



Department
of Health

Advisory Council on Lead Poisoning Prevention

*NYS Rental Registry & Proactive Inspection
Program to Identify Lead Hazards*

November 8, 2023 | 10am-1pm

Agenda

10:00am – 10:15am Registration

10:15am - 10:30am Welcome

10:30am – 10:45am Approval of May 2, 2023 Advisory Council Minutes

10:45am – 11:00am NYS Rental Registry: Program Overview

11:00am – 11:30am NYS Rental Registry: Proposed Regulatory Framework

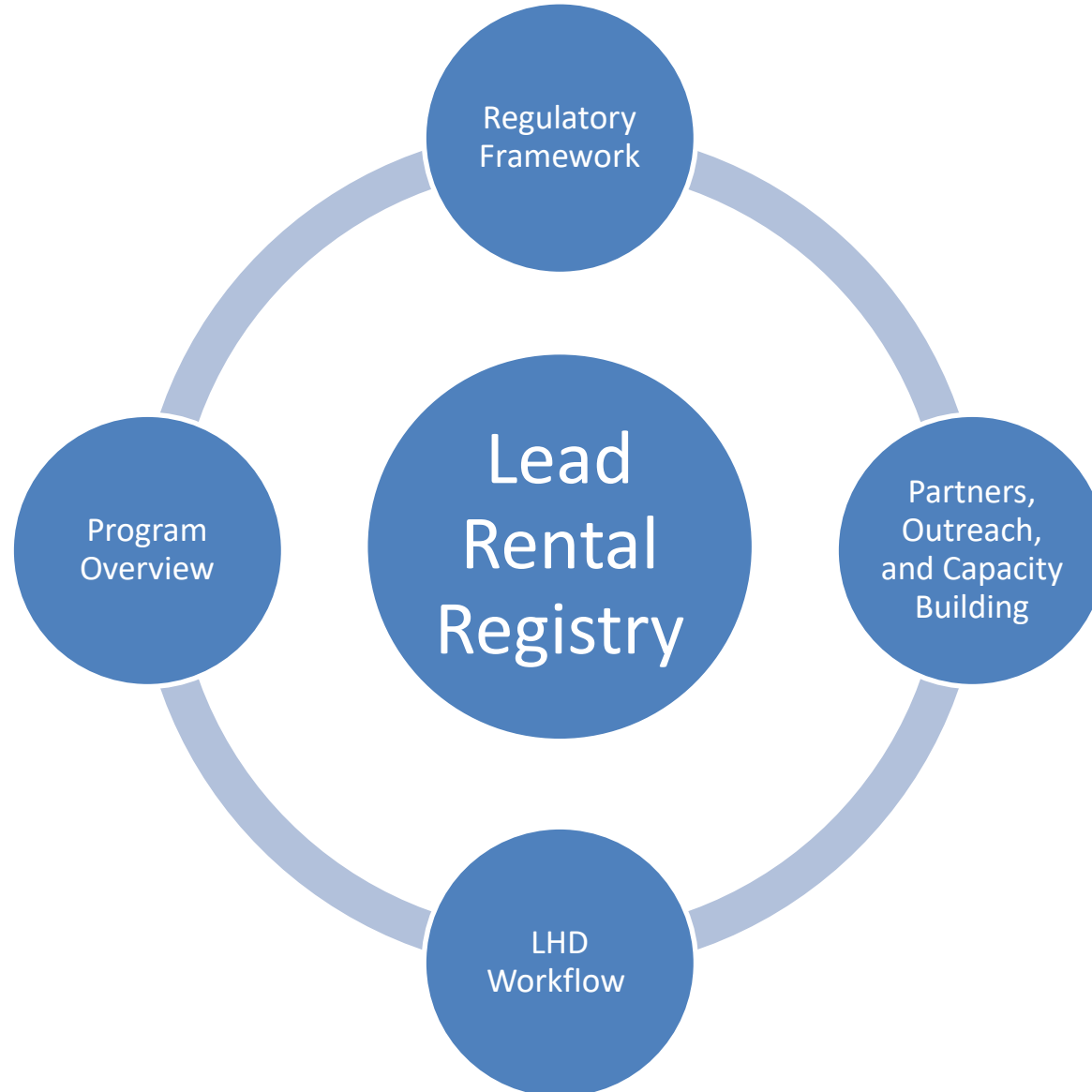
11:30am – 12:00pm NYS Rental Registry: Model Workflows for Implementation

12:00pm – 12:30pm NYS Rental Registry: Partnerships, Outreach, and Capacity Building

12:30pm – 12:45pm Council Member Feedback: General Questions and Discussion

12:45pm – 1:00pm Public Comments


Topics for Discussion



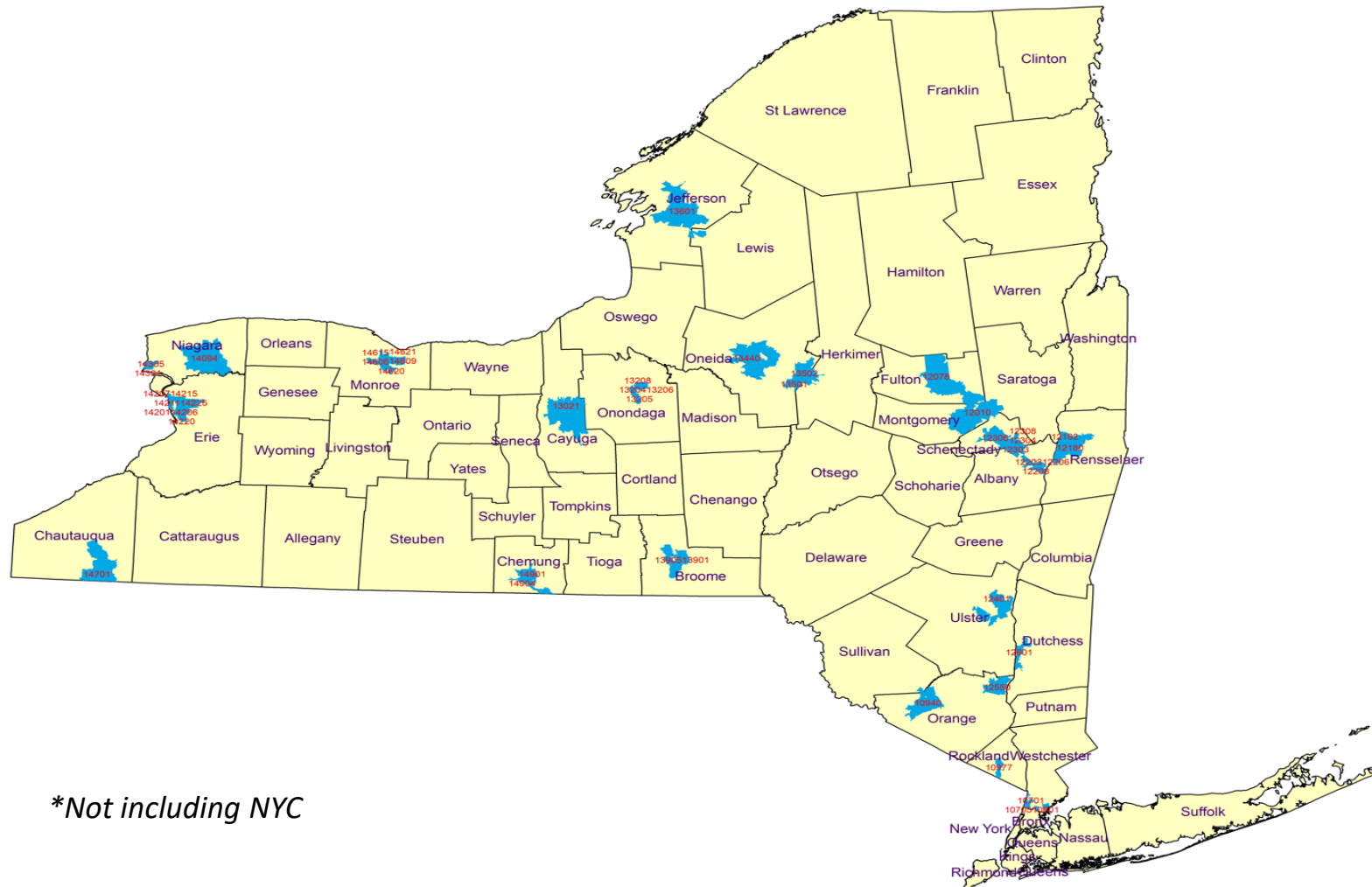
Program Goals

The goals of this program are to:

- Prevent lead exposure before children are harmed by ensuring lead safe rental units throughout communities of concern in NYS;
- Create a rental registry requiring lead safety inspection certificates; and
- Decrease the number of homes that require environmental intervention from local health departments (LHDs) due to children identified with elevated blood lead levels (EBLLs).

 *Local health departments will be responsible for implementing the program with support from NYSDOH.*

New York State Communities of Concern



*Not including NYC

High-risk Municipalities*

- Albany
- Amsterdam
- Auburn
- Binghamton
- Buffalo
- Cheektowaga
- Elmira
- Gloversville
- Jamestown
- Kingston
- Middletown
- Mount Vernon
- New Rochelle
- Newburgh
- Niagara Falls
- Poughkeepsie
- Watertown
- Rochester
- Rome
- Schenectady
- Spring Valley
- Syracuse
- Troy
- Utica
- Yonkers

Program Overview – PHL 1377

- Public Health Law §1377 requires that all property owners of dwellings within communities of concern and built **prior to 1980** with **two or more units** **register** their property through a rental registry and have a **lead hazard inspection** conducted every three years.
- The Department or their designee must provide **written notice** to all owners of residential property available for rent or lease, requiring registration.
- All rental properties will have to acquire a **lead safety certificate**, and the inspection report must be submitted to the LHD
- Inspections will include, at minimum, **visual inspections** for deteriorated paint and **dust wipe** sampling if no hazards are identified.

Program Overview – PHL 1377

- Workplans will be created in partnership with NYSDOH, to provide each LHD the option to conduct lead inspections by:
 - Allowing owners and/or third-party inspectors with 10% audit.
 - Collaborating with code enforcement.
 - Hiring additional LHD staff to conduct lead inspections.
- Hazards identified through visual inspection will require **remediation and re-inspection**.
- Dust wipe failures will require **proper cleaning, re-inspection, and resampling**.
- Homes and Community Renewal (HCR) will provide **funding to qualifying landlords to assist with remediation** project costs.
- Coordination with Department of State (DOS) to collaborate on implementation, support data sharing and **integration with municipal code enforcement agencies**.
- Remediation must be conducted by individuals with **appropriate EPA certifications**.

Proposed Regulations – Subpart 67-5

- As required by PHL 1377, promulgating regulations for the Rental Registry
- Propose to add new Subpart, Subpart 67-5 Targeted Rental Registry and Proactive Lead Hazard inspections to Title 10 of New York Codes Rules & Regulations (10NYCRR) Part 67 Lead Poisoning Prevention and Control
- Minor changes proposed to Subpart 67-2 Environmental Assessment and Abatement to clarify definitions for consistency with proposed Subpart 67-5 and small corrections to existing language

Proposed Regulations – Subpart 67-5 Framework

- Applicability
- Registration Requirements
- Inspection and Lead Safety Certification
- Notice and Demand
- Remedy for Violations
- Clearance Standards
- Enforcement Actions
- Exemption Opportunities
- Prohibition of Retaliatory Action

Proposed Regulations Subpart 67-5

Applicability

- Only qualifying residential dwellings built before 1980 containing two or more units located within communities of concern must be registered with the rental registry
 - This does not include college campuses, temporary residences such as hotels or shelters, long-term care facilities, children's camps, etc.
 - Does not apply to cities with a population of 1 million people or more

Registration Requirements

- Property owners will be required to verify prepopulated information and add missing information in the registry to include property addresses, mailing address, operating corporation or LLC, number of units in each dwelling, age of structure, and notify the rental registry of any subsequent changes to such

Proposed Regulations Subpart 67-5 (continued)

Lead Hazard Inspections and Lead Safety Certifications

- Satisfactory lead hazard inspections and lead safety certification are required every three years, and due by October 1st of the year they are due
- Third party inspectors or property owners performing self-inspections **must possess an EPA Risk Assessor certification**
- LHD staff or their designees (such as local code enforcement officers) performing the lead hazard inspections will not need to be certified but **must be trained by an EPA certified Risk Assessor**
 - Each LHD should maintain at least one staff member with EPA Risk Assessor certification.

Proposed Regulations Subpart 67-5 (continued)

Lead Hazard Inspections and Lead Safety Certifications, continued

- **Lead Hazard Inspections:**
 - Visual inspection for deteriorated paint, presumed to be lead based paint due to age (minimum) or
 - Visual inspection for deteriorated paint with XRF reading of surfaces for lead content (optional)
 - Inspection to include interior of unit and all common areas inside the building and exterior structures such as porches, garages, and sheds

Proposed Regulations Subpart 67-5 (continued)

Lead Hazard Inspections and Lead Safety Certifications, continued

- If there is no visually deteriorated paint, **dust wipe samples** will be collected and analyzed at an ELAP certified laboratory.
- If lead hazards are identified, a dust wipe sample is not collected at the time of the inspection. Dust wipe samples are taken for clearance only.
- If dust wipe samples fail, the unit must be adequately cleaned, and the dust wipe samples repeated.
- If no lead hazards are identified and the dust wipe samples are satisfactory, a **lead safety certificate** is issued, and units will be inspected again in three years.

Proposed Regulations Subpart 67-5 (continued)

Notice and Demand (or equivalent)

- If the inspection is unsatisfactory, property owners will **be issued a notice and demand (or equivalent)** that identifies lead-based paint hazards and communicates required remediation action, as well as educational materials

Remedy for Violations

- All property owners **must submit a workplan** including a proposed deadline for completion
- Remediation is prohibited until the workplan is **approved by the LHD**
- **Non-abatement remediation** must be conducted by an **RRP certified** individual
- **Abatement treatments** (like window removal, replacement, enclosure, etc.) must be conducted by an **EPA Certified Lead Abatement Contractor**

Clearance Standards

- Post remediation visual inspection & dust wipe clearance

Proposed Regulations Subpart 67-5 (continued)

Enforcement Actions

The following are violations that may warrant a formal enforcement action:

- Failure to register units
- Failure to conduct or allow access for inspections as required
- Failure to remediate identified hazards
- Failure to provide required documentation
- Failure to meet timelines for the above

Proposed Regulations Subpart 67-5 (continued)

Exemption Opportunities

- Units determined to be lead free may be exempted from inspection
- In an owner-occupied building, proposing to exempt the owner-occupied unit from inspection
- Dwellings containing these units exempted from inspection must still be part of the rental registry

Prohibition of Retaliatory Action

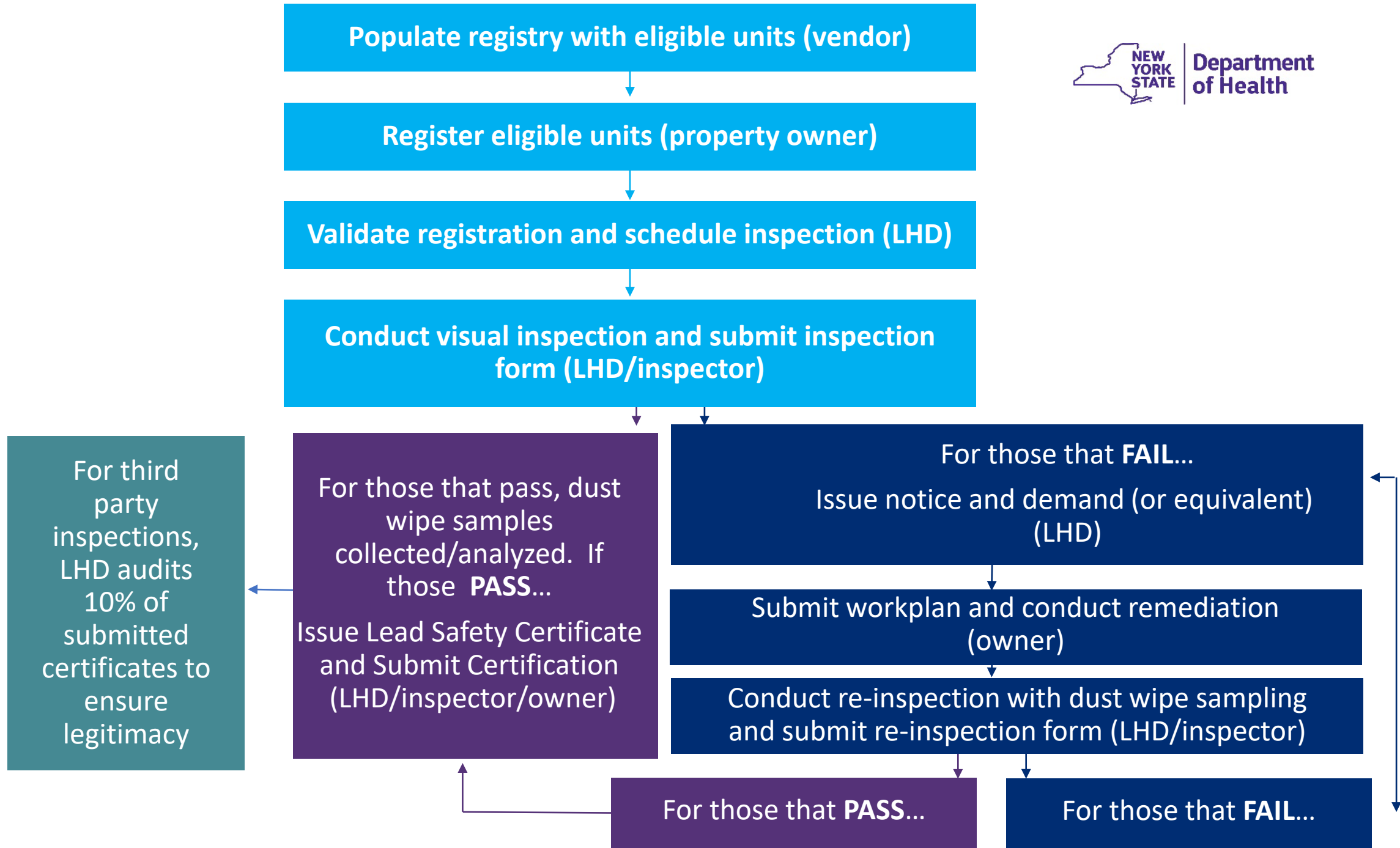
- No property owner may take any action against a tenant due to requirements under this law

Flexibility is Key

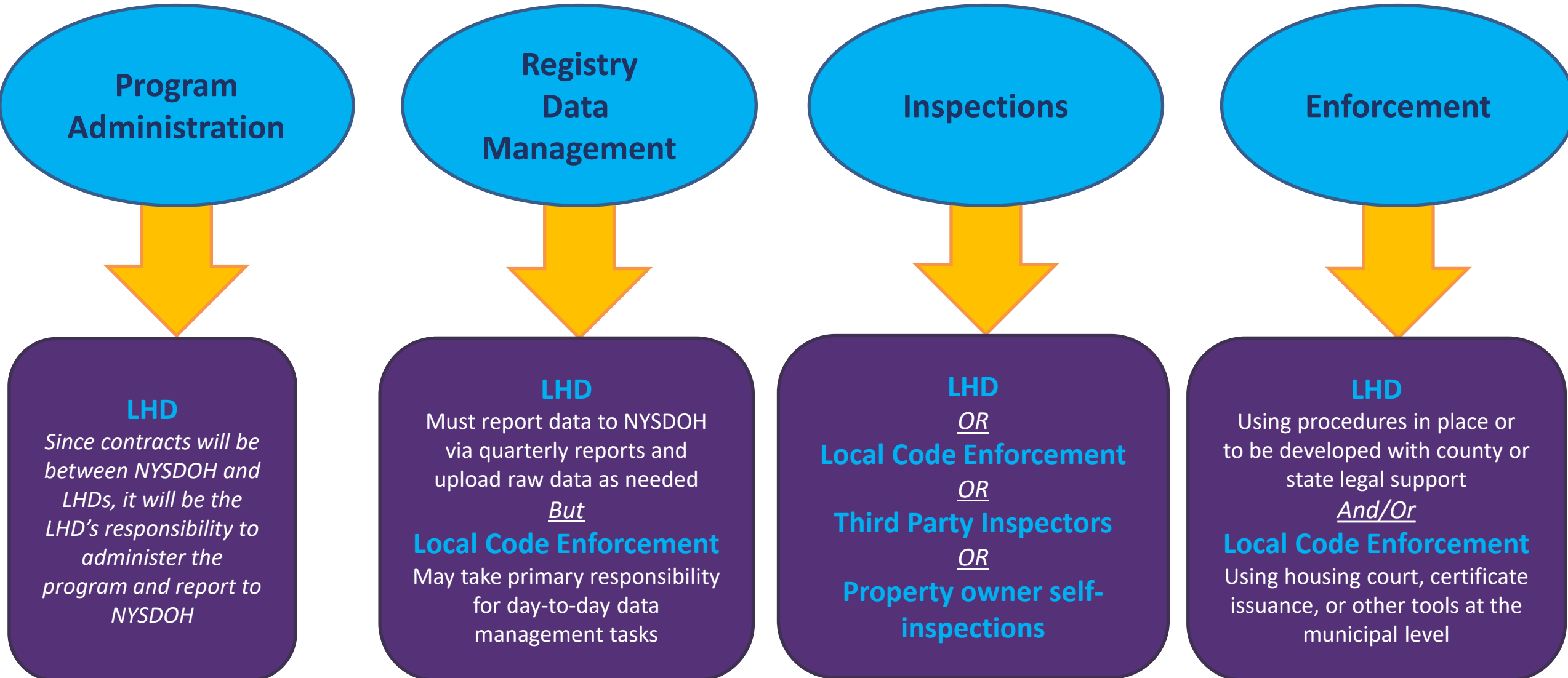
In brainstorming options to implement this program, NYSDOH considered the importance of allowing LHDs to **customize a workflow** that works for them:

- Some counties are already working with a rental registry program
 - Program implementation needs to be **harmonious with what is already working** in the communities of concern
- Differing relationships between municipal and county governments
 - Some LHDs will be **unable to develop a partnership with local code enforcement (Codes)** to execute a Rochester-like model
- Pre-existing workflows and unique priorities vary between LHDs
 - Some would prefer to keep the **inspection work under their purview**
 - Some would like to use this as an opportunity to **strengthen the relationship with local code enforcement (Codes)**
 - Some would prefer to handle only administration and quality assurance tasks and place **responsibility on property owners to obtain inspections** and provide certification

Proposed Workflow



Key Workflow Responsibilities



Model Workflow – A

The Local Health Department Plays the Primary Role

Funding is used to hire additional LHD staff to:

- Conduct outreach and provide education to property owners on rental registry
- Issue written notices
- Accept/validate registrations as they are submitted into registry database by property owners
- Perform lead hazard inspections
 - Visual inspection
 - Visual + XRF (optional)
- Submit inspection form into the registry database
- Issue notices upon failing inspections
- Review and approve workplans submitted by the property owner in response to notice

Model Workflow – A *(continued)*

Funding is used to hire additional LHD staff to:

- Monitor registry to ensure compliance with inspection time frames
- Educate property owner and tenants about risk reduction and interim controls
- Perform clearance inspections (visual and dust wipe sampling) and upload results into database
- Generate lead safety certificates from database
- Initiate enforcement actions against noncompliant property owners as needed

 *Optional fee structure for inspections may be considered* 

Model Workflow – B

LHD Subcontracts with Local Code Enforcement (Codes)

- NYSDOH funding to LHDs is (completely or partially) paid out to Codes Enforcement
- Based on the Rochester model
- LHD and Codes agree on which tasks are completed by which agency
 - LHD can retain some responsibilities, or subcontract completely with Codes
- A possible model may look like:

LOCAL CODE ENFORCEMENT RESPONSIBILITIES

1. Accept/validate registrations as they are submitted by property owners
2. Perform rental registry inspections
3. Submit inspection forms into registry database
4. Perform clearance inspections including dust wipe sampling and upload results into database
5. Generate lead safety certificates from database

LHD or Code Enforcement RESPONSIBILITIES

1. Monitor registry to ensure compliance with inspection time frames
2. Issue notices upon failing inspections
3. Educate property owner and tenants about risk reduction and interim controls
4. Review and approve property owner submitted workplans
5. Initiate enforcement action against noncompliant property owners as needed
6. Perform inspection audits on at least 10% of third party or self-inspections to verify legitimacy of inspections.

Model Workflow – C

Third-party and/or Self-Inspection

- LHD requires property owners to obtain a lead safety inspection and submit a lead safety certificate every three years to comply with regulations.
- Third -party inspectors must be EPA Certified Risk Assessors.
- Property owners can **self-inspect ONLY if they hold the EPA Risk Assessor certification.**
- Inspection requirements:

NO HAZARDS IDENTIFIED

1. If no lead hazards are identified, dust wipe samples are collected at the time of inspection
2. Pending satisfactory dust wipe sample results, a lead safety certificate is issued and uploaded to the database (either by the property owner or the third-party inspector)

HAZARDS IDENTIFIED

1. Property owner is required to inform LHD of failing inspection within 2 weeks of inspection
2. LHD issues notice to remediate hazards, in addition to property owner and tenant education
3. Property owner submits a workplan to be approved by the LHD
 - a. Proposed method of remediation
 - b. Proposed timeline for remediation
 - c. Confirmation of appropriately certified individual performing remediation
4. Inspector re-inspects (including dust wipe samples) and issues lead safety certificate if remediations are adequate

Model Workflow – C *(continued)*

LOCAL HEALTH DEPARTMENT RESPONSIBILITIES

1. Monitor registry to ensure compliance with inspection timeframes
2. Issue notices upon failing inspections
3. Educate property owner and tenants about risk reduction and interim controls
4. Review and approve property owner submitted workplans
5. Initiate enforcement action against noncompliant property owners as needed
6. Perform inspection audits on at least 10% of third party or self-inspections to verify legitimacy of inspections

Outreach

NYS DOH has begun discussion and outreach with stakeholders including:

- Local Health Departments
- Conference of Environmental Health Directors
- City of Rochester
- Advocacy Groups
 - Non-profit organizations
 - Lead coalitions
- Other state and local agencies
 - Department of State
 - Division of Housing and Community Renewal

Workforce capacity

This program will require an increase in workforce for multiple sectors

- EPA certified lead risk assessors
 - At LHD or Code Enforcement (minimum one per County), or owner/3rd party
- RRP certified contractors and owners
 - To perform:
 - Interim controls
 - Non-abatement remediation
- EPA certified lead abatement contractors
 - To perform permanent abatement treatments
- Trainers qualified to issue EPA certifications (Risk Assessor, RRP, Abatement)

Local Capacity Needs

Staffing and organizational structure is flexible/based on local needs

FUNCTIONS

- Project Management
- Partnerships/Coalitions
- Inspections
- Data Management
- Community Outreach
- Property Owners
- Target Area Residents
- Enforcement Infrastructure
- Workforce Development

POSITIONS

- Project Manager/Coordinator
- Partner Liaison/Coalition Coordinator
- Inspectors/Risk Assessors
- Data Manager
- Health Educator
- Community Health Worker
- Enforcement Officer
- Workforce Developer/Outreach Coordinator

Leading in Lead Prevention

– A Pilot Program



Homes and
Community Renewal

BACKGROUND: \$20 million annual appropriation initiated by Governor Hochul and mandating New York States Homes and Community Renewal (HCR) to address lead hazards as a health and housing issue. As a result, HCR launched the **Leading in Lead Prevention** Pilot Program.

NOTICE OF FUNDING AVAILABILITY:

Eligible Applicants:

- County governments in eligible “Communities of Concern”
- County governments may sub-allocate program administration to local nonprofit housing organizations or municipality.

Eligible Units:

- Rental units in buildings with 2+ units built prior to 1980
- Tenants' income < 80% AMI
- 80% of award must be spend in “Communities of Concern” zip codes
- Inspections must be paid for through CLPPP or CLPPP+ programs

Eligible Uses:

- \$40,000 per unit, including program delivery (15%)
- Priority to abatement of friction surfaces and limited interim controls
- Temporary tenant relocation, worker certifications, Cleaning supplies and vacuums

Program Requirements:

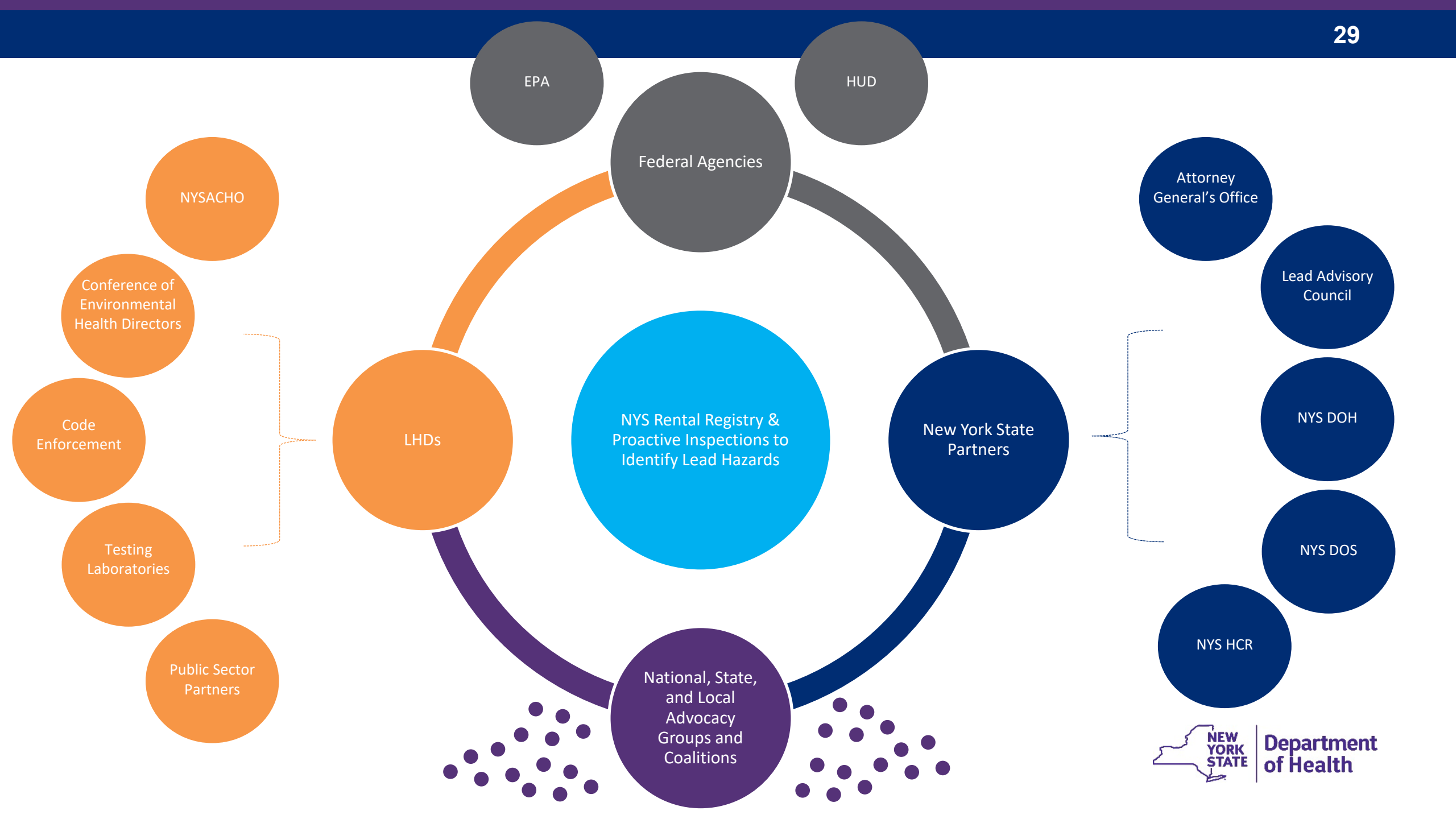
- Priority to assist units with children who have elevated levels of lead in their blood and units in the same building
- Decent, safe and sanitary unit (non-lead hazard costs paid with other sources)
- Two-year contracts

Deadline to Submit: Friday, December 15th, 2023.

Access to NOFA [here](#).



Department
of Health



Outreach



Both DOH and LHDs can work to build partnerships and local infrastructure/capacity prior to program implementation



- Landlord associations
- Families and residents in the communities of concern
- Non-profit organizations
 - Regional lead coalitions
 - Tenant advocacy groups
- Workforce groups
 - RRP contractors
 - EPA certified inspectors and contractors
- Other state and local agencies
 - Department of State
 - Division of Housing and Community Renewal

Concerns from Local Health Departments

- Funding
- Collaboration with other agencies
- Staffing capacity
- Enforcement

Concerns from Advocacy Groups

- Frequency of inspections
- Conditions for acquiring a lead safety certificate
- Inspector qualifications
- Minimum standards for alternative inspections
- Public facing data
- EPA safe work practices
- Specifications for remediation funding
- Cap for rent increases

ADDITIONAL QUESTIONS?

CONTACT:

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THANK YOU!