_\_\_\_\_ % Women’s Business Enterprise Participation

\_\_\_\_\_  
(Authorized Representative)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**STAFFING PLAN**

Submit with Bid or Proposal – Instructions on page 2

Solicitation No.: [REDACTED] Reporting Entity: [REDACTED]

Report includes Contractor's/Subcontractor's:  
 Workforce to be utilized on this contract

Offeror's Name: [REDACTED]  Offeror  
 Subcontractor

Offeror's Address: [REDACTED] Subcontractor's name: [REDACTED]

Enter the total number of employees for each classification in each of the EEO-Job Categories identified

EEO-Job Category	Workforce by Gender		Workforce by Race/Ethnic Identification							Disabled (M) (F)	Veteran (M) (F)	
	Total Work force	Total Male (M)	Total Female (F)	White (M) (F)	Black (M) (F)	Hispanic (M) (F)	Asian (M) (F)	Native American (M) (F)				
Officials/Administrators	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Professionals	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Technicians	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Sales Workers	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Office/Clerical	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Craft/Workers	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Laborers	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Service Workers	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Temporary /Apprentices	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Totals	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

PREPARED BY (Signature): [REDACTED] TELEPHONE NO.: [REDACTED] EMAIL ADDRESS: [REDACTED] DATE: [REDACTED]

NAME AND TITLE OF PREPARER (Print or Type): [REDACTED] Submit completed with bid or proposal

**General instructions:** All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (M/WBE 101) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

**Instructions for completing:**

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check the box acknowledging work force to be utilized on the contract.
3. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading "Work force by Gender".
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading "Work force by Race/Ethnic Identification". Contact the OM/WBE Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

**RACE/ETHNIC IDENTIFICATION**

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

- **NATIVE INDIAN (NATIVE AMERICAN/ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

**OTHER CATEGORIES**

- **DISABLED INDIVIDUAL** any person who:
  - has a physical or mental impairment that substantially limits one or more major life activity(ies)
  - has a record of such an impairment; or
  - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.

GENDER      Male      or      Female



**Document of Continuing Financial Support**

**For Reference Only**

**Documentation of Continuing Financial Support**

This document should be written on Agency Letterhead.

Date

New York State Office of Temporary and Disability Assistance  
Bureau of Housing Services  
40 North Pearl Street, 10-C  
Albany, NY 12243  
Attention: Kaitlin Hallissey

To Whom It May Concern:

This is to certify that to the best of my knowledge, the funds requested in my agency's 2023 HOPWA application will not be used to supplant or replace local financial participation in the proposed HOPWA program.

Sincerely,

Signature of Authorized Agency Representative

## Federal Certifications

### FEDERAL CERTIFICATIONS (Page 1 of 2)

I, \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

of \_\_\_\_\_, hereby assure and  
(Name of applicant agency, hereinafter referred to as "the Applicant")  
certify that the Applicant will comply with the following items under the Housing Opportunities for

Persons with AIDS Program:

1. All requirements of 24 Code of Federal Regulations (CFR) Part 574, entitled Housing Opportunities for Persons with AIDS (Attachment A).
2. The Applicant will comply with the environmental laws and authorities at 24 CFR Part 50, which implements the National Environmental Policy Act and related acts. The Applicant agrees to supply HUD with information necessary for it to perform any necessary environmental review of each property. The Applicant will carry out mitigating measures required by HUD or select alternate eligible property. The Applicant will not acquire, rehabilitate, convert, lease, repair or construct property to provide housing or commit HUD or local funds to such program activities with respect to any eligible property until HUD approval is received. See Section 574.510 for the environmental procedures and standards for applicants for assistance and such other information or certifications as HUD determines to be necessary.
3. Within the designated population:
  - (a) The Applicant will adhere to the requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulation at 24 CFR Part 100; Executive Order 11063 and implementing regulations at 24 CFR Part 107; and Title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d] and implementing regulations issued at 24 CFR Part 1;
  - (b) The Applicant will comply with the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at (24 CFR Part 146), prohibiting discrimination on the basis of age; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C., 794) and implementing regulations at 45 CFR Part 84 prohibiting discrimination against handicapped individuals; Americans with Disabilities Act (ADA) of 1990 and regulations which implement the ADA, set forth at 42 CFR Section 12101 et seq. and executive order 11063 and regulations under 24 CFR Part 107 prohibiting discrimination on the basis of race, color, creed, sex or national origin;
  - (c) The Applicant will adhere to the requirements of Section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701a) regarding employment opportunities for lower-income residents of the project;
  - (d) The Applicant will adhere to the requirements of Executive Orders 11625, 12432, and 12138, that awardee or project sponsor must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities;
  - (e) The Applicant will establish additional procedures to ensure that interested persons can obtain information concerning assistance under this program in cases where established procedures are unlikely to reach persons of any particular race, color,

religion, sex, age, national origin, familial status, or handicap, who may qualify for assistance; and

- (f) The Applicant will comply with reasonable modification and accommodation requirements of the Fair Housing Act and, as appropriate, the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, as amended.
4. The Applicant will certify (i.e., provide assurance of compliance as required by 49 CFR Part 24) that it will comply with the URA, the regulations at 49 CFR Part 24, and the requirements of Section 574.630, and shall ensure such compliance notwithstanding any third party's contractual obligation to the grantee to comply with these provisions.
  5. The Applicant will provide that any building or structure assisted with amounts under this part must be maintained as a facility to provide housing or assistance for eligible beneficiaries; (i) for not less than 10 years in the case of assistance involving new construction, substantial rehabilitation or acquisition of a building or structure; and (ii) for not less than 3 years in cases involving non-substantial rehabilitation or repair of a building or structure.
  6. The Applicant will adhere to the policies, guidelines, and requirements of 24 CFR Part 85 (codified pursuant to OMB Circular No. A-102 and OMB Circular No. A-87) which apply to the acceptance and use of funds under the program by grantees and Nos. A-110 and A-122 apply as they relate to the acceptance and use of funds under this program by project sponsors.
  7. The Applicant will provide drug-free workplace in accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701).
  8. No Federally appropriated funds have been or will be used for lobbying the Executive or Legislative Branches of the Federal Government as required by Section 319 of the Department of Interior Appropriations Act (Pub. L. 101-121), as approved October 23, 1989).
  9. The Applicant will implement the provisions of 24 CFR Part 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

---

(Signature)\*

---

(Date)

(Title)\*\*If signed by anyone other than board chairperson, please attach a resolution of the board authorizing the signatory.

## Certification of General Local Government Approval

### Certification of General Local Government Approval

I, \_\_\_\_\_, \_\_\_\_\_  
(Official authorized to sign for applicant agency) (Title)

of \_\_\_\_\_, duly authorized to  
(Name of the agency in which the local signatory serves)

act on behalf of \_\_\_\_\_ hereby  
(Name of jurisdiction)

approve the project proposed by \_\_\_\_\_ to  
(Name of Project Sponsor Organization)

undertake eligible activities under the Housing Opportunities for Persons with AIDS

(HOPWA) program.

\_\_\_\_\_

\_\_\_\_\_

(Signature)

(Date)

# Acknowledgement of Post-Employment Provisions, Assurance of No Conflict, Sexual harassment Prevention, EO 177 Certification and Non-Collusive Bidding

## OFFEROR'S ACKNOWLEDGEMENT OF UNDERSTANDING OF POST-EMPLOYMENT PROVISIONS

<b>OFFEROR'S ACKNOWLEDGEMENT OF UNDERSTANDING OF POST-EMPLOYMENT PROVISIONS</b>	
<p>By submission of this proposal, the Offeror and each person signing on behalf of the Offeror acknowledges that he/she has the authority to sign on behalf of the Offeror, has read and understands the provisions applicable to post-employment restrictions affecting former State officers and employees, and agrees to abide by the Provisions of the Public Officer's Law should the Offeror and OTDA enter into the proposed Agreement.</p>	
<b>OFFEROR'S DISCLOSURE OF ANY EXISTING AND/OR CONTEMPLATED CONFLICT OF INTEREST</b>	
<p>Have you any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Respondent or former officers and employees of the Agencies and their Affiliates, in connection with your rendering services enumerated in this solicitation.</p> <p style="text-align: center;"> <input type="checkbox"/> Yes                      <input type="checkbox"/> No         </p> <p>If your answer to the above is "Yes", please attach a written explanation, include a statement with your Proposal describing how your Staffing Firm would eliminate or prevent the Conflict of Interest. Indicate what procedures will be followed to detect, notify OTDA of, and resolve any such conflicts.</p> <p>By my signature on this form, I certify that all information disclosed to the State is complete, true, and accurate with regard to Conflicts of Interest.</p>	
<b>OFFEROR'S DISCLOSURE OF ANY INVESTIGATION OR DISCIPLINARY ACTION BY THE NEW YORK STATE COMMISSION ON PUBLIC INTEGRITY OR ITS PREDECESSOR STATE ENTITIES (COLLECTIVELY, "COMMISSION")</b>	
<p>Have you or any of your members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission").</p> <p style="text-align: center;"> <input type="checkbox"/> Yes                      <input type="checkbox"/> No         </p> <p>If your answer to the above is "Yes", please attach a written explanation; include a statement with your Proposal providing a brief description indicating how any matter before the Commission was resolved, or whether it remains unresolved.</p> <p>By my signature on this form, I certify that all information disclosed to the State is complete, true, and accurate with regard to investigations or disciplinary actions by the Commission.</p>	
<b>OFFERORS DISCLOSURE OF FORMER STATE EMPLOYEES</b>	
<p>Do you employ and/or use any subcontractors who are former employees of the State that will be assigned to perform services under an Agreement, resulting from this solicitation.</p> <p style="text-align: center;"> <input type="checkbox"/> Yes                      <input type="checkbox"/> No         </p> <p>If your answer to the above is "Yes", please attach a written statement identifying any/all employees and/or subcontractors who are former employees of the State that will be assigned to perform services under an Agreement, resulting from this solicitation, include the State Agencies Name(s) in which they have worked, and the dates of their employment.</p> <p>By my signature on this form, I certify that all information disclosed to the State is complete, true, and accurate with regard to Former State Employees.</p>	
<b>THE SIGNATURE BELOW INDICATES CERTIFICATION/ACKNOWLEDGEMENT/UNDERSTANDING OF EACH OF THE ABOVE</b>	
<p>Signature _____ Date _____</p> <p>Printed or Typed Name _____</p> <p>Title _____ Procurement Name _____</p>	

## Offeror Assurance of No Conflict of Interest or Detrimental Effect

The Offeror proposing to provide services pursuant to this solicitation, as Contractor, Joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this solicitation does not and will not create a conflict of interest with nor, position the Offeror to breach any other Agreement currently in force with the State of New York.

Furthermore, the attests that it will not act in any manner that is detrimental to any State project on which the Offeror is rendering services; Specifically the Offeror attests that:

1. The fulfillment of obligations by the Offeror, as proposed in the response, does not Violate, any existing Contracts or Agreements between the Offeror and the State;
2. The fulfillment of obligations by the Offeror, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Offeror has with regard to any existing Contracts or Agreements between the Offeror and the State;
3. The fulfillment of obligations by the Offeror, as proposed in the response, does not and will not compromise the Offeror's ability to carry out its obligations under any existing Agreements between the Offeror and the State;
4. The fulfillment of any other contractual obligations that the Offeror has with the State will not affect or influence its ability to perform under any Agreement with OTDA resulting from this RFP;
5. During the negotiation and execution of any Agreement resulting from this RFP, the Offeror will not knowingly take any action or make any decision which creates a Potential, for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
6. In fulfilling obligations under each of its State contracts, including any Agreement which results from this RFP, the Offeror will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to any action or decision to divert resources from one State project to another;
7. No former officer or employee of the State who is now employed by the Offeror, nor any former officer or employee of the Offeror who is now employed by the State, has played a role with regard to the administration of this procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and
8. The Offeror has not and shall not offer to any employee, member or director of OTDA any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

Offeror's responding to this RFP should note that OTDA recognizes that conflicts may occur in the future because an Offeror may have existing or new relationships. OTDA will review the nature of any such new relationship and reserves the right to terminate the Agreement for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Dated:

\_\_\_\_\_  
Signature

Name:

Title:

**NOTE:** This form must be signed by an authorized executive or legal representative (person that is authorized to bind the Offeror contractually).

**OTDA 11/2016**

## Sexual Harassment Prevention Certification

State Finance Law §139-I requires bidders on state procurements to certify that they have a written policy addressing sexual harassment prevention in the workplace and provide annual sexual harassment training (that meets the Department of Labor's model policy and training standards) to all its employees.

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law."

Contractor: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Bids that do not contain the certification will not be considered for award; provided however, that if the bidder cannot make the certification, the bidder may provide a signed statement with their bid detailing the reasons why the certification cannot be made.

**PROHIBITING CONTRACTS WITH ENTITIES THAT SUPPORT DISCRIMINATION**

**EO 177 Certification**

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Contractor: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY  
SECTION 139-D OF THE STATE FINANCE LAW**

SECTION 139-D. Statement of Non-Collusion in bids to the State:

**BY SUBMISSION OF THIS BID, BIDDER AND EACH PERSON SIGNING ON BEHALF OF BIDDER CERTIFIES, AND IN THE CASE OF JOINT BID, EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OF PERJURY, THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF:**

[1] The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor,

[2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor, and

[3] No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

**A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], AND [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE; BIDDER(S) CANNOT MAKE THE FOREGOING CERTIFICATION. THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:**

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ as the act and deed of said corporation or partnership.

**Exhibit 1: Non-Collusive Bidding Certification-3**

Identifying Data

Potential Contractor: \_\_\_\_\_

Address: \_\_\_\_\_  
Street

\_\_\_\_\_  
City, Town, etc.

Telephone: \_\_\_\_\_ Title: \_\_\_\_\_

If applicable, Responsible Corporate Officer

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Joint or combined bids by companies or firms must be certified on behalf of each participant.

\_\_\_\_\_  
Legal name of person, firm or corporation

\_\_\_\_\_  
Legal name of person, firm or corporation

By \_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Address \_\_\_\_\_  
Street

\_\_\_\_\_  
Street

\_\_\_\_\_  
City State

\_\_\_\_\_  
City State

## Attachment A. 24 CFR Part 574 (HOPWA Regulations)

24 CFR Part 574 (up to date as of 6/22/2023)  
Housing Opportunities for Persons with AIDS

24 CFR Part 574 (2023-06-22)

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This content is from the eCFR and is authoritative but unofficial.

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**Title 24 – Housing and Urban Development**  
**Subtitle B – Regulations Relating to Housing and Urban Development**  
**Chapter V – Office of Assistant Secretary for Community Planning and Development,**  
**Department of Housing and Urban Development**  
**Subchapter C – Community Facilities**

**Part 574** Housing Opportunities for Persons with AIDS

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**Subpart B** Formula Entitlements

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§ 574.110 Overview of formula allocations.

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§ 574.600 Cross-reference.

§ 574.603 Nondiscrimination and equal opportunity.

- § 574.604 Protections for victims of domestic violence, dating violence, sexual assault, and stalking.
- § 574.605 Applicability of uniform administrative requirements, cost principles, and audit requirements for Federal awards.
- § 574.625 Conflict of interest.
- § 574.630 Displacement, relocation and real property acquisition.
- § 574.635 Lead-based paint.
- § 574.640 Flood insurance protection.
- § 574.645 Coastal barriers.
- § 574.650 Audit.
- § 574.655 Wage rates.
- § 574.660 Housing counseling.

## **PART 574—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS**

**Authority:** 12 U.S.C. 1701x, 1701 x-1; 42 U.S.C. 3535(d) and 5301–5320.

**Source:** 57 FR 61740, Dec. 28, 1992, unless otherwise noted.

### **Subpart A—General**

#### **§ 574.3 Definitions.**

The terms *Grantee* and *Secretary* are defined in 24 CFR part 5.

*Acquired immunodeficiency syndrome (AIDS) or related diseases* means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome, including infection with the human immunodeficiency virus (HIV).

*Administrative costs* mean costs for general management, oversight, coordination, evaluation, and reporting on eligible activities. Such costs do not include costs directly related to carrying out eligible activities, since those costs are eligible as part of the activity delivery costs of such activities.

*Applicant* means a State or city applying for a formula allocation as described under § 574.100 or a State, unit of general local government, or a nonprofit organization applying for a competitive grant as described under § 574.210.

*City* has the meaning given it in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

*Eligible Metropolitan Statistical Area (EMSA)* means a metropolitan statistical area that has a population of more than 500,000 and has more than 1,500 cumulative cases of AIDS.

*Eligible person* means a person with acquired immunodeficiency syndrome or related diseases who is a low-income individual, as defined in this section, and the person's family. A person with AIDS or related diseases or a family member regardless of income is eligible to receive housing information services, as

described in § 574.300(b)(1). Any person living in proximity to a community residence is eligible to participate in that residence's community outreach and educational activities regarding AIDS or related diseases, as provided in § 574.300(b)(9).

**Eligible State** means a State that has:

- (1) More than 1,500 cumulative cases of AIDS in those areas of the State outside of eligible metropolitan statistical areas that are eligible to be funded through a qualifying city; and
- (2) A consolidated plan prepared, submitted, and approved in accordance with 24 CFR part 91 that covers the assistance to be provided under this part. (A State may carry out activities anywhere in the State, including within an EMSA.)

**Family** is defined in 24 CFR 5.403 and includes one or more eligible persons living with another person or persons, regardless of actual or perceived sexual orientation, gender identity, or marital status, who are determined to be important to the eligible person or person's care or well-being, and the surviving member or members of any family described in this definition who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death.

**Low-income individual** has the meaning given it in section 853(3) of the AIDS Housing Opportunity Act (42 U.S.C. 12902).

**Metropolitan statistical area** has the meaning given it in section 853(5) of the AIDS Housing Opportunity Act (42 U.S.C. 12902).

**Nonprofit organization** means any nonprofit organization (including a State or locally chartered, nonprofit organization) that:

- (1) Is organized under State or local laws;
- (2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
- (3) Has a functioning accounting system that is operated in accordance with generally accepted accounting principles, or has designated an entity that will maintain such an accounting system; and
- (4) Has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.

**Non-substantial rehabilitation** means rehabilitation that involves costs that are less than or equal to 75 percent of the value of the building after rehabilitation.

**Population** means total resident population based on data compiled by the U.S. Census and referable to the same point in time.

**Project sponsor** means any nonprofit organization or governmental housing agency that receives funds under a contract with the grantee to carry out eligible activities under this part. The selection of project sponsors is not subject to the procurement requirements of 2 CFR part 200, subpart D.

**Qualifying city** means a city that is the most populous unit of general local government in an eligible metropolitan statistical area (EMSA) and that has a consolidated plan prepared, submitted, and approved in accordance with 24 CFR part 91 that covers the assistance to be provided under this part.

**Rehabilitation** means the improvement or repair of an existing structure, or an addition to an existing structure that does not increase the floor area by more than 100 percent.

**State** has the meaning given it in section 853(9) of the AIDS Housing Opportunity Act (42 U.S.C. 12902).

**Substantial rehabilitation** means rehabilitation that involves costs in excess of 75 percent of the value of the building after rehabilitation.

**Unit of general local government** means any city, town, township, parish, county, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of the National Affordable Housing Act.

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17199, Apr. 11, 1994; 60 FR 1917, Jan. 5, 1995; 61 FR 5209, Feb. 9, 1996; 61 FR 7963, Feb. 29, 1996; 77 FR 5675, Feb. 3, 2012; 80 FR 75938, Dec. 7, 2015]

## Subpart B—Formula Entitlements

### § 574.100 Eligible applicants.

- (a) Eligible States and qualifying cities, as defined in § 574.3, qualify for formula allocations under HOPWA.
- (b) HUD will notify eligible States and qualifying cities of their formula eligibility and allocation amounts and EMSA service areas annually.

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17199, Apr. 11, 1994; 60 FR 1917, Jan. 5, 1995]

### § 574.110 Overview of formula allocations.

The formula grants are awarded upon submission and approval of a consolidated plan, pursuant to 24 CFR part 91, that covers the assistance to be provided under this part. Certain states and cities that are the most populous unit of general local government in eligible metropolitan statistical areas will receive formula allocations based on their State or metropolitan population and proportionate number of cases of persons with AIDS. They will receive funds under this part (providing they comply with 24 CFR part 91) for eligible activities that address the housing needs of persons with AIDS or related diseases and their families (see § 574.130(b)).

[61 FR 7963, Feb. 29, 1996]

### § 574.120 Responsibility of applicant to serve EMSA.

The EMSA's applicant shall serve eligible persons who live anywhere within the EMSA, except that housing assistance shall be provided only in localities within the EMSA that have a consolidated plan prepared, submitted, and approved in accordance with 24 CFR part 91 that covers the assistance to be provided under this part. In allocating grant amounts among eligible activities, the EMSA's applicant shall address needs of eligible persons who reside within the metropolitan statistical area, including those not within the jurisdiction of the applicant.

[60 FR 1917, Jan. 5, 1995]

### § 574.130 Formula allocations.

- (a) **Data sources.** HUD will allocate funds based on the number of cases of acquired immunodeficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control, and on population data provided by the U.S. Census. The number of cases of acquired immunodeficiency syndrome used for this purpose shall be the number reported as of March 31 of the fiscal year immediately preceding the fiscal year for which the amounts are appropriated and allocated.
- (b) **Distribution of appropriated funds for entitlement awards.**
  - (1) Seventy-five percent of the funds allocated under the formula is distributed to qualifying cities and eligible States, as described in § 574.100, based on each metropolitan statistical area's or State's proportionate share of the cumulative number of AIDS cases in all eligible metropolitan statistical areas and eligible States.
  - (2) The remaining twenty-five percent is allocated among qualifying cities, but not States, where the per capita incidence of AIDS for the year, April 1 through March 31, preceding the fiscal year of the appropriation is higher than the average for all metropolitan statistical areas with more than 500,000 population. Each qualifying city's allocation reflects its EMSA's proportionate share of the high incidence factor among EMSA's with higher than average per capita incidence of AIDS. The high incidence factor is computed by multiplying the population of the metropolitan statistical area by the difference between its twelve-month-per-capita-incidence rate and the average rate for all metropolitan statistical areas with more than 500,000 population. The EMSA's proportionate share is determined by dividing its high incidence factor by the sum of the high incidence factors for all EMSA's with higher than average per capita incidence of AIDS.
- (c) **Minimum grant.** No grant awarded under paragraph (b) of this section shall be less than \$200,000. Therefore, if the calculations under paragraph (b) of this section would result in any eligible metropolitan statistical area or eligible State receiving less than \$200,000, the amount allocated to that entity is increased to \$200,000 and allocations to entities in excess of \$200,000 are proportionately reduced by the amount of the increase.

### § 574.190 Reallocation of grant amounts.

If an eligible State or qualifying city does not submit a consolidated plan in a timely fashion, in accordance with 24 CFR part 91, that provides for use of its allocation of funding under this part, the funds allocated to that jurisdiction will be added to the funds available for formula allocations to other jurisdictions in the current fiscal year. Any formula funds that become available as a result of deobligations or the imposition of sanctions as provided for in § 574.540 will be added to the funds available for formula allocations in the next fiscal year.

[57 FR 61740, Dec. 28, 1992, as amended at 60 FR 1918, Jan. 5, 1995]

## Subpart C—Competitive Grants

### § 574.200 Amounts available for competitive grants.

- (a) The Department will set aside 10 percent of the amounts appropriated under this program to fund on a competitive basis:
  - (1) Special projects of national significance; and
  - (2) Other projects submitted by States and localities that do not qualify for formula grants.



- (b) Any competitively awarded funds that become available as a result of deobligations or the imposition of sanctions, as provided in § 574.540, will be added to the funds available for competitive grants in the next fiscal year.
- (c) The competitive grants are awarded based on applications, as described in subpart C of this part, submitted in response to a Notice of Funding Availability published in the FEDERAL REGISTER. All States and units of general local government and nonprofit organizations are eligible to apply for competitive grants to fund projects of national significance. Only those States and units of general local government that do not qualify for formula allocations are eligible to apply for competitive grants to fund other projects.
- (d) If HUD makes a procedural error in a funding competition that, when corrected, would warrant funding of an otherwise eligible application, HUD will select that application for potential funding when sufficient funds become available.

[57 FR 61740, Dec. 28, 1992, as amended at 61 FR 7963, Feb. 29, 1996]

#### § 574.210 Eligible applicants.

- (a) All States, units of general local government, and nonprofit organizations, may apply for grants for projects of national significance.
- (b) Only those States and units of general local government that do not qualify for formula grants, as described in § 574.100; may apply for grants for other projects as described in § 574.200(a)(2).
- (c) Except for grants for projects of national significance, nonprofit organizations are not eligible to apply directly to HUD for a grant but may receive funding as a project sponsor under contract with a grantee.

#### § 574.240 Application requirements.

Applications must comply with the provisions of the Department's Notice of Funding Availability (NOFA) for the fiscal year published in the FEDERAL REGISTER in accordance with 24 CFR part 12. The rating criteria, including the point value for each, are described in the NOFA, including criteria determined by the Secretary.

[61 FR 7963, Feb. 29, 1996]

#### § 574.260 Amendments.

- (a) After an application has been selected for funding, any change that will significantly alter the scope, location, service area, or objectives of an activity or the number of eligible persons served must be justified to HUD and approved by HUD. Whenever any other amendment to the application is made, the grantee must provide a copy to HUD.
- (b) Each amendment request must contain a description of the revised proposed use of funds. Funds may not be expended for the revised proposed use of funds until:
  - (1) HUD accepts the revised proposed use; and
  - (2) For amendments to acquire, rehabilitate, convert, lease, repair or construct properties to provide housing, an environmental review of the revised proposed use of funds has been completed in accordance with § 574.510.

(Approved by the Office of Management and Budget under control number 2506-0133)

## Subpart D—Uses of Grant Funds

### § 574.300 Eligible activities.

- (a) **General.** Subject to applicable requirements described in §§ 574.310, 574.320, 574.330, and 574.340, HOPWA funds may be used to assist all forms of housing designed to prevent homelessness including emergency housing, shared housing arrangements, apartments, single room occupancy (SRO) dwellings, and community residences. Appropriate supportive services, as required by § 574.310(a), must be provided as part of any HOPWA assisted housing, but HOPWA funds may also be used to provide services independently of any housing activity.
- (b) **Activities.** The following activities may be carried out with HOPWA funds:
- (1) Housing information services including, but not limited to, counseling, information, and referral services to assist an eligible person to locate, acquire, finance, and maintain housing. This may also include fair housing guidance for eligible persons who may encounter discrimination on the basis of race, color, religion, sex, age, national origin, familial status, or handicap. Housing counseling, as defined in § 5.100, that is funded with or provided in connection with HOPWA funds must be carried out in accordance with § 5.111. When grantees provide housing services to eligible persons (including persons undergoing relocation) that are incidental to a larger set of holistic case management services, these services do not meet the definition of Housing counseling, as defined in § 5.100, and therefore are not required to be carried out in accordance with the certification requirements of § 5.111;
  - (2) Resource identification to establish, coordinate and develop housing assistance resources for eligible persons (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives);
  - (3) Acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing and services;
  - (4) New construction (for single room occupancy (SRO) dwellings and community residences only).
  - (5) Project- or tenant-based rental assistance, including assistance for shared housing arrangements;
  - (6) Short-term rent, mortgage, and utility payments to prevent the homelessness of the tenant or mortgagor of a dwelling;
  - (7) Supportive services including, but not limited to, health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, personal assistance, nutritional services, intensive care when required, and assistance in gaining access to local, State, and Federal government benefits and services, except that health services may only be provided to individuals with acquired immunodeficiency syndrome or related diseases and not to family members of these individuals;
  - (8) Operating costs for housing including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs;
  - (9) Technical assistance in establishing and operating a community residence, including planning and other pre-development or pre-construction expenses and including, but not limited to, costs relating to community outreach and educational activities regarding AIDS or related diseases for persons residing in proximity to the community residence;
  - (10) Administrative expenses:

- (i) Each grantee may use not more than 3 percent of the grant amount for its own administrative costs relating to administering grant amounts and allocating such amounts to project sponsors; and
  - (ii) Each project sponsor receiving amounts from grants made under this program may use not more than 7 percent of the amounts received for administrative costs.
- (11) For competitive grants only, any other activity proposed by the applicant and approved by HUD.
- (c) **Equal participation of faith-based organizations.** The HUD program requirements in § 5.109 of this title apply to the HOPWA program, including the requirements regarding disposition and change in use of real property by a faith-based organization.

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17200, Apr. 11, 1994; 68 FR 56405, Sept. 30, 2003; 80 FR 75938, Dec. 7, 2015; 81 FR 19418, Apr. 4, 2016; 81 FR 90659, Dec. 14, 2016]

### § 574.310 General standards for eligible housing activities.

[Link to an amendment published at 88 FR 9665, Feb. 14, 2023.](#)

[Link to an amendment published at 88 FR 30498, May 11, 2023.](#)

All grantees using grant funds to provide housing must adhere to the following standards:

- (a)
  - (1) **General.** The grantee shall ensure that qualified service providers in the area make available appropriate supportive services to the individuals assisted with housing under this subpart. Supportive services are described in § 574.300(b)(7). For any individual with acquired immunodeficiency syndrome or a related disease who requires more intensive care than can be provided in housing assisted under this subpart, the grantee shall provide for locating a care provider who can appropriately care for the individual and for referring the individual to the care provider.
  - (2) **Payments.** The grantee shall ensure that grant funds will not be used to make payments for health services for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service:
    - (i) Under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or
    - (ii) By an entity that provides health services on a prepaid basis.
- (b) **Housing quality standards.** All housing assisted under § 574.300(b) (3), (4), (5), and (8) must meet the applicable housing quality standards outlined below.
  - (1) **State and local requirements.** Each recipient of assistance under this part must provide safe and sanitary housing that is in compliance with all applicable State and local housing codes, licensing requirements, and any other requirements in the jurisdiction in which the housing is located regarding the condition of the structure and the operation of the housing.
  - (2) **Habitability standards.** Except for such variations as are proposed by the locality and approved by HUD, recipients must meet the following requirements:

- (i) **Structure and materials.** The structures must be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the residents from hazards.
  - (ii) **Access.** The housing must be accessible and capable of being utilized without unauthorized use of other private properties. Structures must provide alternate means of egress in case of fire.
  - (iii) **Space and security.** Each resident must be afforded adequate space and security for themselves and their belongings. An acceptable place to sleep must be provided for each resident.
  - (iv) **Interior air quality.** Every room or space must be provided with natural or mechanical ventilation. Structures must be free of pollutants in the air at levels that threaten the health of residents.
  - (v) **Water supply.** The water supply must be free from contamination at levels that threaten the health of individuals.
  - (vi) **Thermal environment.** The housing must have adequate heating and/or cooling facilities in proper operating condition.
  - (vii) **Illumination and electricity.** The housing must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of residents. Sufficient electrical sources must be provided to permit use of essential electrical appliance while assuring safety from fire.
  - (viii) **Food preparation and refuse disposal.** All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner.
  - (ix) **Sanitary condition.** The housing and any equipment must be maintained in sanitary condition.
- (c) **Minimum use period for structures.**
- (1) Any building or structure assisted with amounts under this part must be maintained as a facility to provide housing or assistance for individuals with acquired immunodeficiency syndrome or related diseases:
    - (i) For a period of not less than 10 years, in the case of assistance provided under an activity eligible under § 574.300(b) (3) and (4) involving new construction, substantial rehabilitation or acquisition of a building or structure; or
    - (ii) For a period of not less than 3 years in the cases involving non-substantial rehabilitation or repair of a building or structure.
  - (2) Waiver of minimum use period. HUD may waive the minimum use period of a building or structure as stipulated in paragraph (c)(1) of this section if the grantee can demonstrate, to the satisfaction of HUD, that:
    - (i) The assisted structure is no longer needed to provide supported housing or assistance, or the continued operation of the structure for such purposes is no longer feasible; and
    - (ii) The structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, if the Secretary finds that such variations are necessary because of construction costs or unusually high or low family incomes.

- (d) **Resident rent payment.** Except for persons in short-term supported housing, each person receiving rental assistance under this program or residing in any rental housing assisted under this program must pay as rent, including utilities, an amount which is the higher of:
- (1) 30 percent of the family's monthly adjusted income (adjustment factors include the age of the individual, medical expenses, size of family and child care expenses and are described in detail in 24 CFR 5.609). The calculation of the family's monthly adjusted income must include the expense deductions provided in 24 CFR 5.611(a), and for eligible persons, the calculation of monthly adjusted income also must include the disallowance of earned income as provided in 24 CFR 5.617, if applicable;
  - (2) 10 percent of the family's monthly gross income; or
  - (3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payment that is designated for housing costs.

(e) **Termination of assistance –**

- (1) **Surviving family members.** With respect to the surviving member or members of a family who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death, housing assistance and supportive services under the HOPWA program shall continue for a grace period following the death of the person with AIDS. The grantee or project sponsor shall establish a reasonable grace period for continued participation by a surviving family member, but that period may not exceed one year from the death of the family member with AIDS. The grantee or project sponsor shall notify the family of the duration of their grace period and may assist the family with information on other available housing programs and with moving expenses.

(2) **Violation of requirements –**

- (i) **Basis.** Assistance to participants who reside in housing programs assisted under this part may be terminated if the participant violates program requirements or conditions of occupancy, subject to the VAWA protections in 24 CFR 5.2005(b) and 24 CFR 5.2005(c). Grantees must ensure that supportive services are provided, so that a participant's assistance is terminated only in the most severe cases.
- (ii) **Procedure.** In terminating assistance to any program participant for violation of requirements, grantees must provide a formal process that recognizes the rights of individuals receiving assistance to due process of law. This process at minimum, must consist of:
  - (A) Serving the participant with a written notice containing a clear statement of the reasons for termination;
  - (B) Permitting the participant to have a review of the decision, in which the participant is given the opportunity to confront opposing witnesses, present written objections, and be represented by their own counsel, before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
  - (C) Providing prompt written notification of the final decision to the participant.

(Paragraph (c) approved by the Office of Management and Budget under control number 2506-0133)

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17200, Apr. 11, 1994; 61 FR 7963, Feb. 29, 1996; 66 FR 6225, Jan. 19, 2001; 81 FR 80806, Nov. 16, 2016]

**§ 574.320 Additional standards for rental assistance.**

- (a) If grant funds are used to provide rental assistance, the following additional standards apply:
  - (1) **Maximum subsidy.** The amount of grant funds used to pay monthly assistance for an eligible person may not exceed the difference between:
    - (i) The lower of the rent standard or reasonable rent for the unit; and
    - (ii) The resident's rent payment calculated under § 574.310(d).
  - (2) **Rent standard.** The rent standard shall be established by the grantee and shall be no more than the published section 8 fair market rent (FMR) or the HUD-approved community-wide exception rent for the unit size. However, on a unit by unit basis, the grantee may increase that amount by up to 10 percent for up to 20 percent of the units assisted.
  - (3) **Rent reasonableness.** The rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units.
- (b) With respect to shared housing arrangements, the rent charged for an assisted family or individual shall be in relation to the size of the private space for that assisted family or individual in comparison to other private space in the shared unit, excluding common space. An assisted family or individual may be assigned a pro rata portion based on the ratio derived by dividing the number of bedrooms in their private space by the number of bedrooms in the unit. Participation in shared housing arrangements shall be voluntary.

[57 FR 61740, Dec. 28, 1992, as amended at 61 FR 7963, Feb. 29, 1996]

**§ 574.330 Additional standards for short-term supported housing.**

Short-term supported housing includes facilities to provide temporary shelter to eligible individuals as well as rent, mortgage, and utilities payments to enable eligible individuals to remain in their own dwellings. If grant funds are used to provide such short-term supported housing assistance, the following additional standards apply:

- (a) **Time limits.**
  - (1) A short-term supported housing facility may not provide residence to any individual for more than 60 days during any six month period. Rent, mortgage, and utilities payments to prevent the homelessness of the tenant or mortgagor of a dwelling may not be provided to such an individual for these costs accruing over a period of more than 21 weeks in any 52 week period. These limitations do not apply to rental assistance provided under § 574.300(b)(5).
  - (2) **Waiver of time limitations.** HUD may waive, as it determines appropriate, the limitations of paragraph (a)(1) and will favorably consider a waiver based on the good faith effort of a project sponsor to provide permanent housing under subsection (c).
- (b) **Residency limitations** –

- (1) **Residency.** A short-term supported facility may not provide shelter or housing at any single time for more than 50 families or individuals;
- (2) **Waiver of residency limitations.** HUD may waive, as it determines appropriate, the limitations of paragraph (b)(1) of this section.
- (c) **Placement.** A short-term supported housing facility assisted under this part must, to the maximum extent practicable, provide each individual living in such housing the opportunity for placement in permanent housing or in a living environment appropriate to his or her health and social needs.
- (d) **Assistance to continue independent living.** In addition to the supportive services provided when an individual is relocated to a short-term supported housing facility, supportive services may be provided to individuals when they remain in their residence because the residence is appropriate to the needs of the individual. In the latter case, a rent, mortgage and utilities payments program assisted under this part shall provide, when reasonable, supportive services specifically designed to maintain the individual in such residence.
- (e) **Case management services.** A program assisted under this section shall provide each assisted individual with an opportunity, if eligible, to receive case management services from the appropriate social service agencies.

*(Paragraph (b) approved by the Office of Management and Budget under control number 2506-0133)*

*[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17200, Apr. 11, 1994]*

#### **§ 574.340 Additional standards for community residences.**

- (a) A community residence is a multiunit residence designed for eligible persons to provide a lower cost residential alternative to institutional care; to prevent or delay the need for such care; to provide a permanent or transitional residential setting with appropriate services to enhance the quality of life for those who are unable to live independently; and to enable such persons to participate as fully as possible in community life.
- (b) If grant funds are used to provide a community residence, except for planning and other expenses preliminary to construction or other physical improvement for a community residence, the grantee must, prior to the expenditure of such funds, obtain and keep on file the following certifications:
  - (1) **A services agreement.**
    - (i) A certification that the grantee will itself provide services as required by § 574.310(a) to eligible persons assisted by the community residence; or
    - (ii) A certification that the grantee has entered into a written agreement with a project sponsor or contracted service provider to provide services as required by § 574.310(a) to eligible persons assisted by the community residence;
  - (2) **The adequacy of funding.**
    - (i) A certification that the grantee has acquired sufficient funding for these services; or

- (ii) A certification that the grantee has on file an analysis of the service level needed for each community residence, a statement of which grantee agency, project sponsor, or service provider will provide the needed services, and a statement of how the services will be funded; and
- (3) **Capability.**
  - (i) A certification that the grantee is qualified to provide the services; or
  - (ii) A certification that the project sponsor or the service provider is qualified to provide the services.

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17200, Apr. 11, 1994]

#### **§ 574.350 Additional standards for broadband infrastructure.**

Any new construction or substantial rehabilitation, as substantial rehabilitation is defined by 24 CFR 574.3, of a building with more than 4 rental units, for which HOPWA funds are first obligated by the grantee or project sponsor on or after January 19, 2017 must include installation of broadband infrastructure, as this term is defined in 24 CFR 5.100, except where the grantee or project sponsor determines and, in accordance with § 574.530, documents the determination that:

- (a) The location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible;
- (b) The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or
- (c) The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

[81 FR 92637, Dec. 20, 2016]

### **Subpart E—Special Responsibilities of Grantees and Project Sponsors**

#### **§ 574.400 Prohibition of substitution of funds.**

Amounts received from grants under this part may not be used to replace other amounts made available or designated by State or local governments through appropriations for use for the purposes of this part.

#### **§ 574.410 Capacity.**

The grantee shall ensure that any project sponsor with which the grantee contracts to carry out an activity under this part has the capacity and capability to effectively administer the activity.

#### **§ 574.420 Cooperation.**

- (a) The grantee shall agree, and shall ensure that each project sponsor agrees, to cooperate and coordinate in providing assistance under this part with the agencies of the relevant State and local governments responsible for services in the area served by the grantee for eligible persons and other public and private organizations and agencies providing services for such eligible persons.



- (b) A grantee that is a State shall obtain the approval of the unit of general local government in which a project is to be located before entering into a contract with a project sponsor to carry out an activity authorized under this part.
- (c) A grantee that is a city receiving a formula allocation for an EMSA shall coordinate with other units of general local government located within the metropolitan statistical area to address needs within that area.

#### **§ 574.430 Fee prohibitions.**

The grantee shall agree, and shall ensure that each project sponsor agrees, that no fee, except rent, will be charged of any eligible person for any housing or services provided with amounts from a grant under this part.

#### **§ 574.440 Confidentiality.**

The grantee shall agree, and shall ensure that each project sponsor agrees, to ensure the confidentiality of the name of any individual assisted under this part and any other information regarding individuals receiving assistance.

#### **§ 574.450 Financial records.**

The grantee shall agree, and shall ensure that each project sponsor agrees, to maintain and make available to HUD for inspection financial records sufficient, in HUD's determination, to ensure proper accounting and disbursing of amounts received from a grant under this part.

#### **§ 574.460 Remaining participants following bifurcation of a lease or eviction as a result of domestic violence, dating violence, sexual assault, or stalking.**

When a covered housing provider exercises the option to bifurcate a lease, as provided in [24 CFR 5.2009\(a\)](#), in order to evict, remove, terminate occupancy rights, or terminate assistance to a person with AIDS or related diseases that receives rental assistance or resides in rental housing assisted under the HOPWA program for engaging in criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking, the covered housing provider shall provide the remaining persons residing in the unit a reasonable grace period to establish eligibility to receive HOPWA assistance or find alternative housing. The grantee or project sponsor shall set the reasonable grace period, which shall be no less than 90 calendar days, and not more than one year, from the date of the bifurcation of the lease. Housing assistance and supportive services under the HOPWA program shall continue for the remaining persons residing in the unit during the grace period. The grantee or project sponsor shall notify the remaining persons residing in the unit of the duration of the reasonable grace period and may assist them with information on other available housing programs and with moving expenses.

[81 FR 80806, Nov. 16, 2016]

### **Subpart F—Grant Administration**

#### **§ 574.500 Responsibility for grant administration.**

- (a) **General.** Grantees are responsible for ensuring that grants are administered in accordance with the requirements of this part and other applicable laws. Grantees are responsible for ensuring that their respective project sponsors carry out activities in compliance with all applicable requirements.
- (b) **Grant agreement.** The grant agreement will provide that the grantee agrees, and will ensure that each project sponsor agrees, to:

- (1) Operate the program in accordance with the provisions of these regulations and other applicable HUD regulations;
  - (2) Conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;
  - (3) Assure the adequate provision of supportive services to the participants in the program; and
  - (4) Comply with such other terms and conditions, including recordkeeping and reports (which must include racial and ethnic data on participants) for program monitoring and evaluation purposes, as HUD may establish for purposes of carrying out the program in an effective and efficient manner.
- (c) **Enforcement.** HUD will enforce the obligations in the grant agreement in accordance with the provisions of 2 CFR part 200, subpart D. A grantee will be provided an opportunity for informal consultation before HUD will exercise any remedies authorized in 2 CFR 200.338.

[57 FR 61740, Dec. 28, 1992, as amended at 80 FR 75938, Dec. 7, 2015]

#### § 574.510 Environmental procedures and standards.

- (a) Activities under this part are subject to HUD environmental regulations in part 58 of this title, except that HUD will perform an environmental review in accordance with part 50 of this title for any competitive grant for Fiscal Year 2000.
- (b) The recipient, its project partners and their contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this part, or commit or expend HUD or local funds for such eligible activities under this part, until the responsible entity (as defined in § 58.2 of this title) has completed the environmental review procedures required by part 58 and the environmental certification and RROF have been approved (or HUD has performed an environmental review and the recipient has received HUD approval of the property). HUD will not release grant funds if the recipient or any other party commits grant funds (i.e., incurs any costs or expenditures to be paid or reimbursed with such funds) before the recipient submits and HUD approves its RROF (where such submission is required).
- (c) For activities under a grant to a nonprofit entity that would generally be subject to review under part 58, HUD may make a finding in accordance with § 58.11(d) and may itself perform the environmental review under the provisions of part 50 of this title if the recipient nonprofit entity objects in writing to the responsible entity's performing the review under part 58. Irrespective of whether the responsible entity in accord with part 58 (or HUD in accord with part 50) performs the environmental review, the recipient shall supply all available, relevant information necessary for the responsible entity (or HUD, if applicable) to perform for each property any environmental review required by this part. The recipient also shall carry out mitigating measures required by the responsible entity (or HUD, if applicable) or select alternate eligible property.

[68 FR 56130, Sept. 29, 2003]

#### § 574.520 Performance reports.

- (a) **Formula grants.** For a formula grant recipient, the performance reporting requirements are specified in 24 CFR part 91.

- (b) **Competitive grants.** A grantee shall submit to HUD annually a report describing the use of the amounts received, including the number of individuals assisted, the types of assistance provided, data on emergency transfers requested under 24 CFR 5.2005(e), pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of such requests, and any other information that HUD may require. Annual reports are required until all grant funds are expended.

[60 FR 1918, Jan. 5, 1995, as amended at 81 FR 80806, Nov. 16, 2016]

#### **§ 574.530 Recordkeeping.**

Each grantee must ensure that records are maintained for a 4-year period to document compliance with the provisions of this part. Grantees must maintain the following:

- (a) Current and accurate data on the race and ethnicity of program participants.
- (b) Documentation of the actions the grantee has taken to affirmatively further fair housing, pursuant to §§ 5.151 and 5.152 of this title.
- (c) Data on emergency transfers requested under 24 CFR 5.2005(e), pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of such requests.

[80 FR 42368, July 16, 2015, as amended at 81 FR 80806, Nov. 16, 2016; 85 FR 47911, Aug. 7, 2020; 86 FR 30792, June 10, 2021]

#### **§ 574.540 Deobligation of funds.**

HUD may deobligate all or a portion of the amounts approved for eligible activities if such amounts are not expended in a timely manner, or the proposed activity for which funding was approved is not provided in accordance with the approved application or action plan and the requirements of this regulation. HUD may deobligate any amount of grant funds that have not been expended within a three-year period from the date of the signing of the grant agreement. The grant agreement may set forth other circumstances under which funds may be deobligated or sanctions imposed.

[61 FR 7963, Feb. 29, 1996]

### **Subpart G—Other Federal Requirements**

#### **§ 574.600 Cross-reference.**

The Federal requirements set forth in 24 CFR part 5 and part 75 apply to this program as specified in this subpart.

[61 FR 5209, Feb. 9, 1996, as amended at 85 FR 61567, Sept. 29, 2020]

#### **§ 574.603 Nondiscrimination and equal opportunity.**

Within the population eligible for this program, the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5 and the following requirements apply:

- (a) **Fair housing requirements.**

- (1) Grantees and project sponsors shall comply with the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101–12213) and implementing regulations at 28 CFR part 35 (States and local government grantees) and part 36 (public accommodations and requirements for certain types of short-term housing assistance).
  - (2) Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964–1965 Comp., p. 339; 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970 Comp., p. 803; 3 CFR 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264) (Equal Employment Opportunity) does not apply to this program.
- (b) **Affirmative outreach.** A grantee or project sponsor must adopt procedures to ensure that all persons who qualify for the assistance, regardless of their race, color, religion, sex, age, national origin, familial status, or handicap, know of the availability of the HOPWA program, including facilities and services accessible to persons with a handicap, and maintain evidence of implementation of the procedures.

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 33894, June 30, 1994. Redesignated and amended at 61 FR 5209, Feb. 9, 1996; 61 FR 7964, Feb. 29, 1996]

### § 574.604 Protections for victims of domestic violence, dating violence, sexual assault, and stalking.

(a) **General** –

- (1) **Applicability of VAWA requirements.** Except as provided in paragraph (a)(2) of this section, the Violence Against Women Act (VAWA) requirements set forth in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), apply to housing assisted with HOPWA grant funds for acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing; new construction; and operating costs, as provided in § 574.300. The requirements set forth in 24 CFR part 5, subpart L, also apply to project-based and tenant-based rental assistance, as provided in §§ 574.300 and 574.320, and community residences, as provided in § 574.340.
  - (2) Limited applicability of VAWA requirements. The VAWA requirements set forth in 24 CFR part 5, subpart L do not apply to short-term supported housing, as provided in § 574.330, except that no individual may be denied admission to or removed from the short-term supported housing on the basis or as a direct result of the fact that the individual is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the individual otherwise qualifies for admission or occupancy.
  - (3) The terms “affiliated individual,” “dating violence,” “domestic violence,” “sexual assault,” and “stalking” are defined in 24 CFR 5.2003.
- (b) **Covered housing provider.** As used in this part, the term, “covered housing provider,” which is defined in 24 CFR 5.2003, refers to the HOPWA grantee, project sponsor, or housing or facility owner, or manager, as described in this section.
- (1)

- (i) For housing assisted with HOPWA grant funds for acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing; new construction; operating costs; community residences; and project-based rental assistance, the HOPWA grantee is responsible for ensuring that each project sponsor undertakes the following actions (or, if administering the HOPWA assistance directly, the grantee shall undertake the following actions):
  - (A) Sets a policy for determining the “reasonable grace period” for remaining persons residing in the unit to establish eligibility for HOPWA assistance or find alternative housing, which period shall be no less than 90 calendar days nor more than one year from the date of bifurcation of a lease, consistent with 24 CFR 574.460;
  - (B) Provides notice of occupancy rights and the certification form at the times listed in paragraph (d) of this section;
  - (C) Adopts and administers an emergency transfer plan, as developed by the grantee in accordance with 24 CFR 5.2005(e) of this section, and facilitates emergency transfers; and
  - (D) Maintains the confidentiality of documentation submitted by tenants requesting emergency transfers and of each tenant's housing location consistent with § 574.440 and 24 CFR 5.2007(c).
- (ii)
  - (A) If a tenant seeks VAWA protections, set forth in 24 CFR part 5, subpart L, the tenant must submit such request through the project sponsor (or the grantee if the grantee is directly administering HOPWA assistance). Grantees and project sponsors will work with the housing or facility owner or manager to facilitate protections on the tenant's behalf. Project sponsors must follow the documentation specifications in 24 CFR 5.2007, including the confidentiality requirements in 24 CFR 5.2007(c).
  - (B) The grantee or project sponsor is responsible for ensuring that the housing or facility owner or manager develops and uses a HOPWA lease addendum with VAWA protections and is made aware of the option to bifurcate a lease in accordance with § 574.460 and 24 CFR 5.2009.
- (2)
  - (i) For tenant-based rental assistance, the HOPWA grantee is responsible for ensuring that each project sponsor providing tenant-based rental assistance undertakes the following actions (or, if administering the HOPWA assistance directly, the grantee shall undertake the following actions):
    - (A) Sets policy for determining the “reasonable grace period” for remaining persons residing in the unit to establish eligibility for HOPWA assistance or find alternative housing, which period shall be no less than 90 calendar days and no more than one year from the date of bifurcation of a lease, consistent with 24 CFR 574.460;
    - (B) Provides notice of occupancy rights and the certification form at the times listed in paragraph (d) of this section;

- (C) Adopts and administers an emergency transfer plan, as developed by the grantee in accordance with 24 CFR 5.2005(e) of this section, and facilitates emergency transfers; and
  - (D) Maintains the confidentiality of documentation submitted by tenants requesting emergency transfers and of each tenant's housing location consistent with § 574.440 and 24 CFR 5.2007(c).
- (ii)
- (A) If a tenant seeks VAWA protections set forth in 24 CFR part 5, subpart L, the tenant must submit such request through the project sponsor (or the grantee if the grantee is directly administering HOPWA assistance). The project sponsor will work with the housing owner or manager to facilitate protections on the tenant's behalf. Project sponsors must follow the documentation specifications in 24 CFR 5.2007, including the confidentiality requirements in 24 CFR 5.2007(c). The project sponsor (or the grantee if the grantee is directly administering HOPWA assistance) is also responsible for determining on a case-by-case basis whether to provide new tenant-based rental assistance to a remaining tenant if lease bifurcation or an emergency transfer results in division of the household.
  - (B) The grantee or project sponsor is responsible for ensuring that the housing owner or manager develops and uses a HOPWA lease addendum with VAWA protections and is made aware of the option to bifurcate a lease in accordance with § 574.460 and 24 CFR 5.2009.
- (c) **Effective date.** The core statutory protections of VAWA that prohibit denial or termination of assistance or eviction because an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking applied upon enactment of VAWA 2013 on March 7, 2013. For formula grants, compliance with the VAWA regulatory requirements under this section and 24 CFR part 5, subpart L, are required for any project covered under § 574.604(a) for which the date of the HOPWA funding commitment is made on or after *December 16, 2016*. For competitive grants, compliance with the VAWA regulatory requirements under this section and 24 CFR part 5, subpart L, are required for awards made on or after *December 16, 2016*.
- (d) **Notification requirements.**
- (1) As provided in paragraph (b) of this section, the grantee is responsible for ensuring that the notice of occupancy rights and certification form described in 24 CFR 5.2005(a) is provided to each person receiving project-based or tenant-based rental assistance under HOPWA or residing in rental housing assisted under the eligible activities described in § 574.604(a) at the following times:
    - (i) At the time the person is denied rental assistance or admission to a HOPWA-assisted unit;
    - (ii) At the time the person is admitted to a HOPWA-assisted unit or is provided rental assistance;
    - (iii) With any notification of eviction from the HOPWA-assisted unit or notification of termination of rental assistance; and
    - (iv) During the 12-month period following December 16, 2016, either during annual recertification or lease renewal, whichever is applicable, or, if there will be no recertification or lease renewal for a tenant during the first year after the rule takes effect, through other means.

- (2) The grantee is responsible for ensuring that, for each tenant receiving HOPWA tenant-based rental assistance, the owner or manager of the tenant's housing unit commits to provide the notice of occupancy rights and certification form described in 24 CFR 5.2005 with any notification of eviction that the owner or manager provides to the tenant during the period for which the tenant is receiving HOPWA tenant-based rental assistance. This commitment, as well as the confidentiality requirements under 24 CFR 5.2007(c), must be set forth in the VAWA lease term/addendum required under paragraph (f) of this section.
- (e) **Definition of reasonable time.** For the purpose of 24 CFR 5.2009(b), the reasonable time to establish eligibility or find alternative housing following bifurcation of a lease is the reasonable grace period described in § 574.460.
- (f) **VAWA lease term/addendum.** As provided in paragraph (b) of this section, the grantee or project sponsor is responsible for ensuring that the housing or facility owner or manager, as applicable, develops and uses a VAWA lease term/addendum to incorporate all requirements that apply to the housing or facility owner or manager under 24 CFR part 5, subpart L, and this section, including the prohibited bases for eviction under 24 CFR 5.2005(b), the provisions regarding construction of lease terms and terms of assistance under 24 CFR 5.2005(c), and the confidentiality of documentation submitted by tenants requesting emergency transfers and of each tenant's housing location consistent with 24 CFR 5.2007(c). The VAWA lease term/addendum must also provide that the tenant may terminate the lease without penalty if a determination is made that the tenant has met the conditions for an emergency transfer under 24 CFR 5.2005(e). The grantee or project sponsor is responsible for ensuring that the housing or facility owner, or manager, as applicable, adds the VAWA lease term/addendum to the leases for all HOPWA-assisted units and the leases for all eligible persons receiving HOPWA tenant-based rental assistance.

[81 FR 80806, Nov. 16, 2016]

#### **§ 574.605 Applicability of uniform administrative requirements, cost principles, and audit requirements for Federal awards.**

The provisions of 24 CFR part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards", apply to HOPWA grants.

[80 FR 75938, Dec. 7, 2015]

#### **§ 574.625 Conflict of interest.**

- (a) In addition to the conflict of interest requirements in 24 CFR 200.317 (for recipients and subrecipients that are States) and 24 CFR 200.318 (for recipients and subrecipients that are not States), no person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee or project sponsor and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

- (b) **Exceptions: Threshold requirements.** Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (a) of this section when it determines that the exception will serve to further the purposes of the HOPWA program and the effective and efficient administration of the recipient's program or project. An exception may be considered only after the recipient has provided the following:
- (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
  - (2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.
- (c) **Factors to be considered for exceptions.** In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (b) of this section, HUD will consider the cumulative effect of the following factors, where applicable:
- (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
  - (2) Whether the person affected is a member of a group or class of eligible persons and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
  - (3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;
  - (4) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (a) of this section;
  - (5) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
  - (6) Any other relevant considerations.

[57 FR 61740, Dec. 28, 1992, as amended at 80 FR 75938, Dec. 7, 2015]

#### § 574.630 Displacement, relocation and real property acquisition.

- (a) **Minimizing displacement.** Consistent with the other goals and objectives of this part, grantees and project sponsors must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.
- (b) **Relocation assistance for displaced persons.** A displaced person (defined in paragraph (f) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24.
- (c) **Real property acquisition requirements.** The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.



(d) **Appeals.** A person who disagrees with the grantee's or project sponsor's determination concerning whether the person qualifies as a "displaced person," or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the grantee. A low-income person who is dissatisfied with the grantee's determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.

(e) **Responsibility of grantee.**

- (1) Each grantee shall certify (i.e., provide assurance of compliance as required by 49 CFR part 24) that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section, and shall ensure such compliance notwithstanding any third party's contractual obligation to the grantee to comply with these provisions.
- (2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. Such costs also may be paid for with funds available from other sources.
- (3) The grantee shall maintain records in sufficient detail to demonstrate compliance with these provisions.

(f) **Definition of displaced person.**

- (1) For purposes of this section, the term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. This includes any permanent, involuntary move for an assisted project including any permanent move for an assisted project, including any permanent move from the real property that is made:
  - (i) After notice by the grantee, project sponsor, or property owner to move permanently from the property, if the move occurs on or after the date that the grantee submits to HUD an application for assistance that is later approved and funded;
  - (ii) Before the submission of the application to HUD, if the grantee, project sponsor, or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project; or
  - (iii) By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs:
    - (A) The tenant moves after the "initiation of negotiations" and the move occurs before the tenant has been provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:
      - (1) The tenant's monthly rent before the initiation of negotiations and estimated average utility costs, or
      - (2) 30 percent of gross household income; or
    - (B) The tenant is required to relocate temporarily, does not return to the building/complex and either:

- (1) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or
  - (2) Other conditions of the temporary relocation are not reasonable; or
- (C) The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.
- (2) Notwithstanding the provisions of paragraph (f)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:
  - (i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State or local law, or other good cause, and HUD determines that the eviction was not undertaken for the purposes of evading the obligation to provide relocation assistance;
  - (ii) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" (or for any assistance provided under this section), if the project is approved;
  - (iii) The person is ineligible under 49 CFR 24.2(g)(2); or
  - (iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.
- (3) The grantee or project sponsor may request, at any time, HUD's determination of whether a displacement is or would be covered under this section.
- (g) **Definition of initiation of negotiations.** For purposes of determining the formula for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the grantee and the project sponsor.

#### **§ 574.635 Lead-based paint.**

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations at part 35, subparts A, B, H, J, K, M, and R of this part apply to activities under this program.

[64 FR 50226, Sept. 15, 1999]

#### **§ 574.640 Flood insurance protection.**

No property to be assisted under this part may be located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

- (a)
  - (1) The community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder (44 CFR parts 59 through 79); or

- (2) Less than a year has passed since FEMA notification regarding such hazards; and
- (b) The grantee will ensure that flood insurance on the structure is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.).

**§ 574.645 Coastal barriers.**

In accordance with the Coastal Barrier Resources Act, 16 U.S.C. 3501, no financial assistance under this part may be made available within the Coastal Barrier Resources System.

**§ 574.650 Audit.**

Grantees and project sponsors are subject to the audit requirements set forth in 2 CFR part 200, subpart F.

*[80 FR 75938, Dec. 7, 2015]*

**§ 574.655 Wage rates.**

The provisions of the Davis-Bacon Act (40 U.S.C. 276a–276a–5) do not apply to this program, except where funds received under this part are combined with funds from other Federal programs that are subject to the Act.

*[59 FR 17201, Apr. 11, 1994]*

**§ 574.660 Housing counseling.**

Housing counseling, as defined in § 5.100, that is funded with or provided in connection with HOPWA funds must be carried out in accordance with § 5.111. When grantees provide housing services to eligible persons (including persons undergoing relocation) that are incidental to a larger set of holistic case management services, these services do not meet the definition of housing counseling, as defined in § 5.100, and therefore are not required to be carried out in accordance with the certification requirements of § 5.111.

*[81 FR 90659, Dec. 14, 2016, as amended at 82 FR 8811, Jan. 31, 2017]*