



**Empire State
Development**

EAST SIDE COMMERCIAL BUILDING STABILIZATION FUND **GUIDELINES**

2022 PROGRAM UPDATE



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East Side Commercial Building Stabilization Fund

Introduction and Overview

As part of New York State’s overall effort toward the revitalization of Buffalo’s East Side, Empire State Development (“ESD”) in 2019, established the East Side Commercial Building Stabilization Fund (“ESCBSF” or the “Fund”). ESCBSF is designed to provide much needed building stabilization repairs to buildings that are at risk of demolition in an effort to further help to protect the fabric, density, character, and community on the East Side – making sure that building assets on the East Side that may have current challenges are able to be maintained for prospective future development as mixed-use, retail, commercial, and housing uses, and can help to build up the strong commercial activity already present in areas on the East Side.

Program Purpose, Goals and Partners

Purpose & Goals

A unique asset in the story of Buffalo’s rebirth and resurgence has been the reuse of its stock of historic buildings which has breathed new life into former manufacturing and commercial buildings in new, mixed-use ways. It has been an important element in the region’s smart growth strategy, ensuring that the region’s unique history, beauty, and sense of place are retained through its architecture, landscapes and urban design, and reversing the decades-long practice of demolishing historic building stock. New York State, in recognition of the value of preservation and reuse, is also committed to the restoration of historic structures through state historic tax credits.

Like the City as a whole, the restoration of buildings on the East Side, especially along its commercial corridors, is imperative to the resurgence in the community. More than any other area of the city, the East Side has seen much of its fabric disrupted through “demolition by neglect” – allowing a property to suffer severe deterioration, potentially beyond the point of repair, leaving the City no choice but to have to tear down the blighted and dangerous building. In other instances, perhaps an owner may have been willing to work on redevelopment of the building, but they lack the funds to stabilize the property or the ability to self-develop.

The East Side Commercial Building Stabilization Fund provides a dedicated funding source that supports near-term stabilization¹ of at-risk historic² buildings in the target investment areas of the East Side Corridor Economic Development Fund (“ESCEDF”). The Fund supports smaller, seal-up efforts such as roof patching, mothballing precautions, etc. – or rather, correcting obstacles that are preventing active use and business activity – to help prevent having to deal with crisis-level failures in the future or, even worse additional emergency demolitions of the existing urban fabric along these corridors. It will ensure that buildings with code violations or structural deficiencies but where there is not a currently viable project are not torn down as a short sighted “solution”; rather, such buildings will be kept viable through this fund, so that when there are market opportunities, the resources themselves will be intact and available for re-use.

¹ For purposes of this Fund, “stabilization” refers to undertaking preventative repairs that correct structural deficiencies or code violations, which if not corrected, could lead to loss of the building through collapse or demolition.

² For purposes of this Fund, “historic” shall mean any building that has existed on the site since prior to urban renewal, or for at least 50 years; or that contributes to the unique neighborhood character of the place in which it is located and contributes to the vision for revitalized business districts through providing an opportunity for business development at the site and wealth creation in the neighborhood. Such buildings may or may not be listed on or determined to be eligible for listing on the State and National Registers of Historic Places (S/NRHP).

Program Partners' Roles and Responsibilities

ESD maintains a grant agreement with Preservation Buffalo Niagara (“PBN”) which serves as the not-for-profit Local Program Administrator (“LPA”). PBN was selected based on its prior experience working on stabilization and preservation related activities and successful grant administration of other ESD programs. Any reference to an LPA throughout these Guidelines and their applicable attachments is a reference to PBN.

ESD provides the capital funding and technical guidance for the Fund along with financial resources for PBN to procure and contract with its own dedicated Architecture/Engineering/Construction Inspection consultant (“Technical Consultant”). Additionally, PBN is supported by the “East Side Avenues” Program, a combined initiative of local philanthropic organizations, administered by the University of Buffalo Regional Institute (“UBRI”), through direct grants to support PBN with staffing and administration resources to manage the program, and through direct capacity building technical assistance by the East Side Avenues team.

PBN is responsible for all aspects of grant administration and ensuring the successful completion of all projects including but not limited to: marketing the Program; conducting outreach and community engagement for identifying potential properties and building owners; evaluating and selecting projects for participation; managing applicable contracts for Technical Consultants and construction contractors; financial management of all grant funds including contractor payment; and assuring compliance with all local, state and federal laws and regulations.

The City of Buffalo Department of Permits and Inspection Services (“DPIS”), the local agency responsible for the enforcement of all non-criminal ordinances in the City of Buffalo (aside from those falling under the purview of the Department of Public Works), will contribute efforts to the program. Representatives from DPIS will coordinate with PBN and ESD to provide details regarding any current housing code violations and any outstanding court warrants; participate in the review of applications; and offer guidance with respect to addressing building code issues at candidate properties. DPIS may also offer suggestions for potential candidate buildings based on inspection of building conditions and knowledge of the program.

Program Target Areas, Providers and Eligibility

Applicants and buildings must meet the following criteria for program eligibility:

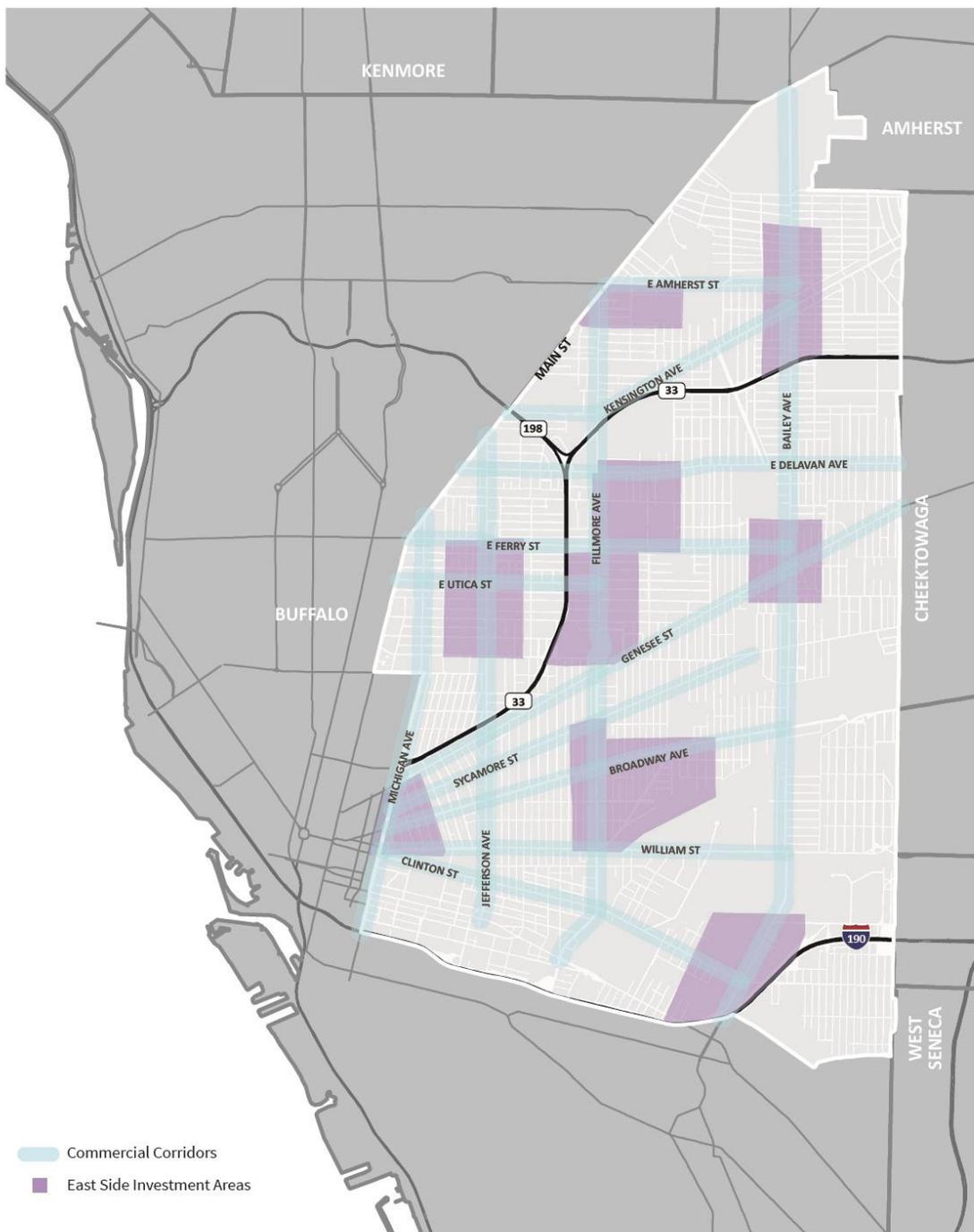
The building must be a commercial or mixed-use property located on Buffalo’s East Side.

For the purposes of the ESCEDF, the East Side is defined as 17 square miles, bounded by the University at Buffalo (UB) to the north; Main Street and Michigan Avenue (excluding the Buffalo Niagara Medical Campus and Central Business District) to the west; I-190 and the Buffalo River to the south; and the City line to the east. While any historic commercial or mixed-use building located on the East Side is eligible to apply, preference will be given to those buildings along commercial corridors especially in the target investment areas of the ESCEDF.

Applicants must demonstrate ownership of all buildings/real estate considered part of the proposed project *or demonstrate expressed authorization* of the property owner. Buildings must be privately owned.

East Side Eligible Geography Map

Commercial Corridors and Investment Areas



The building must be historic. For purposes of this Fund, “historic” shall mean any building that has existed on the site since prior to urban renewal clearance activities on the East Side of Buffalo, or for at least 50 years (whichever the lesser); or that contributes to the unique neighborhood character of the place in which it is located and contributes to the vision for revitalized business districts through providing an opportunity for business development at the site and wealth creation in the neighborhood. Such buildings may or may not be listed on or determined to be eligible for listing on the State and National Registers of Historic Places (S/NRHP).

Owners must maintain properties after stabilization. Property owners receiving assistance to stabilize their buildings under the Fund must file/record a “Property Maintenance Declaration” with the Erie County Clerk, stating that the subject property received assistance under the Fund, and that they will maintain the property in a manner consistent with the Fund objectives for a minimum of five years from date of completion of the stabilization project. In the event of non-compliance, the amount of grant funds will be subject to repayment in accordance with a simple annual declining balance, based on the five-year enforcement period.

Acceptable uses of funds are detailed in Eligible & Ineligible Use of Funds page 6.

Program Fund Activity

Preservation Buffalo Niagara Serving as the Dedicated Local Program Administrator

PBN will receive a program grant from ESD as outlined in their respective Grant Disbursement Agreement. The requirements of this agreement will outline that PBN shall retain 10% of their overall ESD grant as a contingency fund to help cover unforeseen issues as they come up on individual projects. PBN will manage contingency funds on an as-needed basis.

In addition, 10%³ of the ESD grant will be allocated to cover the costs of a Technical Consultant for Architectural, Engineering, and Construction Oversight services to offer such services to Applicants to help scope, design, bid, and inspect building stabilization improvements made with grant funds. The remaining funds after these costs are covered shall be used by PBN to provide grants under the Program to individual property owners and businesses.

PBN will be required to solicit its own Technical Consultant or Consultant team using guidance from ESD on necessary skills/expertise to be available prospective grantees for each Program. PBN must formally solicit proposals from Technical Consultant teams in coordination with ESD. PBN will be responsible for overall management, monitoring and payment of its respective Technical Consultant teams using ESD dedicated funds.

For Participating Property Owners⁴

Through the Program, property owners and businesses in the target geographies are eligible to receive grants from PBN of up to \$150,000 for stabilization-related activities for commercial or mixed-use buildings. For purposes of this program, “stabilization” refers to undertaking preventative repairs that correct structural deficiencies or code violations, which if not corrected, could lead to loss of the building through collapse or demolition.

³ Technical Consultant costs in excess of 10% of a total ESD grant to an LPA may be permitted upon ESD approval, but this will reduce the amount available to PBN for providing grants to individual properties/businesses.

⁴ For the purposes of these Guidelines, the term “Property owners” includes business owners that are not the owner of a subject property for which Program funds would be used to improve, provided they demonstrate/document site control (e.g., a property lease permitting them to make proposed improvements) and the actual Property owner’s consent to participate in the Program.

Property owners will be required to provide a minimum 10% contribution to the total construction cost of their project, provided directly to the PBN. Property owner contribution commitments are to be demonstrated upon applying to the Program, delivered to PBN prior to construction commencing and must be documented by PBN at construction completion/request for final payment by ESD.

All applicable project design and development, construction monitoring, and construction close out costs will be covered at no cost to participating property owners through the PBN-contracted Technical Consultant. Should a property owner wish to use their own design/technical professionals, these costs will not be covered by the program grants but can be counted towards the owners' required contribution.

Projects with scopes with an identified need in excess of the \$150,000 maximum grant amount will require that the Owner pay for the outstanding balance, beyond the required 10% owner's contribution, unless otherwise approved by ESD.

PBN will be responsible for paying all construction costs, inclusive of the property owner's 10% contribution, directly to the contractors on behalf of the property owner.

See Selected Project Development page 9 for details on grant amounts once awarded.

Administrative Guidelines for Local Program Administrators

Program Development & Project Solicitation

Preparing for Program Launch

Prior to opening the Program for applications, PBN must procure/secure their Technical Consultants. The Technical Consultants shall be contracted to be available to PBN on an as-needed, hourly basis through a not-to-exceed contract per round of program funding. The Technical Consultants will be a part of the process from project creation to final payment sign off.

Additionally, the PBN should establish members of its Project Selection Committee which should be comprised of PBN, its Technical Consultants, ESD, City of Buffalo DPIS staff, and community representatives.

Outreach and Marketing

PBN will serve as the contact between prospective participants and ESD, working to identify structures in neighborhoods that hold high community significance and interest in redevelopment, and that the priorities are driven by the community.

PBN will work to ensure awareness of the Fund and the application process and document these efforts. This shall include efforts such as:

- Distribution of materials to property owners in the target area and to City of Buffalo officials, and made available at libraries, chambers of commerce, business associations, and other local partners;
- Conducting periodic public informational meetings to present information on the Fund and answer questions; and
- Maintaining distribution lists, public notices and other documentation of marketing and outreach efforts in program files.

Program Priorities for Projects

Program funds will be dedicated to capital funding for exterior and interior preventative repairs that correct structural deficiencies, water infiltration, and/or code violations of legacy commercial/mixed-use buildings, which if not corrected, could lead to loss of the building through collapse or demolition, and associated risks to public life safety and loss of community fabric. Funds will be awarded to proposed building repairs including but not limited to the following types of improvements, provided they are consistent with all applicable zoning, development, and building code and regulations:

- Roofing including patching and replacement
- Structural repairs including steel/wood shoring, reinforcements, replacement of key members, etc.
- Masonry/Cement work, including repointing, patching, and spot replacement
- Building concrete work/repair (topping of decks, repair of expansion joints, etc.)
- Chimney repair/replacement
- Foundation repairs (footings, columns, support pads, etc.)
- Correction of drainage deficiencies (gutters, drains, channels, etc.)
- Repair/stabilization of other building systems that pose a near-term (i.e., five year) risk of prompting a major building failure if left unchecked.

Eligible & Ineligible Use of Funds

Fund must be used for capital purposes, including work pertaining to code violations and outlined in the Program Priorities section above.

Program funds must be used for capital purposes, including work pertaining to code compliance. Project delivery expenses such as architectural and engineering work can be considered as part of the owner's contribution if the owner and PBN have agreed upon the owner's use of outside consultants and PBN has approved the proposed consultants the owner would like to use that is different than the ESCBSF-provided Technical Consultants.

Properties listed for sale or with the intent to sell can be eligible for the program, however, grant funds will be subject to pro rata recapture if property is sold within five years of disbursement of funds unless the transaction is approved by ESD⁵.

Ineligible uses of Program funds include the following:

- Stabilization of residential properties;
- Project costs incurred by the property owner, including design costs, prior to formal acceptance into the Program;
- Expenditures to cover late fees, interest or back taxes;
- Decorative or cosmetic improvements that do not directly contribute to stabilizing the long-term structural/physical integrity of the building.

Improvements involving structures owned by religious or private membership-based organizations (e.g., not including former buildings of this type owned by non-sectarian entities) will require additional due diligence in conjunction with ESD to ensure that organizational policies are in place to allow grants to be awarded.

⁵ It is the intention that this Fund help return buildings to productive use. Therefore, it would not preclude resale of a building that has been improved through this funding. However, resale of properties will be monitored through a Property Maintenance Declaration (see Attachment J) to ensure the buildings continue to provide an opportunity for local residents to redevelop them, would not involve substantial price increases associated with "flipping" practices, or are not sold to another building owner who does not intend to reuse the building in a definable time period.

Owners with housing court violations are eligible to apply for program. However, all back taxes must be paid prior to receiving funds, and funds cannot be used to pay taxes.

Grants will be provided for 6 months and no longer than 12 months. Extensions on awards will be considered on a case-by-case basis provided substantial progress has been made on the project in the initial 12-month period.

Application Process and Applicant Eligibility

The Application Form shall be available to the public per round for a minimum of 30 days prior to reviewing applications. Prior to submitting applications, interested applicants can receive assistance from PBN and its Technical Consultants to develop conceptual project scopes and to ensure complete applications and viable projects prior to final submittal. PBN is encouraged to use the ESD template application form or a relative equivalent to ensure that each applicant meets the following criteria in order to be considered for funding:

- Short narrative on proposed improvements
- Previously completed renderings, drawings, quotes, if applicable
- Estimated scope amount or budget for project
- Photos of existing structure
- Proof of property ownership or site control/owner's consent
- Proof of property owner's contribution within an estimated scope's range (bank statement, line of credit, other grant source)
- Proof of tax compliance for subject property
- Proof of insurance for subject property
- Evidence of the absence of any liens on subject property
- Disclosure of any Housing Court Violations
- No recent or pending felony or misdemeanor (other than a minor traffic violation) convictions by applicant
- Absence of any or threatened litigation that would have a material effect on Applicant's financial condition
- Affirmation of understanding of Technical Consultant services, required owner's contribution, and LPA Payment Process.

See Attachment A for Application Template.

Property owners that received Program funding from Round 1 are eligible to re-apply under a subsequent funding Round, as are applicants that applied for funding in past round(s) and were not awarded funding. Either type of applicant would be equally evaluated based upon a proposed project potential to meet Program selection criteria noted below. Any award considered for an applicant that is reapplying and is (re)accepted shall not have their ESCBSF grant total exceed a cumulative \$150,000 over multiple rounds, unless otherwise approved by ESD.

Project Review & Selection Process

Project selection will be reviewed by a Project Selection Committee, composed of PBN, its Technical Consultants, ESD, City of Buffalo DPIS staff, and community representatives. PBN should utilize the ESD-provided project selection criteria and establish a clear project selection process that is publicly available.

This process must be used consistently throughout the term of the Grant Disbursement Agreement between PBN and ESD and should be used for as many rounds of projects as time and funding allow.

- PBN's Project Selection Committee will implement the project selection process and generate funding decisions. The Selection Committee will be comprised of PBN Staff, ESD, City of Buffalo DPIS staff, and community representatives. LPA Technical Consultants will serve in a technical advisory capacity to the Selection Committee for evaluating project feasibility and proposed scope.
 - Submitted project applications will be reviewed and prioritized based on the following criteria.
 - All projects must achieve these five core criteria:
 - **Project Readiness:** Applicant has submitted a complete application and it able to demonstrate an estimated 10% contribution to the estimated total project cost.
 - **Property location:** Commercial or mixed-use properties along or proximate to commercial corridors especially in the target investment areas of the ESCEDF (see East Side Eligible Geography Map page 3), located within a local landmark/historic district, or clustered preferably with one or more comparable commercial/mixed use structures that could form a neighborhood commercial node.
 - **Urgency:** Properties that are at high risk for major building failures and/or demolition and need timely and critical stabilization interventions to save the property.
 - **Likelihood of future redevelopment:** Properties that need short-term stabilization solutions but for which a redevelopment/renovation plan exists or there is interest from the owner applicant in future redevelopment or marketing the building as a "preservation ready site" for a new owner.
 - **Impact:** Properties that are vacant/significantly underutilized and/or in locations where stabilization of the building will improve the overall business environment of the neighborhood.
 - Applicant preference will increase based on the project's ability to meet some/all of the following criteria:
 - **Community support:** Properties for which there is strong community support for stabilizing to avoid future demolition.
 - **National Register eligible:** Properties listed on or eligible for the National Register of Historic Places will be given preference.
 - **Residency:** Those applicants who are residents of the East Side of Buffalo and City of Buffalo.
 - **Development experience:** Those applicants that have some experience with real estate development and have undertaken redevelopment and/or stabilization activities.
 - **Preservation Easement:** Building owners who are willing to enter into a 10-year preservation easement on the property with Preservation Buffalo Niagara.
- See Attachment B for Selection Criteria Template.**
- Project selection criteria and evaluation process should be made available to applicants through an attachment to the application or on PBN's website.

- It may be permitted for PBN to allocate funds for a property owned by a member of its board. The allocation must be consistent with the selection procedures described above, as well as in the written supplemental procedures. The allocation must also be consistent with PBN's adopted bylaws or other policies. If the identified Project Selection Committee selects a property owned by a board member, the material facts of the potential conflict of interest must be disclosed to the not-for-profit board. The board must authorize this project selection and contract by a vote that is sufficient for such purpose, without counting the vote of the interested board member. The board member whose property may receive assistance may not vote on or participate in discussions concerning that matter. This vote must be clearly documented in the board's meeting minutes.
- PBN must retain clear documentation of each project selection committee decision in the program files. This must include a determination for each application reviewed, and each project selected. This documentation should include project selection memos, Project Selection Committee meeting minutes or other related correspondence.
- PBN will advise applicants on the disposition of an application within approximately 30 business days of the submission of a complete application, unless otherwise advised by ESD. Accepted applicants will receive a letter that outlines that they have been recommended for participation in the program and the next steps in the process. Accepted applicants will be requested to send a signed letter, confirming their participation in the Program.
 - **See Attachment C for Program Participation Acceptance Letter Template.**
- Prior to any public announcements on selected projects to participate in the Program, PBN must coordinate with the ESD project manager and the ESD Western New York communications staff.

Selected Project Development

Scope of Work

After a property owner has confirmed their willingness to participate in the Program, they will meet with PBN and its Technical Consultant to develop a Scope of Work. This meeting may occur at the project site or after a visit to the site. PBN and its Technical Consultant will discuss guidance related to Program requirements, and then complete the Scope of Work.

See Attachment D for Scope of Work Template.

The Scope of Work must address:

- Any immediate health and safety concerns;
- The correction of code violations;
- Necessary preventative work to prevent near-term structural issues; and
- For properties on or eligible for inclusion to the State and National Registers of Historic Places, preservation of historic and/or character-defining components of the building, when possible.

The written Scope of Work must include:

- Name and contact information of Property Owner/Business Owner
- Name and contract information of Contractor
- Total project budget with breakdown of owner contribution
- Description of work
- Estimated number of working days to complete work
- List of applicable permits
- Any environmental screening and/or State Historic Preservation Office (SHPO) consultation requirements (**See Attachment E for Required Environmental & SHPO Review Requirements and ESD Approved Checklist.**)

PBN and its Technical Consultant are responsible for coordinating work write-ups with DPIS officials, the State Historic Preservation Office (SHPO; for S/NRHP-listed or -eligible properties), and other regulators. Additionally, when required, the Technical Consultant will provide required architectural, engineering, and/or environmental services for each project. These additional services will be covered by the Program at no cost to the property owner, unless otherwise determined by PBN.

If, upon scope completion, a project is not feasible or is not eligible for funds under the program, ESD and PBN reserve the right to decide not to award a building funding. Any services provided by the Technical Consultant will be provided at no cost to the property owner even if they are not ultimately awarded funding.

Once the scope of work is finalized and has been agreed to by PBN and property owner, PBN and its Technical Consultant, are authorized to develop and seek bids for the work on behalf of the property owner.

Contractor Selection

PBN and/or its technical consultant must solicit at least three (3) bids/ price quotes for each separate construction project or professional service to establish the reasonableness of project costs. Contractors must supply references and proof of proper insurance when submitting a bid/quote.

PBN and/or its technical consultant is responsible for advertising requests for bids/quotes through a minimum of its own website, the *NYS Contract Reporter*, and filing with the Construction Exchange of Buffalo & WNY. When possible, PBN is also strongly encouraged to advertise work opportunities in local/neighborhood-based communications to seek community-based, qualified contractors.

Certain principles must be upheld in seeking quotes:

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

When submitting a Bid, each contractor must include an ESCBSF Bid Submittal Form in their bid package.

See Attachment F for Contractor Bid Submittal Form.

Although a property owner may elect to get quotes/estimates from contractors to determine possible project costs, any prospective contractor must still formally submit bids to PBN through their solicitation process to be selected to undertake work for projects in the Program. PBN, with its Technical Consultant, will review the bids and will advise the property owner of acceptability of bids/proposed cost. ESD strongly recommends PBN and property owners select the lowest priced responsible bidder that has complied with the Scope of Work specifications. If PBN chooses other than the lowest responsible bidder, they must submit rationale to ESD in writing, which must be approved by ESD before contracting with that bidder.

In the event three responsible bids are not able to be attained through this process, this must be fully documented in the project file and confirmed by the Technical Consultant. If PBN is unable to achieve adequate number of quotes for a particular project, and this is properly reviewed/documentated as

specified, PBN can take alternate means to secure a contractor for a particular project, including but not limited to negotiation with an individual firm to undertake a single project and/or a group of projects collectively packaged.

Award Amount and Awardee’s Contribution Determination

Once the final contractor is selected, PBN and the property owner will finalize the award amount to each property owner based on the selected contractor’s proposal. In the event that value engineering is required to reduce the scope to stay within the Program or property owner’s budget, PBN and its Technical Consultant will work directly with the Contractor in revising the scope to achieve the revised final scope amount.

Once final scope is determined, PBN will be responsible for communicating to the property owner the final amount of ESCBSF financial assistance per project as well as determining the owner’s 10% contribution to the project. **See Attachment G for Grant Award Confirmation Template.**

The property owner and PBN will determine the sources of funds for the property owner’s 10% contribution (personal funds, line of credit, additional non-ESD public grant assistance, private grant assistance) during the application process and verify upon their acceptance into the program. These funds will be delivered to PBN once the contractor is selected and proof of owner’s contribution will be required upon final payment request by PBN to ESD.

Examples of prospective grant awards:

Example 1: \$70,000 Building Stabilization Project

ESCBSF Grant	\$63,000
Property Owner Required 10% Contribution	7,000
Total Project Cost	\$70,000

Example 2: \$111,111 Building Stabilization Project

ESCBSF Grant	\$100,000
Property Owner Required 10% Contribution	11,111
Total Project Cost	\$111,111

Example 3: \$166,667 Building Stabilization Project

ESCBSF Grant	\$150,000
Property Owner Required 10% Contribution	16,667
Total Project Cost	\$166,667

Example 4: \$200,000 Building Stabilization Project

ESCBSF Grant	\$150,000
Property Owner Required 10% Contribution + Total Project Cost Balance in Excess of max grant	50,000
Total Project Cost	\$200,000

Once the final scope amount is confirmed, PBN can begin the contracting process and construction can commence.

Contracting Procedures

PBN and selected Contractor will enter into an agreement that outlines that PBN, serving as the LPA, is responsible for review of and payment of all work to be completed at each project site. The property owner will sign a corresponding Property Owner Participation Consent letter certifying property ownership or site control, and granting permission for the work to be completed by the Contractor and be paid for by PBN at the subject property.

PBN & Contractor Agreement will specify that payments will be made by PBN directly to the contractor upon proof of an approved invoice and that the final 10% of total contract will be retained by PBN until proof of project completion. PBN & Contractor Agreement will outline the roles and responsibilities for both PBN and the Contractor. In addition, it will provide that the PBN has the right to inspect work at any time and cancel the agreement should the work being done be inconsistent with the standards mentioned in the preceding sections, or if problems with the workmanship arise, or if insurance is not maintained by the contractor.

PBN & Contractor Agreement should also specify that it is subject to beginning construction within 45 days of PBN approval through a written signed and notarized Notice to Proceed with construction estimated to be complete within six (6) months unless otherwise approved by ESD.

The aforementioned Property Owner Participation Consent letter will be attached to PBN & Contractor Agreement to confirm the Property Owner's approval of the project to be undertaken and the payment process outlined in PBN & Contractor Agreement.

See Attachment H for LPA & Contractor Agreement with Property Owner Participation Consent Letter, Including Notice to Proceed, & Anti-Bribery Certification

Selected Project Construction Management & Quality Control

a. Design Guidelines

All work must be completed in accordance with general building stabilization guidance, and must be consistent with the requirements of the Buffalo Green Code, other applicable municipal codes, and as applicable for properties on or eligible for inclusion on the State and National Registers of Historic Places, appropriate state/federal guidance for the treatment of historic properties used by SHPO. PBN and its Technical Consultants will enforce the standards throughout the development process.

b. Inspections

PBN, its Technical Consultant, and/or ESD retain the right to inspect work in progress at any point and will inspect on as needed basis for disbursement of funds. Before a final payment can be made, a final inspection will be required to be made and signed off by the PBN's Technical Consultant. PBN, the local code enforcement officer (if applicable), and the property owner will all verify that the work was completed properly and is consistent with the contracted Scope of Work. PBN and its Technical Consultants must clearly document each site visit and inspection in the project files. Inspection reports will be reviewed during a periodic ESCBSF program monitoring visits.

c. Project Signage

Properties participating in the ESCBSF are required to place an ESCBSF participant sign in a visible location at the project site during construction.

See Attachment I for Participant Sign Template.

Payment Process & Financial Management

a. Program Administration Staff Requirements

PBN's chief financial officer will be responsible for all financial transactions under the executed GDA between PBN and ESD. PBN should have a written policy on internal controls and use the policy to determine the process for review and approval of requests for disbursement of ESCBSF funds.

b. ESD to LPA Payment Procedures

ESCBSF is not a reimbursement program. PBN will not award nor disburse more than the costs identified as available per building as listed in PBN & Contractor Agreement and Signed Property Owner Consent Form.

PBN will have Program Funds periodically made available by ESD based on cumulative projected costs for up to six (6) months of projected cash flow needs of PBN for Program activities. All subsequent ESD payments will only be made upon PBN providing documentation of satisfactory completion of all work and back-up for all payments made from the prior ESD payment, including:

- Supporting documentation for Technical Consultant services
 - Executed Contract
 - Description of work performed
 - Invoices & Proof of Payment
- Evidence of proper procurement/work for each project, including:
 - Contractor Proof of Valid Insurance
 - Bid Submittal Log/Proof of No Bids
 - PBN's Technical Consultant Project Completion Sign Off
 - Lien Release
- Supporting documentation for building improvement project
 - Executed Contracts including any PBN-approved change orders or contract amendments
 - Contractor Invoices & Proof of Contractor Payment
 - Proof of Owner's Contribution

c. LPA to Contractor Payment Procedures

PBN will be solely responsible for full payment to Contractor, including the Property Owner's 10% contribution.

In the event additional project costs arise during construction, PBN will have limited construction contingency funds available for each Program Round to cover additional unforeseen costs. If project costs exceed the maximum allowable of grant funds and owner match, and PBN is unable to cover with Program contingency funds, the Property Owner shall be responsible for additional approved project costs, unless otherwise approved by ESD.

All additional project costs outside of the original contract amount must be documented and paid in advance of PBN releasing the final 10% retainage of Program funds to the contractor.

Each individual project's construction must be completed within 12 months from Notice to Proceed, unless otherwise approved by ESD.

All funds are subject to recapture at the discretion of ESD, based upon the executed Grant Disbursement Agreement between ESD and PBN.

d. LPA to ESD Quarterly Reporting Requirements

Per Exhibits contained within the GDA, PBN is responsible for adhering to formalized quarterly reporting requirements to ESD.

Ongoing Maintenance

Obligations

Property owners will be required to maintain properties that received grant assistance with ESCBSF funds for a period of five (5) years from the date of project completion and final inspection. This requires that any assisted commercial or civic units be maintained in a manner that is consistent with the goals of the ESCBSF program for the enforcement period.

At project completion, PBN will file a Property Maintenance Declaration, in a form approved by ESD, with the Erie County Clerk, on behalf of each property owner receiving ESCBSF Funds. In the Declaration, the property owner will declare that they have received assistance from ESCBSF and will maintain the property in a manner consistent with the program objectives for a minimum of five years from project completion. In the event of non-compliance or resale, the amount of grant funds will be subject to repayment in accordance with a simple annual declining balance, based on the five-year enforcement period.

Responsible Parties

PBN will monitor projects assisted under ESCBSF during the five-year enforcement period. PBN will ensure maintenance of ESCBSF investments. PBN must develop a formal plan for monitoring the assisted properties and ensuring compliance for the full maintenance term. The plan must address staff assignment of this responsibility and address continuity of operations. As part of this plan, PBN will periodically inspect assisted properties and conduct any inspections directed by ESD.

See Attachment J for Property Maintenance Declaration.

Covenants of the Recipient

PBN will comply with all applicable statues, guidelines, regulations, policies and procedures of the ESCBSF. Any defect or departure from the ESCBSF Guidelines must be requested and approved in writing. ESCBSF Guidelines are subject to change and all program participants will be notified of any changes.

Attachments

- *Attachment A: Application Template*
- *Attachment B: Selection Criteria Template*
- *Attachment C: Program Participation Acceptance Letter Template*
- *Attachment D: Scope of Work Template*
- *Attachment E: Required Environmental & SHPO Review Requirements and ESD Approved Checklist*
- *Attachment F: Contractor Bid Submittal Form*
- *Attachment G: Grant Award Confirmation Template*
- *Attachment H: LPA & Contractor Agreement with Property Owner Participation Consent Letter, Including Notice to Proceed, & Anti-Bribery Certification*
- *Attachment I: Participant Sign Template*
- *Attachment J: Property Maintenance Declaration*