



# **POLICY MANUAL**

## **NY Rising Buyout and Acquisition Program**

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The policies stated in this manual are current as of July 2021. 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 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 [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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# NY Rising Buyout and Acquisition Program Policy Manual

## Version Control

Version Number	Date Revised	Description of Revisions
2.0	July 2014	Revisions to the Homeowner Assistance, clarifications and Definitions update, clarification of Enhanced Buyout Area and addition of DOS Risk Assessment Area Mapping
3.0	Irene Lee Allocation, April 2015	Clarifications concerning the difference between policies for buyout and acquisition activities. Removal of prioritization of Applicants. Clarifications of definition of second homes eligibility of rental properties, second home eligibility in acquisitions, and eligibility of rent-to-own properties. Revision to IMA DOB policy to encapsulate rental receipt offset. Revision to Award Calculation and Acquisition Incentive.
4.0	January 2016	Clarification on eligibility reassessment process. Revision of the 5% Resettlement Incentive to include the 1-year deadline. Elaboration on property disposition plan for both the Buyout and Acquisition components. Clarification on incentives for FEMA Non-Compliant Applicants in Buyout Program. Applicants in the Floodway who did not receive substantial damage may be eligible for the Buyout Component. Subsequent owners and bank foreclosed homes may be eligible for the Buyout component when located in an Enhanced Buyout Zone or Floodway. Revision of National Objective classification policies.
5.0	September 2016	Clarification on the Acquisition Component's Resettlement Incentive. Clarification on the Acquisition Component's hardship policy. Creation of a Buyout Component eligibility policy properties located in the Floodway. Creation of a deadline for Applicants in the NY Rising Homeownership Program to transfer through the Demonstrable Hardship Process.
6.0	August 2017	Revisions to the Small Business Association (SBA) duplicative assistance policy. Creation of the NFIP Sandy Claims and litigation duplicative assistance policy.
6.1	September 2017	Clarification on Acquisition program eligibility. Clarification of the Gift of Property Policy. Elaboration on Uniform Relocation Assistance and Real Property Acquisition (URA) compliance.
7.0	November 2019	Clarification on Acquisition program eligibility. Elaboration on Demonstrable Hardship. Defining of Property, Demonstrable Hardship. Elaboration on Buyout Disposition including Due Diligence Review and HTFC Board Approval. Elaboration on Long Island Housing Partnership.
7.1	July 2021	Subrecipient Selection and Capacity added, updates to Property Disposition, and Deed Restriction and Monitoring.

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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 Buyout and Acquisition Program (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 Buyout and Acquisition Program is designed to help New Yorkers whose homes were damaged by Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee, to recover and rebuild.

Owners of one-unit and two-unit dwellings in eligible disaster-declared counties who sustained damage as a direct result of one of these storms are invited to apply for assistance. Eligible Property Owners work with assigned Program representatives throughout the assistance process, from the submission of their applications to the purchase of their property.

### 1.2 NY Rising Buyout and Acquisition Program

The NY Rising Buyout and Acquisition Program consists of two separate components:

- (1) the Buyout component (“Buyout”), which includes the voluntary purchase of eligible properties within designated Enhanced Buyout Areas and;
- (2) the Acquisition component (“Acquisition”), which includes the voluntary acquisition of eligible properties that sustained substantial damage.

### **1.3 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 municipalities throughout New York State. GOSR 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 New York State agencies and public benefit corporations involved in the provision of housing and community renewal. GOSR was formed to direct the administration of federal Community Development Block Grant-Disaster Recovery (CDBG-DR) Funds.

Working in close collaboration with local and community leaders, GOSR responds to communities’ most urgent rebuilding needs, while identifying long-term and innovative solutions to strengthen the State’s infrastructure and critical systems. GOSR also 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.

### **1.4 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 NY Rising Buyout and Acquisition Program (collectively called the Program). 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 Program, the types of assistance offered, and program recipient obligations. The manual serves as a general reference guide for administrative staff and other interested parties, including Property Owner recipients, contractors, units of general local government (city and county governments) that are engaged as “sub-grantees” to deliver assistance through the Program, and any non-profit organizations that are involved as “sub-recipients” or consultants.

As outlined in the State’s Action Plan and described in more detail throughout this manual, the Program is designed to provide grants for purchase of one- to two- unit properties and/or eligible vacant land in storm-impacted communities by one of the three storms listed above. The purpose of this effort through the Buyout and/or the Acquisition components is to help individuals and families that were severely impacted by the storm, as well as to help ensure that communities suffering damage are repopulated and revitalized as quickly as possible.

The manual is NOT intended to be a full compilation of all internal program procedures that must be put in place before the State and its agents can ensure the effective implementation of the policies contained in this manual. This NY Rising Buyout and Acquisition Program Policy Manual and policy manuals for other programs are available for public review <http://www.stormrecovery.ny.gov>.



## 1.5 Meeting CDBG-DR Program Goals and National Objectives

In support of the U.S. Department of Housing and Urban Development's (HUD) recovery objective, New York State has specifically designed its programs to help impacted residents and communities recover from damage inflicted by storms of 2011 and 2012. As expressed in the Federal Housing and Community Development Act, the primary objective of the 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 (LMI).

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

As described in the GOSR's policies, most activities funded through the NY Rising Buyout and Acquisition Program will meet either LMI or Urgent Need National Objectives. Program Income is the proceeds from the sale of the properties, less administrative costs, which is put towards other programs administered by GOSR

## 1.6 Fulfilling the Principles Established by New York State's Action Plan

The NY Rising Buyout and Acquisition Program is expected to encourage investment in communities by ensuring that properties are not just rebuilt but also become safer—especially for those areas where there is a high risk of future flooding; revitalizing the vibrancy of New York 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 Buyout and Acquisition Program funding with other federal, State, and local community development resources.

The NY Rising Buyout and Acquisition Program 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, New York 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 HUD guidelines.

## 1.7 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 at <http://stormrecovery.ny.gov>, and a link to the online application for assistance for Property Owners is available at <https://buyout.nyshcr.org>. Applicants are no longer accepted as of April 2014.
- **By Mail:** Program invitation letters are sent out by First Class Certified Mail – Return Receipt Requested to Property Owners in specific areas within impacted regions designated by county and local governments as being high risk for future storm damage.
- **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 Intake Centers in impacted regions; information on locations and hours of these centers are available at <http://www.stormrecovery.ny.gov>.
- **By Phone:**
  - Outbound phone calls by Program representatives to impacted residents and potentially eligible Applicants, including those who have registered with the State expressing an interest in receiving assistance after one of the storms.
  - Access to a State-supported disaster recovery hotline, **1-855-NYS-SANDY**, and dedicated Intake Centers, which provides trained representatives who can answer questions about the programs, guide Property Owners through the application process, and provide updates on the status of applications.
- **Through Media:** Promote NY Rising Buyout and Acquisition Program policies and achievements through a myriad of public relations strategies including print, television and digital media.
- **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 created professional signage, documentation, advertisements, and

other materials to support and enhance the operation of the Program. Outreach efforts leverage alternative language delivery, including Spanish, Russian, and Chinese.

Persons with disabilities, those with limited English proficiency, and others who may need documents presented in a different format are encouraged to contact the State-supported disaster recovery hotline at **1-855-NYS-SANDY** or one of the dedicated Buyout Intake Centers for assistance with obtaining information in an accessible format.

The State may use currently available web-based resources, such as news releases made available on the Governor's Office of Storm Recovery website at <http://stormrecovery.ny.gov> or its social networking media, to provide information about the Program's progress. Other electronic resources, such as e-mail, may be used to provide timely communications and notifications to affected Property Owners as needed. Program-related fact sheets are readily available for distribution by the State and its Program partners to public officials, municipalities, relevant non-profit organizations, and others as necessary or upon request.

Communications between Applicants and Program, to the greatest extent practical, may employ the mode the Applicant finds most convenient. Official Notices that could affect the Applicant's eligibility or benefit amounts must be in writing, and the Program must retain records that prove the Applicant received each Notice. The best method for delivering Notices is ordinarily by First Class Certified Mail – Return Receipt Requested.

### **Citizen Participation Plan**

The New York State Citizen Participation Plan provides all 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 includes a thirty-day public comment process with at least one 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 are posted prominently and accessed on the GOSR 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 1 to this Policy Manual.

## 2.0 Summary of NY Rising Buyout and Acquisition Program Activities

New York State has created a number of individual activities under the NY Rising Housing Recovery including the Buyout and Acquisition Program. As detailed in Section 1.2, The NY Rising Buyout and Acquisition Program consists of two separate activities:

- (1) the Buyout component (“Buyout”), which includes the voluntary purchase of eligible properties within designated Enhanced Buyout Areas or floodways and;
- (2) the Acquisition component (“Acquisition”), which includes the voluntary acquisition of eligible properties that sustained substantial damage.

Applicants are responsible for completing activities in accordance with all federal, State and local laws and ordinances applicable to the project, and in accordance with section of this manual.

### 2.1 NY Rising Buyout Component

The NY Rising Buyout component includes the purchase of eligible properties in substantially damaged areas inside the floodplain, defined as “Enhanced Buyout Areas” or floodways.

#### 2.1.1 Establishing Enhanced Buyout Areas

The State and its local partners identified Enhanced Buyout Areas as certain high-risk areas in the floodplain determined to be among the most susceptible to future disasters and therefore present the greatest risk to people and property. Properties located within an Enhanced Buyout Area are considered by the State and the Program to be substantially damaged. The State utilizes a Department of State (DOS) analysis and thresholds defined into three categories: Extreme Risk Area, High Risk Area, and Moderate Risk Area. Areas determined to be Extreme or High Risk are considered for the Enhanced Buyout Area. Please see Exhibit 2 “NYS Department of State Risk Assessment Area Mapping: Dataset and Methodology” for more information. Location in a defined risk zone alone is insufficient for defining Enhanced Buyout Areas. There must be an interest in the voluntary sale by the majority of Property Owners living in the impacted areas.

The following selection criteria are used to evaluate potential buyout areas.

Selection Criteria:

- Areas have a history of flooding and/or damage caused by extreme weather events.
- Areas have multiple contiguous parcels in the floodplain that evidence similar damage and where Property Owners collectively voiced interest in relocation from the floodplain. This interest must be documented in some way that allows the State to identify the individual parcels and perform an analysis of the number and location of the parcels.

- The State and the areas respective municipal officials (local/county) have a mutual understanding of the benefit of removing residents/homes from the floodplain permanently and converting the site to a coastal buffer zone.
- All the properties 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 of High-risk areas of the floodplain.

### *2.1.2 Establishing Floodways*

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 Action Plan Amendment 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.

Applicants who are not eligible for funding through the NY Rising Homeowner Program may be eligible to receive assistance through the Buyout component. Owners of properties located in a Floodway may be eligible for Buyout by the State:

- If the structure is located in the Floodway the structure does not need to have proof of being substantially damaged during the qualifying storm event.
- If the property is in the Floodway but the structure is not, the homeowner must show proof of substantial damage, in the form of a Substantial Damage Letter issued by the local floodplain administrator.

All customary costs associated with the purchase of private property, including appraisal, legal, survey, title preparation and insurance, are paid for by the State, using CDBG-DR funding. Demolition, site work, and property maintenance costs, including environmental remediation, grading, and security, are also paid for by the Program.

After GOSR acquires properties in the Enhanced Buyout Areas or Floodways, reconstruction may NOT occur; properties in such areas are maintained as coastal buffer zones or other non-residential/commercial uses, and or undeveloped land in these targeted areas.

## 2.2 NY Rising Acquisition Component

The NY Rising Acquisition component includes the purchase of substantially damaged homes within the 100- or 500-year floodplains. Substantial damage is proven by the issuance of a Substantial Damage Letter from the appropriate local authority or floodplain manager, indicating that the Property sustained damages that equal or exceed 50 percent of its pre-storm FMV. If a Substantial Damage Letter is not available, other methods of determining Substantial Damage may be considered. Under the Acquisition component, purchase offers begin at the post-storm FMV of the Property.

All customary costs associated with the purchase of private property, including appraisal, legal, survey, title preparation and insurance, are paid for by the State, using CDBG-DR funding.

Properties purchased as Acquisitions are eligible for redevelopment in the future in a resilient manner to protect future occupants of this property. For more details please see the NY Rising Buyout and Acquisition Program Disposition Plan in Section 11.0, Phase 8: Property Disposition. In some cases, the properties remain undeveloped and are transformed into parks or other non-residential uses, while in most cases they are redeveloped in a resilient manner.

## 3.0 NY Rising Buyout and Acquisition Process Overview

The Buyout and Acquisition Program is comprised of a sequence of large steps, with distinct milestones. These stages, or phases, include:

Phase	Key Steps
<b>Phase 1: Application Submission and DOB Meeting</b>	<ul style="list-style-type: none"> <li>• Application Submission</li> <li>• Threshold Eligibility Determination</li> <li>• Completeness Review</li> <li>• Duplication of Benefits (DOB) Meeting</li> <li>• Obtain Appraisal</li> </ul>
<b>Phase 2: Environmental Assessments and Appraisal</b>	<ul style="list-style-type: none"> <li>• Phase I Environmental Site Assessment (ESA)</li> <li>• Phase II Investigation (if applicable)</li> <li>• Fair Market Value (FMV) Appraisal</li> <li>• Conditional Offer</li> </ul>
<b>Phase 3: Verification of Benefits (VOB) Review</b>	<ul style="list-style-type: none"> <li>• Property Eligibility Verification</li> <li>• Application and Owner Eligibility Verification</li> <li>• AFWA Verification</li> <li>• Third Party Review</li> <li>• Receipt Review</li> <li>• Award Calculation</li> </ul>
<b>Phase 4: Offer and Contract Execution</b>	<ul style="list-style-type: none"> <li>• Award Offer</li> <li>• Appraisal Appeals</li> <li>• Offer Revisions</li> <li>• Offer Meeting</li> <li>• State Contract Execution</li> <li>• Title Clearance</li> </ul>
<b>Phase 5: Relocation (if applicable)</b>	<ul style="list-style-type: none"> <li>• Tenant Relocation</li> <li>• Tenant Reassessment</li> </ul>
<b>Phase 6: Closing</b>	<ul style="list-style-type: none"> <li>• Personal Property Inspection</li> <li>• Closing Meeting</li> <li>• Deed Restriction</li> <li>• Deed Recordation</li> </ul>
<b>Phase 7: Property Maintenance and Demolition</b>	<ul style="list-style-type: none"> <li>• Property Management and Security</li> <li>• Pre-Demolition: Obtain permits, utilities Shut Offs, Reviews &amp; Inspections</li> <li>• Demolition: Abatements, Permits, Demolition, and Load Documents</li> <li>• Post Demolition and Closeout: Final Inspection, Document collection, and Closeout Submission</li> </ul>
<b>Phase 8: Property Disposition</b>	<ul style="list-style-type: none"> <li>• Buyout: Open space in perpetuity</li> <li>• Acquisition: Auction, Sale to public agencies, Change of use</li> </ul>
<b>Phase 9: Deed Restriction and Monitoring</b>	<ul style="list-style-type: none"> <li>• Record Retention &amp; Audit Requirements</li> <li>• Deed Restrictions</li> <li>• Buyout: Open Space Covenant</li> <li>• Acquisition: Redevelopment and Flood Insurance</li> </ul>



The Case Management Team, other Program personnel, and the Owner(s) of eligible properties coordinate their steps through each phase to reach a successful closing in the Buyout and Acquisition Program.

## 4.0 Phase 1: Application Submission & DOB Meeting

### 4.1 Application

All Property Owners are required to complete the NY Rising Buyout and Acquisition Program application and submit it along with supporting documentation. Details on application submission and supporting documentation can be found in the Buyout and Acquisition Program Procedures Manual.

#### 4.1.1 *Threshold Eligibility Determination*

Applicants undergo a threshold eligibility review to determine eligibility for the NY Rising Buyout and Acquisition Program. Applicants who appear to qualify are assigned a Customer Representative who reviews the application in detail and schedules an intake meeting.

### 4.2 Eligibility Criteria

The eligibility criteria summarized below and described in this Section is used to determine if an Applicant is eligible for assistance under the Buyout and Acquisition Program (Program) and further defines specific eligible criteria for either Buyout or Acquisition.

#### 4.2.1 *Summary of Eligibility Criteria for the Buyout Component*

Property Criteria
<input type="checkbox"/> The Property is located in an eligible county. (see Section 4.2.3)
<input type="checkbox"/> The Property is located in the Enhanced Buyout Area or Floodway
<input type="checkbox"/> The Property was damaged during a qualified storm event. (see Section 4.2.4)
<input type="checkbox"/> The Property matches one of the defined eligible types (see Section 4.2.5) and is not otherwise deemed ineligible (see Section 4.2.8)
<input type="checkbox"/> The Property is in an Enhanced Buyout Area or Floodway
Property Owner Criteria
<input type="checkbox"/> The Applicant is the owner of the subject property. (see Section 4.2.15)
<input type="checkbox"/> The Applicant is a U.S. citizen or a qualified alien. (see Section 4.2.16)
<input type="checkbox"/> The Applicant meets one of the CDBG National Objectives.
Criteria for Buyout Component Incentives of up to 15%
<input type="checkbox"/> 5% Replacement Dwelling Incentive –Applicant’s Buyout Property is in an Enhanced Buyout Area and they purchase a replacement dwelling in the same county as the Buyout Property. The five New York City boroughs are treated as a single county for purposes of this incentive.
<input type="checkbox"/> 10% Enhanced Buyout Incentive – The Property is located in an Enhanced Buyout Area or Floodway.
<input type="checkbox"/> 10% Group Buyout Incentive – The Property owner-occupant’s Buyout Property is part of a cluster of 2-10 adjoining Buyout Properties located inside the high-risk V Zone but not inside an identified Enhanced Buyout Area.
<input type="checkbox"/> FEMA non-compliant and post-storm purchaser Applicants are not eligible for Buyout Incentive

#### 4.2.2 *Summary of Eligibility Criteria for the Acquisition Component*

Property Criteria
<input type="checkbox"/> The Property is located in an eligible county. (see Section 4.2.3)

<input type="checkbox"/> The Property is located in either the 100-year and/or 500-year flood plains
<input type="checkbox"/> The Property matches one of the defined eligible types (see Section 4.2.5) and is not otherwise deemed ineligible (see Section 4.2.8)
<input type="checkbox"/> The Property was Substantially Damaged according to the Substantial Damage Letter provided by the local floodplain administrator
<b>Property Owner Criteria</b>
<input type="checkbox"/> The Applicant is the owner of the subject property. (see Section 4.2.13)
<input type="checkbox"/> The Applicant is a U.S. citizen or a qualified alien. (see Section 4.2.8)
<input type="checkbox"/> The Applicant meets one of the CDBG National Objectives.
<b>Criteria for Acquisition Component Incentives</b>
<input type="checkbox"/> Gradient Resettlement Incentive offered as a percentage of the Post-Storm FMV depending on the lost in value of the Property.
<input type="checkbox"/> Additional 50% post-storm FMV incentive- offered to those Property Owners who suffered a 50% loss or greater in the value of their structure.
<input type="checkbox"/> Second Homes, FEMA non-compliant, and post-storm purchaser applicants (where purchase price is greater than post-storm FMV) are NOT eligible for Acquisition Resettlement Incentives.

#### 4.2.3 Eligible Counties

The counties shown in the following table are eligible for assistance.

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	

#### 4.2.4 Property Damage from Qualified Storm Event

The Property must have damage from Superstorm Sandy (10/29/2012), Tropical Storm Lee (9/7/2011), and/or Hurricane Irene (8/28/2011) as documented through photographs, assistance received from other funding sources, and/or a damage assessment conducted by the Program.

#### 4.2.5 Eligible Properties

Applicants with one- or two-family residential dwelling units may be eligible for the Program. In addition, the Program may purchase vacant parcels.

- In the case of the Buyout, the Program may acquire any vacant land in the Enhanced Buyout Area or in the Floodway.
- In the case of the Acquisition, the vacant parcel must contiguous with an eligible parcel occupied by a structure and under the same owner as the property located within the 500-year floodplain.

**Note:** Properties located where federal assistance is not permitted are ineligible for

assistance. Properties must comply with Environmental Code 24 CFR Part 58. Non-residential structures unattached to the residence are ineligible for assistance for the purpose of determining improved value of the lot.

Applicants who are not eligible for funding through the NY Rising Homeowner Program may be eligible to receive assistance through the Acquisition component. If a home is categorized as one of the following by the Homeowner Program, it may be eligible for Acquisition by the State:

- Dwelling that is Substantially Damaged, and the dwelling and/or property is in the 100- and/or 500- year Floodplain;
- Applicant is FEMA non-compliant and Substantially Damaged. FEMA non-compliant Applicants are not eligible to receive payment in the Acquisition Program more than the post-storm FMV. FEMA non-compliant Applicants are not eligible for incentives.

#### *4.2.6 Eligible Occupancy Types*

Both owner-occupied homes and year-round residential rental properties, as defined by IRS Publication 936 (see Section 4.2.5.2) are eligible for the Program. The Program may assist second homes through the Acquisition Program. However, those Applicants are ineligible for incentives. The Program may not fund second homes in the Buyout Component. However, the Program may assist second homes through the Acquisition Component in the Enhanced Buyout Area.

Eligible structure types are limited to the following types listed in section 4.2.7 Eligible Properties for Buyouts. In extenuating circumstances, eligibility criteria may be waived by the Program, through the Demonstrable Hardship Process.

#### *4.2.7 Eligible Properties for Buyouts*

- One-Family Residences
- Two-Family Residences
- Rental Properties
- Vacant Land

#### *4.2.8 Ineligible Properties for Buyouts*

- Environmental Code
- Second Homes
- Non-residential buildings

#### *4.2.9 Eligible Property Types for Acquisition*

Applicants with one- or two-family residential dwelling units may be eligible for the Acquisition Program. In addition, the Program may fund the acquisition of vacant parcels contiguous to an eligible property with a structure and under the same owner as that property located within the 500-year floodplain. Applicants must have owned the property at the time of the storm.

#### *4.2.10 Eligible Occupancy for Acquisition*

Both owner-occupied homes and year-round residential rental properties, as defined by IRS Publication 936 (see Section 4.2.5.2). However, second homes are eligible for Acquisition but are not eligible for incentives. The Program bases occupancy on the time of the storm.

- One-Family Residences
- Two-Family Residences
- Rental Properties
- Second Homes
- Adjacent Vacant Land under the same owner as eligible property with a structure

#### *4.2.11 Ineligible Properties for Acquisition*

- Environmental Code
- Non-residential buildings
- Non-adjacent Vacant Land or not under the same owner as the eligible property with a structure

#### *4.2.12 Voluntary Participation*

All Property Owners must voluntarily agree to sell the Property to the Program. Any Property Owner of a recorded interest in the Property who disagrees with the sale of the Property can veto the purchase by the Program.

#### *4.2.13 Ownership of Subject Property*

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

The correct documents are essential for HTFC to obtain good title to a property. All documents necessary to establish the seller(s) title and extinguish all other ownership interests and claims must be recorded before (or together with) closing the HTFC purchase transaction. Examples include satisfaction of judgment, discharge of mortgage, affidavit of survivorship, change of owner name, etc.

**Subsequent Property Owners:** Property Owners who purchased a property in an Enhanced Buyout Area or Floodway after Hurricane Irene, Tropical Storm Lee, and/or Superstorm Sandy after the event may be eligible for the Buyout awards without any added incentives; or the price at which the applicant purchased the property, whichever is less.

#### *4.2.14 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 so long as the Property is an Eligible Property.

**Ownership by a Trust:** Property held in trust for the benefit of natural persons can be eligible as long as at least one of the Applicants is a trustee of the trust. 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 damaged property must sign the closing documents along with the trustee.

The following is required to confirm eligibility:

- The Property Owner must provide a copy of the trust document; and the trust document or an abstract or extract of the trust must be recorded in the conveyance records of the county in which the damaged property is located and may be recorded post-storm, if necessary.

The applicable contract and/or declarations must be executed by trustee(s) unless the trust distributes the property to a beneficiary, in which event the beneficiary receiving the property must execute the applicable contract and/or declarations.

**Deceased Owners and Properties held by an Estate:** If the owner on the deed at the time of the storm passed away after the storm, the documentation of the deceased person must meet all eligibility requirements, such as primary residency. In these cases, the Duplication of Benefits (DOB) are those benefits received by the deceased or the estate of the deceased. If 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 is those benefits received by the estate of the deceased. If the estate has completed probate, then the Applicant must be the heir and current owner of the property.

If the owner on the deed at the time of the storm passed away prior to the storm, the Program may assess such applications on a case-by-case basis.

Property held by an estate or a descendent as a Gift of Property from the owner at the time of the storm is not considered a Second Home for Program purposes.

**Reverse mortgage:** Owners with a reverse mortgage at the time of the storm are eligible, provided the remainder of the term of the reverse mortgage is more than five years when the application is submitted.

**Property owned with other individuals:** Property Owners who owned and occupied a structure at the time of the storm that is located on land that they owned along with other individuals (e.g., owned together with their family) must be treated as a Property Owner on owned land and are eligible.

**Gift of Property:** A Gift of Property is a form of property transfer without consideration. The beneficiary of the gift is eligible for the same award as the original Property Owner. The beneficiary of the gift is not considered to be a Subsequent Owner.

For the purpose of the Program, a Gift of Property must be:

- In writing;

- Notarized; and,
- Recorded in the public record.

The Program reserves the right to demand any award amount to be paid back in full to the State if, at any time, a determination is made that a transfer of money between the two parties had occurred in conjunction with the Gift of Property.

**Lost Ownership:** Property Owners who lost ownership of their homes due to foreclosure are ineligible for assistance. Note that banks who foreclosed on homes within Enhanced Buyout Areas and Floodways may be eligible Applicants in the Buyout component. Under these circumstances, banks are eligible to receive a grant equivalent to the foreclosed amount, capped at the post-storm FMV without incentives.

#### *4.2.15 Verification of Ownership*

At a minimum, the Property Owner must produce a deed for the subject property, as well as the following documentation (where applicable):

- Proof of 2012 School Tax Relief (STAR) exemption;
- 2012/13 Federal income taxes return showing Property Address as the damaged property address;
- 2012/13 NY State income tax return, showing Property Address as the damaged property address;
- Verification, in the form of bills or a letter from the provider, that water, electric, gas, sewer services or other utilities were provided to the owner for six months immediately preceding the time of the incident in which the damage occurred and were mailed to the damaged property address. Usage must be consistent with residential uses; and/or,
- A lease or rental agreement from 2012 indicating that the property was rented, if an investment property.

#### *4.2.16 Citizenship and Eligible Immigrants*

The Property Owner or recipient of the grant must be a United States citizen, or a qualified alien as defined in Public Law 104 – 193 *Personal Responsibility And Work Opportunity Reconciliation Act Of 1996*. Documents to prove United States Citizenship or qualified alien status include but may not be limited to one of the following:

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

#### *4.2.17 Homeowner Transfers to NY Rising Acquisition Component*

Applicants, who are ineligible for funding through the NY Rising Homeowner Recovery Program or NY Rising Rental Building Recovery Program or who cannot rebuild their home, may be eligible to transfer to the NY Rising Acquisition Component. NY Rising Homeowner Program Applicant categorized as one of the following, may be eligible for the Acquisition component:

- Property is substantially damaged and in the 100- or 500-year Floodplain;
- FEMA non-compliant.

Note that FEMA non-compliant Applicants are eligible for post-storm FMV but are not eligible to receive payment above the post-storm FMV. Additionally, there may be other circumstances in which an Applicant to the Homeowner Program requests a transfer to Acquisition due to hardship; such requests are evaluated on a case-by-case basis. For example, Homeowners whose homes are on the FEMA repetitive loss list may be prioritized for transfer. All transfers post April 2015 must go through the State's Demonstrable Hardship Process for approval.

#### *4.2.18 Homeowner Transfers to NY Rising Buyout Component*

Applicants who are ineligible for the NY Rising Homeowner Recovery Program or NY Rising Rental Building Recovery Program may be eligible to transfer to the NY Rising Buyout Component, through the Demonstrable Hardship Process, if their Property is in the Enhanced Buyout Area or Floodway.

- If the structure is a semi-detached duplex, the purchase of the home is contingent on the purchase of the attached neighbor's home.
- The withdrawal of one neighbor of a semi-detached duplex in the floodway results in the immediate automatic withdrawal of the attached neighbor.

The deadline for all transfers from the Homeowner Program to the Buyout or Acquisition Components, through the Demonstrable Hardship Process, is December 31, 2016.

#### *4.2.19 Ineligibility Determination*

In order to protect residents in eligible floodplain areas from future disasters, it is GOSR's intent to qualify as many Property Owners as possible as eligible within the Buyout and Acquisition Program guidelines. The process of determining eligibility for both the Buyout and Acquisition components is an ongoing process and occurs from commencement of the application process through the Verification of Benefits (VOB) process.

Under the Buyout component, if the Property Owner or property is deemed ineligible, it will be the final determination unless a review overturns the determination.

Under the Acquisition component, the provision of a "Substantial Damage Letter" from the local floodplain administrator is required to be deemed eligible. Applicants who cannot provide a Substantial Damage Letter may not request a review of their



ineligibility determination. Ineligible applicants will be moved to recapture.

#### *4.2.20 Ineligibility Determination Appeals*

Applicants deemed ineligible may request a review of the ineligibility determination within 60 days from the date of the notification of ineligibility letter, stating reasons they should be eligible pursuant to Program requirements. Eligibility criteria may be waived by a hardship determination.

#### *4.2.21 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 (LMI) Objective:** Applicants are determined to be low to moderate income if the total household income is less than or equal to 80 percent of median income. In determining income, the Program uses federal income tax returns (e.g., IRS Forms, 1040, 1040A or 1040EZ). Where tax returns are not available other forms of income documentation such as pay stubs, etc. may be evaluated.

**Low/Moderate Buyout (LMB):** When CDBG-DR funds are used for a buyout award to acquire housing owned by a qualifying LMI household, where the award amount (including optional relocation assistance) is greater than the post-disaster (current) fair market value of that property.

**Low Moderate Area Benefit (LMA):** An area is considered to meet the test of being LMI if there is a sufficiently large percentage (51 percent) of LMI persons residing in the service area as determined by: The most recently available decennial Census/Community American Survey information, together with the Section 8 income limits that would have applied at the time the income information was collected by the Census Bureau; or a current survey of the residents of the service area.

**Urgent Need Objective:** Per the March 5, 2013 Federal Register Notice, HUD has allowed an alternative requirement for the documentation requirements for the urgent need national objective. Each activity that meets the urgent need national objective must document how it responds to a disaster-related impact (i.e. tie back to the storm). The Urgent Need objective is met with a Damage Assessment of the Property. The Program documents that the Applicant meets this requirement through a Damage Assessment and unmet need determination. To the extent allowed under federal regulation, all Applicants who cannot meet the LMI National Objective are placed into the Urgent Needs category.

All program activities must meet one of the three National Objectives required under the authorizing statute of the CDBG Program.

### 4.3 Floodplain, Floodway & Coastal Erosion Hazard Area Policy

The federal government developed specific definitions and regulations regarding the 100-year floodplain, floodway, and the coastal erosion hazard area. For those definitions, see the Definitions Section of this Manual.

Assistance is not provided to support certain activities in a floodway. These prohibited activities include but are not limited to the following:

- Repair or construction of structures intended for human habitation;
- Storage of materials;
- Sewage systems or wells; and/or
- Filling which would cause an obstruction to flow which is not otherwise permitted.

If some part of the “project activity” impedes upon the floodway such as necessary fill or footings then the structure as a whole becomes part of the floodway and is therefore ineligible for funding unless it is a functionally dependent action. The development standards for a floodplain encroachment depend on both the project location and the amount of information provided on flood hazard maps:

- Critical actions shall not be approved in coastal erosion hazard areas. Non-critical actions may be approved in a coastal erosion hazard area only if the proposed action is:
  - 1) A functionally dependent action;
  - 2) Existing construction (repairs and improvements); or,
  - 3) Reconstruction following destruction caused by disaster.

An action consisting of existing construction or reconstruction following destruction caused by disaster must adhere to certain design standards. Please see 24 CFR 55.1(c)(3).

### 4.4 Homeowner Assistance Incentives for Buyouts

Eligible properties in the Buyout component may be eligible for Homeowner assistance incentives that in total may amount to as much as 15% of the pre-storm FMV, as follows:

- 1) *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 or within the five boroughs of New York City if their property is in New York City. 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 Incentive is available to Property Owners whose replacement dwelling is outside of designated high-risk Enhanced Buyout Areas that are dedicated as coastal buffer zones in perpetuity.

- 2) *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 or 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. This level of incentive is selected to ensure that Property Owners are sufficiently incentivized to sell their properties and relocate to lower risk areas, enabling the State to return high risk areas back to nature. The State believes that graduated incentives are essential to Property Owners to sell their properties.
- 3) *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.

Pursuant to Federal regulations, FEMA non-compliant Applicants are not eligible to receive payment more than the post-storm FMV and therefore do not qualify for incentives.

## 4.5 Resettlement Incentives for Acquisitions

Eligible properties in the Acquisition component may be eligible for resettlement incentives depending on the loss in value of their Property. As outlined in the chart below, the State provides a gradient incentive based on the *total* percentage of value lost, which is calculated by the total appraised pre-storm fair market value minus total appraised post-storm fair market value divided by the total appraised pre-storm fair market value.

Additionally, for those homes who incurred a loss of 50% or more in the value of their *structure*, which is calculated by the appraised pre-storm structure value minus post-storm structure value divided by the appraised pre-storm structure value, the Acquisition Component offers an additional incentive equal to 50% of the appraised post-storm fair market value.

Percentage Value Lost (Land + Structure)	Total Incentive	Total Incentive if Loss in Structure Value $\geq$ 50% Loss
90.01% +	95% of post-storm FMV	145% of post-storm FMV
60.01% - 90.00%	85% of post-storm FMV	135% of post-storm FMV
50.01% - 60.00%	75% of post-storm FMV	125% of post-storm FMV
40.01% - 50.00%	65% of post-storm FMV	115% of post-storm FMV
30.01% - 40.00%	55% of post-storm FMV	105% of post-storm FMV
20.01% - 30.00%	45% of post-storm FMV	95% of post-storm FMV
10.01% - 20.00%	35% of post-storm FMV	85% of post-storm FMV
0.00% - 10.00%	25% of post-storm FMV	75% of post-storm FMV

Property Owners whose property is a Second Home and FEMA non-compliant Applicants are NOT eligible for a resettlement incentive.

Such a resettlement incentive is necessary to allow Property Owners inside flood-prone areas that have sustained damage and are otherwise unable or unwilling to repair their home, the ability to seek to relocate to a safer, less flood-prone area. Furthermore, this resettlement incentive recognizes the uncertainty of post-storm FMVs of storm-damaged homes, especially relative to the high costs associated with resettlement, therefore affording homeowners the assistance necessary to make this life-altering change.

## 4.6 Property Tax Reimbursement

Property Owners who have applied to the Program must pay all property taxes due as identified by the title search at closing and payable on the storm-damaged property until the day of closing on the sale of their property to New York State through the Program. For properties in the Acquisition component, if there are property taxes the title search did not identify by closing, the Program, as owners of the property, will pay the property taxes prior to final disposition. New York State may provide reimbursement to Property Owners for the property taxes paid for the period after ownership of the

property was transferred to HTFC (i.e., from the day of closing until the end date of the effective payment period). The pro rata reimbursement amount is calculated after the closing and the funds are provided to the Property Owner via direct deposit. Only payments made towards the principal of the property taxes due are subject to reimbursement from HTFC; any interest or fees incurred from late or delinquent payments are not eligible for reimbursement.

Properties in HTFC ownership in the Buyout component are exempt from taxes.

## **4.7 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, is remitted to the Program to rectify a duplication of benefit.

### *4.7.1 Assignment Relation to Funds Received Under Program*

In consideration of the Property Owner's award of funds and the commitment by New York State to evaluate the Property Owner's application for the award of funds under the NY Rising Housing Recovery Programs, the Property Owner assigns to the Program all future rights to reimbursement and all payments received under any insurance policy, including but not limited to any type of casualty or property damage insurance (the Policies); any reimbursement or relief program related to or administered by FEMA or the SBA for physical damage to the property (not including proceeds received to cover contents); any other assistance from non-profit organizations, faith based organizations, or disaster relief entities, and other governmental entities, that was the basis of the calculation of the Property Owner's award to the extent of the proceeds paid under the Program.

The proceeds or payments from the above described duplicative assistance are referred to herein as "Proceeds." The rights the Property Owner assigns to the Program are specific to the Property with respect to which the Proceeds were paid. The Proceeds paid, as described in the Property Owner's application with the Program, arise out of physical damage to the Property originally caused by the federally declared disaster, but also includes Proceeds received for damage to the Property caused by any subsequent event that occurred (until the time of purchase of the Property using Program funds). The Policies include, but are not limited to, policies characterized as damage, flood, or any other type of casualty or property damage insurance coverage held by the Property Owner which provides coverage for physical damage to the Property. Once the Program has recovered an amount equal to the award proceeds, the NY Rising Buyout and Acquisition Program reassigns any rights assigned to the State pursuant to this Agreement to the Property Owner.

### *4.7.2 Cooperation and Further Documentation*

The Property Owner agrees to assist and cooperate with New York State should New York State elect to pursue any of the claims the Property Owner has against the insurers for reimbursement under any such Policies. The Property Owner's assistance and

cooperation includes allowing suit to be brought in the Property Owner'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 New York State. The Property Owner further agrees to assist and cooperate in the attainment and collection of any proceeds that the Property Owner would be entitled to under any applicable FEMA or SBA Program described above.

The Property Owner agrees to take necessary actions and to execute additional documents at HTFC's request to assign Property Owner's insurance policies to New York State, to the extent of the funds granted to the Property Owner under the Program and/or the disaster relief funds from FEMA or SBA.

#### *4.7.3 Authorization for Program to Contact Third Parties*

The Property Owner explicitly allows the Program to request of any company with which the Property Owner held Policies or FEMA or SBA, any non-public or confidential information needed by the Program to monitor/enforce its interest in the rights assigned to it under the Consent and Release Agreement, and to give the Property Owner's consent to such company to release said information to the NY Rising Buyout and Acquisition Program.

## **4.8 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, contractor fraud, 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. The Demonstrable Hardship Committee (DHC) will consider evidence on a case-by-case basis to determine what constitutes a Demonstrable Hardship for the purposes of this Program.

If an Applicant believes that they are in a state of demonstrable hardship and that the demonstrable hardship prevents them from complying with any of the program policies, they must present their evidence of a demonstrable hardship to their Customer

Representative and the Program will evaluate it on a case-by-case basis after review of all the circumstances. In considering each individual case, the Program's review includes, but may not be limited to, the following considerations:

- whether the Applicant encountered a unique, unforeseen, extenuating circumstance,
- whether an extenuating circumstance impacted the Applicant's ability to comply with Program policy; and
- whether the Applicant attempted to comply with program policy despite extenuating circumstances.

The State determines what a Demonstrable Hardship is for purposes of this program and its decision is final.

The Program has identified 7 Demonstrable Hardships that Applicants may qualify for given their individual circumstance(s) and whether they are a Buyout Applicant or an Acquisition Applicant:

*Acquisition Applicants -*

- Transfer from Single Family Demonstrable Hardship
- CEHA Demonstrable Hardship
- Offer Extension Demonstrable Hardship
- Contract Extension Demonstrable Hardship
- Opt-Out Demonstrable Hardship Documentation
- Auction Compliance Extension Demonstrable Hardship

*Buyout Applicants –*

- Transfer from Single Family Demonstrable Hardship
- Offer Extension Demonstrable Hardship
- Contract Extension Demonstrable Hardship
- Incentive Extension Demonstrable Hardship

## **5.0 Phase 2: Environmental Assessments & Appraisals**

Following Application submission and review, environmental review and property appraisal is required for an application to move forward.

### **5.1 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. Accordingly, environmental review activities are carried out for site contamination and demolition control and documented prior to commitment of funds.

### **5.2 Appraisals**

The State requires appraisals for all properties participating in the Program. The appraisal, whether setting a pre-storm (Buyout component) or setting a post-storm base (Acquisition component), is used to establish the Fair Market Value (FMV) for participating properties. The pre-storm is established by forensic appraisal, and post-storm is established by a current appraisal, but performed by the contracted appraiser.

Under the Buyout component, the State purchases properties inside of the Enhanced Buyout Areas and designated Floodway Areas as "Buyouts," as defined by the State and HUD. The State offers eligible Property Owners 100% of the Buyout property's fair market value prior to the Covered Storm which impacted the property ("Pre-Storm FMV"). When available, the State provides incentives to Property Owners in Enhanced Buyout Areas and designated Floodway Areas in addition to the pre-storm FMV. The purpose of the incentive is to encourage maximum participation by Property Owners and remove as many properties as possible from high risk areas.

#### ***5.2.1 Appeal***

An appeal can be filed if an offer is made and the Property Owner believes the offer is inadequate. If the appeal is in the Property Owner's favor, the VOB team creates a replacement VOB determination, which is the basis for a new offer. The customer representative requests the re-determination of the VOB by email and furnishes a copy of the new FMV appraisal(s). All program determinations are final.

For more on the appeal process, see Exhibit 3 Program Administrative Policies.



## **6.0 Phase 3: Verification of Benefits Review**

### **6.1 Duplication of Benefits**

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 they have 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 HUD's CDBG-DR program may not be used for any costs for which other disaster recovery assistance was previously provided for the same purpose. Financial assistance received from any source that is provided for the same purpose as the CDBG-DR funds is considered a Duplication of Benefit (DOB). The State's policy is in accordance with HUD's guidance on DOB found in Federal Register Notice 5582-N-01 published in the *Federal Register/ Vol. 76, No. 221, page 71060/ Wednesday, November 16, 2011*. To this end, the Program verifies DOB information for each Applicant from eligible Government and Third-Party sources.

Any assistance received by Applicants from both governmental and non-governmental sources intended to be invested in the home purchased through the Program, but not expended to repair the home must be subtracted from the FMV to determine the amount the Program offers to pay.

### **6.2 Verification of Benefits (VOB) Process**

To comply with DOB requirement and make accurate award determination, GOSR obtains third party verification of financial assistance provided or available from other programs, insurance, and elsewhere for the same purpose as the benefits in this Program.

The first goal of the VOB process is to compare Applicant's self-reported benefit amount and purposes, with the benefit amounts and purposes reported by third-party verification sources. The second goal is to detect DOB process errors and initiate their correction. The VOB process is a practical technique for prevention of waste, fraud, and abuse as specifically mandated for this Program (Fed. Reg. Vol. 78, No. 43, p. 14331, March 5, 2013). It is also intended to prevent abuse of Property Owners caused by mistaken benefit calculations that could provide too little assistance, and to prevent waste from mistaken benefit calculations that could provide too much assistance. It can also prevent fraud that could occur if Property Owners intentionally attempt to conceal benefits they received, or expect to receive, from other sources.

The VOB process is only one of the Anti-Fraud, Waste, and Abuse (AFWA) processes that New York State implements in the Program to assure the funds provided by the

citizens of the U.S. are spent to fulfill the intended purposes.

If the Program has good reason to believe that an Applicant received duplicative benefits from a specific insurance provider, it could be practical to request information from that insurance carrier. Under any other circumstances, the VOB process cannot verify that a Property Owner who states that no private insurance settlement funds were received did not receive unreported private Property Owner insurance settlement payments.

### *6.2.1 Duplicative Assistance*

The most common sources of disaster recovery assistance are from homeowner's insurance, FEMA, and SBA. However, assistance may also come from non-profit organizations, faith-based organizations, other disaster relief organizations, and other governmental entities. Duplicative Assistance includes, but is not limited to, the following benefits:

- 1) National Flood Insurance Program (NFIP):** Insurance proceeds received must be disclosed by the Owner(s) and verified by the Program. As of July 21, 2017, Owners who have not pursued litigation and had their claims reviewed by FEMA's Sandy Claims Division must disclose any additional monies received. Additional payments over \$20,000 will be considered duplicative assistance (i. e. and additional claims payment of \$30,000 would result in \$10,000 of duplicative assistance). Monies awarded to Owners who have pursued litigation are not considered duplicative assistance.
- 2) Private Insurance:** All insurance proceeds received must be disclosed by the Owner(s) and verified by the Program by contacting insurance companies.
  - If the insurance company confirms that no proceeds have yet been provided to the Owner(s), then the Owner(s) is required to sign a subrogation agreement which subrogates the insurance proceeds up to the amount of the award. For more on the subrogation process, see Section 4.6.
- 3) Federal Emergency Management Agency (FEMA):** FEMA proceeds received must be disclosed by the Owner(s) and must be verified by the Program.
- 4) Small Business Administration (SBA):** SBA proceeds approved and/or received must be disclosed by the Owner(s) and verified by the Program. As of July 21, 2017, any Applicant with an SBA loan of less than \$14,000 must provide documentation that he or she is current on his or her repayment plan and outstanding SBA loans must be satisfied prior to the State taking ownership of the property. For Applicants with an SBA loan greater than \$14,000, the loan will be satisfied by HTFC and the Applicant's award is reduced by this amount at closing.
- 5) Single Family Homeowner Program:** Reimbursement payments and payments for future work received from the CDBG-DR Homeowner Program must be disclosed by the Applicant and verified by the Program.
  - Reimbursement payments are a duplication of benefits but may be offset with the Allowable Activities (AA) inspection report of work completed.
  - Payments for future work received are duplicative program funds.
- 6) Interim Mortgage Assistance:** Interim Mortgage Assistance ("IMA") payments

received are considered duplication of benefits and must be disclosed by the Applicant and verified by the Program. IMA payments received may be offset by rental receipts to the extent that such funds have not already been accounted for as an otherwise eligible activity.

**7) Other:** Funds received from other sources must be disclosed by the Applicant and verified by Program. Examples include nonprofits, other governmental agencies, and social groups.

### *6.2.2 Non-duplicative Expenditures*

Funds that were received in other programs may not always be determined to be a duplication of benefit. The Property Owner must provide documentation to support these expenditures.

Examples of allowable expenditures:

- Funds received but used for a different eligible purpose. For example, funds received may have been used on temporary housing costs and would therefore not be duplicative to the extent that such funds are not used to offset the duplication of benefits calculation for assistance received through the Interim Mortgage Assistance Program.
- Funds not available to the Property Owner. 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 are not duplicative.
- Assets or line of credit available to the Property Owner, e.g., checking or savings accounts, stocks are not duplicative.
- Funds received for repair that have already been used to repair the home might not be counted against the award amount, e.g., CDBG-DR reimbursement for work completed.

Examples of unallowable expenditures that may continue to be considered a DOB (this list is not exhaustive):

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

## 7.0 Phase 4: Offer and Contract Execution

Once all verification steps are completed, GOSR mails an Offer Package to the Property Owner, which includes an award calculation outlining the benefits available to the Property Owner, a contract for sale and other relevant information concerning the offer. Property Owners have 30 days to respond to the Offer, after which date the Offer expires. GOSR can extend or waive the expiration on a case by case basis. In some cases, Offers are modified due to modifications in award calculations, increased duplicating benefits, or additional receipts provided by the Applicant.

### 7.1 NY Rising Buyout and Acquisition Program Maximum Benefit

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

**Buyouts:** Buyouts are properties within defined Enhanced Buyout Areas, determined in consultation with county and local governments, within the 100-year floodplain and in the highest risk area (FEMA flood map “V Zone”). All storm-damaged properties within this area are considered by the Program and the State to be substantially damaged and are offered 100% of pre-storm FMV. Any property acquired as a Buyout at pre-Storm FMV results in the land remaining becoming open space, a recreational use, or wetlands management infrastructure in perpetuity. Reconstruction may NOT occur on properties in these areas; properties are maintained as coastal buffer zones or other non-residential/commercial uses and may also include acquisition of vacant or undeveloped land in these targeted areas.

FEMA non-compliant and subsequent owner Applicants are not eligible to receive funds above the post-storm FMV.

**Acquisition:** Substantially damaged properties located inside the 100-year and/or 500-year floodplain may be purchased through Acquisition at 100% of post-storm FMV (plus eligible resettlement incentives). The property purchased through Acquisition will be redeveloped in a resilient manner or if it’s more appropriate a change of use process would be undertaken, and the property will remain as undeveloped green space in perpetuity.

FEMA non-compliant Applicants are not eligible to receive funds above the post-storm FMV.

Second Homes purchased as an Acquisition are not eligible to receive incentive funds above the post-storm FMV.

NYS uses the 2013 FHA loan limits as the ceiling for the purchase price for properties that participate in this Program. The 2013 FHA loan limits for one- unit and two-unit properties are as follows:

- 1-Family Residence: one-unit residential dwelling \$729,250
- 2-Family Residence: two-unit residential dwelling \$934,200

In the Buyout component, the FHA ceiling is placed on the offer for the property and does not include the incentives. In the Acquisition component, the FHA ceiling is placed on the entire offer including the incentives.

## **7.2 Award Calculations**

Once the VOB investigation is complete, a formal Verification of Disaster Benefits Received form is completed and reviewed, then forwarded to the Customer Representative.

Funds received from other sources, other than funds from a NY Rising Housing Program for future work, which are determined a DOB (see Section 6.1) are deducted from the structure's FMV unless the Property Owner can demonstrate, through receipts, that the funds received have already been expended on eligible costs. The resulting value cannot exceed the applicable program cap.

In addition to the award described above, the Property Owner may be eligible for certain incentives.

For Buyout Properties, a Property Owner may receive a 5% Replacement Dwelling Incentive, the 10% Enhanced Buyout Incentive, and/or the 10% Group Incentive less any funds that the Property Owner received from a NY Rising Housing Program for future work. Payments for future work received may only be offset with eligible receipts if a documented hardship is approved by GOSR.

For Acquisition Properties, a Property Owner may receive a gradient resettlement incentive based on the percentage loss in the value of their Property. In addition, if the loss in value of the structure exceeds 50%, the Property Owner is eligible for an additional incentive of 50% of the post-storm FMV of the Property. The award plus incentive cannot exceed the applicable program cap. The total compensation to the Property Owner is reduced by any funds that the Property Owner received from a NY Rising Housing Program for future work. Payments for future work received may only be offset with eligible receipts if a documented hardship is approved by GOSR.

## 8.0 Phase 5: Relocation

When applicable, the with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended (42 U.S.C. 4601 - 4655) and implementing regulations 49 CFR 24 (URA) and applicable HUD policies, subject to applicable waivers will be followed. GOSR also administers this Program in compliance with § 414 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121 et seq. (“The Stafford Act”) provisions for tenants of the storm damaged property, which states:

*Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) [42 U.S.C. 4601 et seq.] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act. (42 U.S.C. 5181)*

Thirteen counties in New York were declared *major disaster areas* by the President on October 28, 2012. The Stafford Act provides replacement housing payment to residential tenants who were displaced by destruction or substantial damage to their homes and were unable to reoccupy their dwellings before Initiation of Negotiations (ION) between HTFC and the Property Owner for rental property Buyout. The Stafford Act operates to confer constructive occupancy of the disaster-affected dwelling to the tenant effective on the ION date. HUD and GOSR determine constructive occupancy to tenants eligible for Relocation Assistance identical to that provided to all other displaced persons required to relocate due to destruction of their dwellings by either the natural disaster or by the disaster recovery Program. Relocation Customer Representatives apply Program rules consistently and fairly to determine whether each displaced tenant applying is eligible to receive the relocation assistance provided by the Program under the URA.

For the purposes of promoting the availability of decent, safe, and sanitary housing and expediting disaster recovery and rehousing efforts, and to allow GOSR to apply similar rules and award amounts to similarly situated Property Owners without regard to which Program received the application, HUD is waiving under the March 5, 2013 Federal Register Notice, the following URA and Section 104(d) requirements:

- a. 24 CFR 42.350 – Without this waiver, disparities exist in relocation assistance associated with buyouts and relocation activities typically funded by HUD.
- b. Sections 204(a) and 206 of the URA, 49CFR 24.2(a)(6)(viii), 24.402(b)(2) and 24.404 – Waived to the extent that they require a grantee to use 30 percent of a low-income displaced person’s household income in computing a rental assistance payment if the

person had been paying more than 30 percent of household income in rent plus utilities without “demonstrable hardship” before the project.

- c. URA §204 and §205, 49CFR 24.2(a)(6)(ix) and 24.402(b), as it relates to tenant-based rental assistance housing programs.
- d. Section 202(b) of the URA, and 49CFR 24.302 – Moving expenses.

The complete policy on URA is in the Tenant Relocation Plan for the Buyout and Acquisition Program.

## 9.0 Phase 6: Closing

### 9.1 Closing Meeting

The Program evaluates each signed offer and verifies that the Property Owner executed documents properly, then forward documents to the appropriate recipients, verify the completion of required follow-up activities, and schedules closings appropriately to finalize the property purchase. HTFC executes the Property Owner-signed offer promptly after it arrives to facilitate conclusion of the Buyout or Acquisition transactions as efficiently as practical.

Relocation Advisors explain benefits available to displaced residential tenants, assist with tenants' relocation needs, and verify that eligible tenants receive the Notices and information required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42, § 4601 of the United States Code, as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, as amended. The regulations that implement the URA are codified at 49 CFR 24 ("Regulations").

GOSR policy precludes closing the purchase of any parcel that is occupied or that may be contaminated with hazardous materials.

### 9.2 Final Award Documentation

For all files that close (execute a sale to HTFC) there is a complete review of the property file to ensure that all required program documents/files are present. The Customer Representative(s) is responsible for reviewing their respective closed files. Additionally, GOSR has an integrity monitor audit the files for completeness. This process includes the following:

Review Signed Offer Package to ensure it contains all required documents, including:

- Offer to Buy Real Estate;
- VOB Award Statement;
- Statement of Interest to Sell Real Property;
- Individual Property Hazardous Materials Form;
- IRS W-9 Form;
- FEMA Declaration and Release Form;
- CDBG Cost Allocation Statement;
- Appraisal;
- CDBG Statement of Determination of Fair Compensation;
- HUD-1 Settlement Statement; and,
- All Other Relevant Real Estate Sale Agreements and Documents.

Review and confirm that application includes all required signed documents, including:

- Signed Program Application;
- Government Issued Identification (for all owners);



- Proof of citizenship/eligible immigrant status (see Section 4.2.16);
- Deed;
- Property tax receipts (most current);
- Copy of any liens or encumbrances against the deed;
- Documentation of the status of mortgage payments (mortgage statement);
- Proof of residency (see Section 4.2.15);
- Household income information, (not applicable to trusts, estates, and business entities);
- DOB documentation; and;
- Environmental Review.

Both the Customer Representative and the GOSR integrity monitor identify missing documentation and missing signatures, and note observations of any major errors or issues, if any. These issues are summarized and escalated to GOSR and Customer Representative Management to reach a resolution. For Property Owners in either program that decide to rescind their application to the program before closing there is an “Opt-Out Form”. The date on the Opt-Out Form is the last date that new documentation is added to the file. If the file includes an Opt-Out Form, it is noted on the top of the file checklists used.

### **9.3 Policy for NYS to Pay Proceeds to Agent Designated by Seller**

It is GOSR policy to avoid undue procedural obstacles that delay, inconvenience, or impair completing transactions under the Program. For this reason, GOSR accommodates reasonable seller requests without exposing HTFC to delay, liability, extra costs, or risk of loss.

GOSR can, under certain conditions, accommodate a seller who requests that all the net proceeds from sale of a parcel under the Program be paid to an agent instead of the Property Owner in the conveyance granting title to HTFC and who executed the contract of sale and rider.

If the terms of this procedure are fully satisfied, the seller must make the request in writing, acknowledge that payment to the agent satisfies seller’s right to net purchase proceeds, and indemnifies HTFC for any losses resulting from disbursement to the agent.

When the Buyout and Acquisitions are completed or declined, staff members review the files to note any program revisions that may have occurred in the Administrative Plan. All files are kept in accordance with the State’s standard file policies and procedures. Inclusive of the closeout is a final review of the files, and confirmation that the documents reviewed per Section 9.2, Final Award Documents, are present in the file.

## **10.0 Phase 7: Property Maintenance & Demolition**

As owners of the properties purchased through both the Buyout and Acquisition Components, GOSR conducts property maintenance and demolition when appropriate to the satisfaction of the local communities.

### **10.1 Property Maintenance**

All properties purchased under the Buyout and Acquisition components are maintained until transfer of title is finalized. GOSR has hired a property maintenance vendor to conduct various property maintenance tasks including, but not limited to, debris removal, pest control, security, changing locks, and fencing and boarding of the property for safety measures. GOSR maintains properties in accordance with local codes and regulations. Any notices of violations are assessed and followed up on accordingly.

### **10.2 Demolition**

All properties purchased under the Buyout component are demolished. Properties purchased through the Acquisition component that undergo change of use for open space are demolished. Properties that are prone to fires or structurally unsound are prioritized for demolition for safety precautions. GOSR complies with all local, State, Federal and environmental regulations, receiving demolition permits from the New York State Office of General Services or other construction permitting agencies for state agencies.

GOSR's procured demolition firm ("Demolition Contractor") complies with all relevant HUD CDBG-DR regulations and reporting requirements, including those related to M/WBE subcontracting, Section 3 employment efforts, Davis Bacon wage compliance, and workforce utilization. The Demolition Contractor ensures that utilities are properly disconnected prior to the demolition, manages an air quality management plan, oversees site specific health and safety plans, and manages the disposal process of all building materials associated with the demolished structures including the handling and disposal of identified asbestos containing material or hazardous material. After demolition, the properties are graded and seeded with a plant species that are native to the area and selected in consideration of the end-use of the property.

Properties purchased through the Acquisition component, which are hazardous or deemed structurally unsound may be demolished at the request of local jurisdictions.

## **11.0 Phase 8: Disposition**

This Disposition Plan consists of disposition strategies for two separate activities of the NY Rising Buyout and Acquisition Program as stated in section 1.0 New York Rising Program Goals.

The primary objectives of the CDBG-DR Program are the development of viable communities by the provision of decent housing, providing a suitable living environment, and expanding economic opportunities, principally for persons of low- and moderate- income. Therefore, all CDBG-DR funding must be used to meet one of three National Objectives:

- Benefiting low- and moderate- income persons;
- Aiding in the prevention or elimination of slums or blight; or
- Meeting a need having a particular urgency (often referred to as “urgent need”).

Every property purchased through the Buyout and Acquisition Components meets one of the CDBG-DR National Objectives depending on the property’s end-use.

### **11.1 Disposition of Properties purchased through the Buyout Component**

The State disposes of Buyout properties in a manner that further restores confidence among the public, enhances quality of life, and increases community resiliency by: (1) decreasing housing density in the floodplain; (2) creating open space; (3) creating new recreational opportunities; and, (4) enhancing environmental quality and promoting ecotourism.

Properties purchased through the Buyout component are dedicated in perpetuity for uses compatible with open space, recreation, or wetlands management practices. Preservation of open space includes, but is not limited to, maintaining greenspace, wetlands restoration, flood mitigation and/or water quality projects, pocket parks, bike paths, and other recreational amenities.

Ultimately, these conveyances increase flood protection, improve drainage, or otherwise enhance environmental quality through water management strategies consistent with all applicable regulations and/or approved plans pertaining to floodplain management, water resources management, pollution reduction and land use. As property acquired through the Buyout component remains undeveloped in perpetuity, clearance and demolition and seeding are the end activity for CDBG purposes. Therefore, the activity meets a CDBG National Objective because of the benefit to the communities in the areas surrounding the purchased property.

Real property acquired through the NY Rising Buyout Program may be disposed for under easement price provided the property will be used to meet a National Objective of the CDBG program. The Program will evaluate offers under easement price and decides

whether to go through disposition.

### *11.1.1 Types of Dispositions*

The State works with local, county, and state government agencies to identify capable entities to maintain the properties in perpetuity. GOSR transfers title of Buyout properties to government entities and non-profit organizations at no-fee. In some circumstances, homeowners' associations and neighbors may be identified as the most capable entity to maintain the property. In these cases, all the same open-space requirements apply.

### *11.1.2 Non-Profit Due Diligence Review*

When the Program considers disposition to a non-profit entity, a due diligence review is undertaken to determine the appropriateness of the entity under consideration to take ownership of the property. The Program will request proof of non-profit tax status, certification of incorporation, information on the organizations mission, and the proposed end use of the property to ensure the entity complies with eligibility requirements per 44 CFR 80.19.

### *11.1.3 HTFC Board Approval of Buyout Dispositions*

Since title of Buyout properties are transferred to municipalities and non-profit organizations at no-fee and thus below fair market rate, the proposed disposition must be reviewed by the HTFC Board and the public.

The HTFC Board shall consider the below information presented and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer:

- a full description of the asset;
- an appraisal of the fair market value of the asset and/or any other information establishing the fair market value sought by the board;
- a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;
- a statement of the value to be received compared to the fair market value;
- the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and
- the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

## **11.2 Disposition of Properties purchased through the Acquisition**

## Component

The State disposes of Acquisition properties to facilitate the availability of new housing stock that meets all current codes and standards. The Disposition Plan ensures that properties are either returned to the municipal tax rolls, promote production of resilient structures, build equity and wealth in storm-affected communities at high risk of flooding, and/or, increase affordable housing stock for low- and moderate-income residents or in some circumstances are changed to open space.

The repopulation of blighted and/or distressed neighborhoods and the creation of new housing stock is expected to enhance property values and promote economic growth. Additionally, the increased tax base allows counties, municipalities and school districts to provide a broader range of public services and to appropriately maintain the new infrastructure that has been constructed during the recovery.

### *11.2.1 Auction Overview*

Most properties acquired through the Acquisition Component are disposed of at a public auction for current fair market value (FMV). Auctioned properties are subject to a deed restriction that redevelopment of the property must occur within either 18 months or 36 months (three years) from the date of the closing, depending on when it was sold. Failure to rebuild in the required timeframe results in the reversion of the property to the State. The Program reserves the right to grant extensions on a case-by-case basis through the Demonstrable Hardship process, upon demonstration that the purchaser has made a good-faith effort and/or made significant progress to rebuild. The NY Rising Buyout and Acquisition Program requires a certificate of occupancy (COO) from the municipality. In the absence of a COO, the Program will accept a valid certificate of completion (COC) or Authority Having Jurisdiction certificate (AHJ) plus closed permits, applicable Post-Elevation Certification, and any other supporting municipal compliance requirements.

The final purchase price at auction of the property shall establish FMV (auction FMV). Proceeds from the sale of the properties, less administrative costs, is considered Program Income. Program Income is put towards other programs administered by GOSR. The State has competitively procured the services of a local auctioneer and real estate broker (“Auctioneer”) to develop minimum buyer qualifications and conduct the public auction of the Acquisition properties.

Properties purchased as Acquisitions have been determined to be “substantially damaged” by the local floodplain administrator or similar official. Redevelopment of these properties must meet the elevation and all floodplain development and design requirements set forth in the New York State Building Code and any local building code. These requirements meet or exceed Federal requirements to elevate substantially improved properties to one foot above base flood elevation (BFE), which is the absolute minimum height of all elevation for all properties receiving CDBG-DR assistance. A purchaser must produce a final FEMA Elevation Certificate to fulfill this requirement or a newly issued Certificate of Occupancy.

Further, all redevelopment should meet any long-term resiliency/retrofit activities as required by New York State and local building code which may include, but is not limited to, the elevation of electrical systems and components above design flood elevation, securing fuel tanks, changing the use of below-design flood elevation spaces, installation of flood vents in basements and crawl spaces in flood zones; and/or installation of sewer backflow valves. Properties sold at auction meet a CDBG National Objective of Urgent Need.

#### *11.2.2 Acquisition Properties Sold to Public Agencies*

At the request of a municipality, the State sells properties purchased through the Acquisition component to government agencies at the Purchase Price equivalent to the minimum bid of the property if it were to be sold at auction. The public agency taking ownership of the property may be subject to the same Terms & Conditions as the participating bidders at the auctions, which include but are not limited to rehabilitating and elevating to State and local building code within three years.

Properties sold to public entities meet a CDBG National Objective of Urgent Need.

#### *11.2.3 Open Space in Perpetuity*

In some circumstances, properties purchased through the Acquisition component that do not conform to the surrounding area and/or are of greater use to the community as open space are sold or transferred to local units of government and other entities with a deed restriction mandating that they remain open space in perpetuity. The process of using a property purchased through the Acquisition Component as an open space (“Open Space”) is called “Change of Use”. Properties are selected for Open Space at the request of local units of government or through Program determination and decided upon at the discretion of the State. Once a property has been identified for Open Space, the State conducts public outreach for the “Change of Use”. The property is then sold or transferred to the local unit of government and other entities with a covenant recorded to ensure that the parcel is held to the same open space standards as properties purchased through the Buyout component.

#### *11.2.4 Acquisition for Affordable Housing - Long Island Housing Partnership (LIHP)*

Through the Buyout & Acquisition Program, the Governor’s Office of Storm Recovery dispositioned 23 properties to the Long Island Housing Partnership (LIHP) as a way of increasing available homeownership options for low- and moderate- income families. The properties dispositioned to LIHP were selected at the discretion of the State. Per Program requirements, the properties dispositioned to LIHP must possess affordable housing units to be sold to low- or moderate-income families within three years of the date of property transfer. The homes will be sold with income deed restrictions in accordance with the LMI income levels associated with CDBG-DR funding and meet a CDBG National Objective of LMI.

In addition to the 23 properties dispositioned to LIHP through the Buyout & Acquisition Program, the Governor’s Office of Storm Recovery leveraged its existing Subrecipient

Agreement with the Long Island Housing Partnership (see *Exhibit 1 section 2.0 “Programmatic Outreach” of this Policy Manual for details*) to provide additional funding to cover the administrative costs associated with development of the affordable housing units in accordance with contract and CDBG-DR requirements. The Subrecipient Agreement will be reviewed and closed out separate from the Buyout & Acquisition Program, and in accordance with GOSR’s standard Subrecipient Agreement closeout review process.

## 12.0 Subrecipient Selection and Capacity

GOSR selects suitable subrecipients by direct, discretionary selection. GOSR analyzes potential subrecipients to examine their capacity for implementation of scope. Program Managers may review subrecipients' Single Audits and audits from the State Comptroller's Office, as well as complete a risk assessment, initial assessment report and subrecipient capacity analysis.

Under the Buyout & Acquisition Program, subrecipients are only applicable to the Acquisition component.

### 12.1 Direct Selection

Under the direct selection method, Program staff identifies an appropriate subrecipient by considering: (1) opportunities to build capacity at the most local levels of government, (2) jurisdiction over any assets that are essential to the project, (3) existing project, (4) financial management capacity, and (5) any other considerations specific to the project being implemented. GOSR directly selects subrecipients under the following scenarios:

- When an entity is uniquely qualified to implement a project because the entity has sole jurisdiction over the project or complete control/ownership over a project site;
- When it is likely that an award to any other source would burden the entity with full site control or jurisdiction of the Program project area;
- When there is a reasonable basis to conclude that the minimum needs of the Program project can only be satisfied by the selected subrecipient; and
- When an entity is uniquely qualified to implement a project due to that entity's execution of a program which meets the same vision and goals as required by the project.

The direct selection process is documented for each subrecipient in an Approval Memo. GOSR's ability to directly select a qualified subrecipient is allowed under 24 CFR 570.500(c).

### 12.2 Selection Criteria Considerations

Potential subrecipients are examined on the following considerations:

- Prior experience with executing CDBG or other federal funded projects.
- Staff capacity to effectively manage CDBG-DR grants
- Knowledge and experience in financial management of federal grant funds, specifically of CDBG funds; and the ability of financial systems to meet all State and federal requirements
- In good standing with the State of New York (for entities other than public entities).
- Experience, knowledge, and compliance with all Federal regulations outside of direct CDBG requirements, as it applies to the grant
- Other factors including relationship to the community, relationship to other government entities, and specialized skills, knowledge, or capacity that would make an entity suitable as a subrecipient.



### **12.3 Subrecipient Agreements**

GOSR executes a subrecipient agreement (SRA) with each selected subrecipient. The SRA serves as the mechanism for transfer of funds to the subrecipient, and requires compliance with all federal, State, and local laws, as applicable. For some projects where the subrecipient is another state agency, a memorandum of understanding (MOU), rather than an SRA, is executed. For projects where Dormitory Authority of the State of New York (DASNY) is the subrecipient, projects are initiated through a Work Order (WO), rather than an amendment to the SRA or MOU. SRAs may be amended throughout a project's lifecycle.

## **13.0 Phase 9: Deed Restriction & Monitoring**

### **13.1 Properties Purchased through the Buyout Component**

New York State memorializes the covenants made regarding the property in the CDBG-DR Program. For properties purchased through the Buyout component a *Declaration of Covenants and Restrictions by New York State Homes and Community Restoration Division* (EBA Agreement) is incorporated with the deed for each parcel and recorded in the real property records office that serves the county where the property is found. Copies of the EBA Agreements are saved in the Program files. All restrictive covenants are recorded prior to, or at the time of, disposition.

GOSR will conduct monitoring on a routine and incident-based basis. For routine monitoring, GOSR may send monitoring letters to owners of disposed properties within three years of the date of sale and may visit the property to monitor the state of compliance. GOSR may also conduct monitoring in response to incidents that arise such as when an inquiry regarding possible noncompliance is received from a concerned party. GOSR may investigate the inquiry through a site visit and other outreach to the local municipality.

GOSR relies on local flood plain administrators to make determinations regarding compliance with applicable covenants. Accordingly, GOSR refers all potential instances of non-compliance to the local flood plain administrator for resolution.

### **13.2 Properties Purchased through the Acquisition Component**

Properties purchased through the Acquisition component are monitored until proof is obtained that the property has a home built to local and State building codes. By executing the Purchase of Sale Agreement (PSA) the purchaser acknowledges that they shall obtain a duly issued final COO from the local building department with jurisdiction covering the building within three years of the date of Closing for auction closings prior to November 2018 and 18 months for November 2018 auction closings, indicating that all redevelopment of the Premises is consistent with local use and zoning regulations and floodplain development and design requirements set forth in the New York State Building Code and any local codes. And that the Seller reserves the right, at its sole discretion, to grant the Owner additional time to meet the condition or release the Seller's reversionary interest.

An Owner wishing to combine a purchased Premises with an adjacently owned property may submit a written request to the Seller to waive this restriction once the purchased Premises and the adjacent property have been merged. Such a request must include documentation filed with the relevant clerk's office that the plots have been merged prior to the request for waiver.

Seller may conduct biannual monitoring on the progress of the redevelopment of the Premises and Owner shall cooperate with Seller and Seller's agents and provide Seller

with such information and documentation as may be reasonably requested by Seller relating to the redevelopment of the Premises. Upon Owner's satisfaction of the above-referenced requirements, the Seller's reversionary interest will be released, and full title will vest in the Owner.

If the Premises is located in a Special Flood Hazard Area under FEMA Flood Maps or within the Special Flood Hazard Area under the Advisory Base Flood Elevations issued by FEMA, at the time of any conveyance, any dwelling on any part of the Premises shall be insured under a policy of flood insurance in the amount equal to the lesser of (a) the full insurable value, as determined by the property insurer secured by the transferee; or (b) the maximum amount of flood insurance coverage available under the National Flood Insurance Program to the extent coverage can be obtained under the National Flood Insurance Program. In the event the Purchaser or subsequent owners/transferees shall fail to maintain flood insurance, Purchaser or Owner may not be eligible for federal disaster relief assistance for repair, replacement, or restoration of damage due to flooding as provided for in 42 U.S.C. §5154a.

Purchaser must notify subsequent transferees of the requirement to maintain flood insurance by including this covenant to secure flood insurance notification language in all subsequent written conveyance instruments. This covenant as to flood insurance shall run with the Premises in perpetuity or, alternatively, for the maximum period permitted by law, and may be enforced by any transferor, any of transferor's successors in interest or by FEMA, HUD or any other authorized government entity.

## 14.0 Acronyms and Definitions

### 14.1 Acronyms

Acronym	Name
AA	Allowable Activities
ACM	Asbestos Containing Materials
CDBG-DR	Community Development Block Grant
DHAP	Disaster Housing Assistance Program
DHCR	Division of Housing and Community Renewal
DOB	Duplication of Benefit
DOS	Department of State
DRGR	Disaster Recovery Grant Reporting System
DSS	Decent, Safe, and Sanitary
EBA	Enhanced Buyout Area
ECR	Estimated Cost of Repair
EPA	Environmental Protection Agency
ERR	Environmental Review Record
ESA	Environmental Site Assessment
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Maps
FHA	Federal Housing Administration
FMV	Fair Market Value
GIS	Geographic Information System
GOSR	Governor's Office for Storm Recovery
HCR	Office of Community Renewal
HLR	Housing of Last Resort
HQS	Housing Quality Standards
HTFC	Housing Trust Fund Corporation
HUD	Department of Housing and Urban Development
IMA	Interim Mortgage Assistance
ION	Initiation of Negotiations
IRS	Internal Revenue Service
LEP	Limited English Proficiency
LLC	Limited Liability Corporation
LLP	Limited Liability Partnership
LMI	Low- to Moderate- Income
LP	Limited Partnership
NEPA	National Environmental Policy Act
NESHAP	National Emission Standards for Hazardous Air
NFIP	National Flood Insurance Program
OIA	Office of Internal Audit
PCB	Polychlorinated Biphenyls
PMF	Project Management File
QPR	Quarterly Performance Report
RACM	Regulated Asbestos Containing Material
RE	Responsible Entity
SAVE	Systematic Alien Verification for Entitlements
SBA	Small Business Administration
SEQR	State Environmental Quality Review
SFHA	Special Flood Hazard Area
SOW	Scope of Work
SSC	Site Specific Checklist
SSDI	Social Security Disability Income
STAR	School Tax Relief Program
URA	Uniform Relocation Act

## 14.2 Definitions

**100-Year Floodplain:** Also referred to as ‘base flood.’ This term, adopted by the NFIP as the basis for mapping, insurance rating, and regulating new construction, is the flood plain 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.

**500-Year Floodplain:** This is the floodplain that would be inundated in the event of a 500-year flood. The 500-year flood has a 0.2-percent-annual-chance of flooding.

**Action Plan:** The public document required by HUD that details the NY Rising Recovery Programs at how the grantee plans to allocate CDBG-DR funds.

**Adjacent Vacant Land:** Vacant land that is contiguous to an eligible Property with a structure and is under the same ownership as the eligible Property is eligible for Acquisition. Plots of land where a structure once stood are eligible for acquisition and do not need to be contiguous to an eligible Property.

**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 Associations (FEMA) coastal studies that were completed before Superstorm Sandy. The studies include data that has been collected and analyzed over several years. Though advisory now, eventually information used to develop the ABFEs is incorporated into official FIRMs.

**Allowable Activity (AA):** An estimate calculated through a home inspection of the reimbursement amount for eligible repairs a Homeowner made.

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

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

**Buyout:** Any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices [FR-5696-N-01].

**Change of Use:** For property disposition, the Program changes the eligible CDBG-DR activity. For example, the Program may change the use of a property purchased through the Acquisition component for the use of Open Space, which is an eligible activity of the Buyout component.

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

**Coastal Erosion Hazard Areas:** are 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-Disaster Recovery (CDBG-DR):** A federal program administered by the US Department of Housing & Urban Development (HUD) which provides grant funds to local and state governments. The CDBG-DR 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.

**Contract for Deed (also referred to as a Lease Purchase Agreement):** Legal document that establishes items to be met in order for the deed to a piece of property to transfer from one person to another, usually in exchange for monthly payments until the purchase price has been paid.

**Conveyance:** The legal process of transferring property from owner to another.

**Decent, Safe, and Sanitary (DSS):** A dwelling that meets applicable federal, state and local housing and occupancy codes; including but not limited to the Uniform Building Code, National Electrical Code, ICBO Plumbing Code, the Uniform Mechanical Code, HUD Minimum Property Standards, and HUD Mobile Home Construction and Safety Standards (24 CFR part 4080).

**Demolition Contractor:** GOSR's procured demolition firm. Ensures that utilities are properly disconnected prior to the demolition, manages an air quality management plan, oversees site specific health and safety plans, and manages the disposal process of all building materials associated with the demolished structures including the handling and disposal of identified asbestos containing material or hazardous material. After demolition, the properties are graded and seeded with a plant species that are native to the area and selected in consideration of the end-use of the property.

**Demonstrable Hardship:** A substantial change in a homeowner's situation that will prohibit or severely affect their ability to provide a minimal standard of living or the basic necessities of life, including housing, medical care, or transportation, without causing economic distress, well beyond mere inconvenience as shown by objective evidence. The term is not necessarily a definable term of fixed and inflexible content or meaning. The Demonstrable Hardship must be of a severe, involuntary, and unexpected nature. It must not be one that is generally shared by other homeowners or tenants affected by the qualifying storms or within the impacted counties.

**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 Benefit (DOB):** Any payments the Property Owner received for disaster assistance for the same loss that the Program is providing assistance. Duplication occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. The amount of the duplication is the amount of assistance provided in excess of need.

**Earth Movement:** Is 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.

**Elderly Person:** [24 CFR 891.205] An elderly person is a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

**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.

**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 comply with Environmental Code 24 CFR Part 58.

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

**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.

- For the purpose of the Buyout purchase price, fair market value refers to the pre-storm value of the home.

- For the purpose of Acquisition purchase price, fair market value refers to the post-storm value of the home
- For the purpose of the Acquisition auction, fair market value refers to the sale to the highest responsible bidder.

**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.

**Floodplain:** Also known as the 'Base Flood' it is the low, flat, periodically flooded lands adjacent to rivers, lakes and oceans and subject to geomorphic (land-shaping) and hydrologic (water flow) processes. 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 National Flood Insurance Program (NFIP).

**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' it 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.

**General Contractor (GC):** A registered/licensed professional or specialty trade serving as the prime or subcontractor that carries out design and construction activities for the Homeowner in the program; the GC for the intent of this program may subcontract out portions of the work as necessary.

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

**Governor's Office of Storm Recovery:** The division of the Housing Trust Fund Corporation established by Governor Cuomo in June 2013 to maximize the coordination of recovery and rebuilding efforts in storm-affected municipalities throughout New York State.



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

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

**Homes and Community Renewal (HCR):** New York State unified leadership platform, encompassing a variety of New York State agencies and public benefit corporations involved in the provision of housing and community renewal.

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

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

**Invitation for Bid (IFB):** The method used for the sealed bid process. IFBs usually include a copy of the specifications for the proposed purchase, instructions for preparation of bids, and the conditions of purchase, delivery and payment schedule. The IFB also designates the date and time of bid opening.

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

**Limited English Proficiency (LEP):** A designation for person 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.

**Lost Ownership:** Property Owners who lost ownership of their homes due to foreclosure, or are pending foreclosure, are ineligible for Program assistance.

**Low- and 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 minimum standards for buildings

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constructed under HUD housing programs. This includes new single-family homes, multi-family housing and health care type facilities.

**Minority 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.

**National Objective:** HUD criteria governing the eligible uses of CDBG-DR funds.

**National of the United States:** A non-US citizen who holds allegiance to the US is not considered an alien. For practical purposes, this describes a few people who live on some islands in the South Pacific.

**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.

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

**Non-residential buildings:** Non-residential structures unattached to the residence, are ineligible for assistance.

**Notice of Opportunity to Rescind:** The Property Owner has 3 business days to rescind the contract signing. On the fourth business day, the Property Owner signs the form to either rescind the contract or to move forward with the program.

**One-Family Residences:** A one-unit residential dwelling.

**HUD Office of Inspector General (OIG):** OIG's mission is independent and objective reporting to the Secretary and the Congress for 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).

**Open Space:** land used, which is not to be developed.

**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; 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
- (A) 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))

**Program Income:** Proceeds from auction sale of acquisition properties, less administrative costs, to be put towards other programs administered by GOSR per the GOSR's Financial Management Standards, Section IV.

**Property:** real estate consisting of land and the buildings and natural resources on it.

**Property Owner:** Individual or entity in possession of title for land, building, or another item.

**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.

**Rental Properties:** Property which is rented out for part of the year as long as the Property Owner does not use the Property for more than 14 days or more than 10% of the days rented in the year.

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

**Responsible Entity (RE):** Under 24 CFR Part 58, the term “responsible entity” 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 has been achieved, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the ERR is complete.

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

**Second Home:** A property is considered a second home if it is not rented out at any time during the year, regardless of whether it is used by the household or not. In addition, a property is a second home if it 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. If a home is rented out for part or the entire year and the owner does not use the home long enough then it is rental property and not a second home.

Second Homes are ineligible for assistance under the Buyout component. A property is defined by IRS Publication 936 and considered a Second Home for the purposes of the Program if:

- The Property is not rented out at any time during the year of the Qualified Storm Event regardless of the number of days of use by the household and not under repair/renovation during the year of the Qualified Storm Event.
- The Property is rented out for part of the year of the Qualified Storm Event and the Property Owner uses the Property more than 14 days, or more than 10% of the days rented during the year of the Qualified Storm Event, whichever is greater.

Second Homes located in an Enhanced Buyout Area may be eligible for the Acquisition component for purchase at the post-storm FMV but are not eligible for the Buyout incentives.

**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:** “Slum and blight” 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 Property Owners, 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.

**Special Flood Hazard Area (SFHA):** The base floodplain displayed on FEMA maps. It includes the A and V zones.

**Scope of Work (SOW):** The Scope of Work is prepared after a thorough on-site inspection and documented into a project specific work write-up report. The work write-up identifies needed repairs to bring the home up to the Program's minimum property standards.

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

**Subsequent Owner:** Individual or entity in possession of title for land, building, or another item specifically purchased after the storm event.

**Subsequent Purchaser:** Individual or entity in possession of title for land, building, or another item specifically purchased after winning the bid at auction.

**Substantial Damage:** Occurs when a property sustains damages that equal or exceed 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, or if the ECR/AA value (minus elevation and bulkheads costs) meets or exceeds 50 percent of the Program cap.

Substantial damage may be determined by the following:

1. Receipt of a substantial damage letter from their Flood Plain Administrator, or
2. Inclusion in the FEMA and/or the municipality data set indicating the home was substantially damaged, or
3. A total damage amount (the sum of the AA and the ECR not including bulkheads or elevation but including AE fees) of greater than 50% of the pre-storm value.
4. All Properties located in Enhanced Buyout Areas are considered by the Program and the State to be substantially damaged.

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

**Tenant:** A person who occupies land or property rented from a landlord.

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

**Two-Family Homes:** Owner occupying one unit and a tenant occupying the other.

**Two-Family Residences:** A two-unit residential dwelling.

**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 displaced 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 threat to health/welfare of 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 Property Owners which do not meet the LMI criteria is placed into the Urgent Need category.

**Vacant Land:** A parcel of land with no structure on it. Vacant parcels of land within an Enhanced Buyout Area are eligible for assistance.

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# Exhibit 1 – Citizen Participation Plan

## 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 sub-recipients 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.

### 1.0 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.

## **2.0 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 Committees 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 sub-recipient, 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 has included 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 Homeowner 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 sub-recipients. 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 homeowners have the most up to date information about the program. In addition, frequent technical assistance meetings were held with Applicants to assist homeowners 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 the Superstorm Sandy, in order to encourage these individuals to apply to the NY Rising Housing Recovery Assistance 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.

### **3.0 Outreach to Vulnerable Populations**

The State has also conducted outreach to residents with more acute needs, particularly low and moderate-income household 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 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.

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## 4.0 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 thirty days, posted prominently and accessed on GOSR's official website.

## 5.0 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 which 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

Non-substantial Amendments to the Action Plan will be posted on GOSR's 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.

## 6.0 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.

## **7.0 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.

## **8.0 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 close out of the disaster recovery program, the Program, the UGLG and State sub-recipients 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 Sub-recipient 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, Sub- recipient'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.

## Exhibit 2 – NYS Department of State Risk Assessment Area Mapping: Datasets and Methodology

Knowing which areas have been and will be affected by storms and other threats such as sea level rise are the first step towards understanding risk. To help understand the geographic distribution of coastal risk, the Department of State (DOS) prepared coastal risk assessment areas with assistance from the National Oceanic and Atmospheric Administration Coastal Services Center (NOAA-CSC) and the Federal Emergency Management Agency (FEMA).

The following process was used to develop risk assessment areas depicting geographic areas of extreme, high and moderate hazard risk areas for New York City, Nassau County, Suffolk County and Westchester County.

**1. Map risk assessment areas.** The objective of the Risk Assessment is to define areas at risk from coastal hazards, distinguishing significant differences in the exposure of the landscape. Data was collected from sources accurate enough to differentiate geographic areas according to the likelihood of flooding, erosion, waves and storm surge. To the extent allowed by source data places where flood water can extend up streams and under culverts and bridges are reflected in mapping. Data sources include but are not limited to:

- **High Resolution Topography.** Best available topography for all areas was used. This allowed topographic mapping of differences in elevation that could affect the potential to flood. Topographic data for inundation analysis had an average vertical error of 9cm.
- **1% and 0.2% flood zones from 2009 FEMA Flood Insurance Rate Maps for Nassau and Suffolk Counties and from FEMA 2013 Preliminary Flood Insurance Rate Maps for New York City and Westchester County.** A and V zones on floodplain maps are areas with a 1% annual risk of flooding based on the most recent FEMA analysis. They are commonly referred to as 100-year flood zones. The boundaries of these zones are identified on Flood Insurance Rate Maps (FIRMs). The FIRMs also delineate zones X and B, which are subject to a “500-year flood,” or 100-year flood with depth less than 1 foot, or with a contributing drainage area less than 1 square mile, and areas protected by levees from the base flood. For this Risk Assessment, zones X and B are relatively low-risk areas subject to future storm surge inundation with sea level rise where a higher standard for flood protection may be appropriate. Near-shore water elevations were extracted from the FEMA Flood Insurance Rate Study for the following elevations:
  - V-zone or Wave Velocity zone
  - 1% still water elevation (100-year flood zone)

- .2% still water elevation (500-year flood)
- **SLOSH storm surge inundation zones (NY3 Basin).** The Sea, Lake, and Overland Surges from Hurricanes (SLOSH) model of the National Hurricane Center estimates hurricane storm surge. Because category 3 hurricanes (Saffir-Simpson scale) have occurred numerous times in New York, the SLOSH category 3 inundation zone was used to identify the geographic extent of coastal inundation risk.
- **Sea level rise scenario.** 0-3FT above Mean Higher High Water (MHHW) shoreline using NOAA VDatum for MHHW surface that shows both possible and more likely areas that will be impacted based on mapping confidence. Future sea level rise was also accounted for by adding 3 feet of elevation to the NOAA National Weather Service coastal flood advisory and adding 3 feet of elevation to the inland extent of the 100-year flood zone.
- **Shallow coastal flooding.** NOAA National Weather Service (NWS) shallow coastal flood advisory thresholds. An analysis of the number of events and duration of coastal flooding over the past 3 years and what 0.5m and 1m of SLR will do to increase those was carried out. See SLR viewer flood frequency tab for examples [www.csc.noaa.gov/slr](http://www.csc.noaa.gov/slr)
- **Susceptible Natural Shoreline Features.** Areas subject to shoreline erosion are at risk of chronic impacts as well as increased storm impacts.

**2. Compile mapping into a summary, classifying geographic areas according to differences in vulnerability.** Mapped areas described in Step 1 above were overlaid, combined vulnerabilities were used to discriminate geographic areas into three classes:

- a. Extreme Risk Areas: Areas currently at risk of frequent inundation, vulnerable to erosion in the next 40 years, or likely to be inundated in the future due to sea level rise:
  - i. FEMA V zone.
  - ii. Areas subject to Shallow Coastal Flooding per NOAA NWS's advisory threshold.
  - iii. Areas prone to erosion, natural protective feature areas susceptible to erosion.
  - iv. Added 3 feet to the MHHW shoreline and extended this elevation inland over the digital elevation model (DEM) to point of intersection with ground surface.

**Result:** An area depicting the maximum extent of the above areas was compiled. This is the Extreme Risk Area.

- b. High Risk Areas: Areas outside the Extreme Risk Area that are currently at infrequent risk of inundation or at future risk from sea level rise:

- i. Area bounded by the 1% annual flood risk zone (FEMA V and A zones).
- ii. Added 3 feet to NOAA NWS coastal flooding advisory threshold and extended this elevation inland over the DEM to point of intersection with ground surface.

**Result:** An area depicting the maximum extent of the above areas upland of the boundary of the Extreme Risk Area was compiled. This is the High-Risk Area.

- c. Moderate Risk Areas: Areas outside the Extreme and High-Risk Areas but currently at moderate risk of inundation from infrequent events or at risk in the future from sea level rise.
  - i. Area bounded by the 0.2% annual risk (500 year) flood zone, where available.
  - ii. Added 3 feet to the Base Flood Elevation for the current 1% annual risk flood event and extended this elevation inland over the DEM to point of intersection with ground surface.
  - iii. Area bounded by SLOSH category 3 hurricane inundation zone.

**Result:** An area depicting the maximum extent of the above areas upland of the boundary of the High-Risk Area was compiled. This is the Moderate Risk Area. (4/3/13)



## **Exhibit 3 – Program Administrative Rules and Cross-Cutting Federal Regulations**

The NY Rising Housing Recovery Programs and its beneficiaries, subrecipients and contractors must adhere to federal and state requirements as applicable and provide confirmation of compliance upon request. It is incumbent upon grant recipients to determine which requirements apply to them. A general reference to all requirements may be found in the [NY Rising Housing Recovery Program Cross-Cutting Manual](#) available upon request and located on the Program website.