Homeowner

POLICY MANUAL

NY Rising Housing Recovery Program

(one and two-unit Homeowner occupied)

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The policies stated in this manual are current as of September 25, 2014. This manual represents the current version of the Governor's Office of Storm Recovery's (GOSR) policy which shall provide general guidance for the operation of the GOSR program. All policy manuals will be reviewed periodically and will be updated. GOSR will use its best efforts to keep all of its Policy Manuals current. Therefore, you are strongly urged to visit our website www.stormrecovery.ny.gov or to contact the info@stormrecovery.ny.gov to ensure that you have the latest version of GOSR's policies. There may be times, however, when a policy will change before the manual can be revised.

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POLICY MANUAL
NY Rising Housing Recovery Programs
Version Control

Version Number	Date Revised	Description of Revisions
2.0	June 20, 2014	Clarifications to the Repair, Reconstruction, Elevation and Optional Mitigation activities. Clarification of Floodway, Floodplain and Flood Insurance Policies. Clarification of Uniform Relocation and Recapture Policies. Change to Eligible Counties list. Addition of Interim Mortgage Assistance Program and Transfer to NY Rising Acquisition Program Policies. Update to the final closeout Documentation.
2.1	June 25, 2014	Clarification to Interim Mortgage Assistance Program
2.2	September 25, 2014	Minor Clarifications and update on Receipt Review Policy.

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New York Rising Program Goals

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

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

Oversight of Storm Recovery

Governor Cuomo established the Governor's Office of Storm Recovery (GOSR), a program of the Housing Trust Fund Corporation in June 2013 to maximize the coordination of recovery and rebuilding efforts in storm-affected municipalities throughout New York State. The Governor's Office of Storm Recovery (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 the Federal Community Development Block Grant-Disaster Recovery Funds.

GOSR works in close collaboration with local and community leaders to respond to communities' most urgent rebuilding needs while also 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.

Program Manual Overview

This manual is designed to outline the major program policies that the State and its agents will use to direct the operation of the NY Rising Housing Recovery Programs. This manual is intended to serve as a resource for New York State residents and other parties interested in details of how the different programs will be operated, including basic information on who will be served by the programs, the types of assistance offered, and program recipient obligations. The manual serves as a general reference guide for administrative staff and other interested parties, including Homeowner 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 programs are designed to provide grants for the repair, reconstruction, or elevation of one- to two-unit homes damaged by one of the three storms listed above. The purpose of this effort 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.

Though the State's Action Plan contains details on all the NY Rising Programs, this manual only addresses one- and two-unit owner-occupied single-family properties, as well as rental (income producing) properties. Owners of rental properties will be able to apply for assistance through the NY Rising Rental Programs. This manual only addresses the policies for one- and two-unit owner-occupied single-family, as well as cooperative and condominium properties that were damaged by the storm. Policies for rental properties are being developed and will be contained in a separate manual.

This 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 Homeowner Policy Manual and manuals for other programs will be made available for public review and use at http://www.stormrecovery.ny.gov

Meeting the CDBG-DR Program Goals

In support of the U.S. Department of Housing and Urban Development's (HUD) recovery objectives, New York State has specifically designed its programs to help impacted residents and communities to recover from the damage inflicted by the storms of 2011 and 2012. As expressed in the Federal Housing and Community Development Act, the primary objective of the general CDBG program is "the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income (LMI)." CDBG funding appropriated in response to disasters must meet those general goals of the CDBG program.

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

- Benefit Low and Moderate Income (LMI) persons
- Aid in the prevention or elimination of slums or blight (Slum and Blight)
- Meet a need having a particular urgency (Urgent Need)

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

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

The NY Rising Housing Recovery Programs are expected to encourage investment in communities by ensuring that properties are not just rebuilt but also become safer—especially 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 Housing Recovery Programs funding with other federal, state, and local community development resources.

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

1. ***Building back better and smarter*** – As New Yorkers work to repair the severe damage caused by Superstorm Sandy, the state will use 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 will invest 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 will also extend to those communities still recovering from Hurricane Irene and Tropical Storm Lee.
4. ***Leveraging private dollars*** – New York State will undertake programs that will 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 will implement 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 have been shaped to achieve the fastest delivery and best support possible, while working within the parameters of the HUD guidelines.

Outreach and Citizen Participation Plan

Outreach efforts will be 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 and a link to the online application for assistance for Homeowners at http://www.stormrecovery.ny.gov

- **In Person:** Availability of trained members of the State's Storm Recovery Team to assist potentially eligible Homeowners with the completion and submission of an application at no less than six Housing Recovery Intake Centers in impacted regions; information on locations and hours of these centers will be available at http://www.stormrecovery.ny.gov.

  By Phone: Outbound phone calls to impacted residents and potentially eligible Homeowners, including those who have registered with the State since these storms to express an interest in receiving assistance, as well as to those known to have registered for disaster aid with the Federal Emergency Management Agency (FEMA), the Small Business Administration (SBA), and other sources.

  GOSR has provided access to a State-supported disaster recovery hotline, **1-855-NYS-SANDY**, and a dedicated Call Center, which provides trained representatives who can answer questions about the programs, guide potential Homeowners through the application process, and provide updates on the status of applications.

- **Through Media**: Promote NY Rising Housing Recovery Programs' policies and achievements through a myriad of public relations strategies including print, television and digital media.

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

GOSR will create professional signage, documentation, advertisements, and other materials to support and enhance the operation of the Program. Outreach efforts will leverage alternative language delivery, including, but not limited to, Spanish, Russian, and Chinese.

Persons with disabilities, those with limited English proficiency, and others who may need these documents presented in a different format, will be encouraged to contact the state Recovery Hotline at **1-855-NYS-SANDY** for assistance with obtaining information in an accessible format.

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

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

Direct mailings, calls, and emails will be used to notify Homeowners of their application status, appointment notifications, missing information, home evaluation notice, award, and information regarding the construction process and timelines, and other program-related information as necessary.

Citizen Participation Plan

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

The State's Citizen Participation Plan ensures that there is reasonable and timely access for public notice, appraisal, examination, and comment on the activities proposed for the use of CDBG-DR grant funds. In following HUD's guidance in the November 2013 Federal Register,

substantial Action Plan Amendments will now include a thirty-day (30) public comment process with at least one (1) public hearing. The State has and will continue to coordinate outreach meetings with state entities, local governments, non-profits, private sector and involved associations. The State will also invite public comments to the Action Plan and Substantial Amendments for the duration required by HUD. They will be posted prominently and accessed on the Governor's Office of Storm Recovery official website. The State will use means such as press releases, posting notices on the New York State Governor's website and/or GOSR's website, to maximize access of program information to the impacted citizens and businesses.

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

1.0 Summary of NY Rising Housing Recovery Program Activities

New York State has created a number of individual programs under the NY Rising Housing Recovery Programs. These programs will provide assistance for repairing damaged property, reconstructing damaged homes, mitigating damaged properties for future resilience, reimbursing Homeowners who have already begun repairing their homes, and special provisions for two-unit owner-occupied homes. An overview of each program is provided below. Many Homeowners will participate in more than one of these activities.

1.1 Repair

The program will assist in covering the costs to repair or reconstruct a storm-damaged home, replace damaged non-luxury appliances, and address environmental hazards such as lead and asbestos. Assistance is limited to covering eligible costs remaining after using any other public or private assistance provided for rebuilding. These forms of other assistance include, but are not limited to, assistance from any federal, state, or local government program; private insurance proceeds; or charitable contributions.

Maximum award caps apply, and luxury items are not considered eligible costs. A list of excluded luxury items is provided as an Exhibit to this Manual.

Where a home has received substantial damage, inspectors may recommend reconstruction rather than repair.

1.2 Reconstruction

This program will assist in covering the costs, within established caps, to replace homes which were heavily damaged or destroyed during a qualified storm event. Funds will be available to mitigate environmental health hazard costs related to the demolition and reconstruction of the disaster-impacted property.

Homeowners will be informed of the award calculation methodology and the options available to them. This information will be provided in an “Estimated Cost of Repair” (ECR).

1.3 Elevation

This program will assist in covering the costs, within established caps, for effective mitigation assistance of damaged properties to elevate homes, if the Homeowner falls into one of the following categories:

Homeowners who live in the 100 year floodplain **AND** whose homes are substantially damaged are required to elevate their homes. They are eligible for elevation funding and an increase in their maximum benefit cap.

Homeowners with damaged property in the 100 year flood plain who are **NOT** substantially damaged are also eligible for elevation funding, but will not receive an increase in their maximum benefit cap.

If a Homeowner is in both the 100 year flood plain and the 500 year flood plain and provides evidence to the program that any portion of the property is in the 100 year flood plain then the Homeowner can choose to elevate.

Homeowners who have had repeated loss status from FEMA or whose land is only partially in the 100 year flood plain may also be entitled to elevation funding.

Homeowners outside the 100 year flood plain are not eligible for elevation funding.

If elevating, Homeowners must elevate their home to at least 2ft. above the Base Flood Elevation or to a level dictated by the local building authority.

1.4 Reimbursement

Homeowners who sustained damage to their primary residential property as a result of an eligible storm event, and who have made repairs to their properties, may be eligible for assistance from the State in the form of reimbursement. Reimbursement payments may be provided in whole or in part for out-of-pocket funds spent by Homeowners to repair their primary residential property.

A home inspection will determine the award amount, "Allowable Activities" (AA). Homeowners who receive reimbursement assistance are responsible for restoring their structure to a safe and sanitary condition, either through the reimbursement program alone or additionally through the repair program.

If work remains to be done on the owner's primary residential property, he/she may be eligible to receive assistance through the Program to complete that work.

1.5 Optional Mitigation

Optional mitigation measures are available for Homeowners who are eligible participants in the NY Rising Housing Recovery Program whether or not they are within the 100 year floodplain. Below is a list of possible mitigation measures:

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

These optional mitigation measures are not available to homes that are reconstructed rather than repaired and only roof strapping and backflow valves are available if the home is elevated.

1.6 Special Policies for Two-Unit Owner Occupied Properties

While the majority of the properties that will be assisted through the NY Rising Housing Recovery Programs will be single family owner-occupied homes, two-family homes, with the owner occupying one unit and a tenant occupying the other may also be eligible for assistance. The State has developed a set of special provisions that apply to these two-unit properties.

1.7 Cooperatives and Condominiums

Cooperatives (co-ops) and condominiums (condos) are eligible for assistance when the repair or reconstruction of a unit is found to be feasible. In cases where the repair or reconstruction of the homeowner's unit is reliant on actions by the homeowner's association/coop board, the association/board will be required to affirm that they support the owner's application in order for the State to approve any assistance. In addition, a condominium association or cooperative board may also apply for assistance regarding damage to the property's common elements. Individual unit owners may be also be asked to complete eligibility forms in order for New York Rising to process the common elements application submitted by the condominium association/co-op board. The State has developed a set of special provisions that apply to these Condo and Coop properties.

1.8 Interim Mortgage Assistance Program

Interim Mortgage Assistance (IMA) may be available for Homeowners who are eligible participants in the NY Rising Housing Recovery Programs and have had or are having financial difficulties in paying their mortgage notes due to additional housing payments, up to $3,000 per month.

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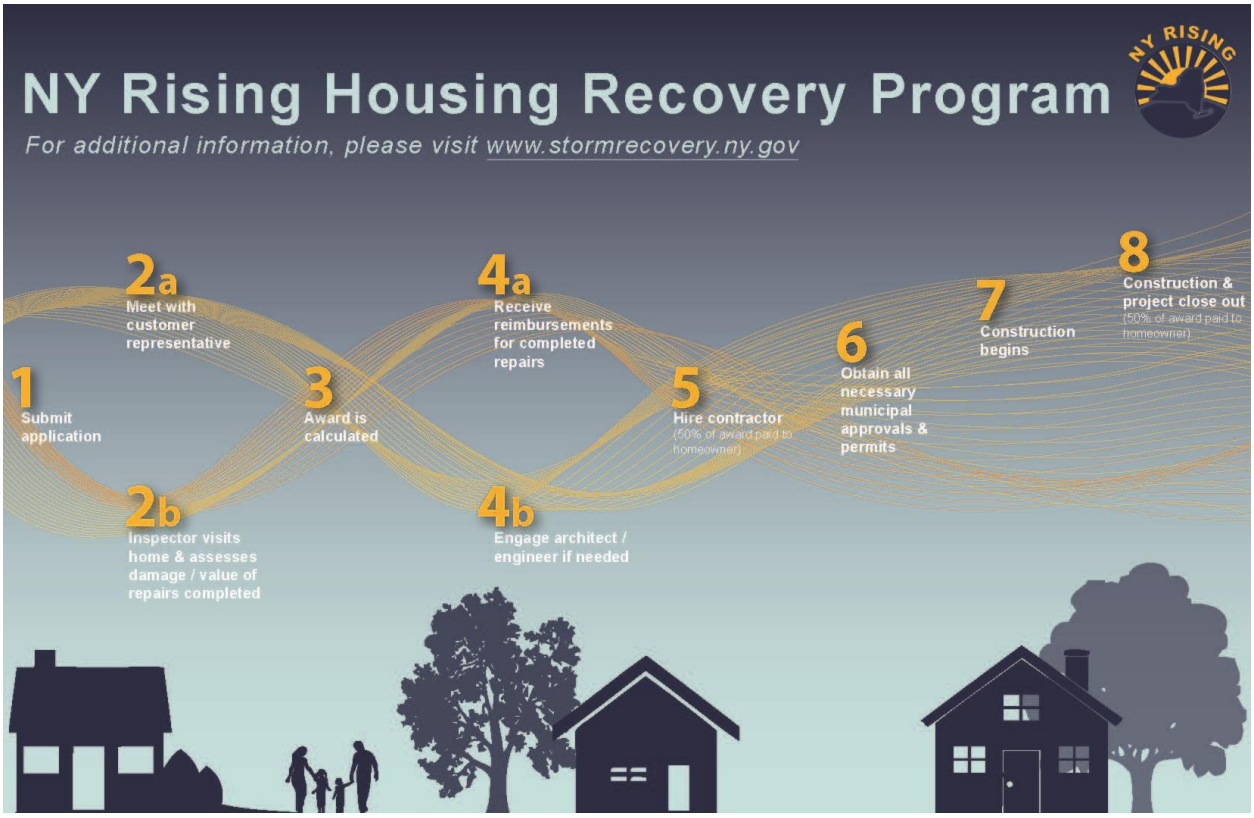
2.0 NY Rising Housing Recovery Program Process



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3.0 Policies for NY Rising Housing Recovery Program

3.1 Application

All Homeowners will be required to complete the NY Rising Housing Recovery Programs application and submit it along with supporting documentation.

Homeowners may submit applications in one of three ways:

- Complete the online application at http://www.stormrecovery.ny.gov and submit electronically
- Call **1-855-NYS-SANDY (1-855-697-7263)** to arrange for assistance by phone
- Visit a Program office and have Program staff assist with in-person submittal. Please visit the New York State Recovery Resources website for Program Office locations at: http://www.stormrecovery.ny.gov

Homeowners will need to provide the following documents or acceptable substitutes:

- ☐ IRS Form 1040, Social Security, Supplemental Security Income, Retirement/Pensions Income, Annuity Income, all as certified by copies of annual benefit statements or by copies of most recent two months bank statements or showing direct deposit amounts or by copies of Unemployment benefits letters. Program will also accept Adjusted Gross Income information provided by the New York State Department of Tax.
- ☐ Documentation of citizenship or eligible immigration status
- ☐ Documentation of primary residency
- ☐ Documentation of household income
- ☐ Documentation of amounts received or approved, (even if not yet accepted) from **all** other disaster-related assistance, such as flood insurance, Homeowners insurance, the Small Business Administration (SBA), or other federal, state, local, private, and not-for-profit sources
- ☐ FEMA registration numbers
- ☐ Tax identification number (Social Security Number)
- ☐ Documentation of ownership
- ☐ Documentation of primary residency at time of event

3.1.1 Threshold Eligibility Determination

Applications will undergo a threshold eligibility review to determine Homeowner eligibility for the different recovery assistance types offered by the NY Rising Housing Recovery Programs.

Homeowners will be assigned a Customer Representative, and their applications will be reviewed. Homeowners with ineligible applications will be notified.

3.1.2 Completeness Review

A Customer representative will review and organize the application and/or documents submitted by the Homeowner. The Customer Representative will determine if required information and documents have been submitted, and identify any additional information and documents needed.

3.1.3 Missing Documents Notification

Homeowners will be given the opportunity to submit missing and deficient information in order to continue processing their application. The Customer Representative will make reasonable efforts to promptly contact Homeowners who have submitted incomplete applications.

3.1.4 Intake Meeting

In addition to being available to communicate via email and telephone, an applicant may meet with the Customer Representative at a Housing Recovery Intake Centers. If assistance is required, then the program will provide accommodations to meet the Homeowner's special needs. Customer Representatives will provide a thorough overview of the program, review the application with the Homeowner and collect missing but required documentation; review and execute required forms, affidavits and/or disclosures documents; explain the remaining steps in the application process, and answer any questions that the Homeowner may have.

In some cases multiple meetings or conversations may be required to collect necessary documents and complete the application intake process.

3.2 Prioritization

Federal regulations require that 50 percent of the CDBG-DR funding awarded to New York State (for housing and all other activities combined) be expended to the benefit of LMI households and/or areas (beneficiaries). As a result, the Program established the following priority groups to ensure an appropriate allocation of resources within the category of housing assistance. There are no additional priorities/weights within the following groups nor will a Homeowner receive additional priority for meeting multiple criteria.

3.2.1 Priority Groups

- **Low to Moderate Income (LMI) Households -** An application will be considered part of the LMI funding priority group if the Homeowner's household income is 80 percent or less of the Homeowner's Area Median Income (AMI) as determined by HUD at the time the application is approved.

  Area Median Income is defined by HUD and is found on the appropriate Fiscal Year Income Limits table. The 80 percent level is defined for each state and county, is identified as "Low and Moderate Income," and is based on the size of the household. Income Limits can be found by accessing http://www.huduser.org/portal/datasets/il.html

- **Elderly** - An application will be considered part of the elderly priority group if the owner or co-owner of the household is 62 years of age or older at the time of application.

- **Persons with Disabilities** - An application will be considered to be in the Persons with Disabilities priority group if a member of the Homeowner's household is a person who has a physical, emotional, or mental impairment with the following conditions:

  - Is expected to be of long-continued or indefinite duration, substantially impedes the person's ability to live independently, and is such that the person's ability to live independently could be improved by more suitable housing conditions.
  - Limits major life activities, such as walking or other gross motor skills, who qualifies for Social Security Disability Income (SSDI), or can provide documentation from a licensed medical professional as to a disabling condition as defined by HUD (see 7.0 Acronyms and Definitions).

- **DHAP Recipients** - An application will be considered part of the DHAP priority group if the Homeowner is currently receiving rental assistance through the Disaster Housing Assistance Program (DHAP). If the homeowner is still going through the DHAP approval process at the time of their application to the NY Rising Housing Program, they will be considered by the program to be placed in the priority group.

- **Limited English Proficiency** - An application will be considered part of the Limited English Proficiency (LEP) priority group if the head of household who as a result of national origin, does not speak English as his/her primary language and who has a limited ability to speak, read, write, or understand English.

- **Substantially Damaged** – Substantial damage occurs when a property sustains damages that equals or exceeds 50 percent of its Fair Market Value (FMV) prior to the event, as determined by a local authorized official (e.g., a code officer) or the AA/ECR damages (minus elevation and bulkheads) 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 data set and/or the municipality indicating the home was substantially damaged, or
  3) The home is determined to require demolition and reconstruction

3.3 Eligibility Criteria

All housing program activities must adhere to the applicable criteria as set forth by The NY Rising Housing Recovery Programs and CDBG National Objectives. The eligibility criteria summarized below and described in this Section will be used to determine if the Homeowner household is eligible for assistance.

Summary of Eligibility Criteria

Property Criteria
☐ The property is located in an eligible county. (see Section 3.3.1)
☐ Property was damaged during a qualified storm event. (see Section 3.3.2)
☐ The property matches one of the defined eligible properties. (see Section 3.3.3)
Homeowner Criteria
☐ The Homeowner is the owner of the subject property. (see Section 3.3.4)
☐ The property is the primary residence of the Homeowner. (see Section 3.3.5)
☐ The Homeowner is a U.S. citizen or an eligible immigrant. (see Section 3.3.6)
☐ The Homeowner meets one of the CDBG National Objectives. (see Section 3.3.7)

3.3.1 Eligible Counties

In accordance with federal regulations, 80 percent of the program funding must be expended in the most impacted counties: Nassau, Suffolk, Rockland and Westchester (shown in **bold**). However, the counties shown in the following table are also eligible for assistance. The New York City counties (shown in grey text) are not eligible for assistance under the NY Rising Housing Recovery Repair, Reconstruction, Resilience and Reimbursement Programs. New York City will administer its own CDBG-DR programs directly; however it will work closely with the State, using its CDBG-DR funding, on eligible property buyouts and acquisition activities.

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

3.3.2 Property Damage from Qualified Storm Event

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

Homeowners that were damaged by more than one storm such as Irene and Sandy and may have repaired items multiple times shall be handled as if it were a single event, unless they specifically request a receipt review for the purpose of a multi-storm review; in this case they must present all receipts and proofs of payment for eligible items for the prior storm (see Exhibit 1, Section G, Receipt Review, for more information).

3.3.3 Eligible Properties

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

Co-ops and condos are eligible for repair when feasible. If a property is designated as condominium or co-op, the owner(s) or shareholder(s) of each unit shall be allowed to apply for assistance for the unit under their ownership. If the repair includes common walls, both unit owners must apply. These Homeowners' applications will be reviewed on a case-by-case basis to assess the feasibility of completing the repair/reconstruction work based on the plans and capabilities of the condominium's Homeowner association or in the case of a co-op, the board. The Homeowner association or board must independently apply for repair work for common areas, such as roof, heating and cooling systems, hallways, etc. In those instances where the coop or condominium has been made the recipient of insurance proceeds for individual units and where the individual owners have authorized the association/board to act on their behalf in spending these funds, the state may elect to similarly direct its awards to the association/board on behalf of the owners. In all instances, each unit shall have an individual mailing address registered with the U.S. Postal Service (not a P.O. Box).

If the property has an attached garage, it can be repaired to the extent that is necessary to make the structure safe, sanitary and meet local building codes

Properties with basements will be repaired to the extent necessary to make them safe, sanitary and meet local building codes. If the basement was used as a bedroom for a family member, then it can be rehabilitated for living space as necessary to meet minimum design standards as outlined in Section 3.13.

Examples of eligible structure types include, but are not limited to, the following:

- **Single Family Residences:** A single-unit family residence detached or attached to other housing structures.
- **Condominiums:** Condominiums are a form of ownership in which the separate owners of the individual units jointly own, or manage through a Homeowner's association the property's common areas and facilities.
- **Garden Apartments:** Multi-unit apartment complexes usually located on one or two stories with the entrances to individual apartments contained along a common walkway. These complexes usually have a common off-street parking lot as well as other common public spaces.
- **Co-ops:** Co-ops are defined as housing in which each member shares in the ownership of the whole project with the exclusive right to occupy a specific unit and to participate in project operations through the purchase of stock.
- **Mobile/Manufactured Homes:** Manufactured homes are built in a factory and installed on the home site. If built before the 1976 HUD Code, they are commonly called mobile homes. Also eligible are house trailers owned by the applicant on leased land, for which a valid lease can be shown covering the date of the storm.

The property must meet the following criteria to be eligible for the **REIMBURSEMENT Program**:

- Only properties that are eligible for the NY Rising Housing Recovery Repair and/or Resilience Program(s) may receive reimbursement.
- The property, in 100 year Floodplain, must be covered by flood insurance. Unless the property had received prior Federal assistance in another disaster and was required to maintain flood insurance, it is not necessary for the property to have been covered at the time of the disaster for which they are applying.
- The Homeowner cannot be reimbursed if the property is eligible for or listed on the national register of historic places, and work completed cannot receive clearance from the State Historic Preservation Office (SHPO). The state may support assisting Homeowners in becoming compliant if funds are available.

Please note for those that are interested in the **Buyout/Acquisition Program**: The acceptance of repair funds does not preclude the Homeowner from the Buyout/Acquisition Program. Reimbursement and repair payments will be treated as a duplication of benefits and deducted from the Buyout/Acquisition price. Reimbursement payment may be offset with receipts and or the AA report. If a Homeowner accepts a buyout or acquisition offer, their grant agreement will be cancelled and no additional repair payments will be made.

3.3.3.1 Non-standard Homes

Any property deemed to be a legal domicile in the jurisdiction as established by the local building code official or the authority having jurisdiction and would be permitted to remain legally after rehabilitation, will be eligible for assistance. Any property/structure not classified as a qualified dwelling as established by the local building code official or the authority having jurisdiction will not be eligible for assistance.

This policy applies to those who live on houseboats, in single-room properties, or travel trailers, and for owners of site built/manufactured homes that do not own underlying land. Properties containing home-based businesses will be limited to non-business uses.

3.3.4 Ownership of Subject Property

In order to qualify for housing assistance at least one person on the deed must have occupied the unit at the time of damage from one of the three storms. 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 and improvement to be assisted. The deed must be recorded with the county, city, or appropriate local municipality.

- If the Homeowner of the damaged property passed away *after* the storm that damaged the home, the documentation of the deceased person has to meet all eligibility requirements. Income determination will be based upon the income of the heir or surviving owner.

- If the Homeowner of the damaged property passed away before the storm, the heir occupying the property has to meet all eligibility requirements and will be processed for assistance in the same manner as all other Homeowners. The heir to the property shall attend the appointment, complete paper work, and make the recovery repair

3.3.4.1 Special Circumstances Related to Property Type to Type of Ownership

1. **Limited Liability Company (LLC), Limited Partnership (LP), Limited Liability Partnership (LLP) and Corporation:** LLC, LP, LLP and Corporation ownership at the time of the storm are eligible forms of ownership if the owner(s) of the entity are occupants (primary residents) of the property. At least one owner of the entity, owning not less than a 10% share, must have been a primary resident at the time of the storm. Ownership stakes of less than 10% may be eligible at the discretion of the Program, upon individual review.

2. **Land owned with other individuals:** Homeowners who owned and occupied a structure at the time of the storm that is located on land that they owned with other individuals (e.g., owned together with their family) will be treated as a Homeowner and are eligible.

3. **Purchase contracts:** Contract for deed is not eligible unless the Homeowner converts his/her contract to full ownership prior to receiving funding assistance from the program.

Rent or Lease-to-own is not eligible unless the Homeowner converts their lease to full ownership prior to receiving funding assistance from the program.

Conditional Sale Contracts are not eligible unless the Homeowner converts their contract to full ownership prior to receiving funding assistance from the program.

The following legal documents are proof that a Homeowner was purchasing a home on a contract as identified above:

- Contract dated and executed prior to the incident date for review by the Program's legal staff
- Executed contract that was filed prior to the incident date in the conveyance records of the county

Proof that a contract has been completed and title conveyed to the purchaser is provided by one of the following:

- Presentation to the customer representative of an, executed conveyance document from the seller to the purchaser
- Evidence of recordation of the title in the name of the Homeowner in the conveyance records of the county

4. **Gift of Property:** A Gift of Property is a form of property transfer without exchange of payment.
   - A gift of Property made post storm is eligible.
   - A gift of Property made prior to the storm is eligible and residency is established in the same manner as other properties.

   For the purpose of the Program, a Gift of Property must be:
   - ☐ In writing
   - ☐ Notarized
   - ☐ 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.

5. **Trust:** Property held in trust for the benefit of natural persons can be eligible as long as at least one of the occupants at the time of the storm was a current beneficiary 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 Grant Agreement along with the Trustee.

   The following is required to confirm eligibility:

- The Homeowner must provide a copy of the trust document
- 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 award agreement 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 award agreement and/or declarations. If the property was not serving as the primary residence for the current beneficiaries or trustee, the Homeowner(s) is not eligible for assistance.

6. **Real Estate Owned (REO) Property**: REO properties are ineligible for assistance.

7. **Lost Ownership:** Homeowners who lost ownership of their homes due to foreclosure are ineligible for assistance.

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

9. **Second Homes:** Second homes are ineligible for assistance. A property is considered a Second Home for the purposes of this program if:

   - The home is not rented out at any time during the year but it is a second home regardless of the number of days of use by the household.
   - The home is rented out for 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, then it is a second home.

10. **Non-residential buildings:** Non-residential structures that are not attached to the residence are ineligible for assistance.

3.3.5 Primary Residency of Subject Property

The property must have been the Homeowner's primary residence at the time of the storm in which assistance is being sought. The Program verifies primary residency through the methods listed below. All occupancy documentation must be from the time of the storm, in the Homeowner or co-Homeowner's name, and at the damaged property.

If the Homeowner received FEMA Individual Assistance (IA), Homeowner can submit a copy of FEMA letter showing payment received for home repairs or contents, or submit another insurance document to show evidence of primary residency.

If homeowner cannot provide this documentation then any of the following documentation can be used to verify primary residency for the year of the qualifying storm:

- Proof of School Tax Relief (STAR) exemption
- Federal income taxes return showing Home Address as the damaged property address.
- NY State income tax return, showing Permanent Home Address as the damaged property address.
- Government-issued identification (including driver's license) issued prior to date of incident in which the damaged occurred, and expiring after date of incident in which the damage occurred.

If homeowner cannot provide any of the above, then any two of the following can be used to verify primary residency:

- Vehicle registration or renewal for impacted year or Certificate of Title issued for vehicle in impacted year.Receipt of government benefits received for at least one month between the three months before or after the qualifying storm, including but not limited to: Social security, TANF, Medicare, NY Child Health Plus, NY Head Start, LIHEAP, NY Medicaid, NY WIC, NY SAP, NY Temporary Assistance, NY Unemployment Insurance.
- 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 6 months immediately preceding the time of the incident in which the damage occurred, and were mailed to the damaged property address.
- Other qualified documents may be presented for consideration as proof of residency.

3.3.6 Citizenship and Eligible Immigrants

At least one Homeowner on the deed must be a United States citizen or an eligible immigrant as verified by a signed certification and one of the following:

- U.S. Citizens
  - A valid U.S. Passport
  - A valid Birth Certificate
  - Certificate of Naturalization
- Eligible Immigrant
  - Will be verified through SAVE, an online verification system to validate that Homeowner is an immigrant eligible for federal benefits
  - Proof of FEMA assistance
  - Proof of SBA assistance
  - NYS issues driver's license

3.3.7 Meeting CDBG National Objectives

All program activities must meet one of the three National Objectives required under the authorizing statute of the CDBG program. When the Homeowner does not meet the definition of the LMI Objective, eligibility for assistance will be provided through the Urgent Need Objective.

3.3.7.1 Low and Moderate Income Objective

In determining income, the program will use the most recent federal income tax returns (e.g., IRS Forms, 1040, 1040A or 1040EZ).

If one or all household members do not have an IRS tax return, or the income situation has changed since the tax return(s) was filed, any of the following applicable documents may be presented for every household member that is 18 or older:

- Minimum of three current and consecutive months of check stubs (if the household member is paid monthly)
- Minimum of four current and consecutive check stubs (if the household member is paid weekly, bi-weekly or bi-monthly)
- Pension statement showing current monthly or yearly gross amount
- Social Security statement or IRS Form1099
- Unemployment statement
- Certification of Zero Income Form
- Completed Household Income Worksheet and Certification, verified by information received from the New York State Department of Tax and Finance.

3.3.7.2 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. To the extent allowed under federal regulation, all Homeowners who cannot meet the LMI National Objective will be placed into the Urgent Needs category. Homeowners under the Urgent Needs exception must be able to document how funds responded to the disaster-related impact.

3.3.8 Homeowner transfers to NY Rising Acquisition Program

There may be cases when applicants are not eligible for funding through the Homeowner Program, however they may receive GOSR assistance through the NY Rising Acquisition Program.

If a home has been categorized as one of the following it may be acquired by the State:

- Dwelling is in the Floodway
- FEMA non-compliance

The Acquisition Program purchases properties starting with the post-storm fair market value and may offer homeowner assistance as defined by the NY Rising Buyout and Acquisition Program. Please note that FEMA non-compliant applicants are not eligible to receive payment above the post-storm value.

Additionally, there may be other circumstances in which an applicant to the Homeowner Program requests a transfer to Acquisition due to hardship; such requests will be evaluated on a case by case basis. For example, Homeowners whose homes are on the FEMA repetitive loss list may be prioritized for transfer.

Owners of Condos and Coops are not covered under this policy.

3.4 Initial Inspection

Properties will have a damage assessment completed, an "Estimated Cost of Repair" (ECR) will be provided for work to be completed and an "Allowable Activities" (AA) document will be provided to be used for reimbursements.

There may be another inspection for asbestos, lead-based paint, radon, mold, and other environmental impacts required by HUD environmental regulations, outlined below in Section 3.5.

For homeowners in the REPAIR program the State will not automatically administer an environmental inspection of homes that will have repair work done under the program.

Homeowners will be responsible for complying with applicable regulations regarding environmental assessments and clearances.

For **REIMBURSEMENT** only Homeowners, the State will administer an environmental clearance inspection for lead-based paint and asbestos.

Every **REIMBURSEMENT** project will receive an initial site visit that will include an inspection to document the damage and the work completed. It is the responsibility of the Homeowner and the Homeowner's Contractor to meet minimum property standards, and state and local codes.

For reimbursement only of a reconstructed home, a full AA report is not required. The calculation of the checks shall be based on $160 per square foot of taxable square footage of the home, $25,000 for extraordinary site conditions and $5,000 demolition. The $160/sf includes all anticipated costs of design fees and elevation. It does not include environmental costs, bulkheads, demolition or cartage.

In order to retain the $25,000 for extraordinary site conditions applicants must complete and submit an extraordinary site condition form. Conditions may include: land sloped more than 7%

grade, soil required non-typical foundation, excavation was required, limited access to site, required sprinklers or construction protections were required.

For projects that are **REIMBURSEMENT** and **REPAIR:**

- ☐ Homeowners are responsible for meeting applicable environmental regulations.
- ☐ If there is a reimbursement portion of the award, homeowners will be reimbursed only for work completed.

If the Homeowner elects both the reimbursement and repair options, then **all** of the following criteria **must** be met to be eligible for the reimbursement option:

- ☐ Reimbursement is for CDBG-DR eligible repairs only. Ineligible repairs as described in 3.6.2 of this policy manual will not be eligible for reimbursement.
- ☐ Reimbursement is equivalent to an unmet need in excess of all documented and verified duplication of benefits.
- ☐ All completed work must have been done in accordance with all state and local building code requirements.
- ☐ Homeowner must demonstrate adherence to the federal Lead Based Paint (LBP) requirements as evidenced by a clearance report or certificate of exemption. If prior LBP clearance work was not done, Homeowners may be eligible for the cost of this work under the NY Rising Housing Recovery Repair/Reconstruction Programs. Reimbursement costs must adhere to the state's pre-determined pricing structure for repairs.

3.5 Environmental Review

CDBG disaster grant funding from HUD is contingent on compliance with the National Environmental Policy Act (NEPA) and related environmental and historic preservation legislation and executive orders.

3.5.1 Roles and Responsibilities

HUD's Environmental Review Procedures allow grantees to assume environmental review responsibilities. In addition:

- Homes and Community Renewal (HCR) will assume the role of the Responsible Entity (RE), responsible for undertaking compliance efforts for the Program.
- HCR will submit any requests for release of funds directly to HUD for review and approval.
- HCR will be responsible to perform the Environmental Review Records (ERRs) or contract out for a preparer of the ERRs.

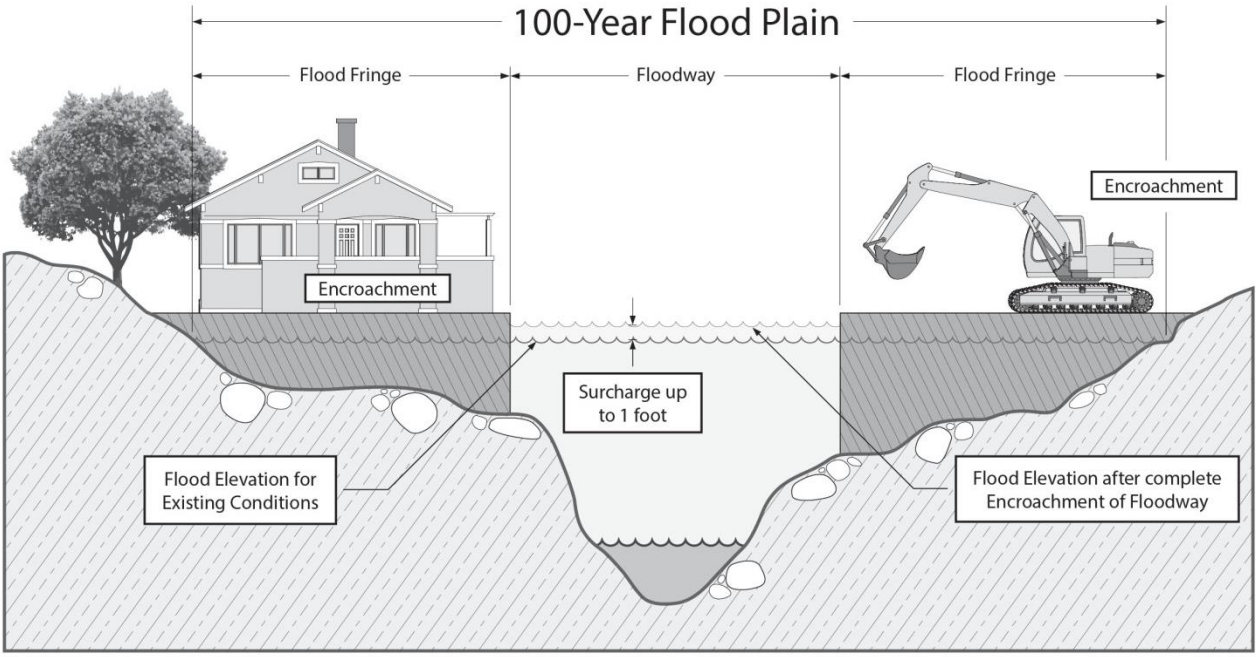
- HCR will be responsible for determining whether certain activities are exempt or categorically excluded from environmental review pursuant to and conditional upon the applicable laws and regulations, and appropriately document such determinations.
- The Environmental Team will conduct an environmental analysis and prepare compliance documentation in support of the broad and site specific environmental reviews, utilizing a tiered approach when appropriate, in accordance with HUD's regulations and State Environmental Quality Review Act (SEQR).
- HCR will review all environmental draft documents as outlined in the required documentation and sign all documents requiring responsible entity or agency official signatures.
- When appropriate, a tiered environmental review will be utilized. For tiered reviews, a broad, or Tier 1, review will be completed before HUD will release funds and a site-specific, or Tier 2, review will be completed for a site before funds can be committed to that particular site. The site specific analysis, consisting of the Site Specific Checklist and supporting documentation will be completed by the Environmental Team. The site specific ERRs will be reviewed and signed off by HCR. Once these reviews have been completed there can be a commitment of funds.
- In the REIMBURSEMENT program, if it is determined that a home requires abatement for environmental hazards the homeowner is responsible to comply with applicable environmental regulations.

3.6 Floodplain, Floodway and Coastal High Hazard Area Policy

The Federal Government has developed specific definitions and regulations regarding the 100 Year Floodplain, Floodway and the Coastal High Hazard Area. To be consistent with Federal regulations GOSR has appropriated the following definitions:

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

Coastal High 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).

Federal regulations prohibit funding any action, other than a functionally dependent action, in a floodway A functionally dependent action is an action that must necessarily be conducted in close proximity to water; for example, a dam, marina, port facility, water-front park, and many types of bridges.

Please see Floodplain diagram below. For more definitions are in Section 7.0 Acronyms and Definitions.

Please see Floodplain diagram below. For more definitions are in Section 7.0 Acronyms and Definitions.

Assistance will not be provided to support certain activities in a Floodway. These prohibited activities include but are not limited to the following:

- Structures intended for human habitation
- Storage of materials
- Sewage systems or wells
- 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 the 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 high hazard areas. Non-critical actions may be approved in a coastal high 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).

3.7 Flood Insurance Policy

If a Homeowner receives any assistance from NY Rising and the home is in the 100 year flood plain then the Homeowner is required by federal regulation to maintain flood insurance in perpetuity and, in the event of a transfer of property, the Homeowner is required, on or before the date of transfer, to notify the transferee in writing in the documents evidencing the transfer of ownership of the property, of the requirements to obtain and maintain flood insurance in perpetuity. To be in compliance with this requirement, the Homeowner is required to sign a Covenant at the time of Closing. The Covenant is recorded with the county clerk's office.

If a Homeowner previously received federal assistance for a property and failed to obtain and maintain flood insurance then, under federal regulations, they are ineligible for the NY Rising Program.

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

> "With respect to flood insurance, a HUD-assisted homeowner for a property located in the Special Flood Hazard Area (SFHA) (or "100-year" floodplain) must obtain and maintain flood insurance in the amount and duration prescribed by FEMA's National Flood Insurance Program. Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) mandates the purchase of flood insurance protection for any HUD-assisted property within the SFHA"

Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a) prohibits flood disaster assistance in certain circumstances. In general, it provides that no Federal disaster relief assistance made available in a flood disaster area may be used to make a

payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. This means that a grantee may not provide disaster assistance for the repair, replacement, or restoration to a person who has failed to meet this requirement.

Section 582 also implies a responsibility for a grantee that receives CDBG-DR funds or that designates annually appropriated CDBG funds for disaster recovery. That responsibility is to inform property owners receiving disaster assistance that triggers the flood insurance purchase requirement that they have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance, and that the transferring owner may be liable if he or she fails to do so.

3.8 Eligible REPAIR Activities

Program funds will cover the following items:

- Environmental health hazard mitigation costs related to the repair of disaster-impacted property (i.e., lead based paint abatement, asbestos removal, mold remediation, or other health hazards) including testing and clearance costs.
- Accessibility modifications, including those that are completed on the property if the property was not accessible prior to the disaster
- Repair/replacement of damage to real property, including, but not limited to:
  - Roof repair/replacement
  - Window/door repair/replacement
  - Siding repair/replacement
  - Flooring repair/replacement
  - Drywall/finishing
  - Insulation
  - Bathroom repair
  - Foundation repairs
  - Kitchen cabinet replacement
  - Well/septic replacement or connection to municipal system
  - Electrical system repair/replacement
  - Bulkheads (Please note: in order to receive funds for bulkhead the home must be eligible under repair or reconstruction.)
  - Replacement of disaster-impacted non-luxury residential appliances, including, but not limited to:

- Stoves
- Refrigerators
- Water heaters
- Heating systems
- Fuel tanks (oil/propane but not actual fuel replacement)
- Water filtration systems
- Dishwashers (if energy efficient)

Please note: Builder's grade standard is the non-luxury level that is covered by the program

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

3.8.1 Eligible Optional Mitigation Activities

The Program will assist in installation of optional mitigation measures subject to program cap. Using risk-based criteria guidelines developed by the New York Department of State, the following activities are eligible within the resilience program:

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

Home owner must provide documentation of necessary mitigation work.

3.8.2 Ineligible REPAIR Activities

Program funds will **NOT** cover the following items:

- Landscaping
- Pools
- Fences
- Repairs to non-attached buildings: pool houses, sheds, chicken coops, dog houses/kennels, bee hives and similar non-residential appurtenances and detached garages
- Deck/patio repair that does not affect entrance or exit from the home
- Swing sets/playground equipment
- Personal property, such as vehicles, furniture, and household goods and clothing.

- General home improvements unrelated to damage directly resulting from the storm, unless necessary for the home to meet minimum property standards
- Heating or cooking fuel replacement
- Sandbags
- Generators or other similar backup systems
- Most appliances including, but not limited to:
  - Washing machines
  - Dryers
  - Window unit air conditioners (some exceptions allowed)
  - Portable heaters
  - Any small countertop appliances, including, but not limited to coffee pots, toasters, blenders, etc.
- A list a luxury items not covered by this program can be found in Exhibit 3

3.8.3 Ineligible Optional Mitigation Activities

Ineligible measures include but are not limited to:

- Sandbags or other temporary barriers
- Generators or similar backup power systems

3.8.4 Earth Movement

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. Earth movement damage as it relates to the named storms, will be covered to protect the investment of CDBG-DR funds and allowable activities under HUD rules. Remediating earth movement related issues ensures the longevity of the CDBG investment. Homeowners with earth movement damage will be eligible for aid up to their programmatic cap, similar to any other Homeowner in the Program. Only Homeowners who are already eligible for aid under the current Homeowner Program, will be eligible for earth movement funds.

If any Homeowners are not eligible for reconstruction but believe they have earth movement damage should contact a Customer Representative or go to an Intake Center.

3.9 Estimated Cost of Repair and Overall Assessment of Need

Homeowners must first assess the total post-disaster need prior to determining whether the total need amount should be reduced due to duplicative benefits from other sources (as discussed in section 3.10) or applicable program caps.

An Estimated Cost of Repair (ECR) provides the Program's estimate of the costs to repair the home to meet basic livability standards. The ECR estimate is not intended to include an exact replacement of the property owner's original pre-storm home. In contrast to insurance estimates

that may be based on replacement costs, the ECR evaluation is based on basic livability standards developed for the program and on costs based on pre-determined unit pricing.

In order to include accessibility scope a doctor's letter is required.

A Homeowner who sells their home prior to the completion of the work in the ECR is subject to recapture.

3.10 Verification of Benefits Process

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

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

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

3.10.1 Duplicative Assistance

Homeowners must consider the total assistance available to them. This includes all benefits, including cash, insurance proceeds, grants from FEMA, SBA loans, as well as any other assistance received by the applicant from other local, state or Federal programs, or private or nonprofit charities. Homeowners should pay special attention to the following potential sources of benefits:

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

2. **Private Insurance:** All insurance proceeds received must be disclosed by the Homeowner and verified by the Program by contacting the insurance companies. The Program will look for "undeclared" insurance benefits as well as confirming those disclosed by the Homeowner.

   If the Homeowner has not received the proceeds at the time of application, the proceeds will not be counted as a DOB. However, the Program will verify the status of the proceeds

prior to the determination of an award for assistance. If the insurance company confirms that no proceeds have yet been provided to the Homeowner, then the Homeowner will be 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 Sec. 3.15

3. **FEMA:** FEMA proceeds received must be disclosed by the Homeowner and must be verified by the Program.

4. **Small Business Administration (SBA)**: SBA proceeds approved and/or received must be disclosed by the Homeowner and verified by the Program.

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

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

For repair Projects only, Duplication of Benefits will be separately determined for elevation costs, so that the elevation portion of the of the award is based on the estimated cost of elevation minus benefits received solely for the purposes of elevation (NFIP-ICC and SBA mitigation)

3.10.2 Declining of a Small Business Administration Loan

If funds intended for the same purpose as Program assistance are available from another source, the Homeowner may wish to seek those funds first to avoid the necessity of subrogation efforts and repayment transactions potentially resulting in the event of receiving that subsequent assistance. Loans from the U.S. Small Business Administration (SBA) are a major source of disaster recovery assistance, and many Homeowners of residential property find that SBA loans meet all of their uninsured disaster recovery assistance requirements. If a Homeowner declines to accept assistance available from another source such as the SBA, the State must determine whether Program assistance is either necessary or reasonable with Federal financial standards.

A variety of reasons, however, might preclude a Homeowner from accepting SBA assistance. In addition to the Demonstrable Hardship policy outlined in GOSR's Program Administrative Policies attached hereto as Exhibit 1, there are acceptable circumstances for Homeowners of disaster-affected properties to have declined SBA loans. For example, the cost burden associated with the repayment of an SBA loan may cause an unduly burdensome increase to an applicant's housing costs (including insurance, taxes, principal and interest) in excess of 30% of the Household's gross income. In the above example, the SBA loan, or the fact that a homeowner fails to avail itself of an SBA loan, will not be considered a DOB and the Homeowner will receive the full benefit for which they are eligible.

The program requires that all applicants who have declined SBA assistance, or who have not or will not draw down the full amount of their SBA loan complete the "Applicant's SBA Loan History" Form indicating the reasons for their decision to either fully or partially decline assistance in the form on an the SBA loan. If the Homeowner cannot adequately demonstrate a hardship, then the full amount of the SBA loan will be deducted from their award.

3.10.3 Non-duplicative Expenditures

Funds that have been received in other federal programs may not always be determined as a duplication of benefit. The Homeowner must provide documentation to support these expenditures.

Examples of allowable expenditures:

- Funds provided for a different eligible purpose. For example, funds received may have been used on temporary housing costs and would therefore not be duplicative for benefits for home repairs.
- Funds used for a different, eligible purpose are not duplicative. If Homeowners receive assistance for generally the same purpose, but use the funds for separate eligible purposes, then the funds may not be duplicative. Homeowners must document their use of the funds to evidence that it was used for different purposes.
- Funds not available to the Homeowner. 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 Homeowner, e.g., checking or savings accounts, stocks, bonds, mutual funds, pension or retirement benefits, credit cards, mortgages, lines of credit or life insurance are not duplicative.

Examples of unallowable expenditures; may continue to be considered a DOB:

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

This list is not exhaustive. Benefit determinations will undergo a second level of review and approval. Once approved, the Customer Representative will contact the Homeowner to review and clear any discrepancies.

3.11 NY Rising Homeowner 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 allowance:

- **Base Cap:** The base cap amount for single-family repair and/or reconstruction coverage is **$300,000.**
- **LMI Allowance:** Homeowners who are determined to be low or moderate income (total household income is less than or equal to 80 percent of area median income) will qualify for an **increase of $50,000 in the cap** amount. ($300,000 Base + $50,000 LMI = $350,000 maximum allowed cap)
- **Elevation Allowance:** Homeowners with properties substantially damaged (greater than 50 percent damage against pre-storm value) AND within the 100-year floodplain are eligible for a **$50,000 increase** in the cap amount to facilitate elevation ($300,000 Base + $50,000 Elevation = $350,000 maximum allowed cap)
- **Both Allowances:** Homeowners that qualify for both the LMI cap increase and the elevation increase are eligible for both cap increases. ($300,000 Base + $50,000 Elevation $50,000 LMI = $400,000 maximum allowed cap
- Properties within the 100 Year Floodplain **that are** not substantially damaged are qualified to apply for funds to elevate; however, the $50,000 cap increase will not apply.

If cases requiring further assistance (i.e., warranting a higher cap amount) are identified, written policy amendments will be developed and published. These amendments will apply to all Homeowners meeting specific conditions rather than applying exceptions to selected cases.

Any repair or reconstruction costs in excess of the allowed cap amount will be the responsibility of the Homeowner. If the Homeowner chooses to pursue a scope of work that exceeds the cap amount or for other reasons requires supplemental funds, such funds must be verified within 30 days of signing the grant agreement.

If a Homeowner has been given a reconstruction award but wants to repair their home instead, they may do so using $160/square foot award calculation method.

3.12 Award Calculations

3.12.1 Award Calculations for REPAIR Program

The award calculation begins with the ECR (see Section 3.7).

Funds received from other sources which are determined a Duplication of Benefit (DOB) (see Section 3.8.1) will be deducted from the ECR unless the Homeowner can demonstrate that the funds received have already been expended on eligible costs. The result is the Unmet Need amount.

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

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

3.12.2 Award Calculations for RECONSTRUCTION Program

For reconstruction the "Program-Determined Cost of Reconstruction" is the starting value for the calculation (see Section 3.7).

Sources determined to be a Duplication of Benefit (see Section 3.8.1) will be deducted from the Program-Determined Cost of Reconstruction unless the Homeowner can demonstrate that the funds received have already been expended on eligible costs. The result is the Unmet Need amount.

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

If the Unmet Need does not exceed the cost to repair, it becomes the Maximum Award Amount. If the Unmet Need exceeds the cost to repair, the cost to repair amount becomes the Maximum Award Amount.

In order for the Property to be considered for a reclassification from a Repair award to a Reconstruction award, the Homeowner must submit either a Substantial Damage Letter, issued by the municipality prior to February 20, 2014, showing that the extent of damage to the home was greater than 80%; or a Feasibility Analysis Report (FAR) prepared by a design professional assessing the most suitable, feasible, and cost effective solution to restoring the structure to its pre-storm condition.

RECONSTRUCTION Example: (non LMI and not eligible for elevation)	
1. Program-Determined Cost of Reconstruction	$325,000
2. Deduct Duplication of Benefit (DOB)	$20,000
3. Unmet need/Estimated Award Amount (Item 1 less Item 3)	$305,000
4. Base Cap	$300,000
5. Maximum Award Amount (lesser of items 3 and 4)	$300,000
6. Total amount Homeowner contribution (item 3 less item 5 plus item 2)	$25,000

A Homeowner who has a reconstruction award and builds a home smaller than the home at the time of the damage will receive an award of $160/sq ft based on the final square footage of the reconstructed home. The award calculation will be based on the Certificate of Occupancy or a review of the plans for the home.

3.12.3 Award Calculations for ELEVATION Program

The applicable Estimated Cost of Repair (ECR) is the starting value and will establish the Total Need (see Section 3.7). For elevation projects, the Program will pay for base flood elevation plus 2 feet, additional height will be considered an upgrade.

If at the final site visit, the elevation is lower than that contemplated in the ECR the ECR award will be reduced by the difference. If the local building department requires an elevation higher that that contemplated in the ECR then the ECR award will be adjusted accordingly. Homeowners who need to elevate fewer than 3 feet to meet the minimum BFE requirement will have their award computed on a 3ft. elevation, in order to account for mobilization and fixed costs.

Sources that are considered to be a duplication of benefit (see Section 3.8.1) will be deducted from the Estimated Cost of Repair that the funds received have already been expended on eligible costs. The result is the Unmet Need amount.

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

If the Unmet Need does not exceed the cost to repair, it becomes the Maximum Award Amount. If the Unmet Need exceeds the cost to repair, the cost to repair amount becomes the Maximum Award Amount.

ELEVATION Example: (LMI and eligible for elevation)	
1. Total Estimated Cost to Repair and Elevate	$455,000
2. Deduct Duplication of Benefit (DOB)	$40,000
3. Unmet Need/Estimated Award Amount (item 1 less item 3)	$415,000
4. Base Cap (+$50,000 LMI, +$50,000 Elevation)	$400,000
5. Maximum Award Amount (lesser of items 3 and 4)	$400,000
6. Total amount of Homeowner contribution required (item 3 less item 5)	$55,000

If the Homeowner is required to elevate per flood plain letter, substantial damage, or program policy decision, then the home MUST be elevated to be eligible for program funding of any type (AA or ECR). For houses already completed and elevated, an elevation certificate stamped by a licensed civil/structural engineer and surveyed by a licensed surveyor must accompany a

certificate of occupancy for reimbursement under the program. The homeowner may apply into the program for elevating after work was completed.

Homeowners who elevate will first receive 10% of the estimated elevation cost as a design fee, but will not receive the 50% of the construction cost for elevation until the required construction documents have been submitted to the program.

3.12.4 Award Calculations for REIMBURSEMENT Program

If the Homeowner is seeking reimbursement only, then the total amount of eligible Allowable Activities expenses (see 3.6) as determined by the Construction Management Team is the starting value and will establish the Total Need.

If the Homeowner is seeking reimbursement in conjunction with another eligible housing program, the total amount of eligible Allowable Activities expenses will be added to the ECR and will establish the Total Need.

Sources considered to be a duplication of benefit will be deducted from the Total Need that the funds received have already been expended on eligible costs. The result is the Unmet Need amount.

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

If the Unmet Need does not exceed the cost to repair, it becomes the Maximum Award Amount. If the Unmet Need exceeds the cost to repair, the cost to repair amount becomes the Maximum Award Amount.

REIMBURSEMENT Only Example: (LMI and NOT eligible for elevation)	
1. Eligible Allowable Activities	$250,000
2. Deduct Duplication of Benefit (DOB)	$50,000
3. Unmet need/Estimated Award Amount (item 1 less item 2)	$200,000
4. Base Cap (+ $50,000 LMI)	$350,000
5. Maximum Award Amount (lesser of items 3 and 4)	$200,000

3.13 Verifying Homeowner Funds

HUD requires the Homeowner have all the funding in place to complete a project before the Program commits any money to that project. As previously mentioned, a Homeowner may need to contribute funds from other sources, such as insurance, FEMA, SBA loans, or their own personal funds.

The Homeowner's funds in combination with the Program's funds should total the amount needed to complete the project.

Applicant will certify in the Grant Agreement that he/she has available funds on deposit equal to or greater than the required homeowner contribution toward total eligible project costs as shown on the Award Calculation Table.. If Applicant will not certify in the grant agreement that he/she has sufficient funds to complete the project, then the Customer Representative will send the Homeowner's file into a special assessment pool, for further counseling.

If Applicant funds are not used for the activities for which they were disbursed then the grant is in default and the funds will be subject to recapture.

3.14 Architects, Engineers and Contractors

Local building departments may require a design professional. If the Program Eligible Cost is $10,000 or more, the Homeowner is required to consult with an architect and/or engineer for the project.

The Program has included a 10% allowance for design costs. Ancillary design expenses incurred for surveys, soil tests, foundation investigations, and/or elevation certificates prepared by an engineer are also eligible for reimbursement.

Homeowners will select their own Contractor. General construction contractors may participate in the NY Rising Housing Recovery Program if they meet minimum program requirements. The following is a brief summary of the program requirements.

Contractor Minimum Eligibility Requirements:

- Licensing: Must be licensed in the community where the work is to be performed, if required by the local municipality.
- Insurance: Must carry the minimum insurance required by the community where the work is to be performed.
- Debarment: Must NOT be on the Federal SAM.Gov list

The Homeowner will be responsible for negotiating the final costs of construction with their Contractor. The Homeowner will be responsible for funding any costs incurred in excess of their grant award.

3.15 Minimum Design Standards and Construction Specifications

All newly constructed multi-family and single-family housing must meet the State Building Code and all locally adopted and approved building codes, standards and ordinances.

All newly constructed housing must also meet the requirements of the State Energy Code, based on the 2009 International Energy Conservation Code.

All reconstruction of residential buildings and substantially damaged homes **must** incorporate Energy Conservation Construction Code of New York State (ECCCNYS 2010) into construction and achieve certification. Repair of buildings **must** follow guidelines in the HUD CPD Green Building Retrofit Checklist.

Homeowners are allowed to upgrade beyond the program minimum property standards; but the cost of any upgrades will be paid for by the Homeowner.

3.16 Grant Agreement

Before the Homeowner deposits any proceeds they receive from the program, all owners are required to sign, either electronically or in person, a grant agreement. By signing the grant agreement, the Homeowner is affirming and agreeing as follows:

- The payment of these funds is to reimburse the homeowner for work performed prior to the signing of the agreement for rehabilitation of the eligible property.
- The Homeowner warrants that they are the legal owners of the property.
- The Homeowner commits to adherence of applicable environmental regulations.
- The Homeowner understands that if the property is located in the 100 year flood plain, as determined by the most current FEMA data, that they are required to keep the property insured by a flood insurance policy and that they must advise all subsequent purchasers of the property that they too must keep the property covered by a flood insurance policy.
- The Homeowner will immediately notify the program if they receive any additional payments that could be considered to be duplication of benefits and that said payments must be returned to the program up to the amount of the grant agreement.
- The Homeowner will provide any additional documentation within 60 days of a written request.
- The Homeowner will provide a right of entry for inspections of the property a right of access for contractor and Program employees to enter in and onto the Property for the purpose of performing property, environmental and historic preservation review

inspections, making assessments, testing (including taking sample materials for any specialized testing) and any inspection-related Program activities.

The grant agreement sets out the following provisions for the recapture of the grant funds:

- If the homeowner makes any false statements
- If the homeowner does not fulfill conditions in the agreement
- If the homeowner is in a 100 year flood zone and does not maintain flood insurance
- Subrogation

3.16.1 Program Withdrawal

Homeowners who wish to withdraw from the Program and who have signed the grant agreement must:

1. Sign the Withdrawal Form
2. Write the Program a check returning all funds and
3. Sign a Grant Agreement Void Document

3.17 Subrogation

Subrogation is the process by which duplicative assistance paid to the Homeowner after receiving an award is remitted to the Program in order to avoid a duplication of benefit, whereby the Homeowner would be reimbursed twice for the same loss. By signing the grant agreement, the Homeowner warrants that he/she will remit any excess funds to the Program, whenever received.

3.17.1 Assignment Relating to Funds Received under CDBG-Disaster Recovery Program

The Homeowner agrees that he/she will assign to the Program all of his/her future rights to reimbursement and all payments received for named storm under any insurance policy held by the Homeowner which provides coverage for physical damage to the property including, but not limited to, any type of casualty or property damage, including flood (the "Policies") or under any reimbursement or relief program related to or administered by FEMA or SBA for physical damage to the property (not including proceeds received to cover contents), or any other assistance from non-profit organizations, faith-based organizations, other disaster relief entities, and other governmental entities.

The proceeds or payments from duplicative assistance shall be referred to herein as "Proceeds." The rights the Homeowner assigns to the Program are specific to the Property with respect to which the grant proceeds were paid. If the amount of the grant exceeds the amount received from other sources, the Homeowner will be entitled to receive the excess amount.

Once the Program has recovered an amount equal to the award proceeds, the NY Rising Housing Recovery Programs will reassign to the Homeowner any rights pursuant to this Agreement.

3.17.2 Cooperation and Further Documentation

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

3.17.3 Authorization for Program to Contact Third Parties

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

3.18 Closing Meeting

A formal closing meeting is not required by the Program, however if the Homeowner needs any assistance to complete any of the documents or requires a notary to complete the documents, the Homeowner should contact their Customer Representative to schedule a meeting at their intake center or if the Homeowner cannot come to the intake center they should request that a Customer Representative comes to their home.

3.19 Disbursement of Grant Awards

All funds will be disbursed directly to the Homeowner.

If the award is for reimbursement only, all of the amount of the grant award as indicated on the Allowable Activities (AA), less the duplication of benefits may be disbursed.

If the award is for construction work to be done, then 50% of the grant award for Mandatory Prospective Work, as identified in the Program's Estimated Cost of Repairs ("ECR"), less the duplication of benefits will be paid to the Homeowner once a Grant Agreement has been signed. At Construction Completion and Project Closeout the remainder 50% of the ECR, less duplication of benefits plus any additional optional mitigation award amount will be paid to the Homeowner. Project must be completed within 12 months of signing the Grant Agreement.

If the award is for reconstruction only, an Extraordinary Site Conditions Award in the amount of $25,000.00 will be included in addition to the first payment.

Elevation certifications will be required for AA and ECR elevation payments.

The initial payment of fifty percent of the CDBG-DR Grant for mandatory prospective Work will be released upon execution of the Grant Agreement and engagement of the services of either a design professional and/or a construction contractor. Homeowner must provide to HTFC a license number(s) to identify their design professional and/or the construction contractor. The design professional and/or the construction contractor may not be listed on the federal debarment list. Some municipalities do not require contractors to be licensed.

HTFC or its designated representative will review payment requests by the Homeowner for optional mitigation items, including but not limited to elevation and bulkheads, and any additional payment requests per Program policy.

HTFC or its designated representative may require the Homeowner to provide documents such as an approved permit for additional payments.

3.20 Construction Change Orders

Change orders will only be granted for unanticipated conditions that would have either reasonably been incorporated into the ECR had the condition been identified, or for conditions that materially affect the price or scope of work as awarded that are required to be addressed in order to complete the work in a safe and sanitary manner and in compliance with federal and state guidelines.

If the requested change order does not substantially affect compliance with the scope of work (finish choices, hardware, etc.) or award amount, it may be approved without formally adjusting the award amount and can be field approved by the designer and home owner.

If approved, the award allocation will be adjusted to reflect the increase or decrease.

The Contractor/Homeowner change order request must include all of the following:

- ☐ A description of the specific work items to be added
- ☐ A calculation of the cost of these items
- ☐ An explanation as to how and why the additional work is necessary to meet HUD requirements.
- ☐ Photos or any other relevant documentation that may be used to support or document the request

Consistent with the requirements for developing the ECRs, any proposed additions to the SOW requested through the change order request must be divided into:

- Program eligible expenses
- Owner expenses

Substantial damage status will be determined prior to construction start and will not change with future change orders. If unforeseen site conditions result in the homeowner feeling they should have been determined substantially damaged and therefore eligible for elevation aid, they can make a request to their Customer Representative for their status to be reconsidered.

3.21 Final Site Visit

At the end of construction, the Homeowner may request a final site visit from the Program.

The design professional or homeowner is responsible for ensuring the work is complete and compile the documentation for the completion and quality of the work.

The purpose of the final site visit is to document that all work called for in the ECR and additional optional Program scope.

3.22 Final Payments

The final payment is contingent upon receipt of required closeout documents, including the site visit.

Required Documents:

- All required Program Eligibility Documents
- Certificate of Occupancy – or other acceptable document from the local building authority.
- Certificate of Completion – If you repair your existing dwelling and the work performed does not require a permit from your local building department, this document is acceptable in lieu of a Certificate of Occupancy. This document may be provided by your design professional.
- Elevation Certificate (if elevated)
- Home Energy Rating certificate:
    - HUD CPD Green Build Retrofit Checklist – This document affirms compliance with Green Build requirements and is signed by the applicant.
    - If you are substantially damaged or are reconstructing then you are required to meet New York State Energy Conservation Construction Code 2010.
- Copies of all Program approved change orders.
- Permits as required and applicable.

3.23 Final Documentation and Award Close-out

See Exhibit 4 for a list of final documents needed for closeout.

Please note: specific circumstances may not require all documents for each applicant.

3.24 Compliance and Monitoring

The State of New York is required by HUD to monitor all grantees receiving Disaster CDBG funding. Therefore, the State will monitor all aspects of the New York Rising Housing Recovery Program, including, but not limited to, ensuring that Homeowners are in compliance with all program requirements in particular the flood insurance and the residency requirements.

GOSR works with the integrity monitoring to do quality control of all applicant files, ensuring that GOSR is adhering to its Program policies and procedures.

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4.0 Two-Unit Homeowner Occupied Properties

The majority of the properties that will be assisted through the NY Rising Housing Recovery Programs will be single family owner-occupied homes. However, two-unit homes, in which the owner occupies one unit and a tenant occupies the other are eligible to receive assistance in most instances.

In most instances, the policies governing the administration of assistance to these properties will mirror the basic program for single family Homeowner units as outlined in this manual. However, there are certain requirements under CDBG-DR regulations that govern rental properties. Therefore, the state has developed a set of special program provisions that apply to these special properties outlined below.

These properties must meet all applicable building codes and local property standards.

Information on Available Apartments

Unless the owner has pre-signed a lease agreement with a tenant prior to the completion of the rehabilitation/reconstruction work, the owner will be required to provide the Program with the following information on the rental unit: the address, the owner's contact information, the approximate square footage, the number of bedrooms, the asking rent. This information is only for purposes of enabling the State to track the availability of units being assisted through its programs. The owner retains the right to market their unit and select their tenant The owner's apartment will NOT be regulated by the Program with regard to the income of the tenant, the rent that is being charged, or any other lease provisions not required by local law.

LMI Reporting

The owner will be obligated to solicit income information from the tenant to determine if the unit can be counted against the state's overall obligation to benefit LMI households as required by HUD.

Funding Caps

The same funding caps, including the allowances for LMI owners and for projects requiring elevation, will also apply to the two-unit Homeowner occupied homes seeking assistance through the Program.

Lead Paint Notification

In addition, the Program and the owner must follow all of the federal regulations designed to mitigate lead paint hazards.

4.1 Uniform Acquisition and Relocation Act and Anti-Displacement

The NY Rising Homeowner Program gives rehabilitation assistance in large part to single family Homeowners, with the exception of some owner-occupants that live in two-family homes. The New York Rising Homeowner Program recognizes its responsibilities under the Uniform

Relocation and Real Property Acquisition Policies Act of 1970, as amended (the URA), and, as a practical matter, it is critical for the Program to ensure that any affected rental tenants in these two-family homes are afforded all of the rights/benefits due to them. Consequently, the State has developed this Tenant Relocation Policy.

Note: Small rental properties are eligible for assistance through another State Recovery program that is covered by its own Relocation Policy. In addition, properties receiving assistance through the New York Rising Buyout and Acquisition Programs are covered by a separate Tenant Relocation Plan as well.

The New York Rising Homeowner has a goal of creating no permanent involuntary displacement and the State has designed its Program policies to minimize the incentives and the opportunities for owners to permanently displace those tenants that are protected under URA.

Policies

1. The Program is NOT imposing restrictions on Owners regarding tenant income or other household requirements for tenants occupying the rental unit in Two Family Owner occupied homes.
2. Approval of a Two Family Owner's application for rehabilitation assistance is contingent on their providing the Program with a tenant roster that includes the name, address and contact information of their tenants.
3. The State will NOT require tenants to make their regular rental payments to Owners while they are temporarily relocated.
4. All reasonable costs of temporary relocation (including moving expenses and compensation for any additional incidental costs required during the period of temporary relocation) will be covered by the Program.
5. The "incremental" housing cost payments will be based on the portion of the tenants' new monthly housing costs (rent plus utilities) that exceed the amount they were paying for housing costs (rent plus utilities) in their permanent unit. At the discretion of the Program, its payments to tenants may in special circumstances exceed the incremental portion of the temporary housing costs in order to facilitate the successful relocation of tenants that would otherwise not be able to continue to participate in the Program and may otherwise face permanent displacement. The rental portion of the State's temporary rental assistance payment will not exceed the rent and utility costs that are actually being charged to the tenant. The amount of a tenant's new monthly housing costs used to determine their Incremental Rental Costs will also be subject to caps established by the Program.
6. Two Family Owners who are required to temporarily relocate from their uninhabitable homes during the construction period may be eligible for relocation assistance through the Interim Mortgage Assistance (IMA) Program.
7. The State will NOT compensate Owners for lost rent during the time that their tenants are

displaced.

8. Owners cannot permanently displace their tenants. Specifically they must offer the tenant the opportunity to remain in the unit (if construction does not warrant temporary relocation) or they must allow the tenant the chance to return to the unit under reasonable terms and conditions if the tenant is required to temporarily relocate.
9. If permanent displacement is unavoidable and URA payments to the permanently displaced tenant are required, the owner may be held responsible for the costs of these relocation payments if it is determined by the Program that the Owner knowingly violated the Program rules and precipitated the involuntary permanent displacement.

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5.0 Cooperative and Condominium Eligibility

Co-ops and condos are eligible for assistance when the repair or reconstruction of a unit is found to be feasible. Homeowner applications will be reviewed on a case-by-case basis to assess the feasibility of restoring the unit, and also considering the intentions of the Homeowner's association (or the co-op board) and the ability of that Association/Board to complete any work in the building (e.g. repair of heating plant, roof, means of egress, etc.) that materially affects the livability of the owner's units. In cases where the repair or reconstruction of the homeowner's unit is reliant on actions by the condo association/coop board, the association/board will be required to affirm that they support the Homeowner's application prior to the Program approving any assistance. In addition, if the scope of work for an individual's unit includes the rebuilding of a wall that is shared with another unit, then the association/board and the owner of the impacted adjacent unit must agree to the work.

If a property is designated as condo or co-op, the owner(s) or shareholder(s) of each unit shall be allowed to apply for assistance for the unit under their ownership as long as the unit was their primary residence at the time of the storm. As with other units in the Program, all units receiving Program assistance must meet all state and local codes when repairs or reconstruction is completed.

5.1 Building-wide Award Caps

Each individual Homeowner in a condo or co-op unit is subject to the same award caps that are applied to owners of single family homes ($300,000 for a standard Homeowner plus a $50,000 cap increase for a Homeowner with LMI status and a $50,000 cap increase for buildings that both require elevation AND where elevation is feasible, for a maximum award cap of $400,000 per unit).

In addition to these individual caps, the total amount that may be spent on a condo/co-op project is limited to a building wide cap. This building wide cap is set at the sum of all of the applicable individual caps. Assistance offered to each Homeowner is limited to the lower of the amount of unmet need and the applicable cap.

Note: In those instances where the condo association or the co-op board has been assigned the authority to receive the insurance proceeds for individual units and where the association/board is overseeing the entire rehabilitation/reconstruction for the building, the Program will direct all of the awards to the association/board with the concurrence of the individual owners. In that instance, the sum of all of these awards must be less than the overall building wide cap as calculated above.

5.2 Duplication of Benefits

As with the individual applications from co-op/condo owners, the building association/board applications will be subject to a "Duplication of Benefits" review designed to ensure that the

assistance provided by the Program does not duplicate any other assistance received by the association/board – e.g. flood insurance proceeds, FEMA assistance, SBA assistance, etc.

5.3 Common Areas and Building Systems

To facilitate as much restoration of these properties as possible, the Program will fund eligible repairs to the common areas and building systems in co-op and condo buildings containing eligible Homeowner units. To receive these benefits, the association/board must apply directly to the Program on behalf of the building. These applications will also be subject to a building wide spending cap designed to ensure that the total expenditure on the eligible Homeowner units in the building does not exceed the total amount that could be spent on these units if they were located in single family homes.

The amount that the Program may expend on the common areas and building systems is limited to the difference between the overall building-wide cap minus the amount that has been committed to the individual units. In addition to being subject to the building wide cap, awards that are issued to associations/boards are subject to a pro-rata funding limitation. Specifically, the proportion of Program-funded repair/reconstruction work to be done on the common areas or to the building wide systems (i.e. roof, heat plant, etc.) cannot exceed the proportion of the property that is made up of eligible Homeowners -- unless that proportionate share is over some threshold (66%) where upon, the Program will fund the entire cost of the work. These owners are eligible for assistance based on the fact that a common part of their residence was damaged (e.g. heat plant, central air conditioning, elevator, roof, etc.). Also, assistance offered to the association/boards is limited to the lower of the amount of unmet need and the applicable cap.

6.0 Interim Mortgage Assistance Payments

Interim Mortgage Assistance (IMA) may be available for Homeowners who are eligible participants in the NY Rising Housing Recovery Programs and have had or are having financial difficulties in paying their mortgage notes due to additional housing payments, up to $3,000 per month.

Participation in the IMA Program requires compliance with flood insurance requirements. If the damaged property is located in the 100-year floodplain, IMA recipients are required to purchase and maintain flood insurance, in accordance with federal law, and to provide documentation of same.

The award is calculated based on the monthly mortgage amount (interest, principal, taxes, and escrow) of a homeowner's primary residence damaged by the storm and proof of an Additional Housing Expenses payment (rent or hotel receipt + utilities gas, electric, oil, water) for that month. The award was previously based on a formula that calculates the lesser of the monthly Mortgage Costs or the Additional Housing Costs. With Federal approval of the NY State Action Plan Amendment #6, the award calculation has been modified to be based on the monthly mortgage amount. The IMA Program will pay retroactively to applicants who previously received IMA funds as well as prospectively to applicants who are entitled to a reimbursement.

Additional eligibility requirements for IMA include the following:

- ☐ Homeowner has applied for and is an eligible participant in the NY Rising Housing Recovery Program
- ☐ Homeowner has an outstanding mortgage loan on their primary residence which was damaged by either Hurricane Sandy, Hurricane Irene or Tropical Storm Lee
- ☐ Homeowner's primary residence is or was uninhabitable during the months that IMA is requested for as a result of one of the named storms and therefore the Homeowner is experiencing or has experienced increased monthly housing expenses (e.g., rent) for a minimum of one month.
- ☐ Homeowner is not eligible for IMA coverage for a given month if he/she received other temporary housing assistance for that same month from another source, (e.g., FEMA rental assistance, including Temporary Shelter Assistance, or Insurance).
- ☐ Applicants with post-storm arrears are eligible for IMA. IMA payments may still be made so long as the foreclosure action has not reached the judgment stage. However, applicants with more than three months of pre-storm arrears are not eligible.
- ☐ Reimbursement can be provided going back to the date of the storm, for a maximum of 6 months prior to the Homeowner's application date to the IMA program. If there are more than 6 months retroactive payments requested then the State will calculate the reimbursement beginning with the most recent mortgage statement.

- IMA assistance may be available to displaced condo/co-op owners. IMA assistance may also be available to individual owners of condo/co-ops, who are not requesting individual repairs assistance to their unit but who are displaced inadvertently because of CDBG-DR funded construction to common elements of the building such as elevator repairs or replacing a boiler.
- NY Rising participants in the Buyout and Acquisition Programs are eligible for the IMA Program. The mortgage principle is counted as a duplication of benefits (DOB) at the time that the State acquires the property but the amount that the homeowner paid in rent while displaced is not counted against their Buyout and/or Acquisition grant award.
- The award is calculated based the monthly mortgage amount of a homeowner's primary residence damaged by the storm and proof of an additional housing payment (rental payment receipt or hotel receipt) for that month. (Note that the award was previously based on a formula that calculates the lesser of the monthly mortgage or the additional temporary housing payment.)
- Additional Housing Costs are defined as: Rent + Utilities (gas, electric, oil, water)
- Mortgage Costs are defined as: (interest, principal, taxes, escrow)
- IMA assistance may be available to displaced condo/co-op owners.
- IMA assistance may also be available to individual owners of condo/co-ops, who are not requesting repairs assistance to their individual unit but who are displaced inadvertently because of CDBG-DR funded construction to common elements of their building such as elevator repairs or replacing a boiler.
- NY Rising participants in the Buyout and Acquisition Programs are eligible for the IMA Program. The mortgage principle is counted as a duplication of benefits (DOB) at the time that the State acquires the property but the amount that the homeowner paid in rent while displaced is not counted against their Buyout and/or Acquisition grant award. IMA participation ceases when the property is acquired by the State.
- A Homeowner who participated in the Federal Emergency Management Agency (FEMA) DHAP (Disaster Housing Assistance Program) is eligible for prospective mortgage payments provided they meet all the other eligibility requirements. Retroactive payments will not be made for months that an applicant participated in DHAP.
- If a Homeowner in the IMA program stops participating in the Homeowner program, he/she is subject to the Recapture Policy in Exhibit 1, Program Administrative Policies.

Method of Distribution

Payments will be paid as direct reimbursement to Homeowners for payments made to their lenders. All mortgage payments will be by reimbursement only. Homeowners shall provide a statement showing the mortgage payment, e.g., a bank statement that confirms the withdrawal or a statement from their Mortgage Company confirming payment was received, a lease for the

rental unit and receipt for a monthly housing payment. IMA participants execute a single grant agreement before receiving the first payment. IMA payments can cover up to those portions of the monthly mortgage payment amount, not to exceed $3,000 including principal, interest, taxes and insurance which are paid directly to the lender. The award amount will be to cover the mortgage because of the extra housing burden on the Homeowner for up to 20 months..

Payments will cover obligations on first mortgages, including seller-financed mortgages, in place at the time of the storm which impacted the Homeowner applying to the IMA program.

Assistance will cover past, current and future debt service obligations of the mortgage.

If a Homeowner has received temporary assistance from their insurance in a lump sum the program will subtract the temporary assistance amount from the applicant's rental payment amount for months that IMA is requested (begin with the first month of request) until the temporary assistance amount is used up and then begin providing IMA for months beyond that.

For continued eligibility, the Homeowner needs to provide proof of mortgage payment and proof of rental payment.

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7.0 Acronyms and Definitions

7.1 Acronyms

Acronym	Name
AA	Allowable Activities
ABFE	Advisory Base Flood Elevations
BFE	Base Flood Elevation
CDBG	Community Development Block Grant
CRS	Community Rating System
DASNY	Dormitory Authority of the State of New York
DHAP	Disaster Housing Assistance Program
DHCR	Division of Housing and Community Renewal
DRGR	Disaster Recovery Grant Reporting System
DOB	Duplication of Benefit
ECR	Estimated Cost of Repair
FMV	Fair Market Value
FEMA	Federal Emergency Management Agency
HTFC	Housing Trust Fund Corporation
HQS	Housing Quality Standards
HUD	Department of Housing and Urban Development
IFB	Invitation for Bid
IRS	Internal Revenue Service
LEP	Limited English Proficiency
LMI	Low to Moderate Income
MPS	Minimum Property Standards
MBE	Minority Business Enterprise
NEPA	National Environmental Policy Act

NFIP	National Flood Insurance Program
HCR	Office of Community Renewal
OIA	Office of Internal Audit
OIG	HUD Office of Inspector General
POA	Power of Attorney
QA	Quality Assurance
QC	Quality Control
QPR	Quarterly Performance Report
RV	Recreational Vehicle
REO	Real Estate Owned Property
RFP	Request for Proposal
RFQ	Request for Qualifications
RE	Responsible Entity
SAVE	Systematic Alien Verification for Entitlements
SBA	Small Business Administration
SEQR	State Environmental Quality Review Act
SFHA	Special Flood Hazard Area
SOW	Scope of Work
SSC	Site Specific Checklist
SSDI	Social Security Disability Income
SEQR	State Environmental Quality Review Act
TSA	Transitional Shelter Assistance
URA	Uniform Relocation Act

7.2 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.

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 a number of years. Though advisory now, eventually information used to develop the ABFEs will be incorporated into official FIRMs.

Base Cap: The base cap amount for single-family repair and/or reconstruction coverage is $300,000.

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

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

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

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

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

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

- Common elements owned in undivided shares by unit owners

- Other real property in which the unit owners have use rights

Contract 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.

Cooperative apartments (Coops): Owner owns stock in the corporation that owns the apartment building. The building then "leases" the cooperative apartment to the buyer under a long-term proprietary lease. Coop owners pay monthly maintenance to the building corporation for items such as the expenses of maintaining and operating the building property, property taxes and the underlying mortgage on the building (if any).

Disaster Housing Assistance Program (DHAP): A rental assistance program that provides temporary rental payments directly to landlords to help families displaced by disasters. DHAP-Sandy will help 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): Financial assistance received from another source that is provided for the same purpose as the CDBG-DR funds.

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 be in compliance with Environmental Code 24 CFR Part 58.

Estimated Cost of Repair (ECR): Provides an estimate of the basic costs needed to repair the home. **Federal Emergency Management Agency (FEMA):** An agency of the United States Department of Homeland Security. The agency's primary purpose is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.

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

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

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

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

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

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

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

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

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.

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.

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

Invitation for Bid (IFB): The method used for the sealed bid process. IFBs usually include a copy of the specifications for the particular 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 will benefit from an interpreter who will translate 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: Homeowners who lost ownership of their homes due to foreclosure, or are pending foreclosure, are ineligible for Program assistance.

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

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

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

Minority 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: A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

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

National of the United States: A non-US citizen who 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.

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

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

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

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

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

(1) Means a person who:

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

(A) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) In the case of an individual who has attained the age of 55 and is blind, inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time. For the purposes of this definition, the term blindness means central vision acuity of 20/200 or less in the better eye with use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purposes of this paragraph as having a central visual acuity of 20/200 or less.

(ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

(A) Is expected to be of long-continued and indefinite duration,

(B) Substantially impedes his or her ability to live independently, and

(C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

(iii) Has a developmental disability, as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8))

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

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

Punch List: A list of unfinished matter that needs attention. It is used in the architecture and building trades to organize the completion of a construction project

Purchase Contracts: Contract for deed is not eligible unless the Homeowner converts his/her contract to full ownership prior to receiving funding assistance from the program.

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

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

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

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

Recreational Vehicle (RV): A motorized wheeled vehicle used for camping or other recreational activities.

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

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

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

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

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

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

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

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

Slum and Blight: "Blighted area" and "slum" mean an area in which at least seventy per cent 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 Homeowners, renters, and businesses. The SBA low-interest, long-term loans are the primary form of federal assistance for the repair and rebuilding of non-farm, private sector disaster losses.

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

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

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.

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 Homeowners so only those entitled to benefits receive them.

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

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

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

Urgent Need Objective: Under the disaster recovery federal regulations, HUD has determined that an urgent need exists within the Presidentially Declared counties. An urgent need exists because existing conditions pose serious and immediate 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 Homeowners which cannot meet the LMI National Objective will be placed into the Urgent Needs category.

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EXHIBIT 1 - Program Administrative Policies

A. Accessibility – Reasonable Accommodation

A person with a disability may require special accommodations in order to have equal access to Programs. The types of reasonable accommodations that can be provided include changes, exceptions, or adjustments to a rule, policy, practice, or service.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden," or result in a "fundamental alteration" in the nature of the program or service offered. See 24 CFR 8.4, 8.24, and 8.33 for further requirements and guidance.

Examples of reasonable accommodations include:

- Conducting home visits for application materials
- Providing time extensions
- Permitting an authorized designee or advocate to participate in the application process and any other meetings

The Programs will encourage the applicants to make his/her accommodation request in writing. However, the Programs will consider the accommodation any time the applicant indicates that an accommodation is needed whether or not a formal written request is submitted.

B. Clarification Review Process

Applicants who are seeking further guidance on the **amount** in their award letter, any **calculation** included in the award letter or their **eligibility** should contact their Customer Representative/Business Advisor.

After an applicant has received an Award Letter an applicant may request a clarification review of their file by contacting their Customer Representative/Business Advisor and completing a *Clarification Review Form*.

Once an applicant receives a clarified award determination document, the applicant must either accept or decline the award amount and execute the clarified award determination document.

If the applicant **accepts** the determination in the clarification award determination document, the grant agreement is immediately sent to the applicant and the grant award funds are issued to the applicant within sixty (60) days of execution of the grant agreement.

If the applicant **declines** the determination in the clarification award determination document, he/she has sixty (60) days to file an appeal. An appeals form can be obtained from a Customer

Representative/Business Advisor. Once the 60 day appeals window has passed, the applicant has waived their right to appeal.

Clarification Review Process for REIMBURSEMENT ONLY

Applicants who are seeking further guidance on the **amount** in their reimbursement package, or any **calculation** included in the reimbursement package should contact their Customer Representative/Business Advisor. After an applicant has received a reimbursement package an applicant may request a clarification review of their file by contacting their Customer Representative/Business Advisor and completing a *Clarification Review Form*.

If the applicant will not execute the grant agreement and has not cashed the reimbursement check, the homeowner must return the check to the Customer Representative/Business Advisor. If the Homeowner has cashed the check, the Homeowner must execute the grant agreement prior to a clarification review.

The applicant will complete the clarification review form with his Customer Representative/Business Advisor which will provide a stay of the 60 day appeals time limit outlined in the grant agreement.

If the applicant has already requested a clarification review, but has not cashed the check or executed the grant agreement, the Customer Representative/Business Advisor should reach out to the applicant and clarify if they are still interested in a clarification review of their file. If they are, the Customer Representative/Business Advisor should request the applicant either:

a. return the check while their file is under review or
b. Cash the check and execute the grant agreement. The Customer Representative/Business Advisor will also provide a notice that the clarification review is in process and that the time to request an appeal will be stayed until 60 days after he/she receives a response to the clarification review.

If the applicant is satisfied and no longer wants the review, the Customer Representative/Business Advisor will send a written confirmation confirming that the request for clarification review has been withdrawn and specifying the last date to appeal (60) days from the date that the letter is sent to the applicant.

Once an applicant receives a clarified award determination document, the applicant must either accept or decline the award amount and execute the clarified award determination document. If the applicant **accepts** the determination in the clarification award determination document, the grant agreement is immediately sent to the applicant, and the grant award funds are issued to the applicant within sixty (60) days of execution of the grant agreement. Prior to additional funding being dispersed, an applicant **must** have submitted all documents. Any questions regarding outstanding documents the applicant may contact their Customer Representative/Business Advisor to discuss.

If the applicant **declines** the determination in the clarification award determination document, he

has sixty (60) days to file an appeal. An appeals form can be obtained from a Customer Representative/Business Advisor. Once the 60 day appeals window has passed, the applicant has waived their right to appeal.

C. Appeals Process

If the applicant believes that the program's determination of their funding award calculation or eligibility status is incorrect, the applicant can request a *Formal State Appeals Form* from their Customer Representative/Business Advisor.

An Applicant has a right to appeal the following:

- Final Eligibility Determination
- Final Award Determination

In order to appeal, an applicant **must** submit a Formal State Appeals Form within 60 days from either their Final Eligibility Determination or their Award Determination to the e-mail address: housingappeals@stormrecovery.ny.gov

A written determination will be issued to the applicant to the appeal.

If the applicant **accepts** the determination in the appeal award determination document, the grant agreement is immediately sent to the applicant, and the grant award funds are issued to the applicant within sixty (60) days of execution of the grant agreement.

If the applicant **declines** the determination in the appeal award determination document the file will be closed and if the award amount is less than the amount of the grant already disbursed, the overage will be recaptured.

Appeals Process (Buyout ONLY)

If a Property Owner believes that the HTFC offer amount is incorrect the Owner may appeal the Fair Market Value (FMV) stated in the Determination of Fair Compensation on which the amount of the Offer is based. If the Property Owner disagrees with the FMV, but wants to continue in the Buyout/Acquisition Program(s), they must hire and pay for a New York State Certified Residential Real Estate Appraiser to appraise their property. Upon request the Customer Representative will provide a list of local Certified Residential Real Estate Appraisers licensed by the New York State Department of State, Division of Licensing Services.

The process begins by the Property Owner notifying their respective Customer Representative of the appeal in writing within 30 days of receipt of the Offer to Purchase. The appeal request must state the basis for the Property Owner's disagreement with the FMV determined by the New York State (NYS) Housing Trust Fund Corporation (HTFC) and should include all of the information the Owner wants considered. The appeal must include specific factual information and any data that support the appeal to increase the offer price. The completed appraisal should

be sent to their respective Customer Representative together with the invoice and proof of payment of the appraisal cost. The Customer Representative will deliver the appraisal to the HTFC. The Property Owner will not be reimbursed for their appraisal expense. The NYS HTFC will provide the initial appraisal and the second appraisal completed at your expense to an independent 3rd party for review.

The HTFC's appointed 3rd party, will review the appeal and issue a written decision within thirty (30) days of receipt of the appeal form the HTFC. A copy of the decision of the appeal will be mailed to the Property Owner and provided to the designated Customer Representative.

The date the Property Owner appraiser certifies as the effective valuation date must be the same as the FMV valuation date stated in the appraisal prepared for HTFC. For every Determination of Fair Compensation based on "pre-storm FMV," that date is October 28, 2012, immediately before Superstorm Sandy. For an offer based on "poststorm FMV," the FMV date is the "FMV Certification Date."

A Certified Residential Real Estate Appraiser with current New York State certification must prepare the appraisal. Every appraisal appeal report must include the items specified in the Scope of Work on the next page, and the Minimum Appraisal Content presented on the back side of this document.

D. Demonstrable Hardship

A demonstrable hardship is a substantial change in an applicant's financial situation that will prohibit or severely affect 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 be occurring after the named storms.

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

If an applicant believes that they are in the state of demonstrable hardship and that the demonstrable hardship causes them to not comply with any of the program policies, they may

present their existence of a demonstrable hardship to their Customer Representative/Business Advisor and the Program will evaluate on a case-by-case basis after review of all of the circumstances.

Applicants claiming a Demonstrable Hardship shall be required to provide evidence of such claimed Demonstrable Hardship to Customer Representative/Business Advisor. The GOSR will determine what a Demonstrable Hardship is for purposes of this program and its decision is final.

E. Unmet Needs

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

Eligible reasons:

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

Ineligible reasons include, but are not limited to:

- Funds used to live outside the home while home being repaired. [IMA Program covers this.]
- Work by Contractor not quality, but property is habitable.

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

F. Detecting and Preventing Duplication of Benefits

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

- Certification that applicants have and will notify the State of all potential DOBs;
- Verification of specific DOBs through various available sources;
- Enforcement of certification to the fullest extent of the law.

G. Receipt Review Process (for Housing Programs only)

Applicants have the right to request a receipt review in connection with their grant award. Applicants can provide receipts for actual work, labor materials and supplies in connection with the repair/rebuilding of their home. Only receipts for work done prior to the damage assessment inspection – that is, for "AA items" – will be reviewed by the program. A receipt-based review of funds actually spent on eligible pre-damage assessment work can be used to offset (reduce) the amount of duplication of benefits (DOB) applied to the Estimated Cost of Repair (ECR) to calculate the Repair award. However, in no circumstance will receipt review result in an increased Reimbursement award – even if the total of the applicant's receipts for eligible items exceeds his/her AA estimate. Applicants requesting receipt review for the purpose of DOB offset, to potentially increase the amount of the Repair award, must present receipts and proofs of payment for all eligible items completed prior to the damage assessment inspection.

Applicants who were damaged by more than one of the three eligible storms (*Sandy, Irene and Lee*) will have their award calculated based only on the most recent storm, unless they specifically request a multi-storm review. Applicants who have repaired items from multiple storms may request a multi-storm review in order to determine if they may be eligible for Reimbursement payment for items repaired as a result of the prior storm. Applicants requesting a multi-storm review must present all eligible receipts and proofs of payment for the earlier storm. The Program will create a scope of AA work (work done) from the earlier storm, and will produce an AA cost estimate using its unit-pricing methodology. The Program will then apply any benefits (DOB) received for the earlier storm AA cost estimate for the earlier storm, in order to calculate a potential Reimbursement award for the earlier storm.

Receipt review may not necessarily result in an increase in the Award amount. If the total amount actually expended on work done prior to the damage assessment is less than the Program's AA cost estimate, then the award will be re-calculated (lowered), using the actual costs. The total award amount, (including payments made for prior storms) as a result of receipt review, cannot exceed Program caps. For more information on receipt review policy and procedure, please refer to the Program's Fact Sheet on Receipt Review.

H. Recapture Policy

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

In order to ensure that New York State is able to fulfill its contractual obligations to HUD, and that the applicants receiving CDBG-DR assistance are using the funds for their intended purpose, GOSR requires all applicants to sign grant agreements stipulating each party's responsibilities

and the potential penalties if the applicant is found not to have fulfilled their obligations. Specifically, if the funds are not used for eligible activities, the money can be recaptured.

GOSR has established quality control procedures to monitor operations and to guard against fraud or unintentional violations of program requirements. If a program violation is identified, GOSR will recapture funds in accordance with its recapture procedure. GOSR understands that the applicants receiving CDBG-DR assistance have suffered significant losses and the contractual responsibilities are NOT intended to be an imposition on them or to require difficult pre-requisites for benefits. However, because the purpose of the grant is to restore and revitalize communities affected by the storms, CBDG-DR funds must be used in accordance with HUD guidelines to help repair or replace damaged homes and businesses or reduce the risk of future damage through resilient rebuilding, elevation or other mitigation measures.

I. Conflicts of Interest and Confidentiality

Conflicts of interest between applicants, Program Administrator, Contractors, Program staff and other parties are strictly prohibited by federal law. Generally, no person who is a covered person, and who exercises or has exercised any functions or responsibilities with respect to CDBG-DR activities and who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

A “covered person” is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or any designated public agencies, or subrecipients which are receiving CDBG-DR funds.

The conflict of interest regulations contained in the contract between the sub-recipient and the HCR prohibit local elected officials, HCR staff, sub-recipient employees, and consultants who exercise functions with respect to CDBG Disaster Recovery activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, from receiving any benefit from the activity either for themselves or for those with who they have family or business ties, during their tenure or for one year thereafter.

Conflicts of Interest

The Program will require all Program staff to disclose any relationship with a Homeowner or Contractor. Program staff of the State, Sub-Grantee/Program Administrator and Contractors who disclose such relationships will be placed in roles where there is no opportunity for them to display favoritism or collude in order to financially or otherwise benefit either themselves, the Homeowner or Contractor. For example, a Customer representative may not perform work on the application of family. For purposes of this regulation, “family” is defined to include spouse,

parents, mother-in-law, father-in-law, grandparents, siblings, brother-in-law, sister-in-law and children of an official covered under the CDBG conflict of interest regulations at 24 CFR 570.489(h).

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

Confidentiality/Privacy

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

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

1. NY CDBG-DR Grant program may use personal information throughout the award process to ensure compliance with program requirements, reduce errors and mitigate fraud and abuse.
2. Independent Auditors, when hired by the program to perform a financial or programmatic audit of the program, for use in determining program compliance with all applicable HUD and federal regulations, including the Stafford Act, CDBG-DR requirements and State and Local law.
3. NY CDBG-DR Program may disclose personal information on a Homeowner to those with official Power of Attorney for the Homeowner or for whom the Homeowner has provided written consent to do so.

4. Organizations assisting the State in executing the CDBG-DR Program must comply with all Federal and State Law Enforcement and Auditing requests. This includes, but it not limited to, HUD, FEMA, FBI, NYS Office of the Comptroller, and the Office of the Inspector General.

J. Monitoring/Compliance/Investigations

GOSR's Monitoring/Compliance/Investigations Office follows a comprehensive model to mitigate any potential risks, proactively detect and investigate potential fraud, and ensure compliance with Federal and State regulations. GOSR's current monitoring, compliance, and investigations approach is structured to allow for coordination between, and monitoring of, all GOSR programs and internal operations departments. GOSR's monitoring/compliance/investigations core functions and responsibilities are outlined below.

Compliance & Monitoring Oversight

GOSR conducts periodic audits, reviews, site visits, and risk assessments of GOSR programs, contractors, and subrecipients, to ensure that they are operating according to guidelines and state and federal regulations. Responsibilities include analyzing all reports generated from audits, reviews, site visits, and risk assessments, determining and requesting corrective action, and following through to ensure that correction actions have been implemented.

Other responsibilities include ongoing development of GOSR's overall monitoring and compliance framework, and periodically reviewing and revising the monitoring/compliance/investigations program in light of changes within the organization, its programs, and/or changes to laws, policies, and procedures of state and federal agencies.

Coordination with Internal Operations Departments

GOSR's Monitoring/Compliance/Investigations Office coordinates with internal operations departments, including HCR's Office of Internal Audit (OIA),[1] GOSR Investigations, GOSR

[1] OIA continues to serve as an additional integrity monitoring mechanism for GOSR. OIA provides internal audit coverage for HCR and HTFC. The revenues and expenditures of the CDBG program flow through HTFC. Current staffing consists of the Audit Director and four auditors. DHCR is required to have an internal audit function pursuant to NYS Division of the Budget B-350 Policy and Reporting Manual. All such Internal Audit departments are required to conduct its activities in accordance with International Standards for the Professional Practices of Internal Auditing governed by the Institute of Internal Auditors. These standards require that internal auditors exercise due professional care by considering the probability of significant errors, fraud, or non-compliance. The OIA has a role in detecting fraud waste and abuse generally for all auditing efforts and specifically as part of the State of New York's administration of its CDBG-DR funding allocations pursuant to Public Law 113-2. The provisions of OMB A-123 and its appendices will be reviewed and incorporated as applicable to any prevention,

Communications, GOSR and HTFC Finance, GOSR and HTFC Procurement, GOSR Office of the General Counsel, and HTFC Counsel. In addition, the Office coordinates and monitors GOSR's MWBE/EEO and Fair Housing efforts. Each of these departments overlap with the Office by requiring additional monitoring and oversight to ensure that their activities, policies, and procedures remain in compliance with state and federal regulations, and by serving as additional resources to assist with GOSR's monitoring and compliance function.

Interfacing with External Regulatory Agencies & Partners

GOSR's Monitoring/Compliance/Investigations Office coordinates and communicates with external federal and state regulator entities and partners, including HUD, HUD Office of the Inspector General, FEMA, and the New York State Office of the Inspector General. The Office serves as a point of contact in responding to state and federal government requests, inquiries, and investigations. Additionally, the Office receives referrals from the New York State Office of the Inspector General regarding complaints of potential fraud, wrongdoing, and misconduct relating to GOSR's programs, and is responsible for reviewing these referrals and determining appropriate action.

Policies & Procedures Oversight

GOSR's Monitoring/Compliance/Investigations Office reviews and monitors GOSR program and operational policies and procedures in order to ensure consistency with GOSR's certifications and state and federal regulations. This includes reviewing and monitoring GOSR's day-to-day policies and procedures to ensure consistency with the policies and procedures documented in GOSR's manuals and certifications.

Regulations Guidance & Training

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detection and recovery activities. As it relates to GOSR, OIA will be: 1) coordinating monitoring and compliance activities with GOSR, including serving as an additional repository for all complaints that come through GOSR's fraud hotline; 2) maintaining a reporting line to HTFC Finance and the HTFC Board as it relates to GOSR activities; and 3) assisting with the monitoring and compliance of GOSR's subrecipients, specifically as it relates to the OMB A-133 Circular Audit requirements.

GOSR's Monitoring/Compliance/Investigations Office provides guidance, training, and technical assistance to GOSR staff, contractors, and subrecipients as it relates to state and federal rules and regulations.

Fraud

GOSR is responsible for: managing a fraud hotline; processing all incoming complaints relating to fraud, misconduct, and wrongdoing; reviewing and analyzing such complaints; obtaining relevant programmatic information to assess such complaints; and determining appropriate further action, including but not limited to further internal investigation, referral to the appropriate law enforcement agency, and corrective action to address any risks or deficiencies in existing programmatic policies and procedures. If it is determined that there is a lack of or insufficient evidence of fraud, the Homeowner's application will proceed through the Program.

Identity Check

GOSR will require all eligible applicants to pass an identity check. The program has developed this verification in order to comply with Federal and State of New York requirements and program policy.

K. Anti-Fraud, Waste and Abuse Checks

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

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

Review of AFWA Check Findings

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

Examples of primary flag types may include but are not limited to:

1. No Issues Identified
   - Without Relevant Findings – AFWA check did not identify a flag after performing

relevant procedures.

- Without Relevant Findings (with Caveats) – AFWA check identified potential flags that did not appear to be associated with the applicants using the sources and/or methodologies.

2. Flagged Issues
   - Risk Indicator – Potential risk-relevant information was identified for the applicant in question through one or more of the seven AFWA checks.
   - Unable to Verify – The AFWA check was unable to identify sufficient information to corroborate information provided by the applicant.
   - Discrepancy – A discrepancy was identified between information provided by applicant and information identified through one or more of the seven AFWA checks.
3. For Return to Customer Representative/Business Advisor
   - Typographical Error – AFWA check identified a potential typographical error.

In their review of AFWA check findings, Customer Representatives/Business Advisors will examine application information and applicant-provided documentation to seek to determine if this information is consistent with flags identified through AFWA checks and to identify potential typographical or data input errors.

Adjudication and Escalation of AFWA Findings

Using relevant federal and state policy and procedure guidelines, Customer Representative/ Business Advisor will determine:

a) if flagged issues affect the applicant's eligibility and
b) if further action is necessary in order to adjudicate the application.

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

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

escalated for further scrutiny.

If applicant has flag for either a Federal tax lien or a United States judgment in any amount or state lien or a child support warrant in which $10,000 or more is owed, then the applicant will not be eligible for NY Rising Programs. If applicants can prove that they are in a payment plan to remedy the situation and that they are current with that plan then they will be eligible to participate in GOSR's Programs.

L. Record Retention

Record retention is a requirement of the Program. Records will be maintained to document compliance with Program requirements and federal, state, and local regulations and to facilitate an audit review by HUD. Records will be maintained in accordance with 24 CFR 570.3 which states they must be maintained for a period of 5 years following the close-out of the award to the state. The GOSR Records Management Program seeks to ensure that:

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

Audit Trail

All records defined by the organization as important are captured into the GOSR recordkeeping system so they can be appropriately managed. Within the NY Rising Housing Recovery Program, Intelligrants serves as GOSR's management information system. Intelligrants provides immediate tracking and imaging of all Program documentation, including but not limited to, applicant notification, eligibility verification documentation, financial funds disbursement documentation to ensure data security and Program oversight to create a clear audit trail of the Program. Additional financial funds disbursement documentation is available from the Tribuo database.

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

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

In order to protect non-public personal information, data security measures will be in place, such as hardware and software data security protocols and physical security for hard copy files.

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EXHIBIT 2 - Citizen Participation Plan

STATE OF NEW YORK
CITIZEN PARTICIPATION PLAN
CDBG-DISASTER RECOVERY SUPERSTORM SANDY, HURRICANE IRENE, and TROPICAL STORM LEE

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) 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.

I. 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. Since the Notice for the Second Allocation has revised the requirements for public hearings, the State will always hold a minimum of one public hearing for each substantial amendment starting with the release of the State's Amended Action Plan. Written minutes of the hearings and attendance rosters will be kept for review by State officials. The State has and 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 (30) days, posted prominently and accessed on the Governor's Office of Storm Recovery official website.

A. 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
- 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 Governor's Office of Storm Recovery official website. Citizens will be provided with no less than thirty (30) days to review and comment on the proposed amendment. Written comments may be submitted to

Governor's Office of Storm Recovery
64 Beaver Street
PO BOX 230
New York, New York 10004
Comments may also be made at www.stormrecovery.ny.gov

A summary of all comments received and reasons why any comments were not incorporated into the Substantial Amendment will be included in the HUD request for a Substantial Amendment and posted to the Governor's Office of Storm Recovery official website.

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

B. 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 the

Governor's Office of Storm Recovery 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.

II. 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.

III. Citizen Participation Requirements for Sub-recipients 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 Disaster Recovery 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.

All UGLGs which receive 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;
- provide 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:

IV. 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.

V. 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. A copy of the complaint and determination must be sent to the GOSR's head of Monitoring and Compliance.

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EXHIBIT 3 – Luxury Items list

NY Rising Housing Recovery Program
Guidance on the Prohibition of Luxury Items

The intent of the NY Rising Housing Recovery Program is to assist owners of residential property who sustained damage due to Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee in restoring their dwelling to a standard that supports the national objective of a "decent home and suitable living environment" of the federal Community Development Block Grant Disaster Recovery (CDBG-DR) program, which is providing New York State with the funding to implement repair and reconstruction activities. Applicants assisted under the NY Rising Housing Recovery Program may have their homes repaired, rehabilitated, or reconstructed to basic construction standards, but these standards do not include luxury items that are above the minimum construction standards of the program. Homeowners that wish to include a luxury item may elect to pay the difference between what the NY Rising Housing Recovery Program provides and the actual cost of the item.

The designer shall be responsible for separating the luxury or upgrade scope items and fees from the program provided scope items and fees in the construction and cost documents.

The following list provides examples of luxury items that are not eligible to be paid for by CDBG-DR funds; however this list is for illustrative purposes and is not exhaustive.

1. Detached garages (Attached garages only allowable when repairing a home with an existing attached and damaged garage)
2. Garage door openers
3. Alarm systems, excluding smoke, fire & CO alarm systems
4. Irrigation systems, fountains, ponds, etc.
5. Sound systems, wireless computer & communication systems
6. Lighting controls beyond standard one & three way switches
7. Exterior lighting beyond lights at entry doors
8. Out buildings (i.e. sheds, gazebos, trash enclosures, & pool houses)
9. House vacuum systems
10. Swimming pools, hot tubs, saunas, etc. and associated equipment
11. Laundry equipment (i.e. washers and dryers)
12. Portable appliances (i.e. air conditioners, electric heaters, etc.)
13. Luxury countertops (i.e. no stone or composite stone)
14. Built-in bookshelves, radiator covers, or any item requiring custom millwork or shop drawings

15. Stone tile floors & walls
16. Luxury carpet
17. Wall paper
18. Built-in closet systems – only rod & shelf allowed
19. New fireplaces (wood, gas, or electric); repairs to storm damaged fireplace chimneys are allowed
20. Exterior decks, unless to allow for egress on homes being elevated; materials limited to builder's grade composite decking and rail systems
21. Covered porches, unless replacing an existing covered porch
22. Carports
23. Solar Panels
24. Microwave ovens
25. Deep freezers
26. Built-in dual ovens
27. Garbage disposals
28. Multi-head showers
29. Sound systems, wireless computer & communication systems
30. Central air conditioning systems unless existing at time of storm
31. Similar items as determined by the NY Rising Housing Recovery Program

EXHIBIT 4 – Closeout Document List

Government Issued Identification
Signed Application
Program Eligibility Certification
Consent and Release Form
Insurance Certification Form
Income Verification Form
Income Certification
Citizenship Documentation/SAVE search
Primary Residency
Title Search Report
AA report (including all versions)
ECR report (including all versions)
Elevation estimate report (including all versions)
Award letter & calc table (>0) (including all versions)
Repair/Reconstruction Grant Agreement
Repair Grant Agreement Amendment
Final Amendment to Rehabilitation/Reconstruction GA
Return of Funds Form (if not accepting check)
Name and License number for Contractor and Designer
Verification that contractor/designer not on debarment list
Tier 2 Document (including all close-out items)
AFWA Report complete w/ eligible determination
Proof of current flood insurance (If in 100 year flood plain)
Substantial Damage Evidence
SBA Loan History Form
Optional Measures opt-in and opt-out form (for elevation, mitigation, bulkhead) - (If applicable)
Post Construction Elevation Certificate
RES or HIRS Check (if no CofO and if substantial renovation)
Certificate of Occupancy or proof the work was done to code
Environmental Assessments

Environmental Clearance
Final Inspection Report
Final Inspection Photos
Addendum for Two Family Home Owners, completed by HO - Questionnaire (if applicable)
Verification of Homeowners insurance DOB
Verification of Charitable funds DOB
Empire State Relief funds VOB
Verification of Home Ownership Repair and Rebuilding Fund DOB
Homeowner request for final site visit form
Final Homeowner Signed Completion Checklist and Certification
– Final Design Professional Signed Completion Checklist and Certification
Signed ROE agreement
Program-approved change orders - Form
Level 1 Closeout QC
Final award determination (with award>0)[3] - Form
Level 3 Closeout QC
Power of attorney
Program Withdrawal Confirmation
– Extraordinary Site Conditions Certification Form (Recon Only)
– Pre-Construction Elevation Cert
– Elevation Permit
– Optional Measures 6100 scope and Designer Request for Scope Change forms (bulkhead and/or optional mitigation)
– Documentation of Approved Change Orders - 6100 Form - REPAIR