



# **POLICY MANUAL**

## **Rental Properties and Affordable Rental Opportunity Programs**

### **NY Rising Housing Rental Building Recovery Program**

**Andrew M. Cuomo, Governor of New York State**  
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**New York State Homes and Community Renewal**

**September 2016 Version 3.1**

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The policies stated in this manual are current as of August 2016. This manual represents the current version of the Governor's Office of Storm Recovery's (GOSR) policy which shall provide general guidance for the operation of the GOSR program. All policy manuals will be reviewed periodically and will be updated. GOSR will use its best efforts to keep all of its Policy Manuals current. Therefore, you are strongly urged to visit our website [www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov) or to contact the [info@stormrecovery.ny.gov](mailto:info@stormrecovery.ny.gov) to ensure that you have the latest version of GOSR's policies. There may be times, however, when a policy will change before the manual can be revised.

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**POLICY MANUAL**  
**NY Rising Housing Recovery Programs**  
**Version Control**

Version Number	Date Revised	Description of Revisions
2.0	March 2015	<p>Transferred the following sections to the Procedure Manual:  Submitting an Application, Intake Meeting, and the Environmental Review Process. Clarified the following policies: "Ownership of Subject Property", Demonstrable Hardship, Appeals, the threshold requirements for transfer to Acquisition Program, the award allowances for reconstruction activity and the award calculation policy regarding the reclassification of a Property from repair to reconstruction and reconstruction to repair. GOSR modified the following: the eligibility documents for proof of citizenship and immigrant status and the deadline for construction completion. Finally this version indicated that Urgent Need National Objective may be determined with a Damage Assessment.</p>
3.0	August 2016	<p>Updates to:</p> <ul style="list-style-type: none"> <li>• Maximum benefits section</li> <li>• Payment schedule from 10%/40%/50%</li> <li>• Hotline phone number</li> <li>• Closeout section</li> </ul> <p>Added:</p> <ul style="list-style-type: none"> <li>• Affordable Rental Opportunity</li> <li>• Optional closeout section</li> </ul>
3.1	September 2016	<p>Updates to:</p> <ul style="list-style-type: none"> <li>• Reimbursement</li> <li>• Definitions</li> </ul>


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## 1.0 New York Rising Program Goals

### 1.1 Introduction

In response to the damage caused by Superstorm Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, the U.S. Congress appropriated \$16 billion in Federal Fiscal Year 2013 funds for the Community Development Block Grant - Disaster Recovery (CDBG-DR) program through Public Law 113-2. Enacted on January 29, 2013, this law stipulates that these funds be used for the following recovery efforts:

*“...necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013, for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.): Provided, that funds shall be awarded directly to the State or unit of general local government as a grantee at the discretion of the Secretary of Housing and Urban Development...”*

Following Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee, the State of New York (the State) developed the NY Rising Housing Recovery Programs (the Program), along with several other disaster recovery initiatives as outlined in the [State of New York Action Plan for Community Development Block Grant Program Disaster Recovery](#) (Action Plan). The NY Rising Housing Recovery Programs are designed to help New Yorkers who were impacted by Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee to recover and rebuild. Just as importantly, the Program helps to stimulate economic growth in storm-affected communities.

Applicants in eligible disaster-declared counties who sustained damage as a direct result of one of these storms are invited to submit an application for assistance. Eligible Applicants work with assigned Program representatives throughout the assistance process—from the submission of their applications, to the completion of the work required to repair or reconstruct their building.

### 1.2 Oversight of Storm Recovery

Governor Cuomo established the Governor’s Office of Storm Recovery (GOSR) in June 2013 to maximize the coordination of recovery and rebuilding efforts in storm-affected counties throughout New York State. The Governor’s Office of Storm Recovery operates within the New York State Housing Trust Fund Corporation (HTFC). HTFC is a component of New York State Homes and Community Renewal (HCR), a unified leadership platform, encompassing a variety of State agencies and public benefit corporations involved in the provision of housing and

community renewal. GOSR was formed to direct the administration of the Federal Community Development Block Grant - Disaster Recovery Funds.

Working in close collaboration with local and community leaders, GOSR responds to communities' most urgent rebuilding needs while also identifying long-term and innovative solutions to strengthen the State's infrastructure and critical systems. Additionally, GOSR administers a variety of programs related to housing recovery, economic development, and community reconstruction following the devastating impact of Superstorm Sandy, Hurricane Irene and Tropical Storm Lee.

### 1.3 Program Manual Overview

This manual is designed to outline the major program policies that the State and its agents use to direct the operation of the Rental Properties and Affordable Rental Opportunity Programs, programs within the NY Rising Rental Buildings Recovery Program, which is a part of the NY Rising Housing Recovery Programs. This manual is intended to serve as a resource for New York State residents and other parties interested in details of how the different programs are operated, including basic information on who is served by the programs, the types of assistance offered, and program recipient obligations. The manual serves as a general reference guide for administrative staff and other interested parties, which may include Applicant recipients, Contractors, units of general local government (city and county governments) that are engaged as "subgrantees" to deliver assistance through the Program, and any non-profit organizations that are involved as "subrecipients" or consultants.

As outlined in the State's Action Plan and described in more detail throughout this manual, the programs are designed to provide grants for the repair, reconstruction, or elevation of damaged rental properties by one or more of the three storms listed above. The purpose of this effort is to help individuals and families who were severely impacted by the storm, as well as to help ensure that communities suffering damage are repopulated and revitalized as quickly as possible.

Though the State's Action Plan contains details on all the NY Rising Programs, this manual only addresses certain rental properties programs. This manual is not intended to describe internal program procedures that ensure the effective implementation of the policies contained in this manual. This Rental Properties and Affordable Rental Opportunity Programs Policy Manual and manuals for other programs is made available for public review at <http://www.stormrecovery.ny.gov>

### 1.4 Meeting the CDBG-DR Program Goals

In support of the U.S. Department of Housing and Urban Development's (HUD) recovery objectives, New York State has specifically designed its programs to help impacted residents and communities to recover from the damage inflicted by Hurricane Irene, Tropical Storm Lee and Superstorm Sandy. As expressed in the Federal Housing and Community Development Act,

the primary objective of the general CDBG program is “the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate- income.” CDBG funding appropriated in response to disasters must meet those general goals of the CDBG program.

All CDBG-DR funded housing activities must meet one of the three national objectives required under the authorizing statute of the CDBG program:

- Benefit low- and moderate- income persons (LMI);
- Aid in the prevention or elimination of slums or blight (Slum and Blight);
- Meet a need having a particular urgency (Urgent Need);

As described in GOSR’s policies, the activities funded through the NY Rising Housing Recovery Programs are required to meet either LMI or Urgent Need National Objectives.

After completion of rehabilitation, rental property owners who have elected to serve LMI tenants must also charge rents at or below the corresponding 80% AMI rents, affordable to these households at 30% of income for one year. The corresponding Rent Limit chart can be found by accessing:

[https://www.hudexchange.info/resource/reportmanagement/published/HOME\\_RentLimits\\_State\\_NY\\_2016.pdf](https://www.hudexchange.info/resource/reportmanagement/published/HOME_RentLimits_State_NY_2016.pdf).

### 1.5 Fulfilling Principles Established by New York State’s Action Plan

The NY Rising Housing Recovery Programs are expected to encourage investment in communities by ensuring that properties are not just rebuilt but also become safer—especially in those areas where there is a high risk of future flooding—revitalizing the vibrancy of the State’s disaster-impacted communities and enhancing the quality of life; and helping communities develop and implement strategies that facilitate the coordination of the NY Rising Housing Recovery Programs funding with other federal, State, and local community development resources.

The NY Rising Housing Recovery Programs and the other activities outlined in the Action Plan are based on the foundation of six key principles:

1. ***Building back better and smarter*** – As New Yorkers work to repair the severe damage caused by Superstorm Sandy, the State uses the opportunity to ensure that damaged buildings are not simply restored to their pre-storm condition or replaced with the same kind of structures. Instead, the State invests in additional mitigation measures to prevent similar damage from occurring in the future.

2. ***State-led, community-driven recovery*** – New York State is collaborating closely with local governments and other organizations to ensure a coordinated and holistic response, while looking to individual communities to develop forward-looking local recovery plans that meet their specific needs.
3. ***Recovery from Irene and Lee*** – The recovery efforts also extend to those communities still recovering from Hurricane Irene and Tropical Storm Lee.
4. ***Leveraging private dollars*** – New York State undertakes programs that help unlock capital markets and increase the amount of low-interest financing of key projects by reducing the risk for private sector lenders.
5. ***Spending accountability and transparency*** – New York State implements rigorous controls and checks to ensure funds are spent responsibly and in compliance with federal and State guidelines.
6. ***Urgency in action*** – The recovery is a long-term endeavor, but people need immediate help. The projects and programs presented in the Action Plan are shaped to achieve the fastest delivery and best support possible, while working within the parameters of the HUD guidelines.

#### 1.6 Outreach and Citizen Participation Plan

Outreach efforts are guided by the State and accomplished through a variety of resources and activities, including the following:

- **Online:** Promotion of recovery resources and the State Action Plan are available on the Governor’s Office of Storm Recovery website and a link to the online application for assistance for Applicants can be accessed at <http://www.stormrecovery.ny.gov>
- **In Person:** Availability of trained members of the State’s Storm Recovery Team to assist potentially eligible Applicants with the completion and submission of an application at the Housing Recovery Intake Centers in impacted regions; information on locations and hours of these centers is available at <http://www.stormrecovery.ny.gov>.
- **By Phone:** Outbound phone calls to impacted residents and potentially eligible Applicants, including those who have registered with the State since these storms to express an interest in receiving assistance, as well as to those known to have registered for disaster aid with the Federal Emergency Management Agency (FEMA), the Small Business Administration (SBA), and other sources.
- GOSR has provided access to a State-supported disaster recovery hotline, **(844) 969-7474**, and a dedicated Call Center, which provides trained representatives who can answer questions about the programs, guide potential Applicants through the application process, and provide updates on the status of applications.
- **Through Media:** Promote NY Rising Housing Recovery Programs’ policies and achievements through a myriad of public relations strategies including print, television and digital media.

- **Through Partner organizations:** Partnership and coordination, both formally through subrecipient agreements and through collaboration with not-for-profit community-based organizations involved in disaster recovery efforts in the impacted regions.
- **By Events:** Coordinated engagement and participation by State Program staff and partner organization staff at community forums, town halls, and other locally-supported community-based events.

Additionally, GOSR creates professional signage, documentation, advertisements, and other materials to support and enhance the operation of the Program.

Persons with disabilities, those with limited English proficiency, and others who may need these documents presented in a different format, are encouraged to contact the state Recovery Hotline at **(844) 969-7474** for assistance with obtaining information in an accessible format.

The State utilizes any and all currently available web-based and other electronic resources, including social networking media, to promote the Program and provide timely dissemination of information and notifications to affected Applicants.

Program-related materials are available to download at <http://www.stormrecovery.ny.gov>, and are also distributed by the State and Program partners to public officials, municipalities, relevant non-profit organizations, and others as necessary or upon request.

Direct mailings, calls, and emails are used to notify Applicants of their application status, appointments, missing information, building evaluation notices, awards, information regarding the construction process and timelines, and other program-related information as necessary.

### 1.7 Citizen Participation Plan

The New York State Citizen Participation Plan provides New York citizens with an opportunity to participate in the planning, implementation, and assessment of the state's CDBG-DR Sandy, Irene, and Lee recovery program(s). The Plan sets forth policies and procedures for citizen participation, in accordance to federal regulations, which are designed to maximize the opportunity for citizen involvement in the community development process. The State has attempted to provide all citizens with the opportunity to participate, with emphasis on low- and moderate-income individuals, individuals with limited English proficiency, individuals requiring special accommodations due to disabilities, and individuals in CDBG-DR targeted communities.

The State's Citizen Participation Plan ensures that there is reasonable and timely access for public notice, appraisal, examination, and comment on the activities proposed for the use of CDBG-DR grant funds. In following HUD's guidance in the November 2013 Federal Register, substantial Action Plan Amendments now include a thirty-day (30) public comment process with at least one (1) public hearing. The State has and will continue to coordinate outreach meetings with State entities, local governments, non-profits, private sector and involved

associations. The State also invites public comments to the Action Plan and Substantial Amendments for the duration required by HUD. They will be posted prominently and accessed on the Governor's Office of Storm Recovery official website. The State uses means such as press releases, posting notices on the New York State Governor's website and/or GOSR's website, to maximize access of program information to the impacted citizens and businesses.

The New York Citizen Participation Plan for CDBG-DR Sandy, Irene, and Lee Recovery is attached as Exhibit 2 to this Policy Manual.

## 2.0 Summary of Programs

### 2.1 Rental Properties and Affordable Rental Opportunities Programs

#### 2.1.1 Rental Properties

The NY Rising Rental Properties Program provides awards to eligible rental property owners for prospective and retrospective residential rehabilitation, reconstruction, and/or improvements to make the property more resilient to the impact of future storm events. The Program may provide additional funding to comply with the terms of National Environmental Protection Act. The Program provides awards to eligible rental properties of any size with the exception of two-family owner-occupied properties. Owner-occupied two-family homes are served in the NY Rising Single Family Homeowner Program.

The NY Rising Rental Properties Program bases awards on program conducted property inspections which account for awards for retrospective repairs and resiliency improvements prior to the time of application (Allowable Activity "AA"), and prospective repairs and resiliency improvements to be completed prior to close out of the Program (estimated cost of repair "ECR"). ECR and AA awards are subject to duplication of benefits and award caps. The Program bases repair awards off of the cost to restore a property to a decent, sanitary, and safe condition at an average grade standard level. Average grade standard, according to the Program's unit pricing tool, is the non-luxury level that is covered by the Program, except where Energy Star Standard is applied.

Applicants are responsible for completing activities in accordance with all federal, state and local laws and ordinances applicable to the project including but not limited to compliance with Davis-Bacon and Related Acts (DBRA), compliance with local elevation requirements, and the "Stop-Work" policy. Under the "Stop-Work" policy, the Program instructs an applicant to stop work between the date of application and the date of first grant agreement.

In general, a rental property of any size may participate in the Rental Properties Program with the following exceptions:

- Two-family owner-occupied properties where the property owner would have been eligible to participate in the NY Rising Homeowner Recovery Program.
- Mobile homes with residential rental tenants may be administratively processed through the NY Rising Homeowner Recovery Program when the Rental Properties Program eligibility is established.

#### 2.1.2 Affordable Rental Opportunity

The Affordable Rental Opportunity (ARO) provides the funding for the activities covered in the Rental Properties Program as well as financial assistance to make a rental unit affordable to an LMI tenant and to account for the owner's cost of compliance with post-closeout requirements.

ARO will offer assistance to cover the cost between the lesser of the HUD High HOME rent limit or the previous rental rate and a rent affordable to a tenant. Affordability is calculated to be a rent rate of no more 30% of 80% of area median income. The Program will also provide assistance of 10% of the rent difference to cover the cost of compliance for the Program.

## 2.2 Reimbursement

Applicants who sustained damage to their rental property as a result of an eligible storm event, and who have made repairs to or reconstructed the damaged property (bulkheads excluded) prior to the date of application to the Rental Properties Program, may be eligible for assistance from the State in the form of reimbursement funding. For applicants transferred the Rental Properties Program from other programs, the opening date of the Rental Properties Program is the date by which pre-application costs must be incurred. Rental Property Program applicants seeking bulkhead repair may only be reimbursed for costs incurred within one-year following the storm where duplication of benefits were counted or 10/29/2013 whichever is earlier. ARO applicants may only be reimbursed within one-year following the storm where duplication of benefits were counted or 10/29/2013 whichever is earlier. Repairs made to bulkheads prior to one year after the Covered Storm may be eligible for assistance from the State in the form of reimbursement funding. Reimbursement payments are provided in whole or in part for out-of-pocket funds spent by Applicants to repair their property.

A property inspection (Damage Assessment) is conducted to determine the completed scope of work amount, and “Allowable Activities” (AA), upon which the award is based. If work remains to be done on the property at the time of the Damage Assessment, the Applicant may also be eligible to receive assistance through the Program to complete that work.

## 2.3 Repair

An “Estimated Cost to Repair” (ECR) is created at the time of the Damage Assessment which quantifies the cost of prospective work remaining to bring the building to a decent, safe and sanitary condition. The Program prepares an ECR using an estimating tool that calculates the industry standard costs and unit prices for repair items.

In accordance with the Program “Stop-Work” policy, construction must stop after submitting a completed application to the Program and must not begin again until the Program has completed the necessary environmental review in order for Applicants to be eligible for a repair award. All Properties with eight units or more, which are applying for repair funds, are subject to federal labor standards including providing Davis-Bacon wage rates and compliance requirements. Damage Assessments utilize the standard price list to take into account the costs of complying with Davis-Bacon, within established program caps.

## 2.4 Reconstruction

Where a Property has substantial damage or cannot be feasibly repaired, the Program may provide assistance, within established caps, for reconstruction rather than repair. The Program uses a factor of \$160.00 per square foot for reconstruction based off square footage information from the tax database or other third party verified square footage to calculate the ECR/AA. Additional funds may be provided if elevation is required and/or for extraordinary site conditions.

In accordance with the Program “Stop-Work” policy, any construction must stop after submitting a completed application to the Program and must not begin again until the first grant agreement is signed in order for Applicants to be eligible for a reconstruction award.

All properties with eight units or more, which are applying for reconstruction funds, are subject to federal labor standards including providing Davis-Bacon wage rates and compliance requirements. Damage Assessments utilize the standard price list to take into account the costs of complying with Davis-Bacon, within established program caps.

## 2.5 Resiliency Measures

Resiliency measures such as home elevation, bulkhead repairs, and other storm mitigating measures, which help minimize future flood damage to properties, are eligible funding activities.

### 2.5.1 Mandatory Elevation

Eligible applicants with a rental property located within the 100 year floodplain and with a substantial damage determination are required to elevate. The Program provides assistance to elevate damaged residential properties to an elevation height dictated by State and local building code, or other federal laws within established benefit caps. Applicants who are required to elevate their buildings are eligible for an increase in their maximum non-elevation benefit cap up to another established benefit cap. FEMA regulations (44 CFR 60.3) require new construction and substantially improved or substantially damaged structures within mapped flood hazard areas to meet specific floodplain development standards.

As participating communities in the National Flood Insurance Program, and as the enforcement agents for the Building Code of New York State, local communities are responsible for determining if a property is substantially damaged. The Program relies on local community determinations.

### 2.5.2 Optional Elevation

The Program offers elevation as an option to eligible applicants who own a rental property located within the 100 year floodplain without a substantial damage determination at the request of the applicant. However, these applicants are not eligible for an increase to their maximum benefit cap unless the AA and ECR exceed \$150,000.

The Program may also offer elevation as an option to applicants outside of the 100-year floodplain when applicants are able to demonstrate evidence of repeated flood losses from at least two storms within a period of 10 years.

### 2.5.3 Optional Mitigation

Applicants may be eligible to receive assistance if they elect to make eligible and feasible optional resiliency improvements to their damaged property within or outside of the 100-year floodplain. Below is a list of possible mitigation measures:

- Elevation of electrical systems and components;
- Securing of fuel tanks;
- Use of flood resistant building materials below base flood elevation (retrofits to be limited in scope to be cost effective);
- Installation of flood vents;
- Installation of backflow valves; and
- Installation of roof strapping.

An Applicant may not be eligible for optional measures as part of a rental property reconstruction. Additionally, if an Applicant is receiving funding for elevation, then only roof strapping and backflow valves are available for additional funding (because the other measures are completed as part of an elevation).

### 2.5.4 Optional Bulkhead Repair/Reconstruction

The Programs may fund bulkhead work for an applicant whose rental property was damaged in one of the qualified storms and where the repair of damage to the bulkhead on the property supports the investment made in that home.

## 2.6 Interim Mortgage Assistance Program

Interim Mortgage Assistance (IMA) may be available for owners of owner-occupied rental properties who are eligible participants in the Program and are paying their mortgage in addition to temporary housing payments incurred while displaced from their storm-damaged home. While the Program does not provide IMA to displaced tenants, the Program provides assistance to tenants displaced during program-sponsored construction as part of compliance with the Uniform Relocation Act.

## 2.7 Construction Services

For Applicants who have difficulty completing the construction required to close out their project, GOSR will contract with qualified contractors for construction services to perform such work. Construction costs include work orders issued to construction contractors (general contractors, electrical contractors, plumbing contractors, etc.) or environmental remediation services.

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## 3.0 Policies for Rental Properties and ARO Programs

### 3.1 Applicant Eligibility Criteria

Applicants undergo a threshold eligibility review to determine eligibility for the different recovery assistance types offered by the Program. The threshold eligibility review verifies that the applicant meets the following criteria:

Applicant Eligibility Criteria Threshold – For First Payment
• <b>The Applicant is the owner of the storm damaged property.</b>
• <b>The Applicant meets one of the CDBG National Objectives.</b>
• <b>The Applicant passes an AFWA check and is eligible to receive federal funds.</b>
• <b>The Applicant is a U.S. Citizen or an eligible immigrant.</b>
• <b>ARO Program applicants must identify tenant beneficiaries.</b>
• <b>ARO Program participants must make an affirmation to benefit LMI tenants.</b>

#### 3.1.1 Ownership of Subject Property

In order to qualify for assistance, at least one person on the deed must be the Applicant. Property Ownership is defined as holding a fee simple title as evidenced by a warranty deed, bargain for sale deed, or a quitclaim deed to the Property to be assisted. The deed must be recorded with the appropriate unit of local government or jurisdiction.

Applicants who acquired a storm-damaged rental property subsequent to the time of the storm in an arm’s length transaction may also be eligible for assistance with prospective repairs attributable to the storm. Such properties will not be eligible for reimbursement assistance. Please note: Subsequent Owners who purchased the property at one of the NY Rising Buyout and Acquisition Program auctions are NOT eligible to participate in the NY Rising Rental Properties or ARO Programs whether they are seeking reimbursement or future repair/reconstruction funds.

#### ***Ownership by an entity rather than an individual:***

**LLC, LP, LLP and Corporation ownership:** Limited Liability Company (LLC), Limited Partnership (LP), Limited Liability Partnership (LLP) and Corporation ownership at the time of the storm are eligible forms of ownership. Ownership stakes of less than 10% may be eligible at the discretion of the Program, upon individual review. **Ownership by a Trust:** Properties held in trust for the benefit of natural persons may be eligible. The Trustee’s powers must include the ability to encumber the Property with liens. If the Trustee’s powers do not include the ability to encumber the Property with liens, the beneficiaries with an interest in the Property must sign the Grant Agreement along with the Trustee.

The trustee must sign the Grant Agreement and other program materials on behalf of the application, so long as the trustee's powers include the ability to encumber the Property with liens. If the trustee's powers do not include the ability to encumber the Property with liens, the beneficiaries or other individuals with an interest in the Property must sign the Grant Agreement along with the trustee. If the trust has already distributed the Property to a beneficiary, the beneficiary who received the Property must execute the applicable award Grant Agreement and/or declarations.

**Deceased Owners:** If a Property Owner passed away after the storm, the documentation of the deceased person has to meet all eligibility requirements. In these cases, the duplication of benefits (DOB) are those benefits received by the deceased or the estate of the deceased. Applications where the Property Owner passed away prior to the storm are assessed by the Program on a case-by-case basis. Where the estate has not completed probate, then the Applicant shall be the estate. The Executor of the estate shall attend the appointment, complete paperwork, and make the recovery repair. In these cases, the DOB are those benefits received by the estate of the deceased.

**Gift of Property:** A Gift of Property is a form of property transfer without exchange of payment. A gift of Property made post-storm may be eligible at the discretion of the Program. The Program requires a statement from the Grantor or Grantee explaining the reason for the transfer. A Gift of Property must be in writing, notarized and recorded in the public record.

**Contract of Sale:** A contract of sale is a contract whereby the seller transfers or agrees to transfer the property to a buyer for monetary consideration. Applicants who entered into contract to purchase property prior to the storm are eligible so long as the Applicant converts their contract to full ownership prior to receiving funding assistance from the Program.

**Lost Ownership:** Applicants who lost ownership of their rental properties due to foreclosure are ineligible for assistance.

### ***Sale of Home***

In the event that an Applicant's assisted property is sold prior to closeout, the Program may remove repair scope not completed so long as it does not result in code non-compliance or failure to meet decent, safe, sanitary standards or in the case of ARO, result in non-compliance of other Program requirements. Removing scope from an Applicant's award may result in an Applicant being required to repay the Program. However, there are steps an Applicant can take to avoid or minimize a reduction to their Award. To complete the closeout process Applicants must do the following:

- Submit all required Program eligibility documents;

- Supply all documents from building departments, such as closed permits, post elevation certificate, Certificate of Occupancy (COO), Certificate of Completion (COC), Authority Having Jurisdiction (AHJ) to demonstrate that home is compliant with local code requirements; and
- If the home has been deemed as substantially damaged and/or substantially improved, the Applicant must provide a COO.

After all required documents are received, the Program will review and revise the repair scope (and remove those items not that were not verified as complete). If the above steps are not followed, the Applicant may be required to repay funds received from the Program.

### 3.1.2 Meeting CDBG National Objectives

All Applicants must meet one of the National Objectives required under the authorizing statute of the CDBG program.

**Low- and Moderate- Income Objective:** To incentivize the participation of landlords with LMI tenants, a rental property may be eligible for the LMI award cap increase if 51% or more (or 50% if a two unit property) of the units on the property are occupied by low- and moderate-income households at the time the application is approved. An applicant must affirm in a grant agreement after construction completion a commitment to rent more than 51% (or 50% if a two-unit property) of the units on the property to low- and moderate- income tenants and agree to post-closeout LMI rental requirements.

A unit meets the low- and moderate- income criteria if the total household income of the household occupying that unit is less than or equal to 80 percent of Area Median Income (AMI). In determining income, the Program uses federal income tax returns from the time of the storm (e.g., IRS Forms, 1040, 1040A or 1040EZ).

**Urgent Need Objective:** Under the disaster recovery federal regulations, HUD has provided streamlined process for identifying the urgent need national objective because of the urgency in addressing recovery within the Presidentially Declared counties. An urgent need exists because existing conditions pose serious and immediate threat to health/welfare of the community, the existing conditions are recent or recently became urgent (typically within 18 months), and CDBG-DR funds are needed to finance the activities. The Urgent Need objective will be documented with a Damage Assessment of the Property. To the extent allowed under federal regulation, all applicants who do not meet the LMI National Objective are classified as Urgent Need.

The Program classifies all applications as meeting either the LMI or Urgent Need National Objectives as required by HUD. It is important to note that while household income is used to determine the National Objective of an application, no application is deemed ineligible based on their household income.

### 3.1.3 Anti-Fraud, Waste and Abuse (AFWA) Checks

The AFWA check is designed to identify discrepancies and risk-relevant issues in Applicant-provided information that may be indicative of fraud, waste, and/or abuse risk. If the AFWA check reveals a Federal tax lien, a United States judgment in any amount, a State lien, or a child support warrant in which \$10,000 or more is owed, then the Applicant is not eligible for NY Rising Programs, unless the Applicant can prove that they are in a payment plan or are in negotiation for a payment plan to remedy the situation.

### 3.1.4 Citizenship and Eligible Immigrants

At least one Applicant must be on the deed and must be a United States citizen or an eligible immigrant. Documents to prove United States Citizenship or Eligible Immigrant status are the following:

- A U.S. Passport;
- A valid U. S. Birth Certificate;
- Certificate of Naturalization;
- Proof of FEMA assistance;
- Proof of SBA assistance; and/or
- Verification through the Systematic Alien Verification for Entitlement (SAVE) program, an online verification system to validate that Property owner is an immigrant eligible for federal benefits.

### 3.1.5 Year-Round Rental of the Subject Property

The property must have been available as a full-time, year-round rental at the time of one of the Covered Storms. If the Applicant is a Subsequent Owner, the Applicant does not need to prove that the property was a rental property at the time of the storm; however, they must commit to maintaining the property as a rental property after repairs are completed. Second homes and vacation properties are **NOT** eligible.

Second Homes are ineligible for assistance. Second homes, as defined by the IRS publication 936, are properties **not** used as the “main home” – i.e. not where the Applicant lives most of the time, and not declared to be his/her primary residence on the income tax return of the year of the affected storm.

If the Property is owned by an entity, rather than an individual, the entity must be registered to do business in the State of New York.

### 3.1.6 Applicant Identity Verification

The Program requires all eligible Applicants to pass an identity check, using government photo identification. The Program developed this verification to comply with Federal and State of New York requirements.

### 3.1.7 Material Misrepresentation

At the State’s sole discretion, any activities/information/documentation which indicates a material misrepresentation by an applicant may result in an applicant’s entire application, as well as any other NY Rising application(s) associated with the applicant, being deemed ineligible and/or subject to further investigation.

### 3.2 Property Eligibility Criteria

Storm damaged properties undergo a threshold eligibility review to determine eligibility for the different recovery assistance types offered by the Program. Eligibility review includes:

Property Eligibility Criteria	
<input type="checkbox"/>	The Property is located in an eligible county.
<input type="checkbox"/>	The Property was damaged during a qualified storm event.
<input type="checkbox"/>	The Property matches one of the defined eligible structures.
<input type="checkbox"/>	The Property passes environmental review.

#### 3.2.1 Property Located in an Eligible County

The counties shown in the following table are also eligible for assistance. The New York City counties (shown in grey text) are not eligible for assistance under the Program. NYC received and administers its own grant of CDBG-DR funds directly.

Eligible Counties				
Albany	Dutchess	Montgomery	Rensselaer	Tioga
Bronx	Essex	Nassau	Richmond	Tompkins
Broome	Franklin	New York	Rockland	Ulster
Chemung	Fulton	Oneida	Saratoga	Warren
Chenango	Greene	Orange	Schenectady	Washington
Clinton	Hamilton	Otsego	Schoharie	Westchester
Columbia	Herkimer	Putnam	Suffolk	
Delaware	Kings	Queens	Sullivan	

#### 3.2.2 Property Damage from Qualified Storm Event

The Property must have sustained damage from Superstorm Sandy (October 29, 2012), Tropical Storm Lee (September 7, 2011), and/or Hurricane Irene (August 28, 2011) as documented through photographs, assistance received from other funding sources, a damage assessment conducted by the Program, and/or insurance estimates.

Applicants whose Properties were damaged by more than one qualifying storm may be eligible for assistance.

### 3.2.3 Eligible Structure Types

The assisted property must be wholly residential in character. Properties containing home-based businesses may be rehabilitated only where it can be clearly shown that program funds are not used to assist the business contained in or on the Property.

If the Property has an attached garage or other ancillary residential structures, the program may provide funding to rehab those structures to the extent that is necessary to make the residential structure decent, sanitary, and safe.

Properties with basements may receive funds to repair damaged basements to the extent necessary to make them safe. If the basement was used as a legally habitable space at the time of the storm (as confirmed by a Certificate of Occupancy issued prior to the storm, or other documentation issued by the municipality) then it can be rehabilitated for living space as necessary to meet minimum design standards.

#### **Ineligible Property Types:**

- Non-residential structures that are not attached to a residential unit are ineligible for assistance;
- Water based vessels are ineligible for assistance; and,
- Assistance for properties containing home-based businesses is limited to non-business uses.

### 3.2.4 Environmental Review

CDBG-DR funding is contingent on compliance with the National Environmental Policy Act (NEPA), as implemented through HUD's regulations set forth in 24 CFR Part 58, and related environmental and historic preservation legislation and executive orders. GOSR has a number of certifying officers on staff with authorization to sign Tier 1 programmatic environmental assessments.

When appropriate, a tiered environmental review is utilized. For tiered reviews, a countywide Tier 1 review is completed before HUD releases funds and a site-specific, or Tier 2, review is completed for a site before funds can be committed to that particular site. If the Applicant opts in for elevation after the signature of the Tier 2, Program works with environmental staff to ensure that the requirements of the Tier 2 are adhered to during the elevation. Furthermore, for every home in the Program, environmental staff reviews documentation of compliance with the provisions in the Tier 2 prior to the Applicant's closeout from the Program.

#### ***Floodplain, Floodway and Coastal High Hazard Area Policy***

The Program requires that Applicants submit a copy of the Certificate of Occupancy or equivalent before closeout in order to document and verify that substantially damaged or

substantially improved structures in the 100 Year Floodplain are properly elevated in accordance with local, State and federal elevation requirements.

However, if one of the following conditions exists, and other compliance requirements do not apply, the Program does not require Applicants to provide a copy of the Certificate of Occupancy or equivalent as a condition of closeout:

- The Property is not in the 100-Year Floodplain or Special Flood Hazard Area (SFHA);
- The Applicant has provided a letter from the local building official stating that the Property was not substantially damaged or substantially improved; and,
- The Property was not substantially damaged and the repairs completed did not likely result in a substantial improvement in home value, as assessed by the Program by determining the estimate of the ratio of storm damage cost to pre-storm home value. This analysis also includes a conservative buffer to further enable the identification of homes with potential substantial improvements.

The Federal Government has developed specific definitions and regulations regarding the 100-Year Floodplain, Floodway, the Coastal High Hazard Area and the Coastal Barrier Resource Area.

Structures located in a Floodway are ineligible for assistance.

Under the Coastal Barrier Resources Act (CBRA, Public Law 97-348), coastal barrier areas are ineligible to receive federal assistance for repairs or reconstruction.

Properties in the Coastal High Hazard Area are required to follow certain design criteria. For more information please see 24 CFR 55.1(c)(3).

### ***Flood Insurance Requirement***

If an Applicant receives assistance from the Program and the home is located in the 100-Year Floodplain then the Applicant is required by federal regulation to maintain flood insurance in perpetuity and, in the event of a transfer of property, the Applicant is required, on or before the date of transfer, to notify the transferee in writing in the documents evidencing the transfer of ownership of the property, of the requirements to obtain and maintain flood insurance in perpetuity.

If an Applicant previously received federal flood disaster assistance for the property, was required to carry flood insurance and failed to obtain and maintain flood insurance then, under federal regulations, they are ineligible for the Program.

GOSR developed its flood insurance policy in accordance with HUD notice (CFR-5696-N-01).

### **3.3 Lead, Asbestos and Radon Requirements**

Applicants and their contractors are responsible for performing work in accordance with applicable federal and state regulations regarding environmental assessments and clearances.

The Program offers technical assistance, as well as lead, radon, and asbestos risk assessments and clearances at no cost to the Applicant. The Program requires that all homes receive a clearance for lead, asbestos, and/or radon (as applicable) prior to closeout from the Program.

### 3.4 Overall Assessment of Need

Program funds may only be used to address an Applicant's unmet disaster recovery need. The Program assesses the total post-disaster need by performing a Damage Assessment on the Property. The Damage Assessment's ECR and AA, provide the basis for determining overall total post-disaster need. The Program takes all other benefits that the Applicant received, which were intended for the repair or reconstruction of the building, into account when calculating an Applicant's unmet disaster recovery need. Accordingly, the Applicant's total post-disaster need must be reduced to account for any duplicative benefits that the Applicant received from other sources. Funds for unmet need are not given in excess of Program caps.

### 3.5 Verification of Benefits Process

Applicants are required to disclose all sources of disaster recovery assistance received, and the Program is required to verify the amount received.

Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. § 5155) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster for which he has received financial assistance under any other program or from insurance or any other source. In accordance with the Stafford Act, Disaster Recovery funds issued through the Department of Housing and Urban Development's CDBG-DR program may not be used for any costs for which other disaster recovery assistance was previously provided for the same purpose.

Generally, financial assistance received from another source that is provided **for the same purpose** as the CDBG-DR funds is considered a DOB. The State's policy is in accordance with HUD's guidance on duplication of benefits found in Federal Register Notice 5582-N-01 published in the *Federal Register/ Vol. 76, No. 221, page 71060/Wednesday, November 16, 2011*.

#### 3.5.1 Duplicative Assistance

The Program must consider the total assistance available to Applicants when calculating an award. This includes all benefits, including cash, insurance proceeds, grants from FEMA, SBA loans, and any other assistance received by the Applicant from other local, state or federal programs, or private or nonprofit charities. This includes, but is not limited to, the following benefits:

- **National Flood Insurance Program (NFIP):** Insurance proceeds received must be disclosed by the Applicant and verified by the Program.

- **Federal Emergency Management Agency (FEMA):** FEMA proceeds received must be disclosed by the Applicant and verified by the Program.
- **Small Business Administration (SBA):** SBA proceeds received must be disclosed by the Applicant and verified by the Program.
- **Private Insurance:** All insurance proceeds received must be disclosed by the Applicant and verified by the Program by contacting the insurance companies. For the purposes of calculating awards, the Program uses the best available DOB data, which includes Applicant-certified insurance amounts verified with insurance providers before the Applicant closes out of the Program.
- **Other:** Funds received from other sources that were intended solely for the repair or reconstruction of the Property must be disclosed by the Applicant and verified by the Program. Examples include funds provided by nonprofit entities, other governmental agencies, and social groups.

Applicants are required to report all assistance reasonably anticipated. Reasonably anticipated funds include assistance that has been awarded, but has not yet been received, but does not include a situation where the funding source and/or the amount is in question.

Applicants whose Property was damaged by more than one qualifying storm may have spent funds received from their insurance company and/or other government assistance to repair items multiple times. Only the funds received after the most recent affected-storm are applied as a DOB to the Applicant's award.

For Repair and Reimbursement activities only (not Reconstruction activities), DOB is separately determined for elevation costs, so that the elevation portion of the award is based on the estimated cost of elevation minus benefits received solely for the purpose of elevation (examples include NFIP Increased Cost of Compliance (NFIP-ICC) and SBA mitigation loans).

### 3.5.2 Non-Duplicative Assistance and DOB Offsets

Funds that have been received from other federal programs or other sources may not always be determined as a DOB. In some cases, when the Program determines that other funds received are unavailable to the Applicant; were intended for different purposes; or were intended for the same purpose but were used for separate eligible purposes, then an offset, or reduction of DOB applied to the Program award calculation may be made.

Examples of non-duplicative benefits include, but are not limited to:

- Funds provided for a different eligible purpose. For example, certain types of FEMA or insurance funds received may have been intended to pay for temporary housing and would therefore not be duplicative of a repair award.
- Funds not available to the Applicant. For example, when insurance funds received must be used for a forced mortgage payoff based on the terms of the mortgage.

- Funds received from a private loan and not guaranteed by SBA.
- Assets or line of credit available to the Applicant, e.g., checking or savings accounts, stocks, bonds, mutual funds, pension or retirement benefits, credit cards, mortgages, lines of credit or life insurance are not duplicative.

### 3.5.3 Permissible Uses of Funds Received For Repair or Reconstruction

If Applicants receive assistance for generally the same purpose, but use the funds for separate eligible purposes, the funds may not be duplicative. Applicants must document their use of the funds to evidence that it was used for different purposes.

Examples of allowable expenditures:

- Applicants who have incurred legal costs in the course of obtaining a repair/rebuilding benefit (such as costs incurred in the course of legal action against Applicant's insurance company to obtain a settlement) may request that the Program offset the benefit by the actual amount of legal costs incurred, not to exceed one third of the total amount of the benefit.

Examples of unallowable expenditures that are not considered eligible uses of funds received for repair or reconstruction include, but are not limited to:

- Non-essential appliances (washer/dryer);
- Food, clothes, household goods;
- Sheds, fences (any structure not under common roof);
- Funeral costs; and,
- Insurance premiums.

### 3.5.4 Applying Small Business Administration Loans as Duplication of Benefits

Loans from the SBA are a major source of disaster recovery assistance, and many applicants find that SBA loans meet all of their uninsured disaster recovery assistance requirements. If an applicant has assistance available from another source such as the SBA, the State must determine whether program assistance is necessary and reasonable with Federal financial standards.

Per SBA's own standard operating procedures, once six months or more have elapsed from the time that an SBA loan was cancelled or last partially disbursed, the approved loan amount is considered no longer available to the Applicant. In this circumstance only the disbursed amount of the loan will be considered a duplication of benefits for the purpose of determining program assistance.

Prior to closeout, the Program verifies that more than six months have elapsed since the cancellation or last partial disbursement of an SBA loan. If less than six months have elapsed, then the applicant may avail himself of the Program's demonstrable hardship procedure to

request that the approved, undisbursed portion of the loan not be treated as DOB. If the applicant is unable to prove hardship, then the approved loan amount will be applied as DOB.

### 3.6 Maximum Benefit

The Program has analyzed the needs of the affected communities and the availability of funding and derived the following cap amount and allowance:

Program Award Caps	
<b>Base Cap</b>	The base cap amount for rental property repair and/or reconstruction coverage is \$300,000. Owners are eligible for a \$50,000 cap increase for each additional unit.
<b>LMI Allowance</b>	<p>Tenants who are identified to be low- or moderate- income (total household income is less than or equal to 80% of area median income) will qualify their unit for an increase of \$50,000 in the cap amount. (\$300,000 Base + \$50,000 low- and moderate- income = \$350,000 base cap).</p> <p>Property owners who want to convert vacant apartments into LMI units may also qualify for the increase for that unit, and all post-closeout LMI requirements will apply regardless of the status of the unit at the time of the storm</p>
<b>Elevation Allowance</b>	Rental property owners with damaged properties within the 100-year floodplain AND which are substantially damaged are eligible for up to a \$100,000 increase in the base cap amount for a 1- or 2-unit property. The allowance is increased by \$25,000 for each additional unit beyond two units. The maximum cap increase for elevation is \$225,000.
<b>Reconstruction Cap</b>	Property owners that require reconstruction are eligible for a base cap of \$300,000. For each additional unit, there is a \$50,000 per unit award cap increase.

Any repair or reconstruction costs in excess of the allowed cap amount are the responsibility of the Applicant.

### 3.7 Award Calculations and Disbursements

### 3.7.1 Award Calculations for Repair and Reimbursement Activities

Award calculations take the amount of the ECR and AA and then deduct duplicative benefits received. Funds received from other sources that were intended for repair or reconstruction are a duplication of benefits and are deducted from the award amount. The result is the Unmet Need amount.

If the Unmet Need does not exceed the applicable cap, it becomes the Maximum Award Amount. If the Unmet Need exceeds the applicable cap, the cap amount becomes the Maximum Award Amount.

Repair Example: (non LMI and not eligible for elevation)	
1. Total Eligible Cost of Repair (ECR) and/or Allowable Activities (AA)	\$250,000
2. Deduct Duplication of Benefit (DOB)	\$30,000
3. Unmet Need/Estimated Award Amount (item 1 less item 2)	\$220,000
4. Base Cap	\$300,000
5. Maximum Award Amount (lesser of items 3 and 4)	\$220,000

Unmet Need payments for Reimbursement activities are disbursed upon meeting the first payment eligibility threshold criteria, unless the applicant has only Reimbursement, with no Repair or Optional component in the award; in this case, the Reimbursement payment is not issued until the applicant has satisfied all the conditions necessary to close out his file.

Unmet Need payments for Repairs activities are disbursed in increments: 25% upon completion of the first payment eligibility threshold criteria, 50% upon commencement of construction and completion of 2<sup>nd</sup> payment eligibility criteria, and 25% upon completion of construction and eligibility closeout criteria.

### 3.7.2 Award Calculations for Reconstruction Activities

The Reconstruction award calculation is based upon the pre-storm taxable square footage of the building as determined through a review of property tax records. The pre-storm taxable square footage is multiplied by \$160 per square foot, which represents the necessary and reasonable cost of reconstruction throughout New York State.

The reconstruction award calculation also includes a \$25,000 allowance for extraordinary site conditions and a \$5,000 allowance for demolition for 1-2 units and an additional \$1,250 per unit, up to 7 units that is automatically included in all Reconstruction awards. The \$160 per square foot cost includes the cost of designing the reconstructed building and elevating the reconstructed building to the New York State required minimum elevation if the reconstructed building is located in a 100-year floodplain. The \$160 per square foot cost does not include the

cost of mitigating or remediating environmental hazards such as lead based paint or asbestos. The \$160 per square foot cost does not include the cost of repairing or replacing bulkheads. Applicants may seek additional funds for activities such as environmental mitigation or remediation or the repair of bulkheads.

In order to retain the \$25,000 for extraordinary site conditions award, Applicants must have their designer or contractor complete and submit an Extraordinary Site Condition Form. Applicants may retain the award if extraordinary site conditions must be addressed during construction. Acceptable extraordinary site conditions include:

- Sites which are sloped more than a 7.0% grade;
- Sites which require preparation such as excavation and trenching;
- Sites which require additional access to the building;
- Sites which require protection of adjacent elements;
- Where local building code requires sprinklers; and/or,
- Sites with soil conditions that require non-typical foundation systems.

If an Applicant has been classified for a Reconstruction award but wants to Repair their building instead, they may do so and are eligible to receive for the lesser of the two award calculation methods: either the \$160 per square foot calculation or an itemized repair calculation, which is computed at the Final Site Inspection. In either case, the Applicant would still be required to elevate and/or produce a Certificate of Occupancy.

In order for the Property to be considered for a reclassification from a Repair award to a Reconstruction award, the Applicant must submit either:

- A Substantial Damage Letter, issued by the municipality prior to February 20, 2014, showing that the extent of damage to the building was greater than 80%; or
- A Feasibility Analysis Report (FAR) prepared by a design professional assessing the most suitable, feasible, and cost effective solution to restoring the structure to its pre-storm condition.

If an Applicant has been given a Repair award but wishes to Reconstruct the building instead, and cannot provide one of the aforementioned documents, they may do so and at the discretion of the Program may receive the lesser of the two award calculation methods after DOB has been deducted: either the \$160 per square foot calculation, including the extraordinary site conditions and demolition funds if applicable, or the original repair award.

### 3.7.3 Award Calculations for Elevation Activities

For elevation projects, the Program pays for base flood elevation (BFE) plus 2 feet additional height. If a local municipal code, enacted prior to December 31, 2014, requires elevation to a

height above BFE plus 2 feet, the Program will adjust the elevation estimate and award accordingly.

Funds received from other sources that were intended for elevation are a duplication of benefits and are deducted from the Elevation Estimate.

If the Applicant is required to elevate pursuant to local code, because the building was substantially damaged, because the building will be substantially improved, or due to a program policy decision, then the building must be elevated to be eligible for program funding of any type (AA or ECR). For buildings already completed and elevated, a Certificate of Occupancy must be provided for reimbursement under the Program. The Applicant may apply to the Program for elevating after work was completed.

Applicants who opt into elevation first receive 10% of the estimated elevation cost as a design fee, but do not receive the 50% of the construction cost for elevation until the required construction documents have been submitted to the Program. If the Applicant has made substantial progress on their optional elevation scope of work and needs additional funds to complete the remaining optional elevation project, they may request an optional elevation interim payment. Interim payments are intended to bring the disbursed amount of the Optional Elevation Award up to 75%.

If at the Final Inspection, and upon analysis of a pre- and post-construction elevation certificate, if the elevation is lower than contemplated in the ECR, the ECR award is reduced by the difference. Applicants who need to elevate fewer than 3 feet to meet the minimum BFE requirement have their award computed on a 3 ft. elevation, in order to account for mobilization and fixed costs.

### 3.8 Architects, Engineers and Contractors

Local building departments may require a design professional. If the scope of work is \$10,000 or more, Applicants will be funded to consult with an architect and/or engineer for the project.

The Program has included a 10% allowance for design costs and/or construction management services, provided either by a dedicated design professional, or by the contractor as part of the construction scope. Ancillary design expenses incurred for surveys, soil tests, foundation investigations, and/or elevation certificates prepared by an engineer are also eligible for funding.

The Program does not select a contractor for the Applicant. Applicants should hire a contractor who is legally allowed to work in the jurisdiction of the Property. General construction contractors should meet the requirements of the locality, in which they are working. The Applicant is responsible for negotiating the final costs of construction with their contractor.

### 3.9 Design Standards and Construction Specifications

Applicants should repair their properties in accordance with all State and locally adopted and approved building codes, standards and ordinances. Due to the highly regulated nature of construction activities in New York State, compliance with the aforementioned requirements is determined through inspection and approval by the local code official that is vested with the authority to determine compliance with local and State requirements.

All reconstructed buildings and substantially damaged or substantially improved buildings must incorporate Energy Conservation Construction Code of New York State (ECCCNYS 2010) into construction and receive a Certificate of Occupancy. The Program will require a copy of the COO or equivalent document prior to closeout to confirm compliance.

Housing Quality Standards: Applicants are required to meet Housing Quality Standards (HQS) before receiving final payment in the Program.

### 3.10 Construction Change Orders

Change orders are granted for conditions that were not incorporated into the ECR and which materially affect the price or scope of work's price and are required to complete the work in a safe and sanitary manner and in compliance with federal and State guidelines. If approved, the award allocation is adjusted to reflect the increase or decrease.

The contractor or the Applicant may request the change order. Documentation required in support of the change order request is the following:

- A description of the specific work items to be added with quantities and units of measure
- An explanation as to how and why the additional work is necessary; and,
- Photos or any other relevant documentation that may be used to support or document the request.

### 3.11 Grant Agreement and Disbursement of Grant Awards

Before the Applicant received proceeds from the Program, all Owners of the Property are required to sign, either electronically or in person, a Grant Agreement. All funds are then disbursed directly to the Applicant and endorsed by all Owners of the Property.

If the award is for reimbursement only, the entire amount of the grant award as indicated on the Allowable Activities (AA), less the duplication of benefits, may be disbursed after the Applicant's file has been verified to contain all documentation necessary for Program compliance and closeout.

For projects which involve both reimbursement and repair, the reimbursement amount will be paid in full, and the repair portion will be paid according to the 25%/50%/25% schedule as discussed above.

The initial payment of 25% of the CDBG-DR Grant for mandatory prospective work is released upon execution of the Grant Agreement.

If the award is for reconstruction only, an Extraordinary Site Conditions Award in the amount of \$25,000 will be included in addition to the first payment of 25%.

### 3.12 Final Program Close-out

Applicants who complete the repair/reconstruction of their building, but who have not yet completed optional elevation or bulkhead work may still close out their repair/reconstruction award. Funds advanced for optional elevation and bulkhead work, (including design fees) are accounted for in a separate Optional Measures Grant Agreement and may be closed out separately when that work is complete. Applicants who have opted in for optional elevation or bulkhead work which is still in progress, but who have complied with all the requirements to close out their building repair/reconstruction work, can go through the closeout process. When Applicants finish the work associated with their optional elevation and/or bulkhead, their files will go through an optional measure closeout process and applicants will be asked to sign a Final Optional Measures Grant Agreement at that time.

#### 3.12.1 Final Inspection

At the end of construction, the Applicant may request a Final Inspection from the Program in order to receive final payment. The purpose of the Final Inspection is to document that all work called for in the ECR scope and if applicable, mandatory elevation estimate scope and as of August 15, 2015, Optional Mitigation activities have been completed. ECR work not completed at final inspection may be redlined out so long as it does not result in code non-compliance or failure to meet decent, safe, sanitary standards. Awards will be adjusted accordingly.

Applicants who complete their ECR scope of work but who have not yet completed optional elevation and/or optional bulkhead repair/replacement may still request a final inspection. When the work associated with their optional elevation and/or optional bulkhead scope is complete, the Applicant must request an Optional Final Inspection for the specific optional component.

#### 3.12.2 Closeout

All files must go through a closeout file review. During this time, all required Program documents must be re-reviewed for completeness. If it is discovered that the Applicant's file is missing documents, they are notified of the outstanding materials.

#### 3.12.3 Final Payments

The final payment is contingent upon receipt of required closeout documents. Specific circumstances may not require all Applicants to submit all documents.

#### 3.12.4 LMI Commitment

Applicants offered assistance to the benefit of LMI tenants must provide evidence that the property is to be rented to an LMI residential rental tenant at the time of closeout. For RP, the

LMI requirement is to rent the property for one year. For ARO, the requirement is to rent the property for two years.

### 3.13 Program Withdrawal

Applicants who wish to withdraw from the Program and who signed the Grant Agreement must:

- Submit a formal request of withdrawal.
- Repay Program funds before withdrawing.

### 3.14 Subrogation

Subrogation is the process by which duplicative assistance paid to the Applicant after receiving an award, which reimburses the Applicant twice for the same loss, must be remitted to the Program. By signing the Grant Agreement, the Applicant warrants that he/she will remit any excess funds to the Program, whenever received.

### 3.15 Monitoring and Compliance Oversight

GOSR must ensure compliance with applicable regulations, which include but are not limited to: record keeping, administrative and financial management, environmental compliance, citizen participation, conflict of interest, procurement, Davis-Bacon Labor Standards, diversity and civil rights regulations (Minority and Women's Business Enterprise, Section 3, Fair Housing, Limited English Proficiency, and American with Disabilities Act), property acquisition and management, displacement, relocation, and replacement.

GOSR has established a Monitoring Plan administered by the Monitoring and Compliance Department (MCD) to ensure that all programs and projects comply with applicable federal, State, and local regulations and effectively fulfills the goals set forth in the Action Plan and the Action Plan Amendments.

The Monitoring Plan serves to identify risks, deficiencies, and remedies relating to GOSR directly administered programs, administrative and financial management, and programs administered via GOSR subrecipients. The Monitoring Plan seeks to accomplish the following objectives:

- Determine if a grantee/subrecipient is carrying out its obligations, and its activities as described in the Action Plan for CDBG-DR assistance and its related grant or subrecipient agreement.
- Determine if a grantee/subrecipient is carrying out its activities in a timely manner, in accordance with the schedule included in the subrecipient agreement.
- Determine if a grantee/subrecipient is charging costs to the project that are eligible under applicable laws and CDBG-DR regulations, and reasonable in light of the services or products delivered.
- Determine if a grantee/subrecipient is conducting its activities with adequate control over program and financial performance, and in a way that minimizes opportunities for waste, mismanagement, fraud, and abuse.

- Assess if the grantee/subrecipient has a continuing capacity to carry out the approved project, as well as future grants for which it may apply.
- Identify potential problem areas and to assist the grantee/subrecipients in complying with applicable laws and regulations.
- Assist grantee/subrecipients in resolving compliance problems through discussion, negotiation, and technical assistance (TA) and training.
- Provide adequate follow-up measures to ensure that performance and compliance deficiencies are corrected by grantee/subrecipients, and not repeated.
- Comply with the federal monitoring requirements of 24 CFR 570.501(b) and with 2 CFR 200, as applicable.
- Determine if any conflicts of interest exist in the operation of the CDBG-DR program per 24 CFR 570.611.
- Ensure that required records are maintained to demonstrate compliance with applicable regulations.

#### 3.15.1 Cooperation and Further Documentation

The Applicant agrees to assist and cooperate with the Program should it elect to pursue any of the claims the Applicant has against the insurers for reimbursement under any such Policies and any application to FEMA, SBA or any other applicable government program. The Applicant's assistance and cooperation shall include allowing suit to be brought in the Applicant's name(s), giving depositions, providing documents, producing records and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by the Program.

#### 3.15.2 Authorization for Program to Contact Third Parties

The Applicant explicitly allows HTFC to request of any company with which the Applicant held policies or FEMA or the SBA, any non-public or confidential information needed by the Program to monitor/enforce its interest in the rights assigned to it under the NY Rising Agreement and to give the Applicant's consent to such company to release said information to the NY Rising Housing Recovery Programs.

#### 3.16 Clarification Review

Applicants who are seeking further guidance on the amount in their award letter, any calculation included in the award letter, or their eligibility should contact their Customer Representative to request a clarification review.

An Applicant will receive a Clarified Determination Form (CLDF), which indicates the outcome of the Program's review. If the Applicant is unsatisfied with the Program's clarification determination, and they wish to appeal they must appeal by completing an appeal form and emailing it to the Program's dedicated appeal email address within 60 days of receipt of the CLDF. The appeal form can be obtained from a Customer Representative. Once the 60 day appeals window has passed, the Applicant has waived their right to appeal.

#### 3.17 Appeals

If the Applicant believes that the Program's determination of their funding award calculation or eligibility status is incorrect after a clarification Review is completed, the Applicant can request a Formal State Appeals Form from their Customer Representative.

An Applicant has a right to appeal the following:

- Eligibility Determination
- Any of the inputs that influences the Award Determination, such as DOB and/or AA/ECR cost estimate.

In order to appeal, an Applicant must submit a Formal State Appeals Form within 60 days from either the CLDF or CLDF Ineligible Letter to the e-mail address:  
housingappeals@stormrecovery.ny.gov

After the Appeal Committee reviews the case, a letter with the Final Determination is issued to the Applicant. If the determination is in their favor and an award has been increased then a Grant Agreement and a new Award Calculation Table is sent to the Applicant.

### 3.18 Demonstrable Hardship

A demonstrable hardship is a substantial change in an Applicant's situation that prohibits or severely affects their ability to provide a minimal standard of living or the basic necessities of life including food, housing, clothing, and transportation without causing economic distress well beyond mere inconvenience as shown by objective evidence. A demonstrable hardship must occur after the named storms.

The demonstrable hardship must be of a severe, involuntary, and unexpected nature. It must not be one that is generally shared by other Applicants affected by the named storms or within the impacted counties. Examples of a demonstrable hardships may include job loss, failure of a business, divorce, severe medical illness, injury, death of a family member or spouse, unexpected and extraordinary medical bills, disability, substantial income reduction, unusual and excessive amount of debt due to a natural disaster, etc. None of the listed examples above, individually or taken together, automatically establish a demonstrable hardship nor is the listing above exhaustive as there may be other factors relevant to the issue of demonstrable hardship in a particular case.

If an Applicant believes that they are in the state of demonstrable hardship and that the demonstrable hardship causes them to not comply with any of the program policies, they may present their existence of a demonstrable hardship to their Customer Representative and the Program evaluates on a case-by-case basis after review of all of the circumstances.

Applicants claiming a Demonstrable Hardship are required to provide evidence of such claimed Demonstrable Hardship to Customer Representative. The State determines what a Demonstrable Hardship is for purposes of this program and its decision is final.

Applicants who wish to transfer to the NY Rising Acquisition Program may do so if it has been determined that the Applicant is FEMA non-compliant , are in the 100 year or 500 year floodplain, and have received a substantial damage letter from their municipality. Applicants whose homes are located in a Floodway may transfer to the NY Rising Buyout Program and do not need to have received a substantial damage letter from their municipality.

All other Applicants who wish to transfer to the NY Rising Acquisition Program must apply and be approved for a demonstrable hardship. The following categories of Applicants will be considered for a transfer due to hardship by a review of the hardship committee if they are in the 100 year or 500 year floodplain and have a substantial damage letter from their municipality:

- Site conditions make repair infeasible; some reasons include:
  - Land deemed unbuildable by municipality
  - Multiple flood occurrences
- Financial reason make rebuilding infeasible; some reasons include:
  - Homeowner documents that awards cannot be sufficient
  - Foreclosure issues.

### 3.19 Unmet Needs

In limited circumstances, the demonstrable hardship policy may not be sufficient to cover gaps in funding for circumstances outside of the Applicant's legal control. In these instances, the Program developed an Unmet Needs policy providing a work-out option to support Applicants who do not have sufficient funds to repair or rebuild their homes despite receiving other federal resources for this purpose.

Eligible reasons:

- Theft/vandalism; and/or
- Damage from a subsequent event (i.e. storm, fire, flood) which caused damages to the structure.

Ineligible reasons include, but are not limited to:

- Funds used to live outside the home while home being repaired; and/or
- Work by contractor not quality, but property is habitable.

The list above is not intended to be comprehensive. The State reserves the right to request any and all forms of documentation that may be required to substantiate an Applicant's claims of having encountered a circumstance that has prevented him or her from fulfilling the obligations detailed in the documents executed at closing.



## 4.0 Uniform Relocation and Real Property Acquisition Policies Act of 1970 (URA)

URA assistance may be available to Tenant(s) who must relocate during construction on their rental unit and are legal U.S. residents occupying a legal rental unit. URA is not available to property owners.

Qualified Tenant(s) may be eligible to receive assistance with all reasonable costs of temporary relocation. These costs may include moving expenses, security deposits, utility payments, increased monthly rental costs, and other expenses that are deemed reasonable and necessary.

### 4.1 Eligibility Requirements

- Landlord has applied for and is an eligible participant in the NY Rising Housing Recovery Program.
- Tenant is a legal U.S. resident occupying a legal rental unit.
- Tenant is required to relocate in order to complete the repair/reconstruction of their unit or building.
- Tenant was displaced after the date that their landlord applied to the NY Rising Housing Recovery Program.
- Tenants displaced because of a presidentially declared disaster may be eligible for assistance under URA.

### 4.2 Payment Policies

Program provides URA assistance, as is reasonable and necessary, according to the following payment policies. All payments are paid to the displaced Tenant(s), who is responsible for paying the appropriate authority in a timely and efficient manner.

- **Moving Costs:** Moving costs are paid out according to the Federal Highway Administration's Fixed Residential Moving Cost Schedule for the State of New York, found here: <https://www.federalregister.gov/articles/2015/07/24/2015-18159/uniform-relocation-and-real-property-acquisition-for-federal-and-federally-assisted-programs-fixed#t-1>
- **Security Deposit:** Program pays security deposits for the temporary unit, under the condition that the temporary landlord and Tenant attach the Program lease rider to their temporary lease. This rider states that security deposit will be returned directly to GOSR at the end of the temporary relocation.
- **Monthly Rent:** Program pays the incremental difference in monthly rent, i.e. the price difference between the temporary and permanent units.
- **Broker's Fee:** Program will make all attempts to find a unit that does not have a Broker's Fee. However, in the case where this is not possible, Program will pay the Broker's Fee.
- **Transportation Costs:** If the Tenant's commute to work/school increases by more than 30 miles, the Program will pay an allowance of \$375 per month for each adult member of the family whose commute increased by more than 30 miles.
- **Meals:** Tenant is responsible for all food/meal costs if they are relocated to a unit where he/she has access to a kitchen. In the case where kitchen access is not feasible, Program will

pay a daily food allotment according to NYS Comptroller meal allowance for employee travel, as established by the Federal General Service Administration (GSA): <http://www.gsa.gov/portal/category/100120>. Children ages 12 and under will receive 75% of the daily meal allowance established by the GSA.

- **Pet Boarding:** Program will pay for pet boarding if the Program is unable to secure a comparable pet-friendly unit for relocation.
- **Storage Unit:** Program will make every attempt to find an unfurnished apartment or comparable size to the Tenant's permanent unit so that a storage unit is unnecessary. If this is not possible, Program will pay for monthly storage costs.
- In the event that a Tenant was relocated prior to Program providing URA assistance and he/she is eligible to receive such assistance, a reimbursement allotment may be provided.
- For short term relocations, Program may relocate Tenants to a hotel. In the event that a hotel is needed, Program will make every effort to find a hotel with a kitchen in the unit.
- Program will adjust payment and may pay the responsible party, instead of the Tenant, if deemed appropriate.
- Program does NOT require tenants to make their regular rental payments to Owners while they are temporarily relocated
- The amount of a tenant's new monthly housing costs used to determine their Incremental Rental Costs are also subject to caps established by the Program.
- The State does NOT compensate Owners for lost rent during the time that their tenants are relocated.
- Owners cannot permanently displace their tenants. Specifically they must offer the tenant the opportunity to remain in the unit (if construction does not warrant temporary relocation) or they must allow the tenant the chance to return to the unit under reasonable terms and conditions if the tenant is required to temporarily relocate.
- If permanent displacement is unavoidable and URA payments to the permanently displaced tenant are required, the Owner may be held responsible for the costs of these relocation payments if it is determined by the Program that the Owner knowingly violated the Program rules and precipitated the involuntary permanent displacement.
- The Program has a goal of creating no permanent involuntary displacement and the State has designed its Program policies to minimize the incentives and the opportunities for Owners to permanently displace those tenants that are protected under URA.

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## 5.0 Acronyms and Definitions

### 5.1 Acronyms

Acronym	Name
<b>AA</b>	Allowable Activities
<b>BFE</b>	Base Flood Elevation
<b>CDBG</b>	Community Development Block Grant
<b>DHAP</b>	Disaster Housing Assistance Program
<b>DHCR</b>	Division of Housing and Community Renewal
<b>DRGR</b>	Disaster Recovery Grant Reporting System
<b>DOB</b>	Duplication of Benefit
<b>ECR</b>	Estimated Cost of Repair
<b>FAR</b>	Feasibility Analysis Report
<b>FMV</b>	Fair Market Value
<b>FEMA</b>	Federal Emergency Management Agency
<b>HTFC</b>	Housing Trust Fund Corporation
<b>HQS</b>	Housing Quality Standards
<b>HUD</b>	Department of Housing and Urban Development
<b>IRS</b>	Internal Revenue Service
<b>LEP</b>	Limited English Proficiency
<b>LIHEAP</b>	Low Income Home Energy Assistance Program
<b>LLC</b>	Limited Liability Corporation
<b>LLP</b>	Limited Liability Partnership
<b>LMI</b>	Low to Moderate Income
<b>LP</b>	Limited Partnership
<b>MBE</b>	Minority Business Enterprise
<b>NEPA</b>	National Environmental Policy Act
<b>NFIP</b>	National Flood Insurance Program
<b>HCR</b>	New York State Homes and Community Renewal
<b>OIA</b>	Office of Internal Audit
<b>OIG</b>	HUD Office of Inspector General
<b>POA</b>	Power of Attorney
<b>QA</b>	Quality Assurance
<b>QC</b>	Quality Control
<b>QPR</b>	Quarterly Performance Report
<b>REO</b>	Real Estate Owned Property
<b>RE</b>	Responsible Entity
<b>SAVE</b>	Systematic Alien Verification for Entitlements
<b>SBA</b>	Small Business Administration
<b>SEQR</b>	State Environmental Quality Review
<b>SFHA</b>	Special Flood Hazard Area
<b>SOW</b>	Scope of Work
<b>SSC</b>	Site Specific Checklist
<b>STAR</b>	School Tax Assessment Relief
<b>TANF</b>	Temporary Assistance for Needy Children
<b>URA</b>	Uniform Relocation Act
<b>WIC</b>	The Special Supplemental Nutrition Program for Women, Infants and Children

## 5.2 Definitions

**100-Year Floodplain:** Also referred to as the ‘base flood.’ This term, adopted by the NFIP as the basis for mapping, insurance rating, and regulating new construction, is the floodplain that would be inundated in the event of a 100-year flood. The 100-year flood has a one percent chance of being equaled or exceeded during any given year.

**Applicant:** a homeowner, landlord, business or other entity who makes a formal application for a GOSR Program.

**Advisory Base Flood Elevations (ABFE):** Provide a better picture of current flood risk than the existing Flood Insurance Rate Maps (FIRMs), which in some cases are more than 25 years old. The new ABFEs are the recommended elevation of the lowest floor of a building. State law, some communities, and the Residential Building Code may require that the lowest floor be built above the ABFE. The ABFEs are based on Federal Emergency Management Association’s (FEMA) coastal studies that were completed before Superstorm Sandy. The studies include data that has been collected and analyzed over a number of years. Though advisory now, eventually information used to develop the ABFEs will be incorporated into official FIRMs.

**Base Cap:** The base cap amount that an applicant can get in a particular program.

**Base Flood Elevation (BFE):** The elevation that waters from a 100-year flood will reach.

**Bi-Party Agreement:** Document between the Contractor and the Applicant that states the responsibilities of both parties before, during and after construction.

**Change Orders:** Modifications to the Scope of Work required due to unforeseen circumstances.

**Coastal Barrier Resource Act (CBRA):** In 1982, Congress enacted the Coastal Barrier Resources Act (CBRA, Public Law 97-348; 96 Stat. 1653; 16 U.S.C. 3501 et seq.), which was later amended in 1990 by the Coastal Barrier Improvement Act (CBIA, P.L. 101-591; 104 Stat. 2931). The legislation was implemented as part of a Department of Interior (DOI) initiative to preserve the ecological integrity of areas that serve to buffer the U.S. mainland from storms and provide important habitats for fish and wildlife. In order to discourage further development in certain un-developed portions of barrier islands, the law prohibits the availability of new Federal financial assistance, including Federal flood insurance, in areas DOI designates as part of the Coastal Barrier Resources System.

**Coastal Barrier Resource System (CBRS):** The CBRS is a system of protected coastal areas that includes oceanfront land, the Great Lakes and Other Protected Areas (OPAs). Coastal barriers serve as important buffers between coastal storms and inland areas, often protecting properties on land from serious flood damage. Also, coastal barriers provide a protective habitat for aquatic plants and animals. The Coastal Barrier Resources Act (CBRA) of 1982 restricted development on the CBRS, in an effort to protect the barrier system and prevent

future flood damage. If you live in a CBRS area, you are eligible for federally regulated flood insurance only if your property was built before 1982 and your community participates in the NFIP.

**Coastal High Hazard Areas (V Zones):** The areas subject to high velocity waters, including but not limited to hurricane wave wash or tsunami as designated by the Flood Insurance Rate Map (FIRM) under FEMA regulations as Zone V 1-30, VE or V (V Zones).

**Community Development Block Grant (CDBG):** A federal program administered by the US Department of Housing & Urban Development (HUD), which provides grant funds to local and state governments. The CDBG program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses.

**Community Development Block Grant Disaster Recovery (CDBG-DR):** Similar in many ways to the CDBG program, these federal funds are administered by the US Department of Housing & Urban Development (HUD) but are specifically dedicated to assist with disaster recovery in areas impacted presidentially declared events. The grant funds differ from the traditional CDBG program by providing added flexibility grantees to enact projects however all work must comply with HUD requirements.

**Condominium:** A building or complex in which units of property, such as apartments, are owned by individuals and common parts of the property, such as the grounds and building structure, are owned jointly by the unit owners.

**Condominium Association:** The entity made up of the unit owners responsible for the maintenance and operation of:

- Common elements owned in undivided shares by unit owners
- Other real property in which the unit owners have use rights

**Contract of Sale:** Contract whereby the seller transfers or agrees to transfer the property to a buyer for monetary consideration.

**Cooperative apartments (Co-ops):** Shareholders hold stock in the corporation that owns the apartment building. The building then “leases” the cooperative apartment to the buyer under a long-term proprietary lease. Co-op shareholders pay monthly maintenance to the building corporation for items such as the expenses of maintaining and operating the building property, property taxes and the underlying mortgage on the building (if any).

**Disaster Housing Assistance Program (DHAP):** A rental assistance program that provides temporary rental payments directly to landlords to help families displaced by disasters. DHAP-Sandy helps families find intermediate housing as they rebuild their lives.

**Disaster Recovery Grant Reporting System (DRGR):** The Disaster Recovery Grant Reporting system was developed by HUD's Office of Community Planning and Development for the Disaster Recovery CDBG program and other special appropriations. Data from the system is used by HUD staff to review activities funded under these programs and for required quarterly reports to Congress.

**Duplex:** A residential structure consisting of two separate dwelling units, side by side or one above the other.

**Duplication of Benefits (DOB):** Financial assistance received from another source that is provided for the same purpose as the CDBG-DR funds.

**Earth Movement:** A FEMA term where there are shifts to land caused by landslide, slope failure, saturated soil mass moving by liquidity down a slope, or sinking of the earth.

**Encroachment:** Any floodplain development that could obstruct flood flows, such as fill, a bridge, or a building. A driveway, road, or parking lot at grade (without any filling) would not cause an obstruction. Development of lakeshore floodplains, where there is no flow, is not considered an encroachment.

**Energy Star Standard:** Energy Star is a U.S. Environmental Protection Agency voluntary program that helps businesses and individuals save money and protect the climate through superior energy efficiency.

**Environmental Review Record (ERR):** A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents.

**Environmental Code:** Properties located where federal assistance is not permitted are ineligible for Program assistance. Properties must be in compliance with Environmental Code 24 CFR Part 58.

**Estimated Cost of Repair (ECR):** Provides an estimate of the basic costs needed to repair the building.

**Feasibility Analysis Report (FAR):** A financial analysis provided by the applicant's design professional, showing that demolition of the old home and construction of a new one is more cost-reasonable than repair (including elevation if substantially damaged and required) of the old home.

**Federal Emergency Management Agency (FEMA):** An agency of the United States Department of Homeland Security. The agency's primary purpose is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.

**Fair Market Value:** The hypothetical price that a willing buyer and seller agrees upon when they are acting freely, carefully, and with complete knowledge of the situation.

**Floodplain:** (also known as the “Base Flood”) The low, flat, periodically flooded lands adjacent to rivers, lakes and oceans and subject to geomorphic (land-shaping) and hydrologic (water flow) process. The 100-year floodplain is the land that is predicted to flood during a 100-year storm, which has a 1% chance of occurring in any given year. Areas within the 100-year floodplain may flood in much smaller storms as well. The 100-year floodplain is used by FEMA to administer the federal flood insurance program.

**Floodplain fringe:** the portion of the floodplain outside of the floodway, which is covered by floodwater during the 100-year Flood. The term, "flood-fringe" is generally associated with standing rather than flowing water. It is also that part of the floodplain wherein development is subject to a community's floodplain ordinance.

**Floodway:** (also known as the “regulatory Floodway”) is the portion of the Floodplain effective in carrying flow where flood hazard is generally the greatest, and water velocity is the highest. In the Floodway, fill or other development is likely to divert flow and contribute to increased water depths during a flood. Ideally, Floodways should be undeveloped areas that can accommodate flood flows with minimal risk.

**Flood Zones:** The land areas identified by the Federal Emergency Management Agency (FEMA). Each flood zone describes that land area in terms of its risk of flooding. Everyone lives in a flood zone; it's just a question of whether you live in a low, moderate, or high risk area.

**Garden Apartments:** Multi-unit apartment complexes usually located on one or two stories with the entrances to individual apartments contained along a common walkway. These complexes usually have a common off-street parking lot as well as other common public spaces.

**General Contractor:** For the use of the term does not necessarily require that a registered/licensed GC be the prime. A licensed specialty trade can subcontract and act as the GC for the intent of this program and subcontract out those portions of the work as necessary.

**Gift of Property:** A form of property transfer without exchange or payment.

**Governor’s Office of Storm Recovery:** An office for maximizing the coordination of recovery and rebuilding efforts in storm-affected municipalities throughout New York State, which operates within New York State Housing Trust Fund Corporation.

**Grantee:** The term “grantee” refers to any jurisdiction receiving a direct award from HUD under Notice FR-5696-N-01.

**Owner:** A person or persons who are listed on the deed as owning that property.

**Housing Trust Fund Corporation (HTFC):** New York State agency through which Program funds are administered to Applicants and other subrecipients.

**Department of Housing and Urban Development (HUD):** Federal department through which the Program funds are distributed to grantees.

**IntelliGrants:** The central electronic grants management system that the State has chosen to use for the Program.

**Internal Revenue Service (IRS):** Federal department responsible for tax collection and tax law enforcement.

**Limited English Proficiency (LEP):** A designation for persons that are unable to communicate effectively in English because their primary language is not English and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. An LEP person benefits from an interpreter who translates to and from the person's primary language. An LEP person may also need documents written in English translated into his or her primary language so that person can understand important documents related to health and human services.

**Limited Liability Corporation (LLC):** A limited liability corporation is the U.S.-specific form of a private limited company. It is a business structure that combines the pass-through taxation of a partnership or sole proprietorship with the limited liability of a corporation.

**Limited Liability Partnership (LLP):** A limited liability partnership is a partnership in which some or all partners (depending on the jurisdiction) have limited liabilities. It therefore exhibits elements of partnerships and corporations. In an LLP, one partner is not responsible or liable for another partner's misconduct or negligence.

**Limited Partnership (LP):** Two or more partners united to conduct a business jointly, and in which one or more of the partners is liable only to the extent of the amount of money that partner has invested.

**Lost Ownership:** Applicants who lost ownership of their Property due to foreclosure, or are pending foreclosure.

**Low-to-Moderate Income (LMI):** Low to moderate income people are those having incomes not more than the "moderate-income" level (80% Area Median Family Income) set by the federal government for the HUD assisted Housing Programs. This income standard changes from year to year and varies by household size, county and the metropolitan statistical area.

**Manufactured home:** Built in a factory and installed on the home site. They must meet HUD construction requirements. If built before the 1976 HUD Code, they are commonly called mobile homes.

**Minimum Property Standards (MPS):** Established certain minimum standards for buildings constructed under HUD housing programs. This includes new single-family homes, multi-family housing and health care type facilities.

**Minority and Women Business Enterprise (MBE):** A business that is owned and controlled (minimum of 51 percent ownership) by a member of a minority group.

**Mixed Family:** Is a family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Noncitizen:** A person who is neither a citizen nor a national of the United States.

**National of the United States:** A non-US citizen who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession. A National is not considered an alien.

**National Environmental Policy Act (NEPA):** Establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government give proper consideration to the environment prior to undertaking any major federal action that could significantly affect the environment.

**National Flood Insurance Program (NFIP):** Created by Congress in 1968 to reduce future flood damage through floodplain management and to provide people with flood insurance through individual agents and insurance companies. FEMA manages the NFIP.

**Office of Community Renewal (OCR):** A department of New York State Homes and Community Renewal that oversees the New York Action Plan for disaster recovery programs.

**HUD Office of Inspector General (OIG):** OIG's mission is independent and objective reporting to the Secretary and the Congress for the purpose of bringing about positive change in the integrity, efficiency, and effectiveness of HUD operations. The Office of Inspector General became statutory with the signing of the Inspector General Act of 1978 (Public Law 95-452).

**Owner expenses:** Costs above the program's spending caps and/or costs associated with providing luxury items (i.e. marble counter tops, deluxe showers, etc.).

**Person with Disabilities:** [24 CFR 5.403]. A person with disabilities for purposes of program eligibility:

(1) Means a person who:

(i) Has a disability, as defined in 42 U.S.C. 423;

- (A) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
  - (B) In the case of an individual who has attained the age of 55 and is blind, inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time. For the purposes of this definition, the term blindness means central vision acuity of 20/200 or less in the better eye with use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purposes of this paragraph as having a central visual acuity of 20/200 or less.
- (ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
- (A) Is expected to be of long-continued and indefinite duration,
  - (B) Substantially impedes his or her ability to live independently, and
  - (C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- (iii) Has a developmental disability, as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8))

**Power of Attorney (POA):** An authorization to act on someone else's behalf in a legal or business matter.

**Program Eligible Expenses:** Replacement or repair of “non-luxury” items within the spending cap.

**Property Owner:** Property Ownership is defined as holding a fee simple title as evidenced by a warranty deed, bargain for sale deed, or a quitclaim deed to the Property to be assisted. The deed must be recorded with the county, city, or appropriate local municipality.

**Property:** The storm-damaged home and surrounding land, of which the Applicant is applying for assistance to repair or reconstruct.

**Quality Assurance (QA):** Planned and systematic production processes that provide confidence that the policy and procedures of the Program are being executed as planned.

**Quality Control (QC):** Testing to ensure that the policy and procedures of the Program are being executed as planned.

**Quarterly Performance Report (QPR):** Each grantee must submit a QPR through the DRGR system no later than 30 days following the end of each calendar quarter. Within 3 days of submission to HUD, each QPR must be posted on the grantee’s official web site.

**Reconstruction:** The labor, materials, tools and other costs of rebuilding.

**Repair:** The labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs.

**Request for Proposal (RFP):** A procurement document designed to solicit proposal services where cost is considered as a factor.

**Request for Qualifications (RFQ):** A procurement document designed to solicit a quote for services defined.

**Responsible Entity (RE):** Under 24 CFR Part 58, the term “responsible entity” (RE) means the grantee receiving CDBG assistance. The responsible entity must complete the environmental review process. The RE is responsible for ensuring compliance with NEPA and the Federal laws and authorities, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the Environmental Review Record (ERR) is complete.

**Reverse Mortgage:** A special type of loan that lets an Owner convert the equity in his/her Property into cash. To qualify, the Applicant must be at least 62 years of age, must occupy the Property as their principal residence, and must have sufficient equity in the Property.

**Real Estate Owned Property (REO):** A Property owned by a lender—typically a bank, government agency, or government loan insurer—after an unsuccessful sale at a foreclosure auction.

**Reimbursement:** HUD CPF Notice 15-07 allows grantees to “charge to CDBG-DR grants the eligible pre-award and pre-application costs of individuals and private entities related to single- and multi-family residential structure and non-residential structures, only if the person or private entity incurred the expenses within one year after the date of the disaster and before the date on which the person or entity applies for CDBG-DR assistance.” The State received an extension of HUD’s one year’s requirement for its Rental Properties Program. Rehabilitation and reconstruction expenses incurred prior to application of the Program may be eligible for reimbursement. However, Rental Property Program applicants seeking bulkhead repair may only be reimbursed for costs incurred within one-year following the storm where duplication of benefits were counted or 10/29/2013 whichever is earlier. ARO applicants may only be reimbursed within one-year following the storm where duplication of benefits were counted or 10/29/2013 whichever is earlier. Repairs made to

bulkheads prior to one year after the Covered Storm may be eligible for assistance from the State in the form of reimbursement funding.

**Second Home:** If a second home is not rented out at any time during the year, it is a second home regardless of if it is used by the household or not. If a home is rented out part of the year and the Owner uses the home more than 14 days or more than 10 percent of the number of days during the year that the home is rented, then it is a second home. If a home is rented out for part or all of the year and the Owner does not use the home long enough then it is rental property and not a second home.

**Site Specific Checklist (SSC):** The environmental compliance checklist that is required to document environmental clearance before Federal funds are permitted to be awarded.

**Slum and Blight:** “Blighted area” and “slum” mean an area in which at least seventy percent of the parcels are blighted parcels and those blighted parcels substantially impair or arrest the sound growth of the state or a political subdivision of the state, retard the provision of housing accommodations, constitute an economic or social liability, or are a menace to the public health, safety, morals, or welfare in their present condition and use.

**Small Business Administration (SBA):** SBA’s Office of Disaster Assistance (ODA) provides affordable, timely and accessible financial assistance to Applicants, renters, and businesses. The SBA low-interest, long-term loans are the primary form of federal assistance for the repair and rebuilding of non-farm, private sector disaster losses.

**Subordination Agreement:** A written contract in which a lender who has secured a loan by a mortgage or deed of trust agrees with the Property Owner to subordinate the earlier loan to a new loan (thus giving the new loan priority in any foreclosure or payoff).

**Subrogation:** The process by which duplicative assistance paid to the Applicant after receiving an award, is remitted to the Program in order to rectify a duplication of benefit.

**Substantial Damage:** Occurs when a property sustains damages that equals or exceeds 50 percent of its Fair Market Value (FMV) prior to the event, as determined by a local authorized official (e.g., a code officer) and is sent a Substantial Damage Letter.

**Systematic Alien Verification for Entitlements (SAVE):** A web-based service that helps federal, state and local benefit-issuing agencies, institutions, and licensing agencies determine the immigration status of benefit Applicants so only those entitled to benefits receive them.

**Trust:** A legal vehicle to hold property subject to certain duties and to protect it for another individual.

**Uniform Relocation Act (URA):** A federal law that establishes minimum standards for federally-funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms.

**Urgent Need Objective:** Under the disaster recovery federal regulations, HUD has determined that an urgent need exists within the Presidentially Declared counties. An urgent need exists because existing conditions pose serious and immediate threats to the health/welfare of the community, the existing conditions are recent or recently became urgent (typically within 18 months), and the sub-grantee or state cannot finance the activities on its own because other funding sources are not available. All Applicants who cannot meet the LMI National Objective are placed into the Urgent Needs category.

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## Exhibit 1 - Program Administrative Requirements and Cross-Cutting Federal Regulations

The Governor's Office of Storm Recovery (GOSR) and its subrecipients must adhere to all applicable State and federal laws, rules, and regulations. This section provides a summary of the significant and applicable federal regulations.

### Americans with Disabilities Act (ADA)

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of TDD/telephone relay services.<sup>1</sup> GOSR takes affirmative steps to ensure that people with disabilities have equal access to the programs offered by GOSR, and that any services are delivered in the most integrated manner possible. Qualified persons with disabilities are informed of the availability of program services and activities, and GOSR's programs or services are readily accessible to, and usable by, individuals with disabilities. GOSR also ensures that reasonable modifications or changes to policies, practices, or procedures are made in order to guarantee people with disabilities equal access to services and programs. Additionally, all programs and activities are accessible, both structurally and administratively, to people with disabilities. GOSR's mandate to conform the requirements of ADA flows down to all of its stakeholders, including subrecipients, vendors and developers.<sup>2</sup>

### Davis-Bacon Act and Related Acts (DBRA)

The Davis-Bacon Act and Related Acts (DBRA) applies to subrecipients and subrecipients' contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public buildings or public works. Subrecipients and contractors must pay their laborers and mechanics employed under contract no less than the "locally prevailing wages" and fringe benefits for corresponding work on similar projects in the area. Davis-Bacon "labor standards clauses" must be included in covered contracts.

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<sup>1</sup> [http://www.ada.gov/2010\\_regs.htm](http://www.ada.gov/2010_regs.htm)

<sup>2</sup> <http://www.disabilityrightswi.org/wp-content/uploads/2008/09/ada-title-2.PDF>

As part of the pre-construction phase, subrecipients must work with GOSR to obtain for both federal and New York State prevailing wage decisions for each project. After the bids are received, GOSR will verify the eligibility of the contractor to participate in the program. Requirements for regular submission of certified payrolls are described in Section 3.10.3. The timing of these wage decisions is an important part of the process. Both state and federal wage decisions are necessary because the higher of the state or federal wage is required to be paid.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week. Additionally, GOSR must follow the reporting requirements per HUD and Department of Labor (DOL) regulations. This requirement also extends to GOSR subrecipients and contractors.

GOSR will conduct periodic construction site visits to verify that the wage decisions and other required posters are displayed on the site. GOSR will also conduct periodic employee interviews using form HUD-11 to verify that employees are being correctly classified on the certified payrolls and are being paid the correct wage rate for the classification. In addition to conducting employee interviews using form HUD-11, GOSR may also elect to conduct employee interviews via the US mails using HUD form 4730. GOSR will contact the general contractor to clarify and resolve discrepancies related to underpaid workers, apprentices, improper deductions, fringe benefits and other inconsistent information between payrolls and employee interviews.

In cases where restitution is required GOSR will send formal notice to the general contractor listing affected workers and the total dollar amount of required restitution. The general contractor will be required to provide evidence of restitution to each worker. If the general contractor is unwilling or unable to make restitution GOSR may withhold funds equal to the restitution amount.

### **Equal Employment Opportunity (EEO)**

Executive Order 11246, Equal Employment Opportunity, as Amended, prohibits federal contractors and federally-assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that

equal opportunity is provided in all aspects of their employment.<sup>3</sup> This regulation is adhered to within GOSR programs.

## **Fair Housing**

The Fair Housing Act requires all grantees, subrecipients, and/or developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability or marital status. GOSR enforces the Fair Housing Act by ensuring that all grantees, subrecipients, and/or developers meet the applicable Fair Housing and Affirmative Marketing requirements and provide a marketing plan and report on compliance in accordance with the Fair Housing Act and the associated forms on HCR's website, where applicable. The Affirmative Marketing Plan must be in compliance with applicable Fair Housing Laws and demonstrate how the Applicant will affirmatively further fair housing throughout applicable GOSR disaster recovery programs.

## **Fair Labor Standards Act of 1938, as Amended (FLSA)**

The FLSA<sup>4</sup> establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week.<sup>5</sup> These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project. Excluding the exceptions listed below, all workers employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under the GOSR CDBG-DR Program must be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

In some cases, New York State Prevailing Wages and Davis-Bacon Prevailing Wages both apply. In such instances, the higher of the two prevails.

Exceptions to Fair Labor Standards Act of 1938, as Amended (FLSA) include:

- Construction contracts of \$2,000 or less;
- Real property acquisition;

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<sup>3</sup> 41 CFR Part 60.  
<sup>4</sup> 29 U.S.C. 201.  
<sup>5</sup> *Id.*

- Architectural and engineering fees;
- Other services (such as legal, accounting, construction management);
- Other non-construction items (such as furniture, business licenses, real estate taxes);
- Rehabilitation of residential property designed for fewer than eight families; and,
- Demolition, and/or clearance activities, unless related to construction (demolition and clearance as independent functions are not considered construction). Contact a GOSR CDBG-DR Labor Specialist for assistance.

### **Limited English Proficiency (LEP)**

[Federal Executive Order 131661](#) and [State Executive Order #26](#) require GOSR and all satellite offices, programs, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with LEP and/or who are Hearing Impaired. GOSR ensures fair access through the implementation of a Language Assistance Plan (LAP) which includes non-English based outreach, translation services of vital documents, free language assistance services, and staff training. GOSR's LEP Coordinator is responsible for coordinating all activities associated with the LAP, and GOSR monitors its implementation.

### **Minority- and/or Women-Owned Business Enterprises (MWBE)**

The federal [Executive Order 12432](#) guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned Business Enterprises (MBEs). 2 CFR 200.321 requires the non-federal entity to take all necessary steps to ensure that all subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance ensure that contracts and other economic opportunities are directed to small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms when possible.

New York State is a national leader in requiring that public entities utilize MBE and WBE firms. Per State goals identified by the administration, for projects and agreements awarded prior to January 30, 2015, GOSR ensures compliance by requiring, as applicable, subrecipients and contractors to make best efforts to achieve an overall M/WBE participation goal of 20% of the entire contract value consisting of 10% for MBE and 10% for WBE.

For all projects and agreements executed after January 30, 2015, GOSR will be required to make best efforts to achieve an overall M/WBE participation goal of 30% of the entire contract, consisting of 15% for MBE and 15% for WBE, per the increase in utilization targets put in place by New York State. DCR verifies M/WBE certification and the MCD monitors to ensure compliance with all reporting requirements through Elation.

For all applicable projects, DCR works with applicants and subrecipients to provide TA, guidance, and one-on-one support required to implement good faith efforts and meet applicable M/WBE thresholds.

### **Section 3**

Section 3 of the Housing and Urban Development Act of 1968 requires grantees, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part by the CDBG-DR funding, to the greatest extent feasible, to extend hiring opportunities and contracts to Section 3 eligible residents and businesses. Section 3 eligible residents are low- and very low-income persons, particularly those who live or reside in public or government-assisted housing.

For those entities that receive more than \$200,000 in HUD CDBG-DR assistance and contractors that are awarded covered contracts that exceed \$100,000, GOSR requires that an approved Section 3 plan be in place before the project is awarded and approved. GOSR monitors contracts with, subrecipients, contractors, subcontractors, and/or developers.

For Section 3, DCR provides training, TA, and one-on-one support for all projects, especially in terms of developing and reviewing Section 3 plans as well as implementing best efforts to meet Section 3 goals. GOSR also monitors the level Section 3 goal attainment and provides additional on the ground support where required.

### **Relocation Assistance and Real Property Acquisition**

CDBG-DR federal funds, administered by GOSR and disbursed to subrecipients and direct contractors and/or beneficiaries, are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 CFR Part 24 (URA), 24 CFR Part 42 (Section 104(d)), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

Section 104(d) requires relocation assistance for lower-income individuals displaced as a result of the demolition or conversion of a lower-income dwelling and requires one-for-one replacement of lower-income units demolished or converted to other uses.

Subrecipients or contractors must provide the following benefits to households that they displace:

- Relocation advisory services;
- A minimum of 90 day notice to vacate;
- Reimbursement for moving expenses; and
- Payments for added cost of renting or purchasing comparable replacement housing.

GOSR programs subject to the Uniform Act and Section 104(d) include the CDBG-DR programs. GOSR policies and procedures, Notices of Funding Availability (NOFAs), applicant certifications, and/or written agreements for funds subject to the Uniform Act and Section 104(d) shall refer to federal and State rules, as appropriate.

A purchase option agreement on a proposed site or property prior to the completion of the environmental review is allowed if the option agreement is subject to a determination by the subrecipient, direct contractor and/or beneficiary on the desirability of the property for the project after the environmental review is completed and the cost of the option is a nominal portion of the purchase price.

## **Real Property**

If CDBG-DR funds are used to acquire real property, where applicable, GOSR ensures that the property continues to be used for its intended (and approved) purpose, proper records are maintained to keep track of it, steps are taken to protect and maintain it, and that if the property is sold, GOSR is reimbursed for the CDBG-DR share of the property's value. GOSR, as the grantee, along with its subrecipients and contractors, must tag and log all property valued greater than \$1,000 and update inventory records annually.

This fairly straightforward proposition about the ownership, use, management, and disposition of property is complicated by two facts. First, the rules about property management and disposition differ slightly depending on whether a grantee is a public-sector grantee. (The rules are generally more explicit for governmental grantees). Second, the rules depend on the nature of the property. Real property (e.g., land, buildings) is treated differently than personal property (e.g., equipment, supplies, intangible property like copyrights). (Property Management and Disposition Regulations 24 CFR 570.503; all subrecipients (subs) 24 CFR 85.32; 85.34, govt. subs 24 CFR 84.32; 84.34, nonprofit subs).

The federal requirements relating to property are organized according to title (ownership), use, and disposition. In general, the property management system must provide for accurate records, the performance of regular inventories, adequate maintenance and control, and proper sales procedures. Grantees must follow sales procedures that provide for competition, to the extent practicable, and that result in the highest possible return.

## **Financial Management**

Pursuant to Public Law 113-2, GOSR maintains and has in place proficient financial controls. The GOSR Internal Audit Department exists to examine and evaluate the adequacy and effectiveness of the organization's governance and risk management. IAD plans and considers controls necessary to mitigate risks associated with program and administrative Operations,

internal and external Reporting, and Regulatory Compliance. Risks of Fraud, Waste, and Abuse are additionally considered throughout assignments.

MCD and GOSR's Internal Audit Department (IAD) ensure that GOSR, as the grantee, as well as those administering CDBG-DR funds continuously demonstrate conformity to financial management requirements as required by FR-5696-N-01. These requirements include, but are not limited to, areas covering: Financial Management; Advances; Internal Controls; Accuracy of Report Information; Program Income; Salaries and Wages; Indirect Costs; Lump Sum Drawdowns; and OMB Circular A-133. GOSR's financial management system will be consistent with and in compliance with 24 CFR Parts 84, 85, and 570 (as applicable, and as amended by 2 CFR 200), which ensures that GOSR funds are managed with high levels of accountability and transparency.

GOSR's Financial Management practices adhere to the following:

1. Internal controls are in place and adequate;
2. Documentation is available to support accounting record entries;
3. Financial reports and statements are complete, current and reviewed periodically; and
4. Audits are conducted in a timely manner and in accordance with applicable standards.

## **Procurement Policy**

GOSR has established and adopted a procurement policy that meets State and federal requirements. The MCD and IAD ensure that GOSR adheres to its established policies.

## **Record Keeping, Retention, and File Management**

In accordance with HUD regulations, GOSR as a grantee and recipient of CDBG-DR funds follow the records retention as cited in 24 CFR 84.53 (as amended by 2 CFR 200.333), which includes financial records, supporting documents, statistical records, and all other pertinent records are maintained for five years. GOSR established record keeping and retention requirements in its subrecipient and contractor agreements in accordance with the guidelines established in 24 CFR 570.503(b)(2). For all subrecipients, their retention of records shall be kept in accordance with 24 CFR 85.42, as modified by 24 CFR 570.502(a)(16), which requires for records to be maintained at least for a period of five years following the closeout of all activities associated with each particular program.

GOSR maintains records in accordance with recordkeeping requirements cited in 24 CFR 570.490(a)(1) (as amended by 2 CFR 200), in order to facilitate a review or audit by HUD. Additionally, every subrecipient and contractor is required to establish and maintain at least three major categories of records: Administrative, Financial, and Project Case files.

**Administrative records:** These are files and records that apply to the overall administration of the subrecipient's CDBG-DR activities. They include the following:

- Personnel files;
- Property management files;
- General program files: Files relating to the subgrantee, subrecipient's, or contractor's application to the grantee, the subrecipient agreement, program policies and guidelines, correspondence with grantee and reports, etc.; and,
- Legal files: Articles of incorporation, bylaws of the organization, tax status, board minutes, contracts and other agreements.

**Financial records:** These include the chart of accounts, a manual on accounting procedures, accounting journals and ledgers, source documentation (purchase orders, invoices, canceled checks, etc.), procurement files, bank account records, financial reports, audit files, etc.

**Project/case files:** These files document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.

## Reporting

As a recipient of CDBG-DR funds, GOSR established reporting requirements for all subrecipients and contractors in their respective subrecipient and contractor agreements and contracts in accordance with 24 CFR 570.503(b)(2). GOSR established its own reporting requirements in accordance with the provisions as found in 24 CFR 85.40(a) and (e) and 85.41(c) and (d) for Units of General Local Government (UGLGs) or 24 CFR 84.51(a) for non-profit subrecipients reporting requirements.

Generally speaking, GOSR monitors reporting requirements at five different program intervals:

1. At execution of agreements;
2. Monthly;
3. Quarterly;
4. Annually; and
5. As required.

Subrecipients, contractors and developers submit the documents and reports to the State at the times indicated in the subrecipient and grant agreement, loan agreement and/or contract agreement, and in the format prescribed by GOSR staff. Deviations from this requirement must be approved by GOSR staff.

## Record Retention

Record retention is a requirement of the Program. Records are maintained to document compliance with Program requirements and federal, State, and local regulations and to facilitate an audit review by HUD. Records are maintained in accordance with 24 CFR 570.490 (as amended by 2 CFR 200.333), which states they must be maintained for a period of five years following the closeout of the award to the State. GOSR seeks to ensure that:

- Compliance with all requirements concerning records and records management practices under federal and State regulations;
- That the organization has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements and community expectations;
- These records are managed efficiently and can be easily accessed and used for as long as they are required; and
- These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner based on HUD Handbook 2225.6, Records Disposition Schedules and HUD Handbook 2228.2.

## Access to Records

24 CFR 570.490 (as amended by 2 CFR 200.336) Recordkeeping requirements:

*“(c) Access to records.*

*(1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.*

*(2) The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.”*

The availability of records is subject to the exemptions to public disclosure set forth in section 87(2) of the New York State Public Officers Law. All Freedom of Information Law (FOIL) requests under the Public Officers Law must be made in writing to the Records Access Officer and will be processed in accordance with the procedures set forth therein.

## Audit Trail

All records defined by the organization as important are captured into GOSR’s recordkeeping systems (e.g., SharePoint, Intelligrants, Tribuo, Elation, Imarc, GSP, etc.) so they can be appropriately managed.

Within the NY Rising Housing Recovery Program, Intelligrants serves as GOSR's management information system. Intelligrants provides immediate tracking and imaging of all Program documentation, including but not limited to, applicant notification, eligibility verification documentation, financial funds disbursement documentation to ensure data security, and Program oversight to create a clear audit trail of the Program. Additional financial funds disbursement documentation is available from the Tribuo database.

Within the NY Rising Community Reconstruction Program and the NY Rising Infrastructure Program, GOSR Subrecipient Portal (GSP) will serve as GOSR's management information and model file system. GSP contains both grantee and project level files, providing immediate tracking and imaging of Program documentation, including but not limited to, project selection, development and implementation activities, subrecipient agreements and other agreements, financial management and citizen participation data. Ensuring data security and oversight to creating a clear audit trail of the Programs.

All applicant data is secured in GOSR's management information system for a specified period of time in accordance with the current Record Retention and Disposition Schedule.

Recordkeeping, including scanning, uploading to GOSR's management information system, and filing of pertinent Program documentation retention policies are to provide both a physical and an electronic record of activities so that documentation is accessible for audit purposes.

In order to protect non-public personal information, data security measures are in place. For example, hardware and software data security protocols such as the requirement for signed non-disclosure agreements prior to receipt of access credentials for Intelligrants. GOSR also requires that hard copy files containing non-public personal information are kept in locked file cabinets to ensure their physical security.

## **Conflicts of Interest and Confidentiality**

Conflicts of interest between applicants, subrecipients, program administrator, contractors, program staff and other parties are strictly prohibited by federal law.

A "covered person" is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or any designated public agencies, or subrecipients that are receiving CDBG-DR funds. Generally, no person who is a covered person, and who exercises or has exercised any functions or responsibilities with respect to CDBG-DR activities and who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

## Conflicts of Interest

The Program requires all Program staff to disclose any relationship with an applicant or contractor. State program staff, sub-grantees, program administrators, and contractors who disclose such relationships are placed in roles where there is no opportunity for them to display favoritism or collude in order to financially or otherwise benefit themselves, the Applicant, or the contractor. For example, a Customer Representative may not perform work on the application of family. For purposes of this regulation, “family” is defined to include spouse, parents, mother-in-law, father-in-law, grandparents, siblings, brother-in-law, sister-in-law, and children of an official covered under the CDBG conflict of interest regulations at 24 CFR 570.489(h) (as amended by 2 CFR 200).

GOSR may consider granting an exception to the conflict of interest provisions per 24 CFR 570.489(h)(4) (as amended by 2 CFR 200) if GOSR has determined that the subrecipient has adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974, as amended and the subrecipient has complied with the requirements listed in 24 CFR 570.489(h)(4)(i) and (ii) (as amended by 2 CFR 200). GOSR considers whether the exception provides a significant cost benefit or essential degree of expertise; whether the opportunity was provided for under open competitive bidding or negotiation; whether the person affected is a LMI person; whether the affected person has withdrawn from his or her functions or responsibilities; whether the interest or benefit was present before the affected person was in a position to benefit from the conflict of interest; or whether undue hardship results from failure grant the exception.

## Confidentiality/Privacy

The New York State Housing Recovery Program is committed to protecting the privacy of all of our individual stakeholders, including the public and those individuals working on the Program. The Program’s policies describe how information is to be handled and protected. The purpose of this privacy policy is to establish when and under what conditions certain information relating to individuals may be disclosed.

The data collected from Applicants to GOSR programs contain personal information on individuals that is covered by the Federal Privacy Act of 1974, the Personal Privacy Protection Act (NYS POL §95, et. seq.) and the State’s Public Housing Law (see, PHL §159), among others. These laws provide for confidentiality, and restrict the disclosure of confidential and personal information. Unauthorized disclosure of such personal information may result in personal liability with civil and criminal penalties. The information collected may only be used for limited official purposes, including:

1. NY CDBG-DR Grant program may use personal information throughout the award process to ensure compliance with program requirements, reduce errors and mitigate fraud and abuse.
2. Independent Auditors, when hired by the program to perform a financial or programmatic audit of the program, for use in determining program compliance with all applicable HUD and federal regulations, including the Stafford Act, CDBG-DR requirements and State and Local law.
3. NY CDBG-DR Program may disclose personal information on an Applicant to those with official Power of Attorney for the Applicant or for whom the Applicant has provided written consent to do so.
4. Organizations assisting the State in executing the CDBG-DR Program must comply with all Federal and State Law Enforcement and Auditing requests. This includes, but is not limited to, HUD, FEMA, FBI, NYS Office of the Comptroller, and the Office of the Inspector General.

## Detecting and Preventing Duplication of Benefits

Generally, financial assistance received from another source that is provided for the same purpose as the CDBG-DR funds is considered Duplication of Benefit (DOB). To prevent the payment of DOB to Applicants, Program controls include, but are not limited to:

- Certification that Applicants have notified the State of all potential DOB;
- Verification of specific DOB through various available sources; and,
- Enforcement of certification to the fullest extent of the law.

## Recapture Policy

The New York State Housing Trust Fund Corporation (HTFC) under the Division of Homes and Community Renewal (HCR) through GOSR is responsible for ensuring that CDBG-DR funds awarded by HUD through New York Rising comply with all federal, state and local requirements.

In order to ensure that New York State is able to fulfill its contractual obligations to HUD, and that the Applicants receiving CDBG-DR assistance are using the funds for their intended purpose, GOSR requires all Applicants to sign grant agreements stipulating each party's responsibilities and the potential penalties if the Applicant is found not to have fulfilled their obligations. Specifically, if the funds are not used for eligible activities, the money can be recaptured.

To monitor operations and to guard against fraud or unintentional violations of program requirements, GOSR has established quality control procedures. If a program violation is identified, the State recaptures funds in accordance with its recapture procedure. GOSR understands that the Applicants receiving CDBG-DR assistance have suffered significant losses

and the contractual responsibilities are NOT intended to be an imposition on them or to require difficult pre-requisites for benefits. However, because the purpose of the grant is to restore and revitalize communities affected by the storms, CDBG-DR funds must be used in accordance with HUD guidelines to help repair or replace damaged homes and businesses or reduce the risk of future damage through resilient rebuilding, elevation or other mitigation measures.

## **Anti-Fraud, Waste and Abuse Checks (AFWA)**

The Anti-Fraud, Waste and Abuse (AFWA) check is designed to identify discrepancies and risk-relevant issues in Applicant-provided information that may be indicative of fraud, waste, and/or abuse risk. This check is run the Applicant and may consist of up to seven components:

1. Social Security Number check (for relevant applicant types);
2. Business status check (for relevant application types);
3. Confirmation of association with damaged property address;
4. Check of relevant watch lists and debarment lists;
5. Searches for New York State tax warrants;
6. Searches for federal tax liens filed in New York State; and/or
7. Searches for New York State child support warrants (for relevant application types).

## **Review of AFWA Check Findings**

After AFWA checks are completed, findings are delivered to Customer Representatives who receive reports notifying them of any flags that were identified. In their review of AFWA check findings, Customer Representatives examine application information and Applicant-provided documentation to seek to determine if this information is consistent with flags identified through AFWA checks and to identify potential typographical/data input errors.

## **Adjudication and Escalation of AFWA Findings**

Using relevant federal and State policy and procedure guidelines, the Customer Representative/Business Advisor determines:

- a. If flagged issues affect the Applicant's eligibility and
- b. If further action is necessary in order to adjudicate the application.

Examples of options that may be available to the Customer Representative/Business Advisor could include but are not limited to the following:

- If the flagged issue does not affect the Applicant's eligibility per State policy, the Customer Representative/Business Advisor can recommend that the application be permitted to progress through the application process.

- If the flagged issue is a result of a typographical error (e.g., transposition of last and first names, hyphenation, misspelling, missed letter, missed numerical digit, incorrect ZIP codes), the Customer Representative/Business Advisor can query the underlying documentation submitted by the Applicant for an extra layer of verification and recommend that the application be permitted to progress through the application process, pursuant to satisfactory confirmation of underlying documentation.
- If there is insufficient information to adjudicate the flagged issue and research of publicly available information is not able to provide the information necessary to make a determination, the Customer Representative/Business Advisor can recommend that follow up be conducted with the Applicant or that the application be escalated for further scrutiny.

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## Exhibit 2 - Citizen Participation Plan

**State of New York**  
**Citizen Participation Plan**  
**Community Development Block Grant Disaster Recovery**  
**Hurricane Irene, Tropical Storm Lee, & Superstorm Sandy**  
January 5, 2015

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The primary goal of the New York Citizen Participation Plan is to provide all New York citizens with an opportunity to participate in the planning, implementation, and assessment of the State's CDBG-DR Sandy recovery program(s). The Plan sets forth policies and procedures for citizen participation, which are designed to maximize the opportunity for citizen involvement in the community redevelopment process. New York State developed the Citizen Participation Plan to meet the requirements of the CDBG Disaster Recovery (CDBG-DR) funding for Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. The Plan reflects the alternative requirements as specified by the U.S. Department of Housing and Urban Development (HUD) in the Federal Register (FR-5696-N-01), Federal Register (FR-5696-N-06), Federal Register (FR-5696-N-11), and notice of specific waivers.

The State will ensure that any Units of General Local Government (UGLG) or subrecipients who receive funds will have a Citizen Participation Plan that meets the CDBG-DR regulations and takes into consideration the waivers and alternatives made available under CDBG-DR funding.

In order to facilitate citizen participation requirements and to maximize citizen interaction in the development of the New York Disaster Recovery Action Plan, substantial amendments to the Action Plan, and the Quarterly Performance Reports (QPR), the State has laid out targeted actions to encourage participation and allow equal access to information about programs by all citizens, including those of low and moderate income, persons with disabilities, the elderly population, persons receiving Disaster Housing Assistance Program (DHAP) funding, and persons with limited English proficiency.

### **Public Outreach**

GOSR is committed to ensuring that all populations impacted by the storms are aware of the programs available to assist in the recovery from Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy. Through in person meetings, outreach events, online and traditional media, GOSR has publicized programs and conducted outreach efforts throughout the storm-impacted areas. In addition, the Governor initiated the NYRCR Program, a grass-roots community driven process that engages the public as a key stakeholder in the planning and rebuilding process. Through 61 cross-jurisdictional Planning Committees representing 119 communities, the NYRCR stakeholders helped to inform their communities about the available recovery programs as they came online.

## **Programmatic Outreach**

Through the NYRCR Program, there have been over 650 Planning Committee Meetings to construct a vision statement; to conduct an inventory of critical assets and an assessment of risks; and then ultimately to craft the strategies, and proposed projects or actions to address these risks. All meetings were open to the public and were publicized by media advisories, flyers, and posters hung in public buildings; radio announcements; and through social media. Where necessary, meetings were advertised in various languages to ensure the immigrant population was informed. Translators were also present at meetings so that information was clearly understood. For the hearing impaired, sign language interpreters were also available.

More than 250 Public Engagement Events attracted thousands of community members, who provided feedback on the NYRCR planning process and proposals and made additional suggestions. Planning Committee members were instrumental in representing communities that are traditionally underrepresented in disaster recovery, from engaging immigrant populations to working with high school students. Committee members made presentations at senior housing complexes, religious gatherings, schools, and at Chambers of Commerce.

For the Small Business program, GOSR worked in coordination with the Empire State Development Corporation (ESD) as well as its subrecipient, the Small Business Development Center (SBDC) to create a multi-pronged approach to reach out to more than 3,000 businesses in the impacted communities through paid advertising, door-to-door visits, press releases and other public relations efforts, and collaboration with various constituents and community organizations.

For the NY Rising Housing Recovery Program, early on the State partnered with the Long Island Housing Partners to target community outreach including but not limited to, persons with disabilities and other special needs, and senior households, with a focus on low- and moderate-income minority communities; outreach to and coordination with civic associations, religious and advocacy groups (racial equity), social service agencies, emergency aid not-for-profits, educational institutions, and outreach to residences impacted by the disaster.

The State's vendors on the project also held numerous meetings to inform the public about the availability of grants for home repairs. This outreach consisted of a variety of methods: media announcements, online updates on the Storm Recovery website and through Storm Recovery profiles on social media platforms including Facebook, Twitter, and Instagram, community meetings, and partnerships with subrecipients. Additionally, staff frequently made presentations to community groups, specifically in Long Island, to provide updated program information. A similar effort has been conducted in counties in upstate New York to make sure that all impacted owners have the most up to date information about the program. In addition, frequent technical assistance meetings were held with applicants to assist owners in better understanding the program and completing the rebuilding process successfully.

Further the State also engaged the Welfare Council of Long Island/Long Island Long-Term Recovery Group (LTRG) to conduct targeted outreach to low and moderate income individuals that were affected by Superstorm Sandy, in order to encourage these individuals to apply to the NY Rising Housing Recovery Program before the April 11, 2014 deadline.

For its rental programs, the State will continue to conduct outreach to potential landlords throughout the impacted areas that may be eligible for the Program. As part of its implementation, the State will also conduct outreach to previous tenants of the damaged rental units to make them aware of potential repaired and newly built units as they are completed.

### **Outreach to Vulnerable Populations**

The State conducted outreach to residents with more acute needs, particularly low and moderate income households and households headed by non-English speaking persons. As noted above, within the NYRCR program, where necessary, meetings were advertised in various languages to ensure the immigrant population was informed. Translators were also present at meetings so that information was clearly understood. For the hearing impaired, sign language interpreters were also available.

As the State continues to implement programs and work with communities to recover from Hurricane Irene, Tropical Storm Lee and Superstorm Sandy, GOSR is committed to continued outreach and program accessibility to vulnerable populations and ensuring that program information is accessible to populations with language barriers. For example, the APA is translated into Spanish, Russian and Chinese, which are the three languages most needed for persons with language barriers in impacted counties (based on the 2008-2012 ACS 5-Year Estimates, Table B16001, Populations 5 Years and Over Who Speak English less than “very well”).

Currently documents are translated into the three above-mentioned languages. The State will continue to translate programmatic materials within its programs. The State will also continue to provide translation services as needed in case management and public meetings.

The State is in the process of upgrading its entire website. In the interim, prior to deployment of the revised website, the State continues to update its current website to enable language access capabilities. In addition, as it rolls out the revised website, the State will prioritize language translation functionality as one of the first phases of the development process. The State will also provide translation of any document into additional languages, braille, or any other formats for persons with visual impairments upon request.

The State continues to further these efforts to reach out to all populations and ensure that the community is educated and aware of all of the recovery programs. As programs adjust and move into new phases, the State will continue to adjust their public outreach to ensure comprehensive outreach to all populations.

### **Public Notices, Public Hearings, and Comment Period**

The State Citizen Participation Plan will ensure that there is reasonable and timely access for public notice and comment on the activities proposed for the use of CDBG-DR grant funds. In the Notices for the Second and Third Allocation HUD revised the requirements for public hearings. The State will always hold a minimum of one public hearing for each substantial amendment, which started with APA6. Written minutes of the hearings and attendance rosters will be kept for review by State officials. The State will continue to coordinate outreach meetings with State entities, local governments, non-profits, private sector, and involved associations. The State invited public comment to the New York Disaster Recovery Action Plan and will continue to invite public comment for any future Substantial Amendments for a minimum of thirty days, posted prominently and accessed on GOSR's official website.

### **Substantial Amendments to the Action Plan**

The State has defined Substantial Amendments to the Action Plan as those proposed changes that require the following decisions:

- Addition or deletion of any allowable activity described in the approved application;
- The allocation or re-allocation of more than \$1 million; and,
- Change in the planned beneficiaries.

Those amendments that meet the definition of a Substantial Amendment are subject to public notification, public hearings and public comment procedures. Citizens and units of local government will be provided with reasonable notice and an opportunity to comment on proposed Substantial Amendments to the Action Plan. A notice and copy of the proposed Substantial Amendment will be posted on the agency's official website. Citizens will be provided with no less than thirty days to review and comment on the proposed amendment. Written comments may be submitted to:

**Governor's Office of Storm Recovery  
64 Beaver Street  
P.O. Box 230  
New York, New York 10004**

Comments may also be made at [www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov). A summary of all comments received and reasons why any comments were not incorporated into the Substantial Amendment will be included in the HUD request for a Substantial Amendment and posted to GOSR's official website.

Non-substantial Amendments to the Action Plan will be posted on GOSR's official website after notification is sent to HUD and the amendment becomes effective. Every Amendment to the Action Plan (substantial and non-substantial) will be numbered sequentially and posted on the website.

## **Performance Reports**

The State must submit a Quarterly Performance Report through HUD's Disaster Recovery Grant Reporting (DRGR) system no later than thirty (30) days following the end of each calendar quarter. Within three (3) days of submission to HUD, each QPR must be posted on GOSR's official website for public review and comment. The State's first QPR is due after the first full calendar quarter after the grant award. QPR's will be posted on a quarterly basis until all funds have been expended and all expenditures have been reported.

Each QPR will include information about the uses of funds in activities identified in the Action Plan as entered in the DRGR reporting system. This includes, but is not limited to: project name, activity, location, and National Objective; funds budgeted, obligated, drawn down, and expended; the funding source and total amount of any non-CDBG-DR funds to be expended on each activity; beginning and actual completion dates of completed activities; achieved performance outcomes such as number of housing units complete or number of low and moderate income persons benefiting; and the race and ethnicity of persons assisted under direct-benefit activities. The State must also record the amount of funding expended for each Contractor identified in the Action Plan. Efforts made by the State to affirmatively further fair housing will also be included in the QPR.

During the term of the grant, the grantee will provide citizens, affected local governments, and other interested parties with reasonable and timely access to information and records relating to the approved program and to the grantee's use of grant funds as well as contracts procured with CDBG-DR funding. This information shall be posted on the grantee's official website and provided on request.

## **Technical Assistance**

The State will provide technical assistance to facilitate citizen participation where requested, particularly to groups representative of persons of low and moderate income and vulnerable populations. The level and type of technical assistance shall be determined by the applicant/recipient based upon the specific need of the community's citizens.

## **Citizen Participation Requirements for Subrecipients and Local Governments Participating in CDBG-DR Programs**

To ensure Applicant compliance with Section 508 of the Housing and Community Development Act of 1974, as amended, the citizen participation requirements for Units of General Local Government (UGLG) applying for or receiving DR funds from the State are as follows:

Each Applicant shall provide citizens with adequate opportunity to participate in the planning, implementation, and assessment of the CDBG program. The Applicant shall provide adequate information to citizens, obtain views and proposals of citizens, and provide opportunity to comment on the Applicant's previous community development performance.

UGLGs receiving CDBG-DR funds must have a written and adopted Citizen Participation Plan which:

Provides for and encourages citizen participation, with particular emphasis on participation by persons of low- and moderate- income who are residents of slum and blighted areas and of areas in which funds are proposed to be used;

Provides citizens with reasonable and timely access to local meetings, information, and records relating to the State's proposed method of distribution, as required by regulations of the Secretary, and relating to the actual use of funds under Title I of the Housing and Community Development Act of 1974, as amended, and the unit of local government's proposed and actual use of CDBG funds;

Provides for technical assistance to groups representative of persons of low- and moderate-income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

Provides for the review of proposed activities and program performance by potential or actual beneficiaries, and with accommodations for the disabled;

Provides for a timely written answer to written complaints and grievances, within 15 working days where practicable;

Identifies how the needs of non-English speaking residents will be met where a significant number of non-English speaking residents can be reasonably expected to be involved;

Establishes procedures and policies to ensure non-discrimination, based on disabilities, in programs, and activities receiving Federal financial assistance as required by Section 504 of the Rehabilitation Act of 1973, as amended.

The plan must be made available to the public and must include procedures that meet the following requirements:

*Performance Hearings:* Prior to closeout of the disaster recovery program, the Program, the UGLG and State subrecipients may be required to hold a public hearing to obtain citizen views and to respond to questions relative to the performance of the program. This hearing shall be held after adequate notice, at times and locations convenient to actual beneficiaries and with accommodations for the disabled and non-English speaking persons provided. Written minutes of the hearings and attendance rosters will be kept for review by State officials. Nothing in these requirements shall be construed to restrict the responsibility and authority of the Applicant for the development of the application.

*Complaint Procedures:* The State will ensure that each UGLG, or Subrecipient funded with CDBG-DR funds will have written citizen and administrative complaint procedures. The written

Citizen Participation Plan shall provide citizens with information relative to these procedures or, at a minimum, provide citizens with the information relative to the location and hours at which they may obtain a copy of these written procedures. All written citizen complaints which identify deficiencies relative to the UGLG, Subrecipient's community development program will merit careful and prompt consideration. All good faith attempts will be made to satisfactorily resolve the complaints at the local level. Complaints will be filed with the Executive director or chief elected official of the entity who is receiving the funds and who will investigate and review the complaint. A written response from the Chief Elected Official, Agency Head, or Executive Director to the complainant will be made within 15 working days, where practicable. A copy of the complaint and determination must be sent to GOSR's head of Monitoring and Compliance.