



**GUIDEBOOK**  
**Affordable Rental Opportunities Program**  
**NY Rising Housing Rental Building**  
**Recovery Program**

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NY Rising Affordable Rental Opportunities Guidebook

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Table of Contents

Introduction ..... 4
Eligibility..... 4
Applicant Eligibility Requirements..... 4
Property Eligibility Requirements ..... 4
Tenant Eligibility Requirements..... 5
Maximum Benefits ..... 5
Summary of Program Activities..... 6
Repair..... 6
Reimbursement..... 6
Mandatory Elevation..... 6
Rental Incentive..... 6
Cost of Compliance Incentive ..... 7
Optional Resiliency Measures ..... 7
Uniform Relocation Act ..... 7
Fair Housing ..... 7
Low-Moderate Income Tenants (LMI) ..... 8
Property Sale and Use Restriction ..... 8
Inspections ..... 8
ECR and AA Reports ..... 8
Environmental Review..... 8
Architects, Engineers and Contractors ..... 8
Duplication of Benefits (DOB)..... 9
Calculating Awards ..... 9
Payments ..... 9
Reimbursement Awards ..... 9
Repair/Reconstruction Awards..... 10
Midpoint Home Rehabilitation Payments ..... 10
Final Home Rehabilitation Payments ..... 10
Clarifications and Appeals..... 10
Demonstrable Hardship ..... 10



*Home Rehabilitation Closeout*..... 11

*Final Inspections*..... 11

*Closeout Review Process* ..... 11

*Receiving Home Repair Final Payment*..... 11

*Rental Incentive Payment*..... 12

*Recapture*..... 12

*Other Helpful Program Documents* ..... 12



## Introduction

This document outlines the elements of NY Rising Housing Recovery activities for Applicants participating in the Rental Properties Program.

## Eligibility

### **Applicant Eligibility Requirements**

Applicant must have owned the property during one or more of the following Periods of Eligibility:

- Superstorm Sandy: October 27, 2012 to November 8, 2012
- Hurricane Irene : August 26, 2011 to September 4, 2011
- Tropical Storm Lee: September 7, 2011 to September 11, 2011

Or, Applicant must have acquired the property subsequent to one or more of the Periods of Eligibility (“Subsequent Owner”).

- Generally, Subsequent Owners may apply for future repair/reconstruction funds but are **NOT** eligible for reimbursement funds.
- However, 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 Program whether they are seeking reimbursement or future repair/reconstruction funds.

Ownership is defined as holding a fee simple title as evidenced by a warranty deed, bargain for sale deed, a quit claim deed to the Property or having an approved lease hold interest and improvement to be assisted. The deed must be recorded with the county, city, or appropriate local municipality.

The Applicant must be a United States citizen, a non-citizen national or an eligible immigrant.

### **Property Eligibility Requirements**

The property was damaged as a **direct result** of one of these storms (“Covered Storms”):

- Hurricane Irene: (8/26/2011)
- Tropical Storm Lee: (9/7/2011)
- Superstorm Sandy: (10/29/12)

The property must have been 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.

The rental property must be wholly residential in character. Properties containing home-based businesses will be limited to non-business uses. Second homes and vacation properties are **not eligible**.

The property must be located in one of the counties of New York State designated a disaster area.



**Tenant Eligibility Requirements**

To participate in ARO, the Applicant must commit to rent at an affordable rate once construction is complete. An affordable rate is the lesser to the HUD High Home rate or the current rental rate. This rate must be outlined in a lease that is acceptable to the Program.

The applicant must identify an LMI tenant. LMI is defined as a tenant who makes no more than 80% of the area median income for your county. (As of March 2015, 80% of the median income was \$75,700 for a family of four on Long Island.)

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

**Maximum Benefits**

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

- **Base Cap:** The base cap amount for rental property repair and/or reconstruction coverage is \$350,000.
- **Multiple Units:** Owners are eligible for a \$100, 000 cap increase for each additional unit.
- **Elevation Allowance:** 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.
- **Reconstruction Cap:** Property owners that require reconstruction are eligible for a base cap of \$300,000 (subject to DOB).
  - For each additional unit there is a \$100,000 per unit award cap increase.
  - **Project-Based landlord assistance:** Property owners are eligible for a financial incentive to address the difference between current rental rates, and the new affordable rental rate. In addition, the program will provide a LMI rental administrative benefit of 10% of the rent difference to cover cost of compliance for a period of two years.
  - **For Example:** Where HUD High Home Rent is \$1,100 and an rate affordable to an LMI tenant, defined later, is \$1,000, the Program will offer an incentive in the amount off 1,100 – 1,000 or in this case \$1,200. The Program will also offer a \$120 incentive to address costs of providing documentation upon request to the Program.



## Summary of Program Activities

### **Repair**

The Program assists in covering the costs to repair or reconstruct a storm-damaged rental property, replace damaged non-luxury appliances, and address environmental hazards such as lead, asbestos and radon. Repair funding is not intended to replace the storm damaged property back to its original state. Rather, it addresses storm damage, unsafe conditions and calculates the industry standard costs and unit prices for repair items. Assistance is limited to covering eligible costs remaining after using any other public or private assistance provided for rebuilding. These forms of other assistance include, but are not limited to, assistance from any federal, state, or local government program; private insurance proceeds; or charitable contributions.

In order for repair costs to be eligible for an award, construction must stop after an application is submitted to the NY Rising Rental Properties Program and not begin again until the Program has completed the necessary environmental review (this is also known as the “stop-work” policy).

All prospective repair properties with 8 or more units are subject to federal Davis-Bacon wage rates and compliance.

### **Reimbursement**

The Program may reimburse for the portion of the project which was completed prior to the initial Program damage assessment. All reimbursements are subject to thorough review and consideration to ensure compliance with program rules and federal U.S. Department of Housing and Urban Development (HUD) Community Development Block Grants-Disaster Recovery (CDBG-DR) guidelines. After an inspector has been to the site and reviewed the completed work, an Allowable Activities amount will be determined indicating the amount of reimbursement for which the applicant is eligible. Under no circumstances will repair work completed **prior** to a Covered Storm be reimbursed.

For any work eligible for a reimbursement award, costs must have been incurred prior to the date of application submission to the Rental Program. To substantiate that costs were incurred, the Applicant will be required to submit proof of paid invoice, receipts and/or construction contract(s).

### **Mandatory Elevation**

Applicants whose rental property or properties are located within the 100-year Floodplain **AND** have been substantially damaged are required to elevate. The Program determines Substantial Damage by:

- Receipt of a Substantial Damage letter from the local Floodplain administrator;
- Inclusion in the Federal Emergency Management Agency (FEMA) data set and/or the municipality indicating the property was substantially damaged; or
- The rental property is determined to require demolition and reconstruction.

### **Rental Incentive**

Upon Home Rehabilitation Closeout, an Applicant will be eligible for Rent differential incentive to mitigate for the difference between rental rate affordable to an LMI tenant and the lesser of the current rental rate or HUD High Home Rental Rate, whichever is lesser.



The incentive will be paid in three payments:

- **25% First Incentive Payment**—Calculated as the total incentive payment for the first six months of the first year of compliance. This payment will be paid once the applicant meets the post-Closeout tenant requirements.
- **50% Second Incentive Payment**—Calculated as the total incentive payment for the last six months of first year of compliance and the first six months of the second year of compliance. This payment will be paid at the end of the first year of compliance once the program verifies compliance for the period of payment.
- **25% Final Incentive Payment**—Calculated as the total incentive payment for the last six months of the second year of compliance. This payment will be paid once the applicant meets all final post-Closeout tenant requirements.

### Cost of Compliance Incentive

Upon establishment of the rental incentive, an applicant will be eligible for a cost of compliance incentive. The cost of compliance incentive is calculated as 10% of the rent differential payment due to the property owner. The CCI payment will be paid on the same schedule as the Rental Incentive Schedule.

Cost of Compliance is defined as the cost associated with providing the program with any requested document associated with tenant-based compliance requirements. Request from program may include but not be limited to:

- Leases
- Tenant demographic information
- Tenant income information
- Signed documents, affidavits
- Coordination of interview with tenants.

### Optional Resiliency Measures

Optional Measures will not be offered in the ARO program or to any applicant who transfers from the NY Rising Rental Property Program as of July 12, 2016.

### Uniform Relocation Act

Applicants must agree to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (“URA”) as required and necessary. This may include the requirement to provide notice to current tenants, as well as to tenants at or after the date of the relevant storm, of their rights to relocation assistance should they be displaced as a result of the construction work funded by the CDBG-DR Grant. Sample notices and information regarding requirements will be provided.

### Fair Housing

Applicants must at all times, comply with the requirements of the Fair Housing laws which prohibits discrimination on the basis of race, color, religion, sex, national origin, familial status, disability, age, marital status, military status, and/or sexual preference.

Applicants with properties of five or more units will need to submit an acceptable affirmative fair housing marketing plan to the Program.



### **Low-Moderate Income Tenants (LMI)**

LMI tenant households are defined as households with incomes at or below 80% of the area median income (which may include “uncapped” incomes as allowed by HUD), according to the annually published income charts maintained by HUD. Applicants must use the HUD established area median adjusted income applicable to the Metropolitan Statistical Area (“MSA”) or county where the property is located which is in effect as of the date of the initial lease. When a tenant is deemed to be LMI, rental rates may be no more than 30% of a rental tenant’s income. The Program reserve the right to monitor rental rates for the compliance period stipulated in the Grant Agreement.

### **Property Sale and Use Restriction**

For units deemed to be LMI, the Rental Property Owner agrees that the Property will not be sold or otherwise conveyed, moved, demolished or materially altered without the prior written consent of HTFC, for a period of two (2) years from the date of receipt of the final installment of the CDBG-DR Grant award.

### **Inspections**

#### ***ECR and AA Reports***

The Construction Management Team works with applicants to schedule necessary inspections of the damaged property. During the initial damage inspection, the Program Inspector documents the damages the rental property received and completes a damage write-up. The write-up may consist of an Estimated Cost of Repair (ECR) report for the repair work remaining to be done and/or an Allowable Activities (AA) report for work already completed and eligible for reimbursement. The ECR will provide each applicant with the Program’s estimate of the basic costs needed to repair the property. In addition, if the applicant is required to elevate or eligible to optionally elevate, an Elevation ECR is also produced.

If the property needs to be demolished and reconstructed, the AA/ECR will not detail the line item costs needed. Instead, the cost to reconstruct, including elevation costs and design fees, will be calculated by multiplying the number of square living feet of the damaged property by \$160 per square foot and then adding \$5,000 for demolition. There may also be a \$25,000 extraordinary site conditions allocation within the overall award cap for properties deemed as reconstruction.

#### ***Environmental Review***

All properties must go through an environmental review process to make sure that all rehabilitation activities comply with applicable state and federal laws. After the initial damage inspection, the Environmental Team creates a “Tier 2” environmental review document and itemizes the environmental documents and conditions that must be met in order to successfully close out of the Program.

All properties are subject to required lead, asbestos, and radon inspections. Additionally, applicants are required to commit in writing to remediate for lead, asbestos, and radon, as applicable, and all projects are required to receive a clearance inspection upon completion of work.

### **Architects, Engineers and Contractors**

The Program has included a 10% allowance for design costs/ 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 may also be eligible for funding. However, for Reconstruction awards, the design



and construction management services are included in the calculation; no additional design allowance amount is added over and above the \$160 per square foot plus \$5,000 plus \$25,000 calculation.

Applicants are responsible for hiring their own architect(s) and contractor(s) who are legally allowed to work in the jurisdiction of the Property. Applicants are also responsible for negotiating the final costs of construction with their contractor.

### **Duplication of Benefits (DOB)**

The NY Rising Program is meant to address unmet financial needs of applicants. Financial assistance received from another entity or organization that is provided to the applicant for the stated purpose of housing repair may be Duplication of Benefit (DOB). Common sources of disaster recovery assistance include insurance, FEMA, SBA, non-profit organizations, faith-based organizations, other disaster relief organizations, and other governmental entities.

In accordance with the Stafford Act, Disaster Recovery funds issued through HUD's Community Development Block Grant Disaster Recovery (CDBG-DR) program may not be used for any costs for which other disaster recovery assistance was previously provided or available. Applicants are required to disclose all sources of disaster recovery assistance received and the Program is required to verify the amount received.

For Repair and Reimbursement activities only, DOB is separately determined for elevation costs. Elevation DOB, which includes NFIP Increased Cost of Compliance (NFIP-ICC) and SBA mitigation loans, is applied against elevation costs; and all other sources of DOB are applied against non-elevation costs, in calculating award amounts.

### **Calculating Awards**

Award calculations take the amount of the Estimated Cost of Repair (ECR) and Allowable Activities (AA), and then, deduct duplicative benefits received. As noted earlier, funds received from other sources that were intended for repair and reconstruction are a Duplication of Benefits (DOB) 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.

### **Payments**

The Program issues payments to applicants in the amount of the award for which the applicant is eligible. All payments are issued by the Housing Trust Fund Corporation ("HTFC"), and are accompanied by a Grant Agreement that must be executed before the release of a check. All checks must be utilized as defined in the Grant Agreement.

### **Reimbursement Awards**

If the award is solely for reimbursement, the entire amount of the grant award, as indicated on the Allowable Activities (AA) less the duplication of benefits, may be disbursed after the closeout review has been completed and the Program confirms that the file contains all of the required documents and meets all of the Program requirements for closeout.



Applicants who are receiving both (1) Reimbursement Award funds AND (2) either Repair Award funds or Optional Items Award funds receive all of their Reimbursement funds at the time they receive the first payment of the other types. Please note that the amount of the Reimbursement award may change (increase or decrease), if the DOB amount changes, or if the AA estimate is adjusted.

### ***Repair/Reconstruction Awards***

If the award is for repair work to be done, 10% of the initial grant award for prospective work, as identified in the Program's ECR less the DOB, is disbursed once a Grant Agreement has been signed. If the award is for reconstruction only, an Extraordinary Site Conditions Award in the amount of \$25,000 and a demolition allowance of \$5,000 is included in addition to the first payment. Please note that the amount of the Repair/Reconstruction award may change (increase or decrease) if the DOB amount changes, or if the AA or ECR estimate is adjusted.

### ***Midpoint Home Rehabilitation Payments***

Applicants may request a midpoint payment if they have made progress in repairs or reconstruction of the damaged property. Midpoint payments are intended to bring the disbursed amount up to 50% of the award with the remaining 50% released after all repair and reconstruction is done and the file completes the closeout process.

### ***Final Home Rehabilitation Payments***

Final Payments are released after the file completes and passes the "Closeout Review Process."

### **Clarifications and Appeals**

Applicants may, on occasion, receive communications updating their Program eligibility and award amount, based on available information at the time. Any applicant with questions about their award or eligibility should reach out to their Customer Representative to discuss their award amount or the award determination process.

If the applicant disputes an eligibility determination or an award amount and wants a further review, they should request a Clarification from their Customer Representative. When the Clarification review is completed, the applicant will receive a Clarification Determination document noting if there are any changes in their eligibility or award amount. If the applicant agrees with how the Program resolved the issue, then the applicant does not need to do anything. If the applicant disagrees with the clarification determination and wishes to appeal, they have 60 days to submit the Appeal form and documentation to [housingappeals@stormrecovery.ny.gov](mailto:housingappeals@stormrecovery.ny.gov). Appeal forms can only be obtained from a Customer Representative.

### **Demonstrable Hardship**

A Demonstrable Hardship is a substantial severe, involuntary or unexpected change in the Applicant's situation, after one of the named storms, 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. Such instances typically include job loss, business failure, divorce, severe medical illness and disability. If an Applicant believes they are in the state of Demonstrable Hardship that causes them not to comply with any program policy, they may present their evidence to their Customer Representative and the Program Committee will evaluate it on a case-by-case basis after review of all of the circumstances.



### **Home Rehabilitation Closeout**

The Closeout Review Process means the applicant’s rental property repair/reconstruction project is complete and they are **approaching the conclusion** of their participation in the NY Rising Rental Properties Program.

Program close-out is contingent upon receipt of all required documents, including:

- All required program eligibility documents; and
- All required construction documents including a post construction Certificate of Occupancy.

### ***Final Inspections***

At construction completion, Applicants with repair awards must request a final inspection from the Program in order to receive final payment. The purpose of the final inspection is to document that all storm-damaged items identified in the Program’s Estimated Cost of Repair (ECR) have been finished and to confirm that the property is currently in decent, sanitary, and safe condition as defined by the Program’s Housing Quality Standards (HQS) checklist. As of August 15, 2015, optional mitigation activities must be completed at the time of the ECR final inspection. In addition, Applicants who complete optional elevation and/or optional bulkhead repair/reconstruction must request separate optional final inspections after the work is completed. All work must be compliant with NY State Building Code and comply with NY State Energy Conservation Code 2010.

### ***Closeout Review Process***

All files must go through a two-stage Closeout Review process. During this phase, all required documents, including non-construction documents, must be reviewed for accuracy and completeness, first by the Customer Representative and then by the Program Quality Assurance team. These reviews are comprehensive and can vary in duration, based on the scope and complexity of each case. After both reviews are complete and have passed, the Applicant will be sent a notification and asked to sign closing documents which include:

- Final Grant Agreement;
- Optional Measures Grant Agreement, if applicable; and
- Flood Insurance Covenant, if the rental property is located in the 100-year floodplain.

### ***Receiving Home Repair Final Payment***

After the Applicant submits their signed closing documents to their Customer Representative, the file receives a final Quality Assurance review before a final payment is released. Every effort is made to have checks available as expeditiously as possible.



### **Rental Incentive Payment**

In order to close out of the ARO Program, an applicant must comply with post-home rehabilitation closeout requirements for LMI tenants. To close out of the Program, an applicant must provide the following documentation:

- Updated Tenant information for storm-impacted units
- Executed, Program-acceptable leases with the appropriate affordable rental rate assigned
- Evidence of tenant income for all tenants in the household.
- Execution of a grant agreement that demonstrates a commitment to the two-year compliance requirement.

### **Recapture**

If the Program determines an Applicant received benefits for which they were not eligible, the Applicant will receive a notification letter explaining why, and the amount of assistance the Applicant is responsible to repay.

### **Other Helpful Program Documents**

For further information and more detailed explanations, the Storm Recovery website:

<http://stormrecovery.ny.gov/housing/rental-properties-program> provides forms and fact sheets regarding the Program's various categories.