

**STATE OF NEW YORK**  
**COMMUNITY DEVELOPMENT BLOCK GRANT**  
**DISASTER RECOVERY (CDBG-DR) PROGRAM**  
**NON-SUBSTANTIAL AMENDMENT NO. 14**

**December 19, 2016**

**Summary:**

Action Plan Amendment 14 (APA 14) will clarify the following items:

- A. *NY Rising Buyout and Acquisition Program*: APA 10, which expanded eligibility to include applicants in the floodway who were damaged but do not have substantial damage letters, was not approved by HUD by the time APA 11, which expanded eligibility to include applicants who are subsequent homeowners and banks, was posted for public comment. APA 14 clarifies that subsequent homeowners and banks with properties in the floodway may be eligible applicants.

This clarification is made in red (tracked changes) below to the text currently in the Action Plan.

## **A. NY Rising Buyout and Acquisition Program (starting on pg. 57 of NYS Action Plan)**

**Activity Type:** Voluntary Buyout or Acquisition of One- and Two- unit homes

**National Objective:** Low- and Moderate- Income, Slum and Blight or Urgent Need

**Eligible Activity:** Sec. 105 (a) (1) (2) (4) (7) (11) (24), 42 U.S.C. 5305(a) (1) (2) (4) (7) (11) (24) FR-5696-N-01 (VI) (B) (31)

**Eligibility Applicants:** Eligible applicants to the Buyout component are owners of one-family or two-family homes and/or vacant land located in an Enhanced Buyout Area and Floodways who owned the property at the time of Hurricane Irene, Tropical Storm Lee, and/or Superstorm Sandy. Applicants for the Buyout component may also be homeowners in the floodway with or without substantial damage. Applicants who purchased the storm damaged property after the time of Hurricane Irene, Tropical Storm Lee, and/or Superstorm Sandy are eligible for the Buyout awards without any added incentives; or the price at which the applicant purchased the property, whichever is less. Eligible applicants to the Acquisition component are owners of substantially damaged one-family or two-family homes and/or vacant land that is contiguous to an eligible property with a structure and under the same owner as that property located within the 500-year floodplain in a disaster-declared county who owned the property at the time of one of the above storms.

**Program Description:** The NY Rising Buyout and Acquisition Program include State purchase of storm-damaged properties in the Enhanced Buyout Areas and floodways (the “Buyout Component”) ~~or in the floodway~~ and the acquisition of substantially damaged properties within the 500-year floodplain but outside of an Enhanced Buyout Area or floodway (the “Acquisition Component”).

The Buyout Component includes the purchase of eligible storm-damaged properties in Enhanced Buyout Areas or in the floodway. Enhanced Buyout Areas are certain high risk areas in the floodplain determined to be among the most susceptible to future disasters. Floodways are the portions of the floodplain where flood hazard is generally the greatest. Damaged properties in the floodway are not suitable for rehabilitation because these properties have no other recovery options other than buyout since federal regulations prohibit funding any rehabilitation or reconstruction of a home in a floodway. As of this amendment APA 10, all properties in the floodway will be purchased through the Buyout Component since they are not suitable for rehabilitation and floodways are at the greatest risk of flood hazard. Properties purchased through the Buyout Component will be restricted in perpetuity for uses compatible with open space, recreation, or wetlands management practices. Additionally, storm-damaged properties in the floodway may participate in the Buyout component and not be in an enhanced buyout area and not be required to be substantially damaged.

The Acquisition Component includes the purchase of substantially damaged homes within the 500-year floodplain from willing sellers. Properties purchased through the Acquisition Component are eligible for redevelopment in the future in a resilient manner to protect future occupants of this property.

### *Buyout Component*

The State purchases property located in designated “Enhanced Buyout Areas” or in the floodway through the voluntary sale from owners. The Buyout Component may also include the buyout of vacant or undeveloped land in these targeted areas to restrict and prevent any future development on these properties.

The following five factors are considered by the State when defining Enhanced Buyout Areas:

- A documented history of flooding and/or damage caused by extreme weather events, including damage by Hurricane Irene, Tropical Storm Lee and/or Superstorm Sandy;
- All the properties in the “enhanced buyout area” sustained damage documented by FEMA and/or the Department of State;
- A determination made by the Department of State, based on analysis of trends in coastal erosion and future flood risk, that the area is in Extreme or High risk areas of the floodplain;
- Multiple, contiguous parcels in the flood plain where Homeowners collectively voiced interest in relocation; the interest must be documented in a manner that allows the State to identify the individual parcels, and the number and location of the parcels; and,
- The State and the respective municipal officials (local/county) will have mutual understanding of the benefit of permanently removing residents/homes from the floodplain.

For applicants who owned the home and/or vacant land at the time of one of the declared storms, the State conducts Buyout purchases starting at 100% of the property’s pre-storm Fair Market Value (FMV), plus available incentive(s) ranging from 5% -15%. The State uses the 2013 FHA loan limits as the ceiling for the purchase price for properties that participate in this Buyout Component, not inclusive of incentives. Available incentives include:

- *5% Relocation Incentive:* The State provides a Relocation Incentive to residents who participate in a buyout inside an Enhanced Buyout Area or floodway if they permanently relocate and provide evidence of the purchase of a new primary residence within the same county in which their storm-damaged property is located. Residents of New York City are eligible for this incentive if they permanently relocate and purchase a new primary residence anywhere within the five boroughs of the City. The motivation for such an incentive is to protect and preserve the community while facilitating the reclamation of land in high risk

areas for natural protection against future damage.

The State recognizes that, because of extenuating circumstances, the storm may prevent households from returning to their pre-storm county. In the event a homeowner receives CDBR-DR buyout funding and relocates to a residence outside the county in which their storm-damaged property is located, but within New York State, the homeowner can file a hardship request to receive a 5% Relocation Incentive. Homeowners must submit a statement outlining the challenges of relocating within their county of origin. They must also sign a Declaration of Hardship form that documents the submission of a statement of hardship. All Declaration of Hardship Forms are reviewed and approved by Program staff on a case-by-case basis.

This 5% relocation incentive is not available to owners of vacant or undeveloped land.

- *10% Enhanced Buyout and Floodway Incentive:* The State seeks the maximum level of homeowner participation in relocating homeowners out of high risk Enhanced Buyout Areas of floodways to protect as many households as possible from future disasters. The State offers the 10% Enhanced Buyout and Floodway Incentive to individual homeowners so a significant number of properties are involved and as much land as possible within these areas can be returned to and reclaimed by nature.
- *10% Group Buyout Incentive:* The State recognizes that in rare circumstances, the purchase of a group of properties is the most effective way to re-purpose the area and graduated incentives are essential components. Therefore, the State may provide a 10% Group Buyout Incentive to a very limited cluster of homeowners (i.e., two to ten consecutively located properties) whose properties are located inside the floodplain but not inside an identified Enhanced Buyout Area. This incentive may be necessary in certain cases to facilitate the reclamation of a concentrated area of high risk properties and to avoid the patchwork effect of purchasing all but one or two properties inside such a cluster of properties.

For all Buyout Incentives, assistance is determined by property purchased after accounting for all federal, State, local and/or private sources of disaster-related assistance, including, but not limited to, homeowners and/or flood insurance proceeds.

Applicants who purchase the storm damaged property after the time of Hurricane Irene, Tropical Storm Lee, and/or Superstorm Sandy are eligible for the Buyout awards without any added incentives; or the price at which the applicant purchased the property.