



STEPS IN THE PROCESS AND FREQUENTLY ASKED QUESTIONS

Determining Fair Market Value & Duplication of Benefits

Voluntary Property Acquisition: PROCESS STEPS

A portion of the NY Rising Buyout Program (Program) that New York State (NYS) created, supports disaster recovery voluntary property acquisitions (Acquisition) to help community members obtain replacement homes that are decent, safe, sanitary, and in good repair. The Program buys and demolishes *substantially damaged* (at least 50% of FMV) one-unit and two-unit Owner-occupied and income-producing residential dwellings, but second homes are not eligible for Acquisition. When a homeowner, participant, Owner-occupant, or applicant (Owner) submits either a statement of interest or a Program application, a Case Manager determines whether the property is eligible for NYS Acquisition. If the property is eligible (substantially damaged, in a designated Program area, and in the 500-year floodplain), an appraisal is ordered, and the Owner participates in the following steps:

- **Determining Fair Market Value (FMV)** – NYS policy is to treat all owners of storm-damaged homes fairly and equally. An independent appraiser develops objective FMV determinations for eligible dwellings owned by community members interested in the Program.
- **Verification of Benefits (VOB)** – NYS uses a two-stage process to avoid duplicate payments. First, the Case Manager and Owner confirm the accuracy of the application and supporting information to identify amounts that a payment from the Program would duplicate. Second, NYS verifies the amounts of recovery assistance paid for each property to each Owner by the U.S. Small Business Administration (SBA), Federal Emergency Management Agency (FEMA), homeowners insurance, flood insurance, and other local, state, and federal funding sources. The VOB process is independent from other aspects of the Program. The benefit amounts each Owner received are obtained from third parties that are unrelated to Owners and NYS Program personnel. The VOB amount is subtracted from the FMV in calculating the amount that NYS can offer for the property.
- **Offer to Purchase** – Upon concluding the VOB process, NYS prepares its offer package and presents it to the Owner by certified mail. The offer package includes the FMV of the property, the amounts of disaster recovery benefits received that must be subtracted from the FMV to avoid duplicative payments and presents that amount in the Contract of Sale to state the amount that NYS will pay the Owner when the transaction closes. The offer package includes other closing preparation documents for the owner.
- **Preparation for Closing** – Once the Owner and NYS agree, they both sign the Contract of Sale and Rider so preparation for the closing can proceed. Liens or claims against the property may delay closing.
- **Closing** – When the title is clear, the Owner and NYS schedule a closing date and close their transaction in the same manner as other real property sale transactions.

Determining Fair Market Value (FMV) – Property Valuation

NYS bases the amount of its offer for each property on the FMV determined by an independent appraisal and accepted as reasonable by most property owners.

- For purposes of the Program, substantially damaged properties in the 500-year floodplain outside of the highest risk areas (“V zone” on FEMA flood maps) are called Acquisition properties. Offers for Acquisition properties are based on the post-storm FMV determined by an independent appraiser hired by NYS (plus eligible relocation or other assistance). A copy of the appraisal report is available to the Owner.



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- If a participant voluntarily purchases storm-damaged property after the storm event, NYS can offer only the lesser of the amount paid for the property or the post-storm assessed value.
- If a participant received flood insurance adjustments, settlements, or payments that exceed the appraised value of the structure, NYS can offer only the FMV of the land.
- If a municipal or NYS authority demolished a storm-damaged structure because it presented an imminent threat to life or property before offering to purchase the property, the amount offered under the Program is the FMV less the amounts that the Program payment would duplicate.

Deductions to Prevent Duplication of Benefits (DOB)

The Case Manager and Owner review all disaster-related assistance provided for the property to identify any amounts that must be deducted from the Acquisition payment to avoid DOB the Owner received previously. Program rules require that any SBA, FEMA, homeowners insurance, flood insurance, and other disaster assistance the property owner received, is eligible to receive, or is due, that Program benefits would duplicate must be deducted from the FMV of the property **before** NYS can offer to buy a property. For example, the owner of a property with an FMV of \$150,000 received flood insurance settlement of \$120,000. The Offer amount is \$30,000. Any larger payment would duplicate compensation already paid for the Owner's specific losses.

Owners must pay all property taxes due or owed up to the closing date and make all payments required to clear special assessments, liens, or judgments before closing or they will be deducted from proceeds at closing. The Owner reviews the specific statement of fair compensation and settlement statement with the Case Manager who explains disbursement of sale proceeds and answers all questions concerning the transaction before the Owner decides whether to sell the property in the Program.

NOTE: Repair assistance that was spent for eligible expenses to repair the home **AND** that can be supported by receipts or invoices with proof of payment will **NOT** be deducted from FMV when calculating the Offer amount.

Program Frequently Asked Questions and Answers

Q-1: Is eligibility based on income?

A-1: No. Household income documentation is required for federal reporting purposes.

Q-2: Is a property appraisal required?

A-2: Yes. NYS retains a qualified, licensed appraiser and contacts each property owner regarding the schedule for appraisal work in the vicinity. The appraiser may contact you directly if access to the property is required.

Q-3: What if I disagree with the appraisal's determination for market value?

A-3: The Program pays the cost for the initial independent appraisal. If you believe the appraised value is too low, you can retain another appraiser at your own expense to perform a second appraisal of the FMV. NYS will not reimburse your appraisal expense.

Q-4: What if public assessment record information is not correct? (Example: Incorrect number of bedrooms, bathrooms, square footage, etc.)

A-4: Inform your Case Manager. An appeal process is available to help you resolve your concern.



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Q-5: Why can't the assessment value on the property tax bill be used?

A-5: The Program requires that the purchase price be based on an independent appraisal, and the appraised value and assessed value are often different.

Q-6: Once the Acquisition and closing process is complete, when will I receive my compensation?

A-6: All compensation for the Acquisition will be provided on the day of the closing.

Q-7: Who is responsible for the property after the Acquisition is completed?

A-7: The NYS government entity that acquires the property maintains the property.

Q-8: If I have repaired the home, can I remove items that have been repaired or replaced?

A-8: You may be permitted, on request, to remove items such as appliances that do not affect the appraised FMV.

Q-9: Once the Acquisition of my property is complete, can I enter the home to collect any personal belongings?

A-9: No. When the closing ends, you no longer have access to the property.

Q-10: Is there an order in which the Acquisitions will be done?

A-10: Acquisitions are prioritized with consideration of factors including the following: damage to the neighborhood and community, how quickly a group of projects can be streamlined and processed, hazards to safety, environmental conditions, and other factors.

Q-11: Will I need an abstract? What if it was destroyed?

A-11: If you have an abstract, you should furnish it to your Case Manager when you accept and sign the Offer. Abstracts are not essential in most cases, but may facilitate the title search performed on your property.

Q-12: I'm upside-down on my mortgage, and the Acquisition offer amount is not enough to pay off my mortgage.

A-12: Acquisitions occur only where a clear title can be provided. You need to contact your lender to discuss the mortgage. There may be a city or county mortgage mediation or negotiation program that can advise or assist you.

Q-13: I understand my property will be demolished and the land will be cleared after the Acquisition is complete. Who is responsible for the demolition?

A-13: The NYS government entity that acquires the property is responsible for structural demolition and the cost of demolition hauling and proper disposal of the demolition debris.

Q-14: I'm in the process of filing bankruptcy. Can I still participate?

A-14: You must contact your bankruptcy attorney regarding the impact of bankruptcy proceedings on your participation in the Program.

Q-15: What will my town/neighborhood look like after the Acquisition process is complete?

A-15: After purchase, demolition, and cleanup of structures designated "Acquisition" property, NYS has the flexibility to hold the property as green space in perpetuity or to redevelop it in a resilient manner. NYS's support of passive and active recreational uses and community planning efforts ensures that all members of the community contribute to re-use plans to determine the best use of acquired properties.



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Q-16: What is defined as habitable?

A-16: Housing units that are in standard condition, have no critical or major structural defects, have adequate plumbing facilities and their appearance does not create a blighting influence. This condition requires no more than observable, normal maintenance; dwelling units which have no deficiencies, or only slight observable deficiencies.

Q-17: Will NYS charge me for demolishing my property?

A-17: No. Federal funding pays for the demolition of the structures participating in the Program.

Q-18: Will my Acquisition payment be affected by other government funding I've received?

A-18: Yes. By law, HUD Community Development Block Grant (CDBG) and FEMA Hazard Mitigation Grant Program (HMGP) dollars cannot duplicate funds received from other sources, such as FEMA repair assistance, flood insurance benefits or property acquisition funds. That is DOB verification. NYS completes DOB verification before the owner and NYS agree to the property sale.

Q-19: Is NYS going to force me to sell my property?

A-19: No. This is a *voluntary* property Acquisition process. Both the FEMA HMGP and the HUD CDBG prohibit NYS from using eminent domain (condemnation) to acquire properties.

Q-20: Why did NYS hire a firm to conduct consultations with property owners?

A-20: NYS contracted with firms that specialize in property acquisitions and land transactions because the large number of participants in the Program requires additional Case Managers to proceed with property Acquisitions in a timely manner. The selected firms have demonstrated high quality customer service in similar projects.

Q-21: Do I still have to pay taxes on my flood-damaged property?

A-21: Yes. All property owners are obligated to pay taxes and keep their property in compliance with local codes and ordinances until the property sale closes and ownership changes hands. This is true for all storm-affected properties in the Program.