



2013-14 Preservation Program Manual

New York State
Homes and Community Renewal

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2013 Preservation Program Manual

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Section: 1.00 Introduction

1.01 Purpose of the Manual

The Preservation Program Manual (the Manual), is designed to provide Preservation Program participants and Homes and Community Renewal (HCR) staff with a handbook that explains the requirements, processes and procedures of the Neighborhood Preservation Program (NPP) and the Rural Preservation Program (RPP).

The Manual describes the Preservation Program under the following headings:

Section 1.00	Introduction
Section 2.00	Definitions
Section 3.00	Preservation Program Administration
Section 4.00	Preservation Program Requirements
Section 5.00	Application and Review Process
Section 6.00	Contracting with HCR
Section 7.00	Successor Organizations
Section 8.00	Mergers
Section 9.00	Preservation Program Compliance
Section 10.00	Reporting Requirements
Section 11.00	Technical Assistance

1.02 Purpose of the Preservation Program

The NPP was created in 1977 by Article XVI of the Private Housing Finance Law (PHFL) of New York State to support community based not-for-profit organizations involved in neighborhood preservation activities. The enactment of Article XVI was based on the specific findings of the Legislature that:

- a) there had been an increase in the number of community based, not-for-profit organizations established by low-income residents of neighborhoods with deteriorated or sub-standard housing;
- b) the involvement of community residents in neighborhood preservation activities through not-for-profit organizations could be expected to produce improved housing;
- c) the efficient and effective use of federal and state funds for neighborhood improvement would be promoted by the active involvement of not-for-profit neighborhood organizations; and
- d) such organizations rely heavily on voluntary services or short range funding, which causes them to be inadequately financed and unable to plan long range activities or retain necessary professionals for assistance in implementing the Neighborhood Preservation Program.

The Legislature further found that it is a proper and necessary public purpose for the State to assure

the adequate funding of not-for-profit organizations engaged in such neighborhood preservation activities.

Finding that similar issues and needs existed in rural areas, the RPP was established in 1980 by Article XVII of the PHFL of New York State. Article XVII gives HCR authority to contract with rural not-for-profit organizations to perform housing preservation and community renewal activities.

The Legislature further recognized that organizations engaged in preservation activities were lacking a specific type of funding: the administrative and planning costs necessary to run a broad-based program of housing and community renewal. Consequently, Preservation Program funding is limited to administrative and planning expenses necessary to undertake eligible Preservation Program activities.

In 2012, legislation was enacted amending articles XVI and XVII the PHFL, allowing for preservation companies to merge with other preservation companies within their respective programs. The legislation establishes funding tables for merged companies realizing program savings. A significant portion of funds previously available to each unmerged company is reserved for the newly merged company. This Program Manual includes requirements for companies going through the merger process.

1.03 Preservation Program Summary

Current preservation companies must submit applications on a schedule provided by HCR documenting the eligibility of the company and the neighborhood or region. The contract is a one-year contract that will cover the 2013-14 program year (PY) with a HCR option to extend the contract for PY 2014-15. The second year of the contract is contingent on Preservation Program funding provided for in the New York State 2014-15 fiscal year budget. The initial application must contain a two-year work plan and budget setting forth the company's goals and the preservation activities it proposes to the full term of the contract. Companies develop their activities based on a needs assessment and strategic plan. Each application must also indicate that the applicant will receive annual revenues (cash or in-kind services) equal to at least one-half of the Preservation Program award, and include an assurance that the company will comply with all non-discrimination laws. (Note: the one-half match is an increase from the one-third match traditionally required in the Preservation Program.) After receiving the initial payment of funds, companies will report their accomplishments against activities reported in their approved work plan every six months and prior to subsequent disbursement of Preservation Program funds.

Preservation Program awards may be renewed if:

- a) all prior contractual obligations have been met;
- b) the company proposes a reasonable plan for continued funding;
- c) sufficient funds exist for such a purpose; and
- d) HCR has determined that with respect to its last-completed Preservation Program award, the company:

1. substantially completed the contract work plan;
2. expended matching funds representing at least one-half of the contract amount in support of contract work plan activities;
3. accomplished significant impact on the conditions of the contract service area;
4. has a Board of Directors with no fewer than five (5) members, and, for NPCs, at least 33 percent of the board of directors are residents of the service area, and, for RPCs, a majority (51 percent) of the board of directors are residents of the company's service area.

Based on the availability of funds or other considerations, HCR may seek additional companies for the Preservation Program through the issuance of a Notice of Funding Availability (NOFA) and will review applications based upon the following criteria:

- a. the company proposes to undertake housing and community development activities in a community or service area that is currently underserved or not being served by another preservation company;
- b. the extent to which the proposed activities address the housing and community revitalization needs;
- c. the past achievements of the applicant;
- d. the experience and competence of the program staff, board members, and organization as a whole;
- e. the capacity of the applicant to implement the proposed activities in a timely manner;
- f. documentation of support from financial institutions, government agencies and other sources of funding necessary for implementation of proposed activities;
- g. the quality of a strategic plan or the ability to create one; and
- h. the reasonableness of the proposed budget in relation to the impact that the proposed activities would have on the neighborhood or region.

HCR enters into contracts that may be renewed, extended, or succeeded at the discretion of the Commissioner with the companies awarded funding under the Preservation Program.

1.04 Homes and Community Renewal

The Preservation Programs are administered by HCR's Office of Community Renewal (OCR). One function of OCR is to formulate policy and set programmatic objectives for community development programs. The day-to-day implementation of the NPP and the RPP is the responsibility of the program staff, supervised by the President for the Office of Community Renewal.

The administration of the Preservation Programs is presented in full detail in Section 3.00 of this Manual. Unless otherwise stated in this Manual or in statute, the program rules outlined apply to both the NPP and RPP.

1.05 NRPP Contact Information

Inquiries regarding the NPP and the RPP can be made to:

Neighborhood and Rural Preservation Programs
Hampton Plaza
38-40 State Street, 9th Floor
Albany, NY 12207-2804
Phone: (518) 474-2057

More information on the NPP and RPP is available on the HCR web site at <http://www.nyshcr.org/Programs/NPP/>.

Section: 2.00 Definitions

The following terms appear throughout this Manual:

Affordable Housing Directory (AHD): The page on HCR's internet site that provides users with a simple way to locate affordable rental apartments by allowing them to search for rental developments funded by HCR programs, and to produce maps pinpointing these apartments. The AHD also refers users to HCR funded preservation companies and Weatherization Program subgrantees operating throughout the State. The AHD allows users to search for and locate these organizations by county, municipality, or street address based on their actual service areas. Information displayed includes: the organization's name and address; contact name and phone number; e-mail address; a description of the organization's service area; and, the type of services that they provide. The AHD will also provide a link to a preservation company's web site, where available.

Commissioner: The Commissioner of HCR.

Company: Term referring to a nonprofit organization participating in the Neighborhood and Rural Preservation Programs.

Contract Term: The full term of a multi-year contract.

DHCR: the New York State Division of Housing and Community Renewal.

Eligible Area: A neighborhood or rural area for which there is documentation that the area has sustained physical deterioration, decay, neglect, or disinvestment and that the area contains a significant number of deteriorating or substandard buildings not being adequately repaired, renovated, upgraded, modernized, or rehabilitated under existing programs. This documentation may take the form of Census data; federal; state or local designation; or, other statistically valid sources.

Eligible Neighborhood Preservation Activities: Activities engaged in by a neighborhood preservation company within a geographically defined neighborhood designed to:

1. construct, maintain, preserve, repair, renovate, upgrade, improve, modernize, rehabilitate or otherwise prolong the useful life and to manage and coordinate the rehabilitation of housing within such neighborhood;
2. restore abandoned and vacant, as well as occupied, housing to habitable condition;
3. demolish structurally unsound or unsafe or otherwise unsightly or unhealthy structures that no longer serve, or can economically be made to serve, a useful purpose consistent with stabilizing or improving a neighborhood;
4. seal and maintain vacant but structurally sound structures that are capable of being rehabilitated at a future time and used for housing purposes;
5. acquire, where appropriate, buildings that contain housing;

6. facilitate the disposition of buildings containing housing to individual occupants thereof or to cooperative groups whose members shall be occupants thereof;
7. assist owners, occupants and tenants of housing to obtain improvements in the physical conditions thereof and in the maintenance and management thereof; and
8. to manage housing accommodations as agents for the owners thereof or administrators or receivers appointed or designated pursuant to any law of the state; and
9. community revitalization and economic development within such neighborhoods when carried out in support of local housing-related activities.

Eligible Rural Preservation Activities include:

1. new construction or the acquisition, maintenance, preservation, repair, rehabilitation, or other improvement of vacant or occupied housing;
2. demolition or sealing of vacant structures where necessary or appropriate;
3. disposition of housing to present or potential occupants or cooperative organizations;
4. training or other forms of assistance to occupants of housing;
5. management of housing as agent for the owners, receivers, administrators or municipalities; and
6. community revitalization and economic development within a region when carried out in support of local housing-related activities.

Homes and Community Renewal (HCR): Consists of all the State's major housing and community renewal agencies, including The Affordable Housing Corporation, The Division of Housing and Community Renewal, Housing Finance Agency, State of New York Mortgage Agency, Housing Trust Fund Corporation and others.

In-Kind Services: Personal services and other-than-personal services or goods that are used to offset the cost of preservation activities, but are not paid for with preservation funds. Examples include the services of volunteers or unpaid student interns or the value of donated items used to accomplish program activities.

Leverage: Resources brought to the community through the work of a company that do not go through the company's books.

Match: Funds that support a company's efforts in their administration of the Neighborhood or Rural Preservation Program and go through the company's books. These funds can be in the form of administrative, capital, or in-kind funds.

Merged Company: A preservation company maintaining a contract pursuant to PHFL that has undergone a merger with one or more preservation companies, which is also maintaining a contract,

pursuant to the PHFL, that has led merged companies to reduce the number of preservation contracts being maintained with HCR.

Municipality: Any city, town, or village within the State.

Needs Assessment: A community planning tool to analyze service area strengths and weaknesses.

Neighborhood Preservation Company (NPC): A corporation organized under the provisions of the not-for-profit corporation law which has engaged in one or more of the Neighborhood Preservation activities specified in subdivision 5 of Section 902 of Article XVI of the PHFL and which has received funding pursuant to Article XVI.

One-Half Match: The cash or in-kind contributions or services equal to one-half of the Preservation Program contract, and used for preservation activities as required by Articles XVI or XVII of the Private Housing Finance Law.

Persons of Low Income: Individuals and families whose annual incomes do not exceed 90 percent of the median annual income, as defined by the US Department of Housing and Urban Development (HUD) Section 8 Housing Choice Voucher Program income data guidelines, for all residents of the municipality within which they reside (NPP), or individuals and families whose annual incomes do not exceed 90 percent of the median annual income for all residents of the region within which they reside (RPP).

Program Year: The one-year period: July 1 through June 30, of any contract term for which a work plan and budget must be prepared and accounted for in the Annual Performance Report.

Rural Areas: Cities, towns and villages within the State having a population of less than 25,000.

Rural Preservation Company (RPC): A corporation organized under the provisions of the not-for-profit corporation law that has been engaged primarily in one or more housing preservation and community renewal activities specified in subdivision 5 of Section 1002 of Article XVII of the PHFL that has received funding pursuant to Article XVII.

Service Areas: The HCR-identified geographic boundaries within which a NPC carries out its Neighborhood Preservation Program activities or those portions of the region within which a RPP carries out its Rural Preservation Program activities.

Significant Impact: The Substantial Completion (see definition below) of a work plan that is based on a local needs assessment and strategic plan that have been approved by the appropriate regional office.

Statewide Housing Activity Reporting System (SHARS): HCR's database system for tracking, reporting and monitoring housing projects and organizations receiving HCR funds. SHARS tracks the processing of applications, contracts, transmittals, and disbursements. Each company receives a new SHARS identification number with each new NPP and RPP contract.

Strategic Plan: An organizational planning tool to determine what community needs the neighborhood or rural preservation company will meet, what strategies it will pursue, and what resources are necessary to pursue those strategies.

Substantial Completion: The completion of 80 percent of the company's work plan tasks. If the company completes less than 80 percent but more than 60 percent of their tasks, they will be placed on one year of programmatic probation. If after one year of programmatic probation the company still cannot meet the minimum standards, they will be terminated from the Preservation Program. Companies that do not meet the minimum standard of 60 percent will be immediately terminated from the program.

Urban Areas: Cities, towns and villages within the State having a population of 25,000 or more.

Unmerged Company: A Preservation Company that is not a merged company.

Section: 3.00 Preservation Program Administration

In this Section, Administration of the Preservation Program is described under the following headings:

Section 3.01 Community Renewal

Section 3.02 Other HCR Units

3.01 Community Renewal

The President of the Office of Community Renewal is responsible for the administration of the Preservation Programs. Day-to-day management of the Preservation Programs is the responsibility of the Program Director and program staff.

3.01.01 Office of Community Renewal

The Office of Community Renewal (OCR) is responsible for the overall management of the Preservation Program. These central responsibilities are carried out under the supervision of the President. OCR's functions include:

- establishment of policy and interpretation of statute;
- oversight of Preservation Program expenditures;
- design and dissemination of the application, annual renewal documents, and reporting forms, as well as contract performance, compliance evaluation and measurement tools;
- design of Notices of Funding Availability (NOFA) based on statewide needs, as necessary and subject to the availability of funds;
- in consultation with the regional offices, development of and revision of policies and procedures manuals for the program.
- examination of all contracts, annual renewal documents, and work plan modifications prior to execution to:
 - ✓ ensure that a uniform, quality standard of work plan development is maintained on a statewide basis;
 - ✓ ensure that individual work plans and budgets are sufficiently comprehensive, appropriate, and relate to the goals set in the company's strategic plan;
 - ✓ ensure the clarity and uniform application of policies and procedures;
 - ✓ in consultation with the regional offices, determine when the need for policy clarification exists;

- ✓ adjust Application for Funding, Annual Renewal of Funds forms, and reporting documents to address evolving Program needs; and
- ✓ identify training needs to improve work plan, completion of Application for Funding, Annual Renewal of Funds, reporting documents, and application of policy.

3.02 Other HCR Units

In addition to OCR, the Office of Financial Administration is essential to the implementation of the Preservation Programs.

3.02.01 Office of Financial Administration

The primary functions of the Office of Financial Administration (OFA) include:

- processing contracts and contract payments;
- requesting a budget certificate;
- logging contract data and contract payments on HCR databases;
- maintaining contract approval and payment records, including pertinent contract-related documents (e.g., board resolutions, work plan modifications, etc.);
- providing information to the OCR on the status of processing of contract and payment approvals; and
- confirming contract payment amounts for company audit purposes.

Section: 4.00 Preservation Program Requirements

In this Section, the following Preservation Program requirements are discussed:

Section 4.01	Eligible Organizations
Section 4.02	Eligible Areas
Section 4.03	Eligible Activities
Section 4.04	Eligible Population
Section 4.05	Conflicts of Interest
Section 4.06	Disclosures
Section 4.07	Required Record Keeping
Section 4.08	Minority/Women Business Utilization
Section 4.09	Affirmative Action

4.01 Eligible Organizations

A Neighborhood Preservation Company (NPC) is a corporation organized under the provisions of the not-for-profit corporation law that has engaged primarily in one or more of the neighborhood preservation activities specified in subdivision 5 of Section 902 of Article XVI of the PHFL and has received funding pursuant to Article XVI.

A Rural Preservation Company (RPC) is a corporation organized under the provisions of the not-for-profit corporation law that has been engaged primarily in one or more housing preservation and community renewal activities specified in subdivision 5 of Section 1002 of Article XVII of the PHFL that has received funding pursuant to Article XVII.

In order to contract with the HCR a company must submit the following documentation to the OCR: charitable registration number, employer federal identification number, incorporation papers, by-laws and the IRS form 1023 [Application for Recognition of Exemption under 501 (C)(3)] or Letter of Determination for Federal Tax Exemption. HCR may require additional documentation as part of the application and/or contracting process.

4.01.01 Determining Eligibility

Prior to entering into a contract under the Preservation Programs, a company must demonstrate that:

- a) it has been in existence either as a corporation or an unincorporated organized group and performed significant preservation activities for at least one full year;
- b) it possesses or will acquire or gain access to the requisite staff and office facilities within the NPC service area or within boundaries of the municipality, or with direct access to the RPC service area;
- c) it possesses or will acquire the equipment and expertise necessary to undertake proposed activities as demonstrated by its immediate past or current activities;
- d) the activities proposed are needed in the service area;
- e) the Board of Directors has no fewer than five (5) members; and

- f) for NPCs, at least 33 percent of the Board of Directors are residents of the service area, and, for RPCs, a majority (51 percent) of the Board of Directors are residents of the company's service area.

Note: Preservation Company staff may not serve on the Board of Directors (excluding the Executive Director) unless a waiver is obtained from HCR. The Preservation Company must submit the request for a waiver in writing and must include: 1) reason staff serving on the board is necessary; 2) description of processes in place to avoid any conflicts of interest; and 3) any legal opinion that may have been provided by the company's attorney.

4.02 Eligible Areas

An eligible area is a neighborhood or rural area for which there is documentation that the area has sustained physical deterioration, decay, neglect, or disinvestment and that the area contains a significant number of deteriorating or substandard buildings not being adequately repaired, renovated, upgraded, modernized, or rehabilitated under existing programs. This documentation may take the form of Census data; federal; state or local designation or, other statistically valid sources.

4.02.01 Determining Service Area Eligibility

A determination of service area eligibility is made prior to initial funding. The proposed service area must be an eligible area as defined in Section 2.00 of this manual and the service area boundaries must meet the following:

- a. Neighborhood Preservation Program
The area proposed to be served must be recognized or established as a neighborhood or area within a municipality, or be generally known by an accepted designated name. Any such area or neighborhood must be wholly located within a single municipality.
- b. Rural Preservation Program
The region proposed to be served must be defined by precise boundaries and be a rural area of the state. Rural area of the state will mean cities, towns and villages within the state having a population of less than 25,000.

4.02.02 Service Area Boundary Modifications

Preservation companies may request a change of boundaries for any approved service area. This requires a re-certification of the service area submitted to the OCR and must be supported by data from the most recent Census. The new service area must also meet the criteria described in 4.02 Eligible Areas above.

Service area requests are approved by the OCR are for the expansion of existing service areas to provide services in unserved or underserved communities. The OCR may also consider service area requests from companies proposing to provide services in areas where preservation program funds were previously offered by a company no longer in the Preservation Program.

4.02.02.01 Service Area Boundary Modification Document Requirements

The following documentation, at a minimum, must be submitted to the OCR program staff for a service area boundary modification:

- a. a needs statement for the proposed new service area;
- b. Census or other demographic data for the proposed new service area;
- c. justification for change, which details whether the existing service area has been adequately served, or, if not adequately served, whether residents in the existing service area might be negatively impacted by a new or expanded service area
- d. a statement of the impact of the new service area on board composition and timeframes for a re-composition of the board if such is necessary; and
- e. letters of community support such as those required to be submitted with the original application (e.g. from other community groups, funding agencies or elected officials).

4.02.02.02 Boundary Modification Review

The OCR will notify all other preservation companies within the service area regarding the proposed boundary change. These preservation companies will have 30 calendar days to comment on how the proposed change will affect their service delivery. The OCR program staff will review all boundary change submissions and make a recommendation, including re-certification of area eligibility, to the Program Director. The review will indicate:

- a. if there are any other preservation companies currently serving the proposed new area, whether that preservation company is unwilling or unable to carry out the proposed activities or whether the activities of the companies complement each other;
- b. if the applicant company has the capacity to serve the new area;
- c. if the area is unserved or under-served and whether there are other preservation company service areas that are contiguous to the proposed new area;
- d. if the service area meets program eligibility criteria; and
- e. what response, if any, was received from other preservation companies within the proposed service area.

If the boundary change is requested during the contract period, an authorization for a contract amendment must be included with the submission. The Program Director will submit the findings to the President of OCR for final approval.

4.03 Eligible Activities

Eligible neighborhood preservation activities, as defined in Section 2.00 of this manual, are activities engaged in by a neighborhood preservation company in a geographically defined neighborhood within a municipality.

Eligible rural preservation activities, as defined in Section 2.00 of this manual, are activities engaged in by a rural preservation company within a geographically defined region.

Only those housing preservation and community renewal activities for which administrative costs are not paid in full by other sources shall be eligible for reimbursement by Preservation Program funds.

4.03.01 Housing Management

In general, the revenue of the housing project should cover the administrative and operating costs of managing housing. Management costs include administrative expenses associated with the collection of rent, tenant screening and recertification of tenant income eligibility, and scheduling of maintenance and marketing.

If management activities are covered in full by the project's revenue stream or other sources, they cannot be included in the work plan of a preservation company.

If services are above and beyond the management agreement you may charge those fees to this contract.

Housing management excludes:

- maintenance and operations (caretaker, superintendent, maintenance supplies, painting / decorating, ground expenses, i.e. landscaping, parking areas, snow removal, pest control, furniture, utilities, elevator, garbage and trash removal, security, advertising, taxes, insurance, project specific accounting / audit / legal, etc.); and
- ancillary service costs borne by the preservation company personnel to provide additional housing-related services to tenants that are not normally provided under a management contract. These expenses should be reported under the separate category, tenant assistance. They are, like other activities in that category, eligible, essential services undertaken on behalf of low-income tenants of a property in which conditions or need require intervention or assistance. Such ancillary services remain eligible even when the management of a building is self-supporting.

A company may act as an agent for the owners, receivers, administrators or municipalities or may own and manage its own portfolio. In the case where the company is acting as an agent, the fee negotiated for management should, to the extent possible, cover the cost of the management activities. In the case where the company is managing its own portfolio that consists of state and/or federally funded projects (e.g. HUD, FmHA, HTFC), the state or federal underwriting should ensure that sufficient dollars are available to manage the units without outside support.

During the initial rent-up, a goal of the preservation company should be to have an allocation of funds (working capital) that ensures that sufficient dollars are available to manage the units without outside support. However, if the revenue from the project or other outside sources does not cover the cost of management, the preservation company can include these projects in their work plan to protect the affordability of the rents. The company must be prepared to demonstrate to HCR that the following support the inclusion of housing management activities:

- a. the need of the neighborhood/region;
- b. expenses for management activities defined as eligible under this policy;
- c. expenses that exceed income for the project(s);
- d. the majority of the rental units managed are for the benefit of persons below 90% of median income for the municipality/area; and
- e. a written management agreement including fees payable to the company for management services for other than preservation company owned and managed buildings.

4.03.02 Community Revitalization

Work conducted on retail (commercial) and service establishments, and infrastructure and light manufacturing may be an eligible activity. These activities may also include efforts that will directly serve as an inducement for housing reinvestment in a service area, such as crime prevention programs, graffiti elimination, neighborhood clean-up projects, streetscapes, and assistance to other organizations involved in the revitalization of an area.

4.04 Eligible Population

A substantial portion of the residential population that the company proposes to assist through its activities must be persons of low-income, which means that more than 50 percent of those served have incomes that do not exceed 90 percent of the median annual income for all residents of the municipality (for NPCs) or region (for RPCs) within which they reside, as detailed in the most recently published HUD Section 8 Housing Choice Voucher income data adjusted 90 percent of median. You can find this data at <http://www.huduser.org/portal/datasets/il.html>.

4.05 Conflicts of Interest

The program staff is responsible for making initial determinations regarding conflicts of interest as specified in Appendices A or B of this manual. If the staff cannot make determination, all information is transmitted to the Program Director for referral to the OCR President and to HCR's Office of Legal Affairs. A conflict of interest is a violation of the terms of the contract. If a conflict of interest is discovered, the OCR will place the company in default (see Section 9.01 of this manual for more information on the default process).

4.06 Disclosures

All consultants and contractors (e.g. accountants, architects, attorneys, engineers, and other professional persons) receiving funds under the preservation company contract are required to certify that they have read, and are in compliance with, the conflict of interest provisions as a part of their agreement with the organization. This certification may be integrated into their consultant agreement and must be kept on file by the preservation company.

Voting members of the Board of Directors and executive directors are required to have individual certification forms on file at the company, and they are bound by the preservation company contract

to comply with those conflicts of interest provisions.

4.07 Required Record Keeping

Preservation companies must maintain records that shall be available for inspection and review by HCR staff during normal business hours. These contract-related records and documents must be maintained in the company's office and shall include, but not be limited to, the following:

- housing and community renewal records;
- current needs assessment and strategic plan;
- accounting records and supporting backup;
- time records of all employees and consultants receiving salaries, wages or compensation;
- client assistance profiles which document the eligibility of clients who receive assistance pursuant to Articles XVI or XVII;
- documentation of funded activities performed such as announcements, letters of commitment, letters of support, and sign-in-sheets;
- financial records to verify the required one-half match;
- the identification of sites or persons who are affected by the preservation activity;
- insurance documentation;
- conflict of interest forms,
- consultant agreements, and
- copies of NRPP applications, contracts, work plan modifications, Annual Performance Reports, and any other documents submitted to the OCR relating to the Preservation Programs.

Accounting/audit files must be maintained for a period of seven (7) years. Other contract files related to the Preservation Programs must be maintained for a period of five (5) years.

4.08 Minority/Women Business Utilization

It is HCR's policy, pursuant to Article 15-A of Executive Law, that Minority and Women-Owned Businesses (M/WBEs) be encouraged to participate in the performance of contracts to let for goods and services. Such goods and services shall include: the purchase of supplies, equipment, and materials, or any combination of the above; professional services such as architectural, engineering, legal services or other consultants. HCR has established goals for M/WBE participation in relation to contracts in excess of \$25,000 for labor, services, supplies, equipment, materials or any combination of the foregoing, and contracts in excess of \$100,000 for real property renovation or construction. Any contracts in the amount of \$25,000 or more should have a M/WBE goal of 20 percent. For these contracts, if there are funds to be spent on budget items such as auditing, snow removal, or supplies, M/WBE's should be utilized where available to work towards the goal..

More information on M/WBE can be found at the Empire State Development's Division of Minority & Women Business Development Web page at <http://esd.ny.gov/mwbe/programmandate.html>.

4.09 Affirmative Action

Affirmative action is generally defined as any positive action that is intended to:

- correct the effects of past discrimination (whether such actions were intentional or unintentional);
- identify and seek to eliminate current discriminatory practices; and
- seek to prevent discrimination by actively initiating and implementing policies and procedures designed to promote greater employment opportunities for protected class individuals in the work force.

Affirmative action plans are written documents outlining the specific steps to be taken by an employer to accomplish the aforementioned objectives; though they may vary in content and design, they must be consistent with federal and state EEO laws. The following will be required of all preservation companies:

- a. a policy statement signed by the organization's president or board chairperson stating that:
 1. the organization is an equal opportunity employer and does not discriminate on the basis of race, creed, color, national origin, age, sex, disability, marital status or arrest record;
 2. the organization will comply with all relevant federal and state EEO and nondiscrimination laws, regulations and executive orders with respect to employment opportunities; and
 3. the organization will adopt and implement affirmative action policies designed to promote employment opportunities for women, minority groups, Vietnam-era veterans, and disabled persons in the work force, at all levels of employment, and that a policy-level executive of the organization will be designated to ensure that such policies are properly implemented.
- b. a description of the organization's personnel policies and practices for recruitment, hiring, promotion, separations, training and grievance procedures with assurances that such are consistent with applicable laws and affirmative action policies; and
- c. a description of how the organization will communicate its affirmative action and non-discriminatory policy to contractors, subcontractors, vendors, and suppliers. While companies are encouraged by statute to give preference to residents of the service area that are unemployed or underemployed, precautions must be taken to ensure that such priorities do not result in qualified persons being denied employment opportunities because of sexual orientation, race, creed, color, national origin, age, sex, disability, marital status, or arrest record.

Section: 5.00 Application and Review Process

In this Section, the following application, renewal, and review processes are discussed:

Section 5.01	Application and Annual Renewal of Funds
Section 5.02	The Application and Certification Process
Section 5.03	Effects of Default
Section 5.04	Time Extensions
Section 5.05	Non-Submission
Section 5.06	Site Visits
Section 5.07	Site Visit Follow-Up

5.01 Application and Annual Renewal of Funds Overview

A company must submit an application or renewal documents for Preservation Program funds each program year. Upon approval of the application, the OCR will notify the preservation company of documents required for entering into a contract with HCR. Application documents and contract documents must be submitted to program by a date as specified by the OCR. If these documents are not received by the deadline, completed and accurate, the OCR will send a Default Letter to the company. See Section 9.01 for more information on the default process.

5.01.01 Review of Past Performance

Prior to entering into a new or renewal contract with a company, HCR will determine whether the company is in compliance with all the requirements of Articles XVI or XVII and the Program Rules and Regulations.

The review will address, among other considerations, the following with respect to its last-completed Preservation Program work plan and Annual Performance Report:

- a. substantial completion of activities specified in the work plan;
- b. the company met the one-half match requirement for the past contract term and this match defrayed the cost of the housing activities in the contract,
- c. company demonstrates that the one-half match will be met in the new contract;
- d. the activities carried out by the company, pursuant to its contract, have a significant impact on the community's needs; and
- e. the Board of Directors has no fewer than five members; for NPCs one third (1/3) are from the service area and for RPCs a majority of the board (at least 51 percent) of directors are residents of the service area

In evaluating whether the level of services to be rendered under the proposed contract justifies the requested contract amount, HCR will consider, among other things, the following criteria:

- a. past contract achievements;

- b. staff capacity to implement the projected activity;
- c. availability of other financial resources and human resources in an area or region;
- d. local conditions (socio-economic characteristics, condition of housing stock, etc.);
- e. service area needs identified by the company; how the activities proposed in the work plan address those needs; and how the activities relate to the company's strategic plan.

5.01.02 Substantial Completion

Substantial completion is the completion of 80 percent of the company's work plan activities. If the company completes less than 80 percent but more than 60 percent of their tasks, they will be placed on one year of programmatic probation. Substantial completion also includes meeting the funding match requirement and neighborhood representation requirement. Companies that fail to achieve the funding match will be placed on programmatic probation for a period of one year. Companies that do not have adequate representation on their board of directors from within the service area will also be placed on programmatic probation.

During this year, the company will receive technical assistance to help them bring their percentage of completion up to the minimum standard of 80 percent. If after one year of programmatic probation the company still cannot meet the minimum standards, they will be terminated from the Preservation Program.

Companies that do not meet the minimum standard of 60 percent will be immediately terminated from the program. All work plan activities must be well documented and in compliance with statutory and reporting requirements.

5.02 The Application and Certification Process

The NRPP program application is comprised of proposed work plan activities, proposed budget, and the company certification. Through the application process the company should be able to demonstrate to the OCR the impact that preservation funds will have on the corresponding service area. The application and certification is required for each new contract and not less than once every three (3) years.

It is imperative that companies submit all application and contract documents filled out completely and accurately. Incomplete and inaccurate documents will render the application and/or contract ineligible for processing. Failure to submit accurate and completed documents may result in default, automatic withdrawal, or termination from the Programs (see Section 9.00 Program Compliance for more information).

5.02.01 Certification

Part of the application review process includes the completion of the preservation company certification. The certification is comprised of a) needs assessment and strategic planning; b) governance and board requirements; c) fiscal and internal controls; and d) past performance on HCR contracts.

The certification includes items that are required by statute, the rules and regulations, the contract

with HCR, or this manual. It also represents areas deemed important by HCR for the operation of an effective Preservation Program. In order to remain in compliance, a company must meet 80 percent or more of the standards. If a company fails to meet all requirements of the Policy Standards section of the checklist, it will receive a default letter and the regional representative will discontinue processing the application until the default is cured (see Section 5.03 below).

5.02.02 Work Plan Activities

Preservation Companies know best the needs of the community and the activities that will best meet these needs. Companies must submit work plan activities based on their needs assessments and strategic plans. Work plan activities are provided on an annual basis including both outputs and outcomes. Outputs are measured in the application Exhibits. The company must, in the corresponding narrative sections, describe how the outputs will have a positive impact on the service areas.

Companies are required to identify 3-5 “stretch goals” in their Work Plans. The purpose of these activities is to encourage companies to grow and proactively set higher standards for the company and for the community. Failure to achieve these stretch goals will **NOT** be counted against the substantial completion requirement.

Work Plan activities in the application will be the baseline for comparison over the full term of the contract. Activities are reported every 6 months to the OCR prior to each disbursement of funds (see Section 10.00 Reporting Requirements for more information).

5.02.03 Program Budget

Companies are required to submit an annual program year budget identifying how Preservation Program funds will be utilized to achieve goals and objectives. Budgets must include other administrative funds utilized in completing preservation activities. The budget must also identify the company’s total administrative budget, the total number of staff working on Preservation Program activities, and total staff working in the company.

5.03 Effects of Default

No application, contract or Claim for Payments/Disbursement Requests will be processed for a company with an outstanding default (see Section 9.01 for more information on the default process).

5.04 Time Extensions

A request for an extension of the submission date for an application or renewal documents must be received by program staff no later than 10 days before the date on which the application or renewal documents are due.

The OCR may grant an extension of up to 15 days for an application or renewal documents submission. **Submission of documents after the deadline, even with an approved time extension, may cause a delay in a company’s receipt of program funds.**

5.05 Non-Submission of Application and Contract Documents

If application documents are not received by the due date, and an extension has not been requested, the OCR will assume the company has withdrawn from the Preservation Program. OCR program staff will send a letter notifying that failure to submit an application is considered an automatic withdrawal from the program. The letter will outline all required closeout documents and reports to satisfy program requirements.

If renewal documents have not been received by the due date, and an extension has not been requested, the company will receive default notice from program staff. The company will have seven (7) calendar days to submit renewal documents or it will be terminated from the respective Preservation Program. NOTE: submitting inaccurate or incomplete documentation is not satisfactory to cure the default (see Section 9.00 Program Compliance for more information on defaults and termination).

If a company does not submit an application for funds or renewal documents within the seven (7) days, a termination notice will be mailed advising the company of the filing dates for all final reports (see Section 9.00 Program Compliance for more information on defaults and termination).

5.06 Site Visits

Site visits are tools that are used to assist preservation companies. Program staff conducts site visits as necessary. Multiple site visits may be conducted when appropriate and some companies may not require an annual site visit. Site visits may include the following:

Application/Renewal Site Visit

This visit is for the purpose of reviewing the company's performance under the current program year and its application/renewal for the subsequent year. Any issue or problems with current contract activities will be addressed at this visit.

Performance Site Visit

This site visit is for the purpose of reviewing the company's work plan performance under the last completed program year. At this visit, performance level will be assessed, and the funds generated reviewed to ensure that statutory requirements have been met. Satisfactory performance at this review will permit the release of a company's second semi-annual payment in January.

Technical Assistance Site Visit

These visits provide the OCR and the company's Board of Directors and staff an opportunity to discuss service area needs, potential future activities, contract compliance and procedures, fund raising, staff training needs, and technical assistance needs. These site visits are typically arranged around the company's regularly scheduled board of directors meeting.

5.07 Site Visits Follow-Up

After the site visit, the OCR will send a letter to the company providing a synopsis of the meeting. This will include any agreed upon action items, next steps, and future outcomes including the provision of technical assistance to the company. One of the following letters will be mailed by the Regional Office within 30 days of each site visit:

- a) Satisfactory Compliance Letter: the site visit verified compliance with program requirements;
- b) Deficiency Letter: the completion of the Administrative Performance Checklist revealed weaknesses in record keeping, but not a lack of records; the required reports are incomplete; or the application for funds or renewal documents are not in satisfactory condition to be authorized;
- c) Default Letter: the completion of the site visit identified a statutory, regulatory, or contractual non-compliance or reports are not filed. A Default may result in suspension of contract payments if the default is not cured within the stated time period.

Section: 6.00 Contracting with HCR

In this Section, the following contract and compliance requirements are discussed:

Section 6.01	The Multi-Year Contract and HCR
Section 6.02	Work Plan Modifications
Section 6.03	Contract Timeline
Section 6.04	Closeouts

6.01 The Multi-Year Contract and HCR

One of the most significant elements in expediting the execution of a contract is the timely submission of a preservation company's application to the OCR (NPP_RPPApp@nyshcr.org) and a copy to the program staff, via e-mail. Applications include the certification, activities and budget of the contract. The application may require additional information on service area needs, strategic planning, or other information.

Filing a complete application, coupled with the company's compliance with requisite reporting procedures and policies, ensures the timely disbursement of funds to the company without a disruption of preservation activities. Applications must be submitted electronically.

Once received by program staff, the application is reviewed. During the review period, the program staff will:

- a. review the application;
- b. verify the certification data and information provided by the company;
- c. if necessary, schedule and conduct a site visit, and provide a written report of identified issues to the company;
- d. send all application deficiency, contract default, or automatic withdrawal letters as appropriate;
- e. address policy issues with the Program Director and the President of OCR; and
- f. prepare the award letter with appropriate conditions for signature by the President of OCR.

In the event that a company fails to submit an application by the due date, and an extension has not been requested, the OCR will assume the company has withdrawn from the Preservation Program. OCR program staff will send a letter notifying that failure to submit an application is considered an automatic withdrawal from the program. The letter will outline all required closeout documents and reports to satisfy program requirements.

The budget and work plan pages from the approved application are a part of your contract package. The following documents are also required:

- the prepared award letter;
- a Board resolution from the company authorizing the contract

- a signed Master Contract Form (MCF)
- Appendix X (left blank)
- Appendix S
- Verification of Workers Compensation and Disability Insurance
- Claim for Payment Voucher or Disbursement Form
- Direct Deposit Form

These documents will constitute a completed contract package that will reviewed by the OCR to ensure that all information critical to the development of the contract is included in the package. OCR staff will then prepare the contract for signature by the President of OCR and forward the signed package to the Office of Financial Administration for processing.

NOTE: The Appendix S and Claim for Payment Voucher/Disbursement Form each requires original signature and should be mailed to OCR. All other documents should be e-mailed to NPP_RPPAPP@nyshcr.org with cc: to appropriate program staff.

6.01.01 Annual Renewal of Funds

The contract package sets forth the requirements of the multi-year term of a company’s contract. In order to ensure timely disbursement of funds to the company during the balance of the contract term, it is necessary to submit updated contract documents and performance reports. The contract application work plan and budget sections must be updated annually by the preservation company.

Once received by program staff, the application is reviewed. During the review period, the program staff will:

- a) review the application;
- b) if necessary, schedule and conduct a site visit, and provide a written report of identified issues to the company;
- c) send all application deficiency and contract default letters as appropriate;
- d) address policy issues with the Program Director and the President of OCR; and
- e) prepare the award letter with appropriate conditions for signature by the President of OCR.

Along with the updated application document, the company annually submits follow up documentation including:

- a Board resolution from the company authorizing the contract
- a Master Contract Form (MCF)
- Appendix X
- Appendix S
- Verification of Workers Compensation and Disability Insurance
- Claim for Payment Voucher or Disbursement Form
- Direct Deposit Form

These documents will constitute a completed contract package that will reviewed by the OCR to ensure that all information critical to the development of the contract is included in the package.

OCR staff will then prepare the contract for signature by the President of OCR and forward the signed package to the Office of Financial Administration for processing.

NOTE: The Appendix S and Claim for Payment Voucher/Disbursement Form each requires original signature and should be mailed to OCR. All other documents should be e-mailed to NPP_RPPAPP@nyshcr.org, with cc: to appropriate program staff.

In the event that a company fails to submit renewal documents by the due date and an extension has not been requested, the Regional Office will send a default notice to the company stating that it has 10 calendar days to submit the required documents or the contract will be terminated.

6.01.02 Office of Financial Administration

Once the Office of Financial Administration (OFA) has been notified of the approval of a contract and has received the authorization from the OCR, the first request for funds is sent to the New York State Office of the Comptroller. The direct deposit authorization is then prepared and disbursed by the State Treasurer.

Note: Direct deposit is a program requirement and checks are no longer written for the Preservation Program funds.

To ensure timely disbursements it is important that the OCR be notified of any change of address as soon as it occurs. **Companies must send a notice of address change on company letterhead to the program staff.**

6.02 Work Plan Modifications

Work plan modifications are permitted but may only be submitted in cases of drastic, unforeseen problems. Since the company chooses their own goals and proposed budget, they must provide justification for any modifications to the approved work plan. A company must submit a work plan modification for changes to approved activities and/or modifications to the company's approved budget.

It is **not sufficient** to submit a work plan modification that only offers a reduction in services. Companies that cannot meet certain goals or complete approved activities must substitute reductions with activities in other areas. Substitutions must show equal effort and relate to the company's strategic plan, their needs assessment, or an unforeseen need in the community. For example: needs and related activities may have changed due to unforeseeable events such as a major fire or storm affecting numerous units and displacing resident families. New program activities had to be undertaken in order to address what may have become a priority need in the community. Documentation supported by data explaining the need, the proposed activity to address such need, and the projected outcome would constitute a justification.

Requests to change approved contract activities must be made on a Work Plan Modification form. This form can be found on the HCR website at <http://www.nyshcr.org/Forms/NPPRPP/> and must be submitted to program staff **no later than March 31st** of the program year. Work plan modifications must be submitted electronically to NPP_RPPWorkPlan@nyshcr.org. A copy should also be forwarded to the program staff.

The program staff will review the work plan modification request and notify the company of approval or denial within 30 calendar days of receipt of the request. The program staff review will consider whether the company has provided a reasonable justification.

6.03 Contract Timeline

In order to comply with Article XI-B of the State Finance Law, "Prompt Contracting and Interest Payments for Not-for-Profit Organizations," which requires that all renewal contracts be processed by the start date of the new term of the contract, the following timetable has been established by HCR:

Contract Timeline:

March 31	Deadline for submission of Work Plan Modifications for current program year
April/May	Application or renewal documents made available to companies
June	Application or renewal documents are due to the OCR
July 1	Preservation Program contracts/renewals start and six-month payment released if company is in compliance with program requirements; and contract conditions are met
July 31	Deadline for submission of Annual Performance Report
December	Six month performance reports due to the OCR
December 31	HCR submits annual NRPP report to Legislature
January	Second six-month payment released if company is in compliance with program requirements
Ongoing	Site visits are ongoing as necessary through out the year

6.04 Closeouts

Preservation companies must close out their contracts. If a company no longer receives Preservation Program funds due to a voluntary withdrawal, automatic withdrawal, or termination, the closeout procedure will include:

- a. notification by HCR that the company has 30 calendar days to contact HCR and arrange a closeout conference;
- b. submission by the company of a final programmatic/fiscal report utilizing the Annual Performance Report Form;
- c. submission by the company of audited financial statements and/or management letters no later than 120 days after the end of the company's fiscal year;

- d. submission by the company of a list of any properties constructed or improved with state funds which remain under the company's control or under the control of a subsidiary/affiliated corporation, and/or a list of equipment which was purchased in whole or part with state funds. In addition, an analysis of any issues which the closeout of the Preservation Program contract may have on these properties, including any proposed disposition in accordance with Article 10 or 11 of the Not-for-Profit Corporation Law of said properties (if applicable).

After the program staff has held the closeout conference with the company, a letter will be mailed to the company that details the timetable for the submission of all required documents. The program staff will also review the list of properties and/or equipment submitted by the company, make any necessary additions and forward to the Office of Legal Affairs, OFA, and the President of OCR for any additional action.

The financial information reported in the budget-to-actual portion of the Annual Performance Report (APR) will determine the recapture of unspent and disallowed funds for the contract. Once the APR review is complete, the company will work with HCR to resolve any property and equipment issues and required repayments, then the contract will be considered closed.

If funds are due to HCR, a letter will be sent notifying the company and giving them 30 days to:

- a. submit a check payable to HCR for the full amount owed;
- b. submit revised budget-to-actual information;
- c. propose a reasonable repayment plan; or
- d. request additional time to respond.

Failure to respond to the notification of funds due within the 30 days may result in legal action including referral to the New York State Office of the Attorney General. If a company has documentation that may not have been taken into consideration in the preparation of the analysis, the company should send this information within the 30 calendar days. Documents that may affect the analysis could include an agency-wide audit, or missing or revised supplemental schedules.

If the company complies with all reporting requirements, the program staff will then proceed with notification to the company of the appropriate actions regarding funds due to HCR, which may include:

- directions to return monies owed to HCR within 30 calendar days. Upon return of the funds the contract will be considered closed; or,
- directions to submit request for payment documents. Depending on the circumstances, HCR may monitor or control the payment of expenses, through the use of two-party checks and supervised final payments to vendors.

If the company either fails to schedule and/or attend a closeout meeting or does not submit the required closeout documents, the program staff will notify the President of OCR for referral to the

Office of Legal Affairs. The notice will also be forwarded to OFA. The Office of Legal Affairs will refer the company to the NYS Office of the Attorney General or other appropriate office for any additional action. Failure to comply with closeout procedures may have a negative impact on future awards from other local, state and federal agencies.

Section 7.00: Successor Organizations

Section 7.01	Successor Company
Section 7.02	Minimum Conditions
Section 7.03	Review & Approval Procedures

7.01 Successor Company

A company currently receiving Preservation Program funds may request approval of a successor organization that would qualify for funding as a preservation company based on the predecessor organization experience with housing and community renewal activities. The formation and funding of the successor organization will be permitted only if the company maintains their identity and continues their leadership, function and service area with the predecessor entity. In addition, the predecessor organization must demonstrate a compelling reason for such an arrangement. The successor company should substantially assume the housing related responsibilities of the predecessor organization to ensure continuity and should meet the following minimum conditions outlined below.

7.02 Minimum Conditions

- a. There must be compelling, documented reasons to designate a successor company;
- b. The proposed successor company is in compliance (good standing) with all requirements for funding pursuant to Article XVI or XVII and the successor company meets all initial eligibility criteria. This includes:
 - the two companies are independently incorporated under Section 402 of the not-for-profit law (not a subsidiary) and have submitted their incorporation papers and by-laws. The successor company must demonstrate that it is not or will not be controlled by the current company. In addition, the successor company must also obtain and submit its own charitable registration number, employer federal identification number, and the IRS form 1023 [Application for Recognition of Exemption under 501(C)(3)] or Letter of Determination for Federal Tax Exemption;
 - there is or will be qualified staff to carry out the work plan, and all job descriptions and resumes have been submitted as well as an organizational chart;
 - both companies are capable of meeting HCR fiscal requirements (no outstanding fiscal issues and the successor company will be independent and therefore have its own books and records);
 - all HCR insurance requirements are met by the successor company; and
 - the one-half match has been met by the current company and can be demonstrated for the successor company.

- c. The Board of Directors of the current company has submitted a resolution authorizing the creation or recognition of a successor company to which it substantially transfers its housing preservation and community development activities and service area;
- d. The initial composition of the board of directors of the successor company includes less than a majority, but no less than 33 percent of the directors from the current company to ensure the initial continuity of leadership and purpose;
- e. The Board of Directors of the successor company adopts and submits a formal resolution accepting the transfer of the housing preservation and community development functions of the current company;
- f. The Housing Trust Fund Corporation (HTFC) has approved transfer of any properties managed by the current company under HTFC to the successor company; and
- g. The successor company assumes liability for any open contracts pertaining to the Preservation Programs including submitting any necessary reports after the contract year ends (ie, submitting the Annual Performance Report).

7.03 Review & Approval Procedures

- a. All requests for a successor company will be reviewed by a committee representing the OCR to determine whether it is in the State’s best interest to approve a successor company. This review must take place during the preliminary planning stages;
- b. Upon approval of the President of OCR, the program staff will assist with the necessary paperwork for both companies; and
- c. The OCR will notify the current company and successor company regarding the final determination and/or recommended modifications or the reason for a delay in the determination and the date when the determination will be issued.

Section 8: Mergers

Section 8.01	Merger Overview
Section 8.02	Pre-Merger Requirements
Section 8.03	Merged Companies and Participation in the Preservation Programs

Section 8.01 Merger Overview

In 2012, legislation was enacted amending Article XVI and Article XVII of the PHFL. Amendments to Article XVI allows for mergers within the Neighborhood Preservation Program. Amendments to Article XVII allows for mergers within the Rural Preservation Program. This section of the program manual sets forth program requirements should two or more preservation companies choose to complete a merger.

A Preservation Company may only merge with one or more companies within the respective Preservation Program. Rural Preservation Companies may not merge with Neighborhood Preservation Companies. All companies proposing to merge must obtain approval from the OCR and other state agencies including, but not limited to, the NYS Attorney General.

Companies pursuing a merger must do so in compliance with Article 9 (§§ 901-910) of the Not-for-Profit Corporation Law (NPCL) and in accordance with any guidance issued by the New York State Office of the Attorney General. Supreme Court approval, on notice to the Attorney General, is required for any merger. Additional guidance is available from the Charities Bureau at <http://www.charitiesnys.com/pdfs/mergers.pdf>.

Section 8.02 Pre-Merger Requirements

Preservation companies pursuing a merger must notify the OCR of the intent to merge no less than 90 days prior to filing documentation with the NYS Attorney General or the Supreme Court. The notification must provide an explanation of how this will impact the Preservation Program in the applicable service areas. The notification should also include the intent of the merged company to remain in the Preservation Program. Finally, it should also include any additional justification for the merger including, but not limited to, greater efficiencies; cost savings; and enhanced program service delivery.

If the merged company does not intend to continue participation in the Preservation Program the merged company must withdrawal from the Program as outlined in Section 9.00 of the Preservation Programs Manual.

If the merged company will continue to participate in the Preservation Program the following documents must be submitted to the OCR prior to receiving court approval:

- Approved plan of merger (proposed plan may be accepted if deemed appropriate by the OCR);
- Proposed certificate of merger;
- Any agreement, letter of intent, or other document entered into by any corporation in connection with the proposed merger;
- Board, board committee, and membership minutes and/or resolutions relating to the merger

and any governance or organizational changes that will take place or are under consideration;

- Any anticipated changes in the membership of the Board; and
- Any anticipated changes in the approved service areas

Section 8.03 Merged Companies in the Preservation Programs

A merged company may wish to remain in the Preservation Program. Upon completion of the merger the merged company must submit the following documents to OCR:

- Approved certificate of merger
- Newly created incorporation documents including updated by-laws, IRS FEIN
- Updated board roster
- Work Plan Modification
- Updated service area map
- Any documents required to amend the Preservation Program contract that may include, but are not limited to:
 - Updated Workers Compensation and Disability Certificates
 - Appendix X
 - Appendix S
 - Charity Registration Number
 - Board resolution to enter into contract with HCR

If the merger is finalized and approved by the OCR within a program year, the newly merged company will finish out the contract year with separate Preservation Program contracts for purposes of the Preservation Program. Funding for that program year will be provided in full for each contract. The merged company will be responsible for any and all requirements pertaining to all outstanding Preservation Program contracts from the previous organizations that merged. The next full program year the merged company will participate in the Preservation Program under one contract and will be funded as required by statute (see Appendix A or B, as appropriate, for the statutory funding schedule of merged companies).

The new entity must send a letter to the New York State Office of the State Comptroller (OSC) Vendor Management Unit detailing the merger along with a W9 Form. Vendor Management will make a determination if an existing vendor record needs to be updated in any fashion or if a new vendor needs to be created. This information should be submitted to vmu@usc.state.ny.us.

Section 9: Preservation Program Compliance

Section 9.01	Contract Defaults
Section 9.02	Probation
Section 9.03	Holds on the Release of Funds/Suspension of Payments
Section 9.04	Terminations
Section 9.05	Termination Appeals Process
Section 9.06	Withdrawal from Preservation Programs

A company may be in non-compliance for a variety of reasons including, but not limited to, a) lack of performance including failure to achieve substantial completion; b) misuse of program funds; c) broader financial/audit issues within the company; d) failure to submit contract, application or report documents in a timely fashion; e) in default or poor standing with other HCR programs; or f) failure to comply with rules and regulations as outlined in this manual, in statute, or in the preservation contract. A company that is in non-compliance will be placed in default. If the default is not cured in accordance with this program manual and statute, the company will be terminated from the program (unless the company voluntarily withdraws).

9.01 Contract Defaults

If a company in non-compliance with any terms in its preservation contract is in violation of PHFL article XV or XVI, or in non-compliance of program requirements as outlined in this program manual, the company will be in default of the Preservation Program. If a company is found to be in default, the OCR will issue a default letter within 10 calendar days after the company is found to be in non-compliance. The company will normally have 15 calendar days to cure the default. HCR reserves the right to authorize other cure periods as deemed appropriate.

The issuance of a default letter will place disbursement of funds on hold. If the default is not resolved within the cure period OCR may move to terminate the company from the Preservation Programs.

9.01.02 Fiscal Defaults

Fiscal defaults include: failure to use program funds in compliance with the contract; unresolved internal control issues; failure to repay funds due to HCR; failure to pay federal, state, or local taxes; and failure to meet any other fiscal contract requirements.

The OCR will issue the default letter within 10 calendar days after the company is found to be in non-compliance. The default letter will provide 30 calendar days to cure and may place funds on immediate hold. OCR reserves the right to authorize other cure periods as deemed appropriate.

If the company submits the information within the cure period, the default will not be released until the Program Director has reviewed the submission in consultation with the OCR President and determined that the default has been resolved. This review will be completed within 30 calendar days of receipt. If the review will not be completed within 30 calendar days, the company will receive written notification outlining the reason for the delay, establishing a new date for completion, and indicating whether any funds will be released during this extended review period.

A fiscal default will be considered satisfied once all matters relating to the default have been

addressed to HCR's satisfaction.

If the company fails to submit the information within the cure period or submits an incomplete or unsatisfactory reply to the default, the OCR will proceed with the termination process (see Section 9.04, Terminations).

9.01.03 Other Than Fiscal Defaults

Defaults for other than fiscal issues may include, but are not limited to, such items as: failure to comply with the terms of probation; failure to comply with award contract conditions; failure to submit programmatic reports; failure to maintain required insurances or charity registrations; failure to adequately address conflict of interest issues; failure to substantially complete a contract work plan; and substantial non-compliance with other HCR programs and other contract or programmatic requirements.

The OCR will issue the default letter within 10 calendar days after the company is found to be in non-compliance. The default letter will normally provide 15 calendar days to cure the default and may place funds on immediate hold or in the case of award conditions, funds will remain on hold. HCR reserves the right to authorize other cure periods as deemed appropriate.

If the company submits sufficient information within the cure period, the default will not be released until the Program Director has reviewed the submission in consultation with the President of OCR and determined that the default has been satisfied. This review will be completed within 30 calendar days of receipt. If the review will not be completed within 30 calendar days, the company will receive written notification outlining the reason for the delay, establishing a new date for completion, and indicating whether any funds will be released during this extended review period. If the company fails to submit the information within the cure period or submits an incomplete or unsatisfactory reply to the default, the OCR will proceed with the termination process (see Section 9.04, Terminations).

9.02 Probation

A company may be placed on probation if the work plan is considered substantially completed (above the 60 percent completion minimum requirement) but does not reach the 80 percent requirement, when a company has a non-fiscal issue, such as a board compliance issue, which the program staff wishes to monitor, or when a company has had serious fiscal problems currently being addressed, for which a correction is in process. A company that is placed on probation will be notified in writing by the OCR.

Companies that do not submit documents as required by the programs will receive default letters with a specified cure period. If the default is not resolved the OCR may move to terminate the company from the program. Failure to submit application or renewal documents and failure to submit performance reports are not eligible for probation.

9.02.01 Performance Probation

A company will be placed on performance probation if it is determined that they have completed more than 60 percent of their approved work plan but have not met the minimum requirement of 80 percent of the tasks listed in their approved work plan.

A company that is placed on probation will be notified in writing by the OCR. Program staff will prepare a plan for probation. A probation letter will provide the terms of probation and the specific expectations for performance during the probationary period. Concurrently, staff will work with the company and the appropriate Preservation Program coalition to draft a technical assistance plan that provides the company with the tools necessary to succeed in meeting the terms of probation. Technical assistance will be provided by DHCR, by the Rural Housing Coalition or the Neighborhood Preservation Coalition. If after one year of technical assistance, the company fails to bring their performance up to the minimum completion level of 80 percent of their work plan activities, or otherwise fails to meet the terms of the probation, the company will be terminated from the program.

9.02.02 Fiscal Probation

If a fiscal issue is identified by OCR or other DHCR staff and results in the issuance of a default letter, the OCR may consider the default satisfied by the company's submission of a corrective plan of action. This may coincide with the company being placed on probation to increase monitoring and to determine that the plan is implemented and has addressed the issues which led to the default. In addition, the company may be placed on probation if increased monitoring is warranted to ensure compliance with fiscal requirements, record keeping and/or reporting.

A company that is placed on fiscal probation will be notified in writing by the OCR. The OCR will work together with the company and the appropriate Preservation Program coalition to prepare a plan for probation, including technical assistance. A probation letter will provide the terms of probation including the specific expectations for performance during the probationary period. Probation conditions may include, but are not limited to, attendance by board and staff members at an audit clinic, submission of monthly fiscal reports to the OCR, or other training as deemed appropriate.

9.02.03 Non-Fiscal Probation

Companies that have non-fiscal issues such as board compliance or conflict-of-interest issues may be placed on non-fiscal probation. The company that is placed on probation will be notified in writing by the OCR. OCR staff will work with the company and the appropriate Preservation Program coalition to prepare a plan for probation that will include technical assistance. A probation letter will provide the terms of probation including the specific expectations for performance during the probationary period. Probation conditions may include, but are not limited to, submission of monthly goals, submission of board meeting minutes.

9.03 Holds on the Release of Funds/Suspension of Payments

The payment timeframe of the preservation contract shall be suspended when HCR:

- a. receives notice that the Attorney General or Comptroller disapproved a renewal contract;
- b. receives notice from the Inspector General's Office or the Office of the State Comptroller to suspend payments;
- c. determines there are issues such as evidence of fraud and abuse, no books and records, or

- noncompliance with other federal or state requirements;
- d. determines there are serious internal control problems;
 - e. determines that the company is not current on any and all federal, state, or local taxes;
 - f. determines that a company has not satisfied a contract default or contract condition within the required timeframe;
 - g. has notified a company that funds are due on either a prior preservation contract or other HCR contract and the funds have not been repaid within the required timeframe;
 - h. determines that a company has not complied with other HCR program requirements within the required timeframe; or
 - i. fails to submit Preservation Program documents by a specified deadline such as documents required for contracting with DHCR, application and certification documents, any required performance reports, needs assessments and strategic plans, documents required as part of a probation agreement, or other documents as requested by HCR staff.

A company will receive written notification from the OCR when the payment timeframe has been suspended or when a hold has been placed on the release of funds on current contracts. The notice will state reason(s) for the suspension or hold and if there is any action necessary to reinstate payments.

The OCR reserves the right to authorize partial payment of funds to a company whose funds are on hold.

Suspension notices, notices of holds, and reinstatements will be sent to the OCR, and any other HCR unit also providing funds to the Company. The Preservation Program Director and the OCR President must concur on reinstating payments that are suspended or placed "on hold" for any reason. All suspensions/holds will be reviewed by the OCR on a monthly basis, as appropriate.

9.04 Terminations

Companies may be terminated from the Preservation Program for non-compliance and/or non-performance. Termination proceeds if the company does not sufficiently satisfy a default; does not meet conditions of probation; or does not meet the 60 percent substantial completion requirement for program activities.

9.04.01 Termination Overview and Process

The OCR will issue a termination notice within 10 calendar days of any expired deadline pertaining to a default or probation period. When the substantial completion requirement is not met, the OCR will issue the termination notice 10 calendar days after completing the company's annual program review. The OCR reserves the right to issue termination letters beyond the 10 days noted above as appropriate.

Companies may appeal the termination. Companies must submit intent to appeal within 10

calendar days from the date of the termination notice. Companies have 45 days from the date of the termination notice to file the formal appeal, including any supporting evidence or documentation. Companies may request to meet with the Appeals Board prior to a final determination. (See Section 9.05 for more information on the appeals process.)

Grounds for termination or non-renewal under the Preservation Program include but are not limited to:

- a. failure to satisfy a contract default;
- a. failure to satisfy the terms of probation;
- b. failure to submit a renewal application/renewal documents acceptable to HCR by a specified deadline;
- c. failure to satisfactorily pass the certification; or
- d. failure to meet the 60 percent substantial completion for a program year.

Rather than going through the termination process, a company may choose to voluntarily withdraw from the Preservation Program. (See Section 9.06 for more information on the withdrawal process.)

For failure to satisfy a contract default, comply with the terms of probation, or submit an acceptable renewal application/renewal documents, the termination letter will be issued immediately after the contract default letter was to have been responded to, or within 20 calendar days after the Appeals Board decision if the termination is upheld.

If a company withdraws from the Preservation Program, termination letters will be issued within 20 calendar days after receipt of a voluntary withdrawal letter.

Termination letters are sent via certified mail to all board members as listed in the most recent board roster, or as known to HCR at the time of the termination, with a copy to the executive director. Termination letters include the procedures for the submission of closeout documents.

A company terminated or not renewed under any one of these grounds has the right to request an appeal.

9.04.01 Notice of Termination

The termination notice will always be preceded by the OCR's determination that the company has not satisfactorily addressed a contract default; met the terms of its probation; or submitted a satisfactory application for funding or renewal documents. In all instances, such a determination shall be based upon the Program Director's review and a policy evaluation by the OCR.

The termination notice is sent certified mail to all board members as listed in the most recent board roster, or as known to HCR, with a copy to the executive director. The intent to terminate notice will include, at a minimum:

- a. the reason for the termination;
- b. a summary of major events leading to the recommendation;
- c. the process for filing an appeal;
- d. the purpose of the Appeals Board;
- e. an explanation regarding the type of information the company will be invited to present for consideration by the Appeals Board, submitted to the Assistant Commissioner at least 10 days prior to the hearing;
- f. the possible outcomes of an Appeals Board hearing; and
- g. a notice not to incur costs.

Companies have 10 calendar days from the date of the termination notice to respond and file an intent to appeal. If the intent to appeal is not filed within the 10 calendar days the company will be automatically terminated from the Preservation Program. The company will be required to submit closeout documents (see Section 6.04 Closeouts) upon termination from the Preservation Program.

In the event that a notice of termination has been issued for failure to satisfy a default, submission of those documents after the deadline stated in the default notice will not necessarily be sufficient to cure the default.

Once a termination notice has been issued the processing of an Application for Funding, Annual Renewal of Funds, or notice of other contract defaults will be suspended pending final determination of the Appeals Board if an appeal is requested. Companies will be additionally notified in the termination notice not to incur any additional expenses related to the Preservation Programs.

9.05 Termination Appeals Process

Companies may appeal the termination. Companies must submit intent to appeal within 10 calendar days from the date of the termination notice. Companies have 45 days from the date of the termination notice to file the formal appeal, including any supporting evidence or documentation. The complete appeal package must be sent to the President of OCR, via certified mail, return receipt requested. No documents or information will be accepted after the expiration of the 45 days or after submission of the appeal package. With the submission of the appeal, the company may request to appear before the Board. If the company does not request to appear before the Appeals Board, the Board may make a determination without further input from the company. The Appeals Board Hearing (see Section 9.05.01 below) will be held after the expiration of the 45 days. The Appeals Board will make a final decision within approximately 20 calendar days of receipt of the appeal or the date of the Appeals Board hearing, whichever is later.

The appeal must clearly demonstrate that:

- a. the termination is inconsistent with the statute, the Rules and Regulations, this manual or the contract; and/or

- b. DHCR has inappropriately discharged its duties in this matter.

The President of OCR will refer the appeal and request to appear before the board to the Appeals Board with all relevant documentation. OCR program staff will develop and forward a recommendation to the President of OCR regarding whether or not an appeal is warranted based upon the date of receipt and adequacy of grounds.

If it is determined that an appeal has merit and a request to appear has been submitted, the President of OCR, acting in the capacity of the chair of the Appeals Board, will notify the company that an appeals board hearing has been scheduled. This notice will be provided to the company at least five calendar days (unless otherwise waived by the company) prior to the date of the Appeals Board hearing. With the submission of the appeal package, the company may request to appear before the board at this hearing. The Appeals Board may decline requests from the company to appear at the hearing that are not included in the initial appeal package.

9.05.01 Appeals Hearing

A hearing will be held by the Appeals Board only after reviewing all documents submitted by the company. The company may appear at the hearing if it was requested as part of the appeal package. If the company did not request to appear, the Appeals Board may make a recommendation at the hearing without further input from the company. The Appeals Board will determine if the recommendation to terminate is consistent with Statute, Rules and Regulations, this manual, and/or the contract. Based on this review, the Appeals Board will make a final decision within approximately 20 calendar days of receipt of the appeal or the date of the Appeals Board hearing, whichever is later. The decision of the Appeals Board may be a recommendation that:

- a. the appeal be dismissed and the termination is upheld;
- b. the recommendation to terminate was inconsistent with the Statute, the Rules and Regulations, this manual, and/or the contract; the company is reinstated in the Preservation Program.

The President of OCR may accept, reject, or modify the recommendation of the Appeals Board. HCR shall inform the company, in writing, of the final decision.

At any time after receipt of a notice of termination, but prior to the issuance of a final determination, a company may elect to voluntarily withdraw from the Preservation Program by sending a written notice to the President of OCR (see Section 9.06, Withdrawals).

9.05.02 Appeals Board

The Appeals Board consists of HCR representatives and provides a company with an opportunity to appeal the recommendation to terminate the contract. An appeal will be decided on the facts and documents in existence at the time the recommendation to terminate was made. Documentation submitted to HCR by a company for the first time during the appeal may be considered only at the discretion of the Appeals Board. A company may also request to appear before the Appeals Board in writing as part of the appeal package.

9.05.03 Composition of the Appeals Board

The Appeals Board consists of three members: the President of the OCR as chair and two other members selected by the President. One of the other two members is typically represented by the Office of Legal Affairs. The Rural Housing Coalition and the Neighborhood Preservation Coalition may serve in an advisory capacity for the Appeals Board but will not be voting members of the Board.

9.06 Withdrawal from Preservation Programs

If a company cannot proceed to contract within a one-year timeframe, the OCR will send the company notification of the issue(s) and give them 10 calendar days to satisfactorily address them. If the company fails to satisfactorily address the issue(s) and proceed to contract, HCR will consider that company as having withdrawn from the Neighborhood/Rural Preservation Program.

A company may voluntarily withdrawal from the Preservation Program at any time prior to termination. The company must notify the Program Director at least 45 days in advance of the withdrawal. If the company is in the termination process the 45 days advance notice may be waived by the OCR. The notice must be made in writing and sent certified mail, return receipt requested. OCR will acknowledge receipt of the withdrawal and notify the company, in writing, of program closeout requirements. Any company that voluntarily withdraws from the programs during the contract period is required to submit necessary closeout documentation, including annual performance reports and audited financial statements/management letters (see Section 6.04 Closeouts). The company may also be obligated to return some or all of the Preservation funds for that program year.

All companies that voluntarily withdrawal from the program must submit closeout documents (see Section 6.04 Closeouts). The company must notify the Program Director at least 45 days in advance of the withdrawal. The notice must be made in writing and sent certified mail, return receipt requested. OCR will acknowledge receipt of the withdrawal and notify the company, in writing, of program closeout requirements. If the company withdrawing from the program submits the necessary closeout documents and meets substantial completion requirements the Company will be notified in writing that their contract is formally closed/terminated.

Section: 10.00 Reporting Requirements

In this Section, the following reporting requirements are discussed:

Section 10.01	Document Submissions
Section 10.02	Performance Reports
Section 10.03	Agency-Wide Audit
Section 10.04	Disbursements
Section 10.05	Document Schedule

10.01 Document Submissions

All preservation companies must submit the following documents to satisfy their contractual obligations:

- a. The application for funding (or renewal of funds) is due after funds have been allocated to the programs. The application is normally available after April 1st with the official due date sometime after May 1st. The application is based upon a needs assessment and strategic plan that must be completed prior to its submission; any and all documents required for contract execution are also required;
- b. Progress reports are due to the OCR at the mid-point of the contract year;
- c. The Annual Performance Report is due no later than July 31st annually;
- d. A copy of the Opinion Letter and Management Letter (if any) from the agency-wide audit (kept on file in company's office) 120 days after the company's fiscal year ends;
- e. Completion of a needs assessment for the company's service area and strategic plan to guide the company in developing its work plan;
- f. Service area map update based on updated Census data (when available); and
- g. Other contract-related reporting requests may be made by the OCR at any time during the contract term.

All reports must be submitted within the established timeframes and be completed as required to ensure the timely release of funds.

10.02 Performance Reports

Companies report their activities compared against their approved work plan at least semi-annually. In addition, the Annual Performance Report (APR), which includes programmatic, budget and match information, is due July 31st annually.

The Annual Performance Report includes:

- a. detailed report on completion of all work plan activities;

- b. detailed report on the company's status on meeting their goals as set forth in their strategic plan;
- c. detailed explanation providing substantial documentation on extenuating circumstances as to why a contract activity was not completed (if necessary);
- d. summary tables of budgeted and actual expenditures of Preservation Program funds;
- e. summary tables of amounts and sources of funds leveraged and used as match; and
- f. a current Board roster.

10.03 Agency-Wide Audit

Each company must have an agency-wide audit completed by a certified public accountant or a licensed public accountant. The audit must contain a schedule that details Preservation Program funds. This audit must be kept on file in the company's office and be available for review by their regional representative.

In addition to keeping the audit on file, the company must submit to their regional office a copy of the auditor's Opinion Letter and the Management Letter (if any). The audit should follow the company's fiscal year and be available for review no later than 120 days after the close of their fiscal year. The cost of the agency-wide audit is an eligible expense in the preservation contract budget.

10.04 Disbursements

Disbursements are released semi-annually to companies if they are in compliance with all Program requirements as well as in compliance with the requirements of all other HCR programs in which the company participates. The first payment shall be due on or about July 1st, with the second payment on or about January 1st. If not in compliance with the Preservation Program and other HCR requirements, payments will be held or may be released on a quarterly basis where necessary.

If the company's address or designated signatory changes during the contract term, notice on company letterhead detailing the changes must be submitted to the OCR within 10 calendar days of the change.

10.05 Document Schedule

DOCUMENT	SUBMIT NO LATER THAN	SUBMIT TO:
Application/Annual Renewal Form	Date stipulated in notification letter	NPP_RPPAPP@nyshcr.org
Annual Performance Report	July 31	annualreport@nyshcr.gov
Work Plan Modification	March 31	NPP_RPPWorkplan@nyshcr.gov
Notice of Board Changes	Five days after change	OCR program staff*
Staffing Changes	Within 30 days after change	OCR program staff*
Change of Address/E-mail Address/Signatory	Five days after change	OCR program staff*
Audit Opinion Letter and Management Letter (if any)	120 days after close of company's fiscal year	OCR program staff*

*May be submitted to program staff via Email.

Section: 11.00 Technical Assistance

In this Section, the following technical assistance issues are discussed:

Section 11.01	General Technical Assistance
Section 11.02	When Technical Assistance is Appropriate
Section 11.03	Using Outside Sources
Section 11.04	Requesting Technical Assistance

11.01 General Technical Assistance

A company may request assistance from the OCR or the agency may decide to recommend a particular company for increased technical assistance. Technical assistance is available to all companies for assistance with preparation of their needs assessment and strategic plans, which is due at least every 3 years and with each new contract. Technical assistance may be available to address other needs as well. Companies must submit a formal request for technical assistance to the OCR. Technical assistance may also be required by the OCR as part of any probation program or resolution to a program default. If the technical assistance is provided the company may be required to report on outcomes and results to the OCR. This technical assistance can be provided through the OCR staff, other HCR staff, or Neighborhood or Rural Coalition staff.

11.02 When Technical Assistance is Appropriate

11.02.01 Companies in Routine Situations

HCR continually provides technical assistance to the preservation companies; however, there are some circumstances which merit a focused and structured technical assistance effort. For example: a company requests technical assistance to carry out a specific project; or, the program staff might recommend a particular company for increased technical assistance because it has just hired a new executive director.

11.02.02 Companies Placed on Probation

A company placed on probation may be offered technical assistance if resources are available. The program staff will determine the technical assistance provider. Possible providers include OCR staff, other HCR staff, another preservation company, the Coalitions, or other contracted sources. The technical assistance provided should be documented and placed in the company's file at the OCR.

11.02.03 Companies with Deficiency/Default/Non-Compliance Problems

The program staff should consider what type of technical assistance is appropriate for companies with Deficiency/Default/Non-Compliance Problems.

There may be cases when additional technical assistance should be provided to a company after it has cleared up a contractual compliance deficiency. The program staff will assess whether similar deficiencies are likely to reoccur if additional assistance and/or training is not provided to the company. The program staff may request the services of another company or the coalitions, although in many cases the HCR staff may provide the assistance.

11.03 Using Outside Sources

In most cases, the program staff will act as the technical assistance provider. In some cases the staff may decide that technical assistance should be provided by a peer-to-peer exchange, one of the coalitions, or a consultant. In general, the use of another source should be considered only when the required expertise is not available through HCR staff, the Coalitions, or the technical assistance project requires more time than HCR staff can make available.

11.04 Requesting Technical Assistance

A formal request from the company for technical assistance should be submitted to the OCR. The request should include: 1) identified need or an organizational gap; 2) how the technical assistance provided will enhance the company's performance in the Preservation Program; 3) anticipated outcomes if the technical assistance is granted; and 4) other sources of funding that may be available for the assistance. OCR staff will document any supplemental information on the company that may further show a need for the technical assistance.

The request for technical assistance and any related information should be sent to the Program Director. OCR will verify the availability of assistance and the appropriate source. The OCR will provide a response to the request within 30 calendar days of receipt.

APPENDIX A
NEIGHBORHOOD PRESERVATION PROGRAM

- 1. Article XVI - Private Housing Finance Law**
- 2. Conflict of Interest Regulations**

1. Article XVI - Private Housing Finance Law

ARTICLE XVI NEIGHBORHOOD PRESERVATION COMPANIES

- Section 901. Declaration of legislative findings.
- 902. Definitions.
 - 903. Contracts with neighborhood preservation companies.
 - 904. Payments to neighborhood preservation companies for neighborhood preservation activities.
 - 905. Periodic review of contract performance; renegotiation and termination of contract.
 - 906. Technical services and assistance to neighborhood preservation companies.
 - 907. Rules and regulations to be promulgated by the commissioner.
 - 908. Applicability of other laws to neighborhood preservation companies.
 - 909. Annual report.
 - 910. Merged company savings fund.

§ 901. Declaration of legislative findings. The legislature hereby finds and declares that there has developed in recent years, in various municipalities of the state, a growth of community-based not-for-profit organizations, originating for the most part within and organized by residents of neighborhoods which are characterized by a predominance of residents of low income and a residential housing stock which is largely old, deteriorating and substandard.

The legislature further finds that the involvement of the residents of various municipalities of the state in neighborhood preservation activities in their respective neighborhoods, through the media of locally-based, not-for-profit organizations responsive to the needs of the residents, is in the public interest and may be expected to produce increased renovation and rehabilitation of existing but deteriorating housing accommodations, improvement in housing code enforcement and the correction, removal and repair of substandard housing and housing conditions dangerous to life, safety or health. Such involvement in neighborhood preservation activities may also be expected to produce reduced abandonment of housing, which the legislature finds to be increasing in many neighborhoods of the state and to be continuing to cause shortages of housing accommodations for persons and families of low income and the relocation of such families from neighborhoods to which they have developed strong emotional as well as economic attachments.

The legislature further finds that many municipalities throughout the state are now receiving or will receive monies under federal programs, that such funds may be used and applied by such municipalities for the neighborhood preservation activities referred to in this article and that an efficient and effective use of such funds and the public interest will be promoted by the active involvement of various not-for-profit organizations.

The legislature further finds that numerous not-for-profit organizations which have arisen throughout the state are heavily dependent upon voluntary services of neighborhood residents; that such organizations are dependent in part for operating funds upon fees generated by the management of housing accommodations; that such organizations are dependent for the remainder of their operating funds, to a significant extent, upon gifts and grants from private individuals, corporations and foundations; that such financial assistance is inherently uncertain and covers expenses only over short periods of time, thereby causing such organizations to be inadequately

financed, unable to plan any long range housing activities and unable to attract, employ or contract with needed experts and technicians for assistance to implementing neighborhood preservation programs; and that it is a proper and necessary public purpose and activity of the state to assure the adequate funding of not-for-profit organizations which are active in neighborhood preservation activities.

The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

§ 902. Definitions. As used in this article, the following words and phrases shall have the following meanings:

1. "Commissioner" shall mean the commissioner of the state division of housing and community renewal.

2. "Division" shall mean the state division of housing and community renewal.

3. "Municipality" shall mean any city, town or village within the state.

4. "Neighborhood preservation company" shall mean a corporation organized under the provisions of the not-for-profit corporation law which has been engaged primarily in one or more of the neighborhood preservation activities specified in subdivision five of this section.

5. "Neighborhood preservation activities" shall mean activities engaged in by a neighborhood preservation company within a geographically defined neighborhood of a municipality, provided, however, that the division may fund a neighborhood preservation company to engage in such activities in unserved and underserved areas of the municipality lying outside of its initially designated neighborhood area, that are designed (a) to construct, maintain, preserve, repair, renovate, upgrade, improve, modernize, rehabilitate or otherwise prolong the useful life and to manage and coordinate the rehabilitation of residential dwelling accommodations within such neighborhood, to restore abandoned and vacant as well as occupied housing accommodations to habitable condition; to demolish structurally unsound or unsafe or otherwise unsightly or unhealthy structures which no longer serve or can economically be made to serve a useful purpose consistent with stabilizing or improving a neighborhood; to seal and maintain vacant but structurally sound structures which are capable of being rehabilitated at a future time and used for housing purposes; to acquire, where appropriate, buildings which contain housing accommodations; to facilitate the disposition of buildings containing housing accommodations to individual occupants thereof or to cooperative groups whose members shall be occupants thereof; to assist owners, occupants and tenants of housing accommodations to obtain improvements in the physical conditions thereof and in the maintenance and management thereof; and to manage housing accommodations as agents for the owners thereof or administrators or receivers appointed or designated pursuant to any law of the state; and (b) to accomplish similar purposes and meet similar needs with respect to retail and service establishments within such neighborhoods when carried out in connection with and incidental to a program of housing related activities.

6. "Persons of low income" shall mean individuals and families whose annual incomes do not exceed ninety per cent of the median annual income for all residents of the municipality within which they reside.

7. "Merged company" shall mean a neighborhood preservation company maintaining a contract pursuant to section nine hundred three of this article that has undergone a merger with one or more other neighborhood preservation companies, which is also maintaining a contract pursuant to section nine hundred three of this article, that has led the merged companies to reduce the number of contracts being maintained with the division pursuant to section nine hundred three of this article to a total of one.

8. "Unmerged company" shall mean a neighborhood preservation company that is not a merged company.

§ 903. Contracts with neighborhood preservation companies. 1. The commissioner may enter into contracts with neighborhood preservation companies for the performance of neighborhood preservation activities. Such contracts shall be entered into, however, only after appropriate findings by the commissioner and shall be subject to the limitations hereinafter set forth.

2. Prior to entering into a contract with a neighborhood preservation company, the commissioner shall have made a finding that the neighborhood in which the activities are proposed to be conducted contains a significant amount of deteriorating or substandard housing which is not being adequately repaired, renovated, upgraded, modernized or rehabilitated under existing programs so as to provide sound housing at costs which the residents of such neighborhoods can afford; that the neighborhood preservation company which proposes to contract with the commissioner is a bona fide organization which shall have been in existence either as a corporation or as an unincorporated, organized group and performing significant neighborhood preservation activities for at least one full year prior to entering into any contract with the commissioner and which shall have demonstrated by its immediate past and current activities that it has the ability to preserve, repair, maintain, renovate, rehabilitate, manage or operate housing accommodations or to engage in other neighborhood preservation activities in such neighborhood; that the neighborhood preservation activities which are to be performed pursuant to the proposed contract are needed by the neighborhood; and that the neighborhood preservation company possesses or will acquire or gain access to the requisite staff, office facilities within such neighborhood, equipment and expertise to enable it to perform the activities which it proposes to undertake pursuant to such contract; provided, however, that merged companies' office facilities may be located outside such neighborhood if they are located in a municipality wholly contained within the merged companies' neighborhood, and provided further, however, that it shall not be a bar to the commissioner's contracting with a neighborhood preservation company that one or more organizations, whether pursuant to contract with the commissioner or not, are conducting neighborhood preservation activities wholly or partially within the same neighborhood.

3. In determining to enter into a contract with a neighborhood preservation company pursuant to this article, the commissioner shall investigate, to the extent which he shall deem necessary or appropriate, and determine;

(a) that the geographic boundaries proposed by the applicant for such a contract define a recognized or established neighborhood or area within the municipality;

(b) that the demographic and other relevant data pertaining to such neighborhood indicate that the neighborhood has sustained physical deterioration, decay, neglect or disinvestment, that a substantial proportion of the residential population that the neighborhood preservation company proposes to assist through its activities is of low income and that such neighborhood is in need of active intervention to effect its preservation, stabilization or improvement;

(c) that the activities proposed to be conducted by the neighborhood preservation company are reasonably calculated to have a positive effect on the preservation, stabilization or improvement of the neighborhood;

(d) that the neighborhood preservation company's officers, directors and members are fairly representative of the residents and other legitimate interests of the neighborhood, that they will carry out such a contract in a responsible manner and that at least thirty-three percent of the directors of the neighborhood preservation company are residents of the neighborhood;

(f) that the fees received or proposed to be received by the neighborhood preservation company from the management of housing accommodations are fair and reasonable;

(g) that the plan submitted by the neighborhood preservation company demonstrates that such company will, to the extent possible, give priority when hiring new employees to residents of the neighborhood who are either unemployed or not fully employed;

(h) that the neighborhood preservation company has a plan to facilitate, to the maximum extent feasible, the disposition of any buildings containing housing accommodations owned by the company to individual occupants thereof or to cooperative groups whose members shall be occupants thereof; and

(i) that the interests of occupants of any buildings containing housing accommodations owned by the neighborhood preservation company are adequately represented.

4. Contracts entered into hereunder with neighborhood preservation companies shall be limited in duration to periods of one year, but may thereafter be renewed, extended or succeeded by new contracts from year to year in the discretion of the commissioner; they shall define with particularity the neighborhood or portion thereof within which the neighborhood preservation activities shall be performed; they shall specify the nature of the neighborhood preservation activities which shall be performed including the approximate number of buildings, residential dwelling units and local retail and service establishments which shall be affected; they shall locate and describe, with as much particularity as is reasonably possible, the buildings with respect to which such activities shall be performed during the contract term; and they shall specify the number of persons, salaries or rates of compensation and a description of duties of those who shall be engaged by the neighborhood preservation company to perform the activities embraced by the contract together with a schedule of other anticipated expenses.

5. Prior to renewing or extending a contract or entering a succeeding contract with a neighborhood preservation company the division shall determine that:

(a) the company shall have substantially completed the neighborhood preservation activities specified in the contract to be renewed, extended, or succeeded;

(b) the company shall have received the sums, services, and funds specified in subdivision four of section nine hundred four of this article; and

(c) the activities carried out by the company pursuant to its contract shall have had a significant impact on the community's needs as specified in the contract.

6. Prior to terminating, not renewing or not extending a contract the division shall:

(a) determine that the company is in violation of the terms and conditions of the contract or that funds provided pursuant to the contract are being expended in a manner not consistent with the terms of the contract or the provisions of this article; or

(b) determine that necessary and appropriate technical assistance has been provided without significant improvement in the activities of the company; and

(c) provide the company with written notice, at least forty-five days in advance, of its intent to terminate, not renew or not extend the contract and provide the company with an opportunity to appear and be heard before the division with respect to the reasons for such proposed termination, non-renewal or non-extension. At the same time that a company is notified of the division's intent to terminate, not renew or not extend the contract, the division shall likewise inform the senate and assembly members who represent areas within such company's geographic boundaries.

7. The division shall establish, for renewal of contracts, a procedure which provides the company with at least forty-five days notice of the company's obligations and rights in that process, informs the company of the amount of the renewal contract, and facilitates the timely execution of the contract and disbursement of funds.

8. The division may temporarily withhold payments and may elect not to renew or extend a contract or enter a succeeding contract with any neighborhood preservation company if the company is not in compliance with its contract, has without good cause failed to submit documentation required under its contract or requested by the division to make the determinations required under subdivision five of this section or has not satisfied any other conditions consistent with this article for renewing or extending a contract or entering a succeeding contract.

§ 904. Payments to neighborhood preservation companies for neighborhood preservation activities. 1. Each contract entered into with a neighborhood preservation company shall provide for payment to the neighborhood preservation company for neighborhood preservation activities to be performed by it.

2. Payment to neighborhood preservation companies pursuant to this article shall be restricted to sums required for the payment of salaries and wages to employees of such companies who are engaged in rendering neighborhood preservation activities, fees to consultants and professionals retained by them for planning and performing such activities and other costs and expenses directly related to such employees, consultants and professionals.

3. In no event shall any contract or payment be made, nor shall any payments be used, to defray the costs of the construction, repair, renovation, rehabilitation, operation, demolition, clearance or sealing of any building or other structure, except that such funds may be used for planning any such activity and for renovating, repairing, furnishing, equipping and operating an office facility to be used in connection with the conduct of neighborhood preservation activities by the neighborhood preservation company. Payments shall be made by the division to the neighborhood preservation company, not less frequently than semi-annually, at or prior to the commencement of each such time period, to compensate such company for the neighborhood preservation activities which it shall undertake to perform provided, that with respect to contracts entered into on or after June thirtieth, nineteen hundred ninety-seven the first such payment shall be made by the division beginning on or after July first of the fiscal year for which an appropriation in support of such payment was made and provided further that the final such payment to the neighborhood preservation company shall be made no later than March thirty-first of such fiscal year, unless such payment has been withheld pursuant to subdivision eight of section nine hundred three of this article.

4. In negotiating each contract, the division shall consider and take into account any and all other sums available or anticipated to be made available to the neighborhood preservation company from any and all sources which may be used to defray the costs of the neighborhood preservation activities set forth in the contract, including, without limitation, fees generated by the management of housing accommodations, contributions from private foundations, corporations, firms and individuals and funds received under grants and contracts pursuant to any program or programs operated or administered by any governmental agency or instrumentality and shall make a determination that the sums available or anticipated to be made available for the neighborhood preservation company from such other sources, together with the value of services to be rendered for the benefit of the neighborhood preservation company for which payment is not required to be made by such company, amount to at least thirty-three and one-third percent of the amount of such contract.

5. When disbursing funds for contracts with neighborhood preservation companies, pursuant to section nine hundred three of this article, the division shall use the following criteria, formulas and tables to determine the distribution of funds:

(a)(i) The total unmerged company funding shall equal the current number of unmerged company contracts multiplied by the per group award.

(ii) The unmerged company funding shall equal the per group award.

(iii) The merged company funding shall equal the funding modification multiplied by the per group award.

(b) Merged company funding shall be determined on an individual basis for each neighborhood preservation company. The following tables show the funding modification to be used:

(i) In the case of two companies merging, the following table shall be used:

Years since Funding merger	modification
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1	200%
2	190%
3	180%
4	170%
5	160%
6	150%

(ii) In the case of three companies merging, the following table shall be used:

Years since merger	Funding modification
1	300%
2	290%
3	280%
4	270%
5	260%
6	250%
7	240%
8	230%
9	220%
10	210%
11	200%

(iii) In the case of four or more companies merging, the following table shall be used:

Years since merger	Funding modification
1	400%
2	390%
3	380%
4	370%
5	360%
6	350%
7	340%
8	330%
9	320%
10	310%
11	300%
12	290%
13	280%
14	270%
15	260%
16	250%

(c) If a neighborhood preservation company that has undergone a merger continues to renew their contract beyond the timeframes listed in the above tables, it shall have its funding determined using the last funding modification listed.

(d) The merged company savings shall be determined on an individual basis for each merged company. It shall be calculated by subtracting the amount of such company's merged company funding from the amount the merged companies would have received if they had maintained separate contracts.

(e) The per group award shall equal the total funding available minus the amount for the contract with the neighborhood preservation coalition, which shall equal the total unmerged company funding plus the sum of the merged company funding plus the sum of the merged company savings.

§ 906. Technical services and assistance to neighborhood preservation companies. 1. The division is hereby authorized to render to neighborhood preservation companies such technical services and assistance as it may possess or as may be available to it to enable such companies to comply with the intent and provisions of this article. The division is further authorized to take all steps necessary to encourage the formation, organization and growth of new neighborhood preservation companies. The division may also, from funds appropriated for the purposes of this article, contract with municipal and other public agencies and with private persons, firms and corporations for the provision of such technical services and assistance which may include: preparation and submission of proposals for entering into contracts with the commissioner; preparation and submission of reports required under such contracts or regulations issued by the commissioner; internal organization and management of the neighborhood preservation companies; recruitment and training of personnel of the neighborhood preservation companies; preparation of plans and projects, negotiation of agreements and compliance with requirements of programs in which neighborhood preservation companies may become engaged in the course of their neighborhood preservation activities; and other technical advice or assistance relating to the performance or rendition of neighborhood preservation activities.

2. The affordable housing corporation, the housing trust fund corporation or their designee as the case may be, shall provide an incentive grant to each company that is awarded a contract pursuant to article eighteen or nineteen of this chapter. Such incentive grant shall consist of the payment of an additional sum of money equal to three percent of the amount payable to such company pursuant to each contract provided, however, that such payment shall not be counted against the per dwelling unit total imposed by subdivision one of section eleven hundred two of this chapter or the per dwelling unit limitation imposed by subdivision one of section eleven hundred twelve of this chapter, and provided further that such additional amount shall not exceed forty thousand dollars per contract. Such incentive grant shall be utilized either for purposes consistent with the provisions of this article or for the cost of neighborhood preservation activities related to such contract and shall not be subject to the limitation on the amount of funds which may be received by companies contained in subdivision four of section nine hundred three of this article. Such incentive grant shall be added to and considered a payment under the contract for purposes of allocating funds to any single municipality.

§ 907. Rules and regulations to be promulgated by the commissioner. The commissioner shall issue and promulgate rules and regulations for the administration of this article, which rules and regulations shall include provisions concerning requirements as to eligibility for contracting with the commissioner; the form of applications for contracts; supervision and evaluation of neighborhood preservation companies including standards and performance criteria for continued, increased or decreased funding to insure the companies meet the objectives of this article and the objectives outlined in their neighborhood preservation plans; reporting, budgeting and record keeping requirements; provisions for renegotiation, modification, termination, extension and renewal of contracts, which provisions shall include the bases for funding increases from the preceding contract including, but not be limited to, performance which exceeds minimum performance criteria and provisions for probationary periods where appropriate; provisions for technical services and assistance to neighborhood preservation companies within the limits of available funding; protection of the interests of tenants in buildings owned or managed by neighborhood preservation companies; and such other matters not inconsistent with the purposes and provisions of this article as the commissioner shall deem necessary, proper or appropriate. Such rules and regulations shall prohibit any neighborhood preservation company receiving funds under contracts entered into pursuant to this article (i) from engaging in any

activities promoting any political candidate or party or (ii) from expending any such funds in activities the purpose of which is to influence legislation.

§ 908. Applicability of other laws to neighborhood preservation companies. Nothing contained in this article shall be deemed or construed to prevent or deny to any neighborhood preservation company the opportunity to qualify as a developer, sponsor, owner or other participant in accordance with the provisions of any article of this chapter, or pursuant to any other law of the state or to deny to any such company the privileges or immunities of any other provisions of this chapter or other law, nor shall any neighborhood preservation company be precluded from organizing or causing to be organized or from acquiring any other corporation for the purpose of conducting or carrying out any project, program or service authorized by any law of the state.

§ 909. Annual report. The commissioner shall, on or before December thirty-first in each year submit a report to the legislature on the implementation of this article. Such report shall include, but not be limited to, for each company receiving payments under this article: a description of such company's contract amount and cumulative total; the specific neighborhood preservation activities performed by such company; the findings required by the commissioner under subdivision two of section nine hundred three of this article; the amounts of monies received by the company from sources other than payments made pursuant to this article; the value of services rendered for the benefit of the company for which payment is not required to be made; and such other information as the commissioner deems appropriate.

§ 910. Merged company savings fund. The division shall create a fund to hold and shall transfer all funds determined to be merged company savings pursuant to paragraph (d) of subdivision five of section nine hundred four of this article into such fund. The division shall use such funds, as available, for entering into new contracts, pursuant to section nine hundred three of this article, with neighborhood preservation companies located in areas of the state that are currently unserved by a neighborhood preservation company.

2. Neighborhood Preservation Program Conflict of Interest Regulations

- a) The following are restricted from holding voting board membership, serving as officers of the Company and/or in staff management positions, except where otherwise required by statute:
- 1) State legislators and members of their staffs who hold policy making positions;
 - 2) commissioners and chairpersons of State departments and their deputies and assistants (including members or directors of public authorities, public benefit corporations, boards, commissions and councils);
 - 3) staff of HCR;
 - 4) statewide elected officials, including the Governor, Lieutenant Governor, Attorney General and Comptroller, and members of their staffs who hold policy making positions;
 - 5) chief executive officials and members of the legislative bodies of counties having a population of 275,000 or more, within which the project is located, or cities, towns and villages having a population of 25,000 or more, within the county in which the project is located, except where board membership for such persons is mandated by other relevant federal or state statutes; and
 - 6) political party chairpersons, party organization leaders and members of their executive committees in the state, counties having a population of 275,000 or more, within which the project is located, or cities, towns and villages having a population of 25,000 or more, within the county in which the project is located.
- b) The following shall not receive any compensation whatsoever from a recipient organization, directly or indirectly, for services or goods rendered to such organization unless the goods or services are provided pursuant to an award or contract let, unless otherwise required, after a good faith effort to obtain competitive prices is made, the results of which were reported in writing prior to the award of the contract and were approved by the Division of Housing and Community Renewal which approval shall be based on comparison to arm's length transactions and the needs of the project:
1. state legislators and members of their staffs who hold policy making positions;
 2. commissioners and chairpersons of state departments and their deputies and assistants (including members or directors of public authorities, public benefit corporations, boards, commissions and councils);
 3. staff of HCR;
 4. statewide elected officials, including the Governor, Lieutenant Governor, Attorney General and Comptroller, and members of their staffs who hold policy making

positions;

5. chief executive officials and members of the legislative bodies of counties, cities, towns and villages, in which county the project is located;
 6. political party chairmen, party organization leaders and members of their executive committees in the state, counties, cities, towns and villages in which county the project is located;
 7. voting board members and officers, except for salary payments of officers which shall require the approval of the commissioner which approval shall be granted if the duties assigned to the officer correspond to duties normally assigned to an executive director;
 8. staff members of the recipient organization, except for salary payments;
 9. the immediate families of persons in paragraphs (1)-(8) of this subdivision; and
 10. any firm, association, corporation or partnership in which any individual listed in subdivision (a) or (b) of this section holds an interest of ten percent or more.
- c) These provisions apply to all persons and entities whether or not their involvement with, or compensation from, a recipient organization is related to the project funded pursuant to this program.

**APPENDIX B
RURAL PRESERVATION PROGRAM**

- 1. Article XVII - Private Housing Finance Law**
- 2. Conflict of Interest Regulations**

1. Article XVII - Private Housing Finance Law

ARTICLE XVII HOUSING AND COMMUNITY PRESERVATION IN RURAL AREAS

- Section 1001. Legislative findings and statement of policy.
- 1002. Definitions.
 - 1003. Contracts with not-for-profit corporations for housing preservation and community renewal activities.
 - 1004. Payments pursuant to contracts.
 - 1005. Enforcement of standards for contract performance.
 - 1006. Technical services and assistance to corporations and rural areas.
 - 1007. Rules and regulations.
 - 1008. Relationship to other laws.
 - 1009. Annual report.
 - 1010. Rural aging services.
 - 1011. Merged company savings fund.

§ 1001. Legislative findings and statement of policy. The legislature hereby finds and declares that there exist in certain rural areas of the state significant unmet housing needs of persons and families of low or moderate income, numerous housing units which are deteriorating or in need of rehabilitation or improvement, and related factors demonstrating a need for increased attention to housing preservation and community revitalization in such areas. Meeting the housing and community renewal needs of rural areas entails special problems arising from the dispersal of population over wide areas, the existence of substandard areas in the form of small, often isolated, pockets of poverty rather than massive concentrations, the extremely limited resources of the small units of local government involved, and other characteristics of these areas.

Locally based not-for-profit organizations can play a crucial role in housing preservation and community revitalization. The public policy of support for such organizations embodied in article sixteen of this chapter, and the legislative findings set forth in such article, are hereby reaffirmed. The legislature further finds and determines that the needs of rural areas and of existing and potential not-for-profit organizations serving such areas will be best met by a program of support for such organizations and their activities similar to that in article sixteen of this chapter but recognizing the distinctive characteristics of such areas. It is the purpose of this article to establish such a program within the division of housing and community renewal.

It is further declared to be the public policy of the state that all programs of housing and community assistance administered by the division of housing and community renewal or other agencies should be carried out with due regard for the special conditions in and needs of the rural areas of the state.

§ 1002. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Commissioner" shall mean the commissioner of the state division of housing and community renewal.
2. "Division" shall mean the state division of housing and community renewal.
3. "Rural area of the state" shall mean cities, towns and villages having a population of less than twenty-five thousand.
4. "Region" shall mean those portions of the rural area of the state, as specified in the contract entered into pursuant to this article, within which housing and community renewal activities funded

in part pursuant to this article are to be carried out.

5. "Housing preservation and community renewal activities" include (a) the new construction or the acquisition, maintenance, preservation, repair, rehabilitation or other improvement of vacant or occupied housing accommodations; demolition or sealing of vacant structures where necessary or appropriate; disposition of housing accommodations to present or potential occupants or co-operative organizations; training or other forms of assistance to occupants of housing accommodations; and management of housing accommodations as agent for the owners, receivers, administrators or municipalities; (b) activities, similar to those specified in paragraph (a) of this subdivision, aimed at accomplishing similar purposes and meeting similar needs with respect to retail and service establishments within a region when carried out in connection with and incidental to a program of housing related activities.

6. "Persons of low income" shall mean individuals and families whose annual incomes do not exceed ninety per cent of the median annual income for all residents of the region within which they reside or a larger area encompassing such region for which median annual income can be determined.

7. "Merged corporation" shall mean a not-for-profit corporation maintaining a contract pursuant to section one thousand three of this article that has undergone a merger with one or more other not-for-profit corporation, which is also maintaining a contract pursuant to section one thousand three of this article, that has led the merged corporations to reduce the number of contracts being maintained with the division pursuant to section one thousand three of this article to a total of one.

8. "Unmerged corporation" shall mean a not-for-profit corporation that is not a merged corporation.

§ 1003. Contracts with not-for-profit corporations for housing preservation and community renewal activities. 1. The commissioner may enter into contracts with corporations incorporated pursuant to the not-for-profit corporation law (or such law together with any other applicable law) for the performance of housing preservation and community renewal activities within a region, subject to the provisions of this article.

2. Prior to entering into a contract with a corporation, the commissioner shall have made a finding that the region in which the activities are proposed to be conducted contains a significant amount of deteriorating or substandard housing which is not being adequately repaired, renovated, upgraded, modernized or rehabilitated under existing programs so as to provide sound housing at costs which the residents of such region can afford; that the corporation which proposes to contract with the commissioner is a bona fide organization which shall have been in existence either as a corporation or as an unincorporated, organized group and performing significant housing preservation and community renewal activities for at least one full year prior to entering into any contract with the commissioner and which shall have demonstrated by its immediate past and current activities that it has the ability to preserve, repair, maintain, renovate, rehabilitate, manage or operate housing accommodations or to engage in other housing preservation and community renewal activities in such region; that the housing preservation and community renewal activities which are to be performed pursuant to the proposed contract are needed by the region; and that the corporation possesses or will acquire or gain access to the requisite staff, office facilities with direct access to such region, equipment and expertise to enable it to perform the activities which it proposes to undertake pursuant to such contract; provided, however, that merged corporations' office facilities may be located outside such region if they are located in a municipality wholly contained within the merged corporations' region, and provided further, however, that it shall not be a bar to the commissioner's contracting with a corporation that one or more other organizations, are conducting housing preservation and community renewal activities wholly or partially within the same region whether or not pursuant to contract with the commissioner.

3. The commissioner may enter into a contract pursuant to this section only if he determines:
- (a) that the region proposed to be served by the applicant is an appropriate portion of the rural area of the state for the performance of activities pursuant to this article by a corporation;
 - (b) that such region contains significant unmet housing needs of persons of low income, that a substantial portion of its population consists of such persons, and that the housing stock in the region, because of its age, deterioration, or other factors, requires improvement in order to preserve the communities within the region;
 - (c) that the particular activities to be performed by the corporation will meet one or more needs of the region and are reasonably calculated to have a positive effect on regional preservation, stabilization or improvement;
 - (d) that the corporation's officers, directors and members are fairly representative of the residents and other legitimate interests of the region, that they may be expected to carry out the contract in a responsible manner, and that a majority of the directors of the corporation are residents of the region;
 - (f) that any fees received or proposed to be received by the corporation in connection with its activities pursuant to the contract are fair and reasonable;
 - (g) that the corporation will, to the extent possible, give preference in hiring to residents of the region who are unemployed or underemployed;
 - (h) that the corporation will, to the maximum extent feasible, dispose of residential buildings owned or to be acquired by it to the occupants thereof or to cooperative groups whose members shall be occupants thereof; and
 - (i) that due consideration will be given to the interests of occupants of properties owned or to be acquired by the corporation.

4. Contracts pursuant to this section shall be for a period of no more than one year, but may be renewed or extended from year to year; they shall define with particularity the region or portion thereof within which the housing preservation and community renewal activities shall be performed; they shall specify the nature of the housing preservation and community renewal activities which shall be performed including the approximate number of buildings, residential dwelling units and local retail and service establishments which shall be affected; they shall locate and describe, with as much particularity as is reasonably possible, the buildings with respect to which such activities shall be performed during the contract term; and they shall specify the number of persons, salaries or rates of compensation and a description of duties of those who shall be engaged by the corporation to perform the activities embraced by the contract together with a schedule of other anticipated expenses.

5. Prior to renewing or extending a contract or entering a succeeding contract with a corporation the division shall determine that:

- (a) the corporation shall have substantially completed the housing preservation and community renewal activities specified in the contract to be renewed, extended, or succeeded;
- (b) the corporation shall have received the sums, services, and funds specified in subdivision four of section one thousand four of this article; and
- (c) the activities carried out by the corporation pursuant to its contract shall have had a significant impact on the community's needs as specified in the contract.

6. Prior to terminating, not renewing or not extending a contract the division shall:

- (a) determine that the corporation is in violation of the terms and conditions of the contract or that funds provided pursuant to the contract are being expended in a manner not consistent with the terms of the contract or the provisions of this article; or
- (b) determine that necessary and appropriate technical assistance has been provided without significant improvement in the activities of the corporation; and
- (c) provide the corporation with written notice, at least forty-five days in advance, of its intent to

terminate, not renew or not extend the contract and provide the corporation with an opportunity to appear and be heard before the division with respect to the reasons for such proposed termination, non-renewal or non-extension. At the same time that the corporation is notified of the division's intent to terminate, not renew or not extend the contract, the division shall likewise inform the senate and assembly members who represent areas within such corporation's geographic boundaries.

7. The division shall establish, for renewal of contracts, a procedure which provides the corporation with at least forty-five days notice of the corporation's obligations and rights in that process, informs the corporation of the amount of the renewal contract, and facilitates the timely execution of the contract and disbursement of funds.

8. The division may temporarily withhold payments and may elect not to renew or extend a contract or enter a succeeding contract with any not-for-profit corporation if the corporation is not in compliance with its contract, has without good cause failed to submit documentation required under contract or requested by the division to make the determinations required under subdivision five of this section or has not satisfied any other conditions consistent with this article for renewing or extending a contract or entering a succeeding contract.

§ 1004. Payments pursuant to contracts. 1. Each contract entered into pursuant to this article shall provide for payment to the corporation for the housing preservation and community renewal activities to be performed by it.

2. Payments pursuant to this section shall be restricted to sums required for the compensation of persons employed by, and consultants retained by, the corporation for the performance of the activities covered by the contract and other costs and expenses directly related to such employees and consultants.

3. No part of any such payment shall be used to defray in whole or in part the cost of acquisition, improvement, rehabilitation, operation or demolition of any building or other structure, but this provision shall not prohibit the use of such funds for planning any such activity or for the expenses of providing office and related facilities for the corporation for use in carrying out its activities pursuant to the contract. Payments shall be made by the division to the corporation at such periods, not less frequently than semi-annually, as shall be provided in the contract. Such payments shall be made at or prior to the commencement of each such time period, to compensate the corporation for the activities which are to be carried out during such time period provided, that with respect to contracts entered into on or after June thirtieth, nineteen hundred ninety-seven the first such payment shall be made by the division beginning on or after July first of the fiscal year for which an appropriation in support of such payment was made and provided further that the final such payment to the corporation shall be made no later than March thirty-first of such fiscal year, unless such payment has been withheld pursuant to subdivision eight of section one thousand three of this article.

4. In negotiating each contract, the division shall consider and take into account any and all other sums available or anticipated to be made available to the corporation from any and all sources which may be used to defray the costs of the housing preservation and community renewal activities set forth in the contract, including, without limitation, fees generated by the management of housing accommodations, contributions from private foundations, corporations, firms and individuals and funds received under grants and contracts pursuant to any program or programs operated or administered by any governmental agency or instrumentality and shall make a determination that the sums available or anticipated to be made available for the corporation from such other sources, together with the value of services to be rendered for the benefit of the corporation for which payment is not required to be made by such corporation, amount to at least thirty-three and one-third percent of the amount of such contract.

5. When disbursing funds for contracts with not-for-profit corporations, pursuant to section one thousand three of this article, the division shall use the following criteria, formulas and tables to determine the distribution of funds:

(a) (i) The total unmerged corporation funding shall equal the current number of unmerged corporation contracts multiplied by the per group award.

(ii) The unmerged corporation funding shall equal the per group award.

(iii) The merged corporation funding shall equal the funding modification multiplied by the per group award.

(b) Merged corporation funding shall be determined on an individual basis for each not-for-profit corporation. The following tables show the funding modification to be used:

(i) In the case of two not-for-profit corporations merging, the following table shall be used:

Years since merger	Funding modification
1	200%
2	190%
3	180%
4	170%
5	160%
6	150%

(ii) In the case of three not-for-profit corporations merging, the following table shall be used:

Years since merger	Funding modification
1	300%
2	290%
3	280%
4	270%
5	260%
6	250%
7	240%
8	230%
9	220%
10	210%
11	200%

(iii) In the case of four or more not-for-profit corporations merging, the following table shall be used:

Years since merger	Funding modification
1	400%
2	390%
3	380%
4	370%
5	360%
6	350%
7	340%
8	330%
9	320%
10	310%
11	300%
12	290%

13	280%
14	270%
15	260%
16	250%

(c) If a not-for-profit corporation that has undergone a merger continues to renew their contract beyond the timeframes listed in the above tables, it shall have its funding determined using the last funding modification listed.

(d) The merged corporation savings shall be determined on an individual basis for each merged corporation. It shall be calculated by subtracting the amount of such corporation's merged corporation funding from the amount the merged corporations would have received if they had maintained separate contracts.

(e) The per group award shall equal the total funding available minus the amount for the contract with the rural preservation coalition which shall equal the total unmerged company funding plus the sum of the merged company funding.

§ 1005. Enforcement of standards for contract performance. 1. The division shall by regulation provide for formal evaluation of the performance of a corporation to determine its progress in achieving the objectives outlined in the annual housing preservation and community renewal plan contained in its contract with the division. Such evaluation shall include a review of the efforts of the corporation to execute each of the components of its plan and a consultation between the corporation and the division regarding the findings of the division relative to performance. The division shall provide or cause to be provided technical assistance determined to be necessary by the division to improve the ability of the corporation to execute each of the components of its plan. Such evaluation and determination of the need for technical assistance shall consider the financial and staff resources of the corporation for the period evaluated and any special considerations which may have had an impact on performance during the period.

2. If the division determines that a corporation has not made sufficient progress toward achieving the objectives of its annual housing preservation and community renewal plan the division shall conduct a site visit to review these findings and, if warranted, shall place the corporation on probation.

3. The division shall terminate or not renew or not extend a contract in accordance with provisions of subdivision seven of section one thousand three of this article if the commissioner determines that the performance of a corporation is not sufficient to merit continued participation in the program.

4. Notwithstanding the foregoing, the commissioner may terminate any contract upon a finding of substantial non-compliance or other substantial breach of the contract.

§ 1006. Technical services and assistance to corporations and rural areas. 1. In accordance with the policy of this article, the division shall encourage the creation, development and strengthening of new not-for-profit corporations to perform housing preservation and community renewal activities in the rural areas of the state, and is authorized to take all steps necessary to that end. The division shall provide technical services and assistance to not-for-profit corporations seeking to serve the housing or community renewal needs of rural areas, to better enable such corporations to meet the requirements of, and obtain funding under this article or any other program of governmental assistance, federal, state or local, to carry out their present and proposed activities, and otherwise to further the purposes and policy of this article. Such services and assistance may be provided through the division's own personnel and facilities, through contractual services, or otherwise.

2. The affordable housing corporation or the housing trust fund corporation, as the case may be,

shall provide an incentive grant to each corporation that is awarded a contract pursuant to article eighteen or nineteen of this chapter. Such incentive grants shall consist of the payment of an additional sum of money equal to three percent of the amount payable to such corporation pursuant to each contract provided, however, that such payment shall not be counted against the per dwelling unit total imposed by subdivision one of section eleven hundred two of this chapter or the per dwelling unit limitation imposed by subdivision one of section eleven hundred twelve of this chapter, and provided further that such additional amount shall not exceed forty thousand dollars per contract. Such incentive grant shall be utilized either for purposes consistent with the provisions of this article or for the cost of housing preservation and community renewal activities related to such contract and shall not be subject to the limitation on the amount of funds which may be received by corporations contained in subdivision four of section one thousand three of this article. Such incentive grant shall be added to and considered a payment under the contract for purposes of allocating funds to any single municipality.

§ 1007. Rules and regulations. The commissioner shall issue rules and regulations for the administration of this article. Such rules and regulations shall include provisions concerning requirements as to eligibility for contracting with the commissioner; the form of applications for contracts; supervision and evaluation of corporations which contract with the commissioner including standards and performance criteria for continued, increased or decreased funding to insure the corporations meet the objectives of this article and the objectives outlined in their housing preservation and community renewal plans; reporting, budgeting and record keeping requirements; provisions for renegotiation, modification, termination, extension and renewal of contracts, which provisions shall include the bases for funding increases from the preceding contract including, but not be limited to, performance which exceeds minimum performance criteria and provisions for probationary periods where appropriate; provisions for technical services and assistance to such corporations within the limits of available funding; protection of the interests of tenants in buildings owned or managed by such corporations; and may include any provisions, not inconsistent with the provisions of this article or other applicable law, which the commissioner deems necessary or appropriate to carry out the policy and purposes of this article. Such rules and regulations shall prohibit any corporation receiving funds under contracts entered into pursuant to this article (i) from engaging in any activities promoting any political candidate or party or (ii) from expending any such funds in activities the purpose of which is to influence legislation.

§ 1008. Relationship to other laws. Nothing in this article shall be deemed to deny or limit the right of any corporation to seek or receive assistance under, or otherwise participate in, any other program pursuant to this chapter, or any other governmental program relating to housing or community renewal. Nothing in this article shall be deemed to deny or limit the right of any corporation to carry out any program or service through a subsidiary corporation or other instrumentality.

§ 1009. Annual report. The commissioner shall, on or before December thirty-first in each year submit a report to the legislature on the implementation of this article. Such report shall include, but not be limited to, for each company receiving payments under this article: a description of such company's contract amount and cumulative total; the specific housing and community preservation activities in rural areas performed by such company; the findings required by the commissioner under subdivision two of section one thousand three of this article; the amounts of monies received by the company from sources other than payments made pursuant to this article; the value of services rendered for the benefit of the company for which payment is not required to be made; and such other information as the commissioner deems appropriate.

§ 1010. Rural aging services. Housing preservation and community renewal activities which are otherwise eligible under subdivision five of section one thousand two of this article, but which are or have been funded under the rural aging services program operated jointly by the division and the state office for the aging, shall not be subject to the limitation on the amount of funds which may be received by corporations contained in subdivision four of section one thousand three of this article. All provisions otherwise applicable to funds received under section one thousand three of this article shall also apply to funds received under this section.

§ 1011. Merged company savings fund. The division shall create a fund to hold and shall transfer all funds determined to be merged corporation savings pursuant to paragraph (d) of subdivision five of section one thousand four of this article into such fund. The division shall use such funds, as available, for entering into new contracts, pursuant to section one thousand three of this article, with not-for-profit corporations located in areas of the state that are currently unserved by a not-for-profit corporation that is maintaining a contract pursuant to section one thousand three of this article.

2. Rural Preservation Program Conflict of Interest Regulations

- a) The following are restricted from holding voting board membership, serving as officers of the Company and/or in staff management positions, except where otherwise required by statute:
- (1) state legislators and members of their staffs who hold policy making positions;
 - (2) commissioners and chairpersons of state departments and their deputies and assistants (including members or directors of public authorities, public benefit corporations, boards, commissions and councils);
 - (3) staff of HCR;
 - (4) statewide elected officials, including the Governor, Lieutenant Governor, Attorney General and Comptroller, and members of their staffs who hold policy making positions;
 - (5) chief executive officials and members of the legislative bodies of counties having a population of 275,000 or more, within which the project is located, or cities, towns and villages having a population of 25,000 or more, within the county in which the project is located, except where board membership for such persons is mandated by other relevant federal or state statutes; and
 - (6) political party chairpersons, party organization leaders and members of their executive committees in the state, counties having a population of 275,000 or more, within which the project is located, or cities, towns and villages having a population of 25,000 or more, within the county in which the project is located.
- b) The following shall not receive any compensation whatsoever from a recipient organization, directly or indirectly, for services or goods rendered to such organization unless the goods or services are provided pursuant to an award or contract let, unless otherwise required, after a good faith effort to obtain competitive prices is made, the results of which were reported in writing prior to the award of the contract and were approved by the Division of Housing and Community Renewal which approval shall be based on comparison to arm's length transactions and the needs of the project:
- (1) state legislators and members of their staffs who hold policy making positions;
 - (2) commissioners and chairpersons of state departments and their deputies and assistants (including members or directors of public authorities, public benefit corporations, boards, commissions and councils);
 - (3) staff of HCR;
 - (4) statewide elected officials, including the Governor, Lieutenant Governor, Attorney General and Comptroller, and members of their staffs who hold policy making positions;

- (5) chief executive officials and members of the legislative bodies of counties, cities, towns and villages in which county the project is located;
- (6) political party chairpersons, party organization leaders and members of their executive committees in the state, counties, cities, towns and villages in which county the project is located;
- (7) voting board members and officers, except for salary payments of officers which shall require the approval of the commissioner which approval shall be granted if the duties assigned to the officer correspond to duties normally assigned to an executive director;
- (8) staff members of the recipient organization, except for salary payments;
- (9) the immediate families of persons in paragraphs 1 - 8 of this subdivision; and
- (10) any firm, association, corporation or partnership in which any individual listed in (a) or c) hereof holds an interest of 10 ten percent or more.

These provisions apply to all persons and entities whether or not their involvement with, or compensation from, a recipient organization is related to the project funded pursuant to this program.