I. INTRODUCTION

The Consolidated Local Street and Highway Improvement Program (CHIPS) provides State funds to municipalities to support the construction and repair of highways, bridges, highway-railroad crossings, and other facilities that are not on the State highway system.

The applicable rules for the CHIPS Program are contained in Section 10-c of the State Highway Law. Apportionments to municipalities are calculated annually by the New York State Department of Transportation (NYSDOT) according to formulas specified in this section of the Law.

Upon approval of the State Budget, NYSDOT determines each municipality's final CHIPS Capital apportionment for the new State fiscal year and notifies them of the available amount via the letter for the scheduled June payment and a posting to the Capital Apportionment Balances link on the CHIPS website.

II. SPECIAL REQUIREMENTS FOR CHIPS CAPITAL PROJECTS

In order to be eligible for CHIPS Capital reimbursement, the capital project must: (1) be undertaken by a municipality; (2) be for highway-related purposes; and (3) have a service life of 10 years or more with normal maintenance or comply with the exceptions below.

A. PROJECT ELIGIBILITY

The municipality is responsible for selecting eligible project activities and must certify the project is expected to have a useful service life of at least 10 years, except for the following resurfacing project sub types where the service lives are less than 10 years: (1) microsurfacing; (2) paver placed surface treatment; (3) single course surface treatment involving chip seals or oil and stone; or (4) double course surface treatment involving chip seals or oil and stone. Traffic types (for example, heavy truck traffic vs. light truck traffic), traffic volumes, climate, base conditions (for roadway projects), the type of treatment applied, and materials used are all factors which can substantially extend or shorten the expected service life of a particular project.

Items which are not eligible for CHIPS Capital reimbursement include:

- Operation and maintenance activities such as pothole repairs, crack sealing, snow removal, brush and weed control, street cleaning, highway planning studies, administrative disbursements (including administering CHIPS) not associated with a specific CHIPS Capital project, and purchase of materials not associated with a specific CHIPS Capital project.
- State highways, including locally maintained State arterials in cities.
- Parking lots or parking garages which are not owned by a municipality and linked to a transit purpose.
- Sanitary sewers, water lines, and other utilities which are not impacted by a highway/bridge reconstruction project.
- Bicycle access features outside the highway right-of-way.
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- Amounts paid by a municipality for interest or indirect costs (e.g., costs of issuance) on local bonds or notes issued to finance eligible project costs.

B. COMPLIANCE WITH 1990 AMERICANS WITH DISABILITIES ACT (ADA)

The Americans with Disabilities Act is a law enacted by Congress that requires municipalities to review their CHIPS projects for ADA compliance per Title VI of the Civil Rights Act of 1964.

The U.S. Department of Justice (DOJ) and the Federal Highway Administration (FHWA) issued updated guidance in 2013 that, whenever streets, roadways, or highways are “altered,” curb ramps must be provided at locations where there are curbs or other barriers restricting access to sidewalks or other pedestrian walkways. Examples of “alterations” include additions of new asphalt layers, in-place recycling, microsurfacing, mill and fill/mill and overlay, new construction, rehabilitation, and reconstruction. The curb ramps must be installed before or during the paving project. “Maintenance” applications such as chip seals, slurry seals, joint crack seals, and joint repairs do not require curb ramps. Even if they are not recipients of Federal funding, local governments must comply with these Federal requirements.

When curb ramps are installed as part of an “alteration” project, photos of these ramps must be submitted to your NYSDOT Regional CHIPS Representative.

C. ELIGIBLE EQUIPMENT

In order to be eligible for CHIPS reimbursement, the equipment must have a service life of 10 years or more with normal maintenance. In order for equipment “attachments” to be eligible for CHIPS reimbursement, the municipality must purchase the equipment attachment(s) at the same time that they purchase the corresponding equipment.

If you have any questions concerning an equipment’s eligibility for CHIPS Capital reimbursement, please contact your NYSDOT Regional CHIPS Representative.

D. ELIGIBLE PROJECT COSTS/DISBURSEMENTS

Eligible project costs consist of disbursements for all phases of an eligible CHIPS Capital project, including: the construction cost for projects done by contract; or the cost of labor, equipment usage (purchase or rental), and materials for work done by local forces. Total project cost also includes: (1) administrative costs (surveys, etc.); (2) purchase of necessary right-of-way; (3) design (whether in-house or by consultant); and (4) construction inspection for a specific eligible CHIPS Capital project.

Payment requests for a particular reimbursement may only be for disbursements made during the expenditure eligibility period specified for that reimbursement.

Municipalities must include all supporting documentation with their CHIPS reimbursement submissions to NYSDOT for all payment requests. This may include construction inspection reviews, photos, and financial disbursement documents. Municipalities are responsible for providing quality documentation to satisfy possible
future audits. Project disbursements must be documented and maintained in project records, which are subject to future audit. This documentation should include copies of checks to vendors and supporting receipts (bill of sales) for purchases of materials (delivered and accepted) or for the purchase or rental of equipment. If applicable, a municipality’s official accounting system may be used to document municipal force efforts for labor, equipment, and materials withdrawn from existing inventories.

E. REIMBURSEMENT REQUEST FORM (CP73) CERTIFICATION

The State relies on the signature of the responsible municipal official (most commonly the highway superintendent) to certify the request for reimbursement is consistent with the requirements of the CHIPS Program. The signatory must understand that he/she undertakes a legal obligation by signing the CP73 form. The signed certification means:

- project has a 10 year minimum service life or where the project is either: (1) microsurfacing; (2) paver placed surface treatment; (3) single course surface treatment involving chip seals or oil and stone; or (4) double course surface treatment involving chip seals or oil and stone;
- project disbursements were made during the reimbursement period;
- reimbursement has not been previously requested; and
- the project is for public purposes, not for the benefit of private parties.

F. QUARTERLY CHIPS PAYMENTS

CHIPS Capital payments are issued by the Office of the State Comptroller (OSC) on June 15, September 15, December 15, and March 15, or as soon thereafter as funds become available for such payments. If your municipality is not currently receiving any OSC payments via EFT, submittal of an EFT Authorization Form to OSC is now required in order to receive CHIPS payments. The form may be obtained on OSC’s website at http://www.osc.state.ny.us/epay or on the CHIPS website. The EFT Authorization Form will require the entry of your municipality’s 10 digit OSC Vendor Number.

G. LIMITS ON WORK COMPLETED/PERFORMED BY MUNICIPAL FORCES/COMPETITIVE BID REQUIREMENTS

Funds allocated for local street or highway projects under Highway Law Section 10-c, subdivision 4, paragraph(e) shall be used to undertake work on a project either with the municipality’s own forces (force account work) or by contract. If performed by force account, any procured labor, materials and/or equipment shall be in accordance with all applicable procurement laws or requirements. For calculation purposes, construction cost includes all labor, equipment, and materials required to construct the project. It does not include the cost of design, right-of-way purchase, or construction inspection.

1. When the estimate for the construction work is $100,000 or less, the work can be performed with the municipality’s own forces or by contract. If performed by contract, all contracts must be in accordance with the provisions of General Municipal Law Section 103.
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2. When the estimate for the construction work exceeds $100,000 but does not exceed $250,000, the work can be performed with the municipality's own forces or by contract let by competitive bid in accordance with the provisions of General Municipal Law Section 103.

3. When the estimate for the construction work exceeds $250,000, the work must be performed by contract let by competitive bid in accordance with the provisions of General Municipal Law Section 103.

H. USE OF CHIPS CAPITAL FUNDS FOR LOCAL MATCH

CHIPS Capital funds can be used as the local match on other State or Federally funded highway capital projects having a 10-year minimum service life. If CHIPS funds are used as the local match on Federal-aid projects, a municipality must comply with EBO (Equitable Business Opportunities), NYSDOT’s web-based civil rights reporting system.

I. TIMELY EXPENDITURE OF CHIPS CAPITAL FUNDS

Municipalities are encouraged to: (1) spend up to their full CHIPS Capital apportionment each State fiscal year (SFY) on capital projects eligible for CHIPS Capital reimbursement; and (2) submit reimbursement requests for those capital project expenditures to their NYSDOT Regional CHIPS Representative.

Unreimbursed funds from one or more previous SFYs are considered rollover funds that must be reappropriated by the Legislature; the rollover funds are drawn against before reimbursements are made from the current SFY apportionment. If the Legislature were to ever restrict or eliminate the availability of rollover funds from one or more previous SFYs, those municipalities with rollover fund balances would lose some or all of these funds. Consequently, municipalities are encouraged to minimize their accumulation of rollover funds.

For unreimbursed expenditures eligible for reimbursement from a previous SFY CHIPS Capital “rollover” balance, reimbursement eligibility is limited to only those unreimbursed local expenditures made within an 18 month period prior to the scheduled quarterly payment date specified in the current NYSDOT payment notification letter. The specific 18 month look back date for each quarterly CHIPS payment will be identified in the instructions on the back of each quarterly CHIPS letter.

III. PROGRAM CONTROLS

A. FINANCIAL AUDITS

All expenditures for CHIPS projects are subject to audit by the Office of the State Comptroller (OSC) or NYSDOT. It is the responsibility of the municipality to maintain consistent and accurate records with quality construction and approved accounting practices.

The NYS Archives authorizes disposition of municipal records based on fiscal and other requirements. The NYS Department of Transportation requires that municipalities retain copies of submitted CHIPS reimbursement request forms (and any supporting documentation for a reimbursement request) for a period of 36 years after final
reimbursements have been made for the project(s) identified on the form(s).

B. PROGRAM REVIEWS

NYSDOT may periodically review CHIPS Capital projects for which reimbursement has been requested. This review effort could include NYSDOT site visits to completed project locations.