



# **POLICY MANUAL**

## **Homeowner**

### **NY Rising Housing Recovery Program** **(One and Two-Unit Occupied)**

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The policies stated in this manual are current as of April, 2015. 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](http://www.stormrecovery.ny.gov) or to contact the [info@stormrecovery.ny.gov](mailto:info@stormrecovery.ny.gov) to ensure that you have the latest version of GOSR's policies. There may be times, however, when a policy will change before the manual can be revised.

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# 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 24, 2014	Minor Clarifications and update on Receipt Review Policy.
3.0	April 2015	Transferred the following sections to the Procedure Manual: Submitting an Application, Intake Meeting, and the Environmental Review Process. Clarified the following policies: “Ownership of Subject Property”, the Coop and Condo policy regarding Associations and Boards, Demonstrable Hardship, Appeals, the threshold requirements for transfer to Acquisition Program, the award allowances for reconstruction activity and the award calculation policy regarding the reclassification of a Property from repair to reconstruction and reconstruction to repair. GOSR modified the following: the policy for Applicants concurrently in the IMA program and Buyout program, the eligibility documents for proof of citizenship and immigrant status and the deadline for construction completion. Finally this version indicated that Urgent Need National Objective may be determined with a Damage Assessment. Added contract purchase language.

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# 1.0 New York Rising Program Goals

## 1.1 Introduction

In response to the damage caused by Superstorm Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, the U.S. Congress appropriated \$16 billion in Federal Fiscal Year 2013 funds for the Community Development Block Grant - Disaster Recovery (CDBG-DR) program through Public Law 113-2. Enacted on January 29, 2013, this law stipulates that these funds be used for the following recovery efforts:

*“...necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013, for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.): Provided, that funds shall be awarded directly to the State or unit of general local government as a grantee at the discretion of the Secretary of Housing and Urban Development...”*

Following Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee, the State of New York (the State) developed the NY Rising 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 helps to stimulate economic growth in storm affected communities.

Applicants 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 Applicants 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.

## 1.2 Oversight of Storm Recovery

Governor Cuomo established the Governor’s Office of Storm Recovery (GOSR) in June 2013 to maximize the coordination of recovery and rebuilding efforts in storm-affected municipalities throughout New York State. The Governor’s Office of Storm Recovery 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.

Working in close collaboration with local and community leaders, GOSR responds 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.

### **1.3 Program Manual Overview**

This manual is designed to outline the major program policies that the State and its agents use to direct the operation of the NY Rising 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 operate, including basic information on who are 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 Applicant 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 (including those that may have a rental or income producing unit), as well as cooperative and condominium properties.

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 Housing Recovery Program Policy Manual and manuals for other programs are made available for public review and use at [www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov)

### **1.4 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.” 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); and/or
- 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 are required to meet either the LMI or Urgent Need National Objectives.

## 1.5 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 uses the opportunity to ensure that damaged buildings are not simply restored to their pre-storm condition or replaced with the same kind of structures. Instead, New York State invests in additional mitigation measures to prevent similar damage from occurring in the future.
2. ***State-led, community-driven recovery*** – New York State is collaborating closely with local governments and other organizations to ensure a coordinated and holistic response, while looking to individual communities to develop forward-looking local recovery plans that meet their specific needs.
3. ***Recovery from Irene and Lee*** – The recovery efforts also extend to those communities still recovering from Hurricane Irene and Tropical Storm Lee.
4. ***Leveraging private dollars*** – New York State undertakes programs that help unlock capital markets and increase the amount of low-interest financing of key projects by reducing the risk for private sector lenders.

5. **Spending accountability and transparency** – New York State implements rigorous controls and checks to ensure funds are spent responsibly and in compliance with federal and State guidelines.
6. **Urgency in action** – The recovery is a long-term endeavor, but people need immediate help. The projects and programs presented in the Action Plan have been shaped to achieve the fastest delivery and best support possible, while working within the parameters of the HUD guidelines.

## 1.6 Outreach and Citizen Participation Plan

Outreach efforts are guided by the State and accomplished through a variety of resources and activities, including the following:

- **Online:** Promotion of recovery resources and the State Action Plan are available on the Governor’s Office of Storm and a link to the online application for assistance for Applicants at <http://www.stormrecovery.ny.gov>
- **In Person:** Availability of trained members of the State’s Storm Recovery Team to assist potentially eligible Applicants with the completion and submission of an application at no less than six Housing Recovery Intake Centers in impacted regions; information on locations and hours of these centers are available at <http://www.stormrecovery.ny.gov>.
- **By Phone:** Outbound phone calls to impacted residents and potentially eligible Applicants, 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 Applicants 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.

Additionally, GOSR creates professional signage, documentation, advertisements, and other materials to support and enhance the operation of the Program. Outreach efforts leverages 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, is 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 Applicants.

Program-related materials is available to download at <http://www.stormrecovery.ny.gov>, and are 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 are used to notify Applicants 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.

## **1.7 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 includes 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 also invites public comments to the Action Plan and Substantial Amendments for the duration required by HUD. They are posted prominently and accessed on the Governor's Office of Storm Recovery official website. The State uses means such as press releases, posting notices on the New York State Governor's website and/or GOSR's website, to maximize access of program information to the impacted citizens and businesses.

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

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## 2.0 Summary of NY Rising Housing Recovery Program Activities, Homeowner Program

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

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

### 2.1 Reimbursement

Applicants who sustained damage to their primary residential property (Property) as a result of an eligible storm event, and who have made repairs to their Properties, may be eligible for assistance in the form of reimbursement funding. Reimbursement payments are provided in whole or in part for out-of-pocket funds spent by Applicants to repair their Property.

A home inspection (Damage Assessment) is conducted to determine the completed scope of work amount, “Allowable Activities” (AA), upon which the award is based.

If work remains to be done on the Property, the Applicant may be eligible to receive assistance through the Program to complete that repair work.

### 2.2 Repair

An “Estimated Cost to Repair” (ECR) is created at the time of the Damage Assessment and provides the Program’s estimate of the costs to repair the home to address storm damage and bring the home to a decent and safe condition. The ECR estimate is not intended to fund replacement of the property owner’s original pre-storm home. The ECR is created to address storm damaged and unsafe conditions and uses an estimating tool that calculates the industry standard costs and unit prices for repair items.

### 2.3 Reconstruction

Where a Property was destroyed or cannot be feasibly repaired, the Program may provide assistance, within established caps, for reconstruction rather than repair.

### 2.4 Resiliency Measures

Resiliency measures such as home elevation, bulkhead repairs, and other storm mitigating measures, which help minimize future flood damage to Properties, are eligible funding activities.

### **2.4.1 Mandatory Elevation**

Applicants whose home is in the 100-Year Floodplain AND whose home was substantially damaged and/or substantially improved are required to elevate their home and the Program assists in covering the costs, within established caps. Applicants in this category are eligible for an increase in their maximum benefit cap (see Section 3.7). Applicants in this category must elevate their building to a level dictated by State building code or the local building authority or other federal State or local laws.

### **2.4.2 Optional Elevation**

Eligible Applicants whose Properties are in the 100-Year Floodplain, but who are not substantially damaged and/or substantially improved have the option of receiving funding from the Program for elevation. However, they are not eligible for an increase to their maximum benefit cap (see Section 3.7).

Applicants outside of the 100-Year Floodplain are not eligible for elevation funding with the exception of Applicants who have had repeated flood losses as evidenced by flood insurance payouts from at least two storms within a period of 10 years.

### **2.4.3 Optional Mitigation**

Optional mitigation measures are available for Applicants 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 Applicants whose homes are reconstructed rather than repaired. Additionally, if an Applicant is receiving funding for elevation, then only roof strapping and backflow valves are available for additional funding.

### **2.4.4 Optional Bulkhead Repair/Reconstruction**

Funding for optional repair/reconstruction of bulkheads may be available to Applicants who have a bulkhead on their Property, which was damaged by a qualifying storm. In addition, the home on their Property must also have sustained damage in a qualifying storm as evidenced by a program Damage Assessment.

## **2.5 Special Policies for Two-Unit Owner Occupied Properties**

While the majority of Properties that are assisted through the Program are single-family owner-occupied homes, two-family homes, with the owner occupying one unit and a tenant occupying the other unit, may also be eligible for assistance. The State has developed a set of special provisions that apply to these two-unit properties, which are outlined in Section 4.

## **2.6 Cooperatives and Condominiums**

Cooperative (co-op) and condominium (condo) owners (“Owners”) are eligible for reimbursement, repair, reconstruction and/or resiliency measures assistance. In cases where the repair or reconstruction of a co-op or condo unit is reliant on actions by the Condo Association or Co-op Board (Association/Board), the Association/Board may be required join the Owner’s application in order for the State to approve any assistance, and may be required to take certain actions (such as binding flood insurance, if applicable) in order to render the application feasible. In addition, an Association/Board may also apply for assistance in connection with storm damage to the property’s common elements. Individual unit Owners may be asked to complete eligibility forms in order for the State to process the common elements application submitted by the Association/Board. Owners are required to comply with all policies in this manual. Exceptions and special provisions are outlined in Section 5.

## **2.7 Interim Mortgage Assistance Program**

Interim Mortgage Assistance (IMA) may be available for Applicants who are eligible participants in the Program and have had or are having financial difficulties in paying their mortgage notes due to additional housing payments incurred while displaced from their storm damaged home.

IMA is not available for Condo Associations or Co-op Boards, but may be available for individual co-op or condo unit owners.

Policies regarding the eligibility of Applicants for the IMA Program are outlined in Section 6.

## 3.0 Policies for NY Rising Housing Recovery Program

### 3.1 Applicant Eligibility Criteria

Applicants undergo a threshold eligibility review to determine eligibility for the different recovery assistance types offered by the Program. The threshold eligibility review verifies that the Applicant meets the following criteria:

Applicant Eligibility Criteria Threshold – For First Payment	
<input type="checkbox"/>	The Applicant is the owner of the subject property. (See Section 3.1.1)
<input type="checkbox"/>	The Applicant meets one of the CDBG National Objectives. (See Section 3.1.2)
<input type="checkbox"/>	The Applicant AFWA check and is eligible to receive federal funds (See Section 3.1.3)
Applicant Eligibility Criteria Threshold – For Final Payment	
<input type="checkbox"/>	The Applicant is a U.S. Citizen or an Eligible Immigrant. (See Section 3.1.4)
<input type="checkbox"/>	The Property is the Primary Residence of the Applicant at the time of the affected-storm. (See Section 3.1.5)
<input type="checkbox"/>	Applicant Identity has been verified (See Section 3.1.6)

#### 3.1.1 Ownership of Subject Property

In order to qualify for housing assistance at least one person on the deed must have occupied the Property at the time of damage from one of the qualifying storms. Ownership is defined as holding a fee simple title as evidenced by a warranty deed, bargain for sale deed, a quit claim deed to the Property or having an approved lease hold interest and improvement to be assisted. The deed must be recorded with the county, city, or appropriate local municipality.

Applicants who owned and occupied a Property at the time of the storm that is located on land that they owned with other individuals (e.g., owned together with their family) are treated as separate Applicants.

Applicants who are owners of a residence who do not own the underlying land, may prove ownership of the residence with a Bill of Sale or equivalent documentation, or by signing an Ownership Affidavit attesting to having owned the residential structure, which occupies leased land at the time of affected-storm.

#### Ownership by an entity rather than an individual:

**LLC, LP and LLP ownership:** Limited Liability Company (LLC), Limited Partnership (LP), Limited Liability Partnership (LLP) and Corporation ownership at the time of the storm are eligible forms of ownership if the Owner(s) of the entity are occupants 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.

**Ownership by a Trust:** Property held in trust for the benefit of natural persons can be eligible as long as at least one of the 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 Property must sign the Grant Agreement along with the trustee.

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 Grant Agreement and/or declarations. If the Property was not serving as the primary residence for the current beneficiaries, the application is not eligible for assistance.

**Deceased Owners:** If a property owner passed away after the storm, the documentation of the deceased person has to meet all eligibility requirements. In these cases, the Duplication of Benefits (DOB) are those benefits received by the deceased or the estate of the deceased. The Program, on a case-by-case basis, assesses applications where the Applicant passed away prior to the storm. Where the estate has not completed probate, then the Applicant shall be the estate. The executor of the estate shall attend the appointment, complete paper work, and make the recovery repair. In these cases, the DOB is those benefits received by the estate of the deceased.

**Gift of Property:** A Gift of Property is a form of property transfer without exchange of payment. A gift of Property made post-storm may be eligible at the discretion of the Program. The Program requires a statement from the Grantor explaining the reason for the transfer. A Gift of Property must be in writing, notarized and recorded in the public record. The Program reserves the right to demand any award amount to be paid back in full to the State if, at any time, a determination is made that a transfer of money in excess of \$5,000.00 between the two parties had occurred in conjunction with the Gift of Property. Transfers of property between family members for consideration of greater than \$5,000.00 may be eligible at the discretion of the Program.

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

### **3.1.2 Meeting CDBG National Objectives**

All Applicants must meet one of the National Objectives required under the authorizing statute of the CDBG program.

**Low- and Moderate- Income Objective:** Applicants are determined to be low to moderate income if the total household income is less than or equal to 80 percent of median income. In

determining income, the Program uses federal income tax returns (e.g., IRS Forms, 1040, 1040A or 1040EZ). Where tax returns are not available other forms of income documentation such as pay stubs, etc. may be evaluated.

**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 the community, the existing conditions are recent or recently became urgent (typically within 18 months), and CDBG-DR funds are needed to finance the activities. The Urgent Need objective is met with a Damage Assessment of the Property. The Program documents that the Applicant meets this requirement through a Damage Assessment and unmet need determination. To the extent allowed under federal regulation, all Applicants who cannot meet the LMI National Objective are placed into the Urgent Needs category.

The Program classifies all applications as meeting either the LMI or Urgent Need National Objectives as required by HUD. It is important to note that while household income is used to determine the National Objective of an application, no Applicant is deemed ineligible based on their household income.

### **3.1.3 Anti-Fraud, Waste and Abuse (AFWA) Checks**

The 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. If the AFWA check reveals 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 is not eligible for NY Rising Programs, unless the Applicant can prove that they are in a payment plan to remedy the situation.

### **3.1.4 Citizenship and Eligible Immigrants**

At least one Applicant must be on the deed and must be a United States citizen or an eligible immigrant. Documents to prove United States Citizen or Eligible Immigrant are the following:

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

### 3.1.5 Primary Residency of Subject Property

The damaged property must have been the Applicant's primary residence at the time of affected-storm, for at least one applicant who is also an Owner of the Property and listed as reflected in the deed.

Second homes are ineligible for assistance. Second homes, as defined by the IRS publication 936, are properties **not** used as the "main home" – i.e. not where the applicant lives most of the time, and not declared to be his/her primary residence on the income tax return of the year of the affected storm.

The Program uses a multipronged approach to confirm primary residency. A number of types of documentation may be used to confirm primary residency; but in making its eligibility determination, the Program evaluates the file as a whole. No one document listed below is treated as dispositive if there is conflicting information in the file.

The Program uses FEMA Individual Assistance (IA) received for the affected-storm as best evidence for proof of primary residency. If the Applicant did not receive FEMA IA, the Applicant may provide the following documentation for the year of the qualifying storm and in the name of the Applicant or Co-Applicant to prove primary residency are the following:

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

If the Applicant 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 affected-storm, and were mailed to the damaged property address. Utility bills are only used to supplement other primary residency and are not, standing alone, relied upon to prove primary residency.

- Other qualified documents may be presented for consideration as proof of residency, including insurance documentation indicating the insured property is the insured’s primary residence.

**Primary residency for an entity rather than an individual:** At least one owner of the LLC, LP, LLP and Corporation, 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.

**Primary residency for trusts:** At least one current beneficiary of the trust must have been a primary resident at the time of the storm.

### 3.1.6 Applicant Identity Verification

GOSR requires all eligible Applicants to pass an identity check, using photo government identification. The program developed this verification to comply with Federal and State of New York requirements.

## 3.2 Property Eligibility Criteria

Storm damaged properties undergo a threshold eligibility review to determine eligibility for the different recovery assistance types offered by the Program. Eligibility review includes:

Property Eligibility Criteria – For First Payment
<input type="checkbox"/> The Property is located in an eligible county. (See Section 3.2.1)
<input type="checkbox"/> The Property was damaged during a qualified storm event. (See Section 3.2.2)
<input type="checkbox"/> The Property matches one of the defined eligible structures. (See Section 3.2.3)
<input type="checkbox"/> The Property passes environmental review (See Section 3.2.4)

### 3.2.1 Property Located in an Eligible County

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 Program. NYC administers CDBG-DR funds directly.

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	

### 3.2.2 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.

Applicants whose Property was damaged by more than one qualifying storm may be eligible for assistance. See Section 3.6.1 for duplication of benefits calculations for Applicants affected by more than one qualifying storm.

### 3.2.3 Eligible Structure Types

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.

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.
- **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.
- **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 valid documentation can be shown.
- **Condominiums:** Condominiums are a form of ownership in which the separate owners of the individual units jointly own, or manage through a Condo Association the Property's common areas and facilities.
- **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.

Properties in 100-Year Floodplain must obtain flood insurance as a condition of receiving funding. However, 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 affected-storm but is confirmed prior to close out of Applicant's file.

The Applicant 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 Applicants in becoming compliant if funds are available.

If the Property has an attached garage, it can be repaired to the extent that is necessary to make the structure safe.

Properties with basements may receive funds to repair damaged basements to the extent necessary to make them safe. If the basement was used as a bedroom for a family member, or superintendents unit then it can be rehabilitated for living space as necessary to meet minimum design standards as outlined in Section 3.10.

**Note for Applicants interested in the Buyout/Acquisition Programs:** The acceptance of repair funds does not preclude the Applicant from the Buyout/Acquisition Program although the payments are treated as a duplication of benefits to the Buyout/Acquisition award. If an Applicant accepts an offer from the Buyout or Acquisition Programs and has an executed repair Grant Agreement, the Grant Agreement is cancelled and no additional repair payments are made.

**Ineligible Property Types:**

- Non-residential structures that are not attached to a residential unit are ineligible for assistance;
- Water based vessels are ineligible for assistance; and,
- Assistance for properties containing home-based businesses is limited to non-business uses.

**3.2.4 Environmental Review**

CDBG disaster grant funding is contingent on compliance with the National Environmental Policy Act (NEPA), as implemented through HUD’s regulations set forth in 24 CFR Part 58, and related environmental and historic preservation legislation and executive orders. GOSR has two certifying officers with authorization to sign Tier 1 programmatic environmental assessments.

When appropriate, a tiered environmental review is utilized. For tiered reviews, a countywide Tier 1 review is completed before HUD releases funds and a site-specific, or Tier 2, review is completed for a site before funds can be committed to that particular site. If the Applicant opts in for elevation after the signature of the Tier 2, Program works with environmental staff to ensure that the requirements of the Tier 2 are adhered to during the elevation. Furthermore, for every home in the Program, environmental staff reviews documentation of compliance with the provisions in the Tier 2 prior to the Applicant’s closeout from the Program.

*Floodplain, Floodway and Coastal High Hazard Area Policy*

The Program requires that Applicants submit a copy of the Certificate of Occupancy or equivalent before closeout in order to document and verify that substantially damaged or

substantially improved structures in the 100-Year Floodplain are properly elevated in accordance with local, State and federal elevation requirements

If one of the following conditions exists, the Program does not require Applicants to provide a copy of the Certificate of Occupancy or equivalent as a condition of closeout:

- The Property is not in the 100-Year Floodplain or Special Flood Hazard Area (SFHA);
- The Applicant has provided a letter from their local building official stating that the Property was not substantially damaged or substantially improved; and,
- The Property was not substantially damaged and the repairs completed did not likely result in a substantial improvement, as assessed by the Program by determining the estimate of the ratio of storm damage cost to pre-storm home value. This analysis also includes a conservative buffer to further enable the identification of homes with potential substantial improvements.

The Federal Government has developed specific definitions and regulations regarding the 100-Year Floodplain, Floodway, the Coastal High Hazard Area and the Coastal Barrier Resource Area.

Structures located in a Floodway are ineligible for assistance.

Under the Coastal Barrier Resources Act (CBRA, Public Law 97-348), coastal barrier areas are ineligible to receive federal assistance for repairs or reconstruction.

Properties in the Coastal High Hazard Area are required to follow certain design criteria. For more information please see 24 CFR 55.1(c)(3).

#### *Flood Insurance Requirement*

If an Applicant receives assistance from the Program and the Home is in the 100-Year Floodplain then the Applicant is required by federal regulation to maintain flood insurance in perpetuity and, in the event of a transfer of property, the Applicant 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 Applicant is required to sign a Covenant before closing out of the Program. The Covenant is recorded with the county clerk's office.

If an Applicant previously received federal flood disaster assistance for the Property, was required to carry flood insurance and failed to obtain and maintain flood insurance then, under federal regulations, they are ineligible for the Program.

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

### *Lead, Asbestos and Radon Requirements*

Applicants and their contractors are responsible for performing work in accordance to applicable federal and State regulations regarding environmental assessments and clearances. The Program offers technical assistance, as well as lead, radon, and asbestos risk assessments and clearances at no cost to the Applicant. The Program requires that all homes receive a clearance for lead, asbestos, and/or radon (as applicable) prior to closeout from the Program.

## **3.4 Repair, Reconstruction, and Reimbursement Allowable Items**

### **3.4.1 Eligible Items**

Below are items covered by CDBG-DR funds:

- 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; and/or
  - 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);
  - Dishwashers (if energy efficient);
  - Water filtration system; and/or

- Optional mitigation items.
- Earth Movement: 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, is covered to protect the investment of CDBG-DR funds and allowable activities under HUD rules. Remediating earth movement related issues ensure the longevity of the CDBG investment. Applicants with earth movement damage are eligible for aid up to their programmatic cap, similar to any other Applicant in the Program. Only Applicants who are already eligible for repair funding may be eligible for earth movement funds.

Note: Average grade standard according to the Program's unit pricing tool is the non-luxury level that is covered by the Program, except where Energy Star Standard is applied.

#### *Eligible Items, Receipt Review Process*

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. The program that is, for "AA items" – reviews only receipts for work done prior to the Damage Assessment –. 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 does 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.

Applicants who were damaged by more than one of the three eligible storms (*Sandy, Irene and Lee*) 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 creates a scope of AA work (work done) from the earlier storm, and produces an AA cost estimate using its unit-pricing methodology. The Program then applies any benefits (DOB) received for the earlier storm AA cost estimate 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 is 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.

### 3.4.2 Ineligible Items

Below are items not covered by CDBG-DR funds:

- 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.; and/or
- Detached garages (attached garages only allowable when repairing a home with an existing attached and damaged garage);
- Garage door openers;
- Alarm systems, excluding smoke, fire & CO alarm systems;
- Irrigation systems, fountains, ponds, etc.;
- Sound systems, wireless computer and communication systems;
- Lighting controls beyond standard one and three way switches;
- Exterior lighting beyond lights at entry doors;
- Out buildings (i.e. sheds, gazebos, trash enclosures, and pool houses);
- House vacuum systems;
- Swimming pools, hot tubs, saunas, etc. and associated equipment;
- Laundry equipment (i.e. washers and dryers);
- Portable appliances (i.e. air conditioners, electric heaters, etc.);
- Luxury countertops (i.e. no stone or composite stone);

- Built-in bookshelves, radiator covers, or any item requiring custom millwork or shop drawings;
- Stone tile floors and walls;
- Luxury carpet;
- Wall paper;
- Built-in closet systems – only rod and shelf allowed;
- New fireplaces (wood, gas, or electric); repairs to storm damaged fireplace chimneys are allowed
- Exterior decks, unless to allow for egress on homes being elevated; materials limited to builder’s grade composite decking and rail systems;
- Covered porches, unless replacing an existing covered porch;
- Carports;
- Solar Panels;
- Microwave ovens;
- Deep freezers;
- Built-in dual ovens;
- Garbage disposals;
- Multi-head showers;
- Sound systems, wireless computer & communication systems;
- Central air conditioning systems unless existing at time of storm; and,
- Similar items as determined by the NY Rising Housing Recovery Program.
- Ineligible Optional Mitigation Items:
  - Sandbags or other temporary barriers; and,
  - Generators or similar backup power systems.

### **3.5 Overall Assessment of Need**

Program funds may only be used to address an Applicant’s unmet disaster recovery need. The Program assesses the total post-disaster need by performing a Damage Assessment on the Property. The Damage Assessment’s ECR and AA provide the basis for determining overall total post-disaster need. The Program takes all other benefits that the Applicant received, which were intended for the repair or reconstruction of the building, into account when calculating an Applicant’s unmet disaster recovery need. Accordingly, the Applicant’s award from the Program is reduced to account for any duplicative benefits that the Applicant received from other sources (see Section 3.6.1). Funds for unmet needs are not given in excess of program caps.

### **3.6 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 CDBG-DR funds is considered a 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*.

### 3.6.1 Duplicative Assistance

The Program must consider the total assistance available to Applicants when calculating an award. 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. This includes, but is not limited to, the following benefits:

- **National Flood Insurance Program (NFIP):** Insurance proceeds received must be disclosed by the Applicant and verified by the Program.
- **Federal Emergency Management Agency (FEMA):** FEMA proceeds received must be disclosed by the Applicant and must be verified by the Program.
- **Small Business Administration (SBA):** SBA proceeds received must be disclosed by the Applicant and verified by the Program.
- **Private Insurance:** All insurance proceeds received must be disclosed by the Applicant and verified by the Program by contacting the insurance companies. For the purposes of calculating awards, the Program uses the best available DOB data, which includes Applicant certified insurance amounts verified with insurance providers before the Applicant closeout of the Program.
- **Other:** Funds received from other sources that were intended solely for the repair or reconstruction must be disclosed by the Applicant and verified by the Program. Examples include nonprofits, other governmental agencies, and social groups.

Applicants 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.

Applicants whose Property was damaged by more than one qualifying storm may have spent funds received from their insurance company and/or government assistance to repair items multiple times. Since the Damage Assessment can only document damage from the most recent storm, only the funds received after the most recent affected-storm are applied as a DOB to the Applicant's award. In addition, Applicants may be considered for reimbursement award for funds expended subsequent to prior storms if they present receipts and proof of payment for eligible items.

For Repair and Reimbursement activities only, DOB is separately determined for elevation costs, so that the elevation portion of the award is based on the estimated cost of elevation minus benefits received solely for the purposes of elevation (examples include NFIP Increased Cost of Compliance (NFIP-ICC) and SBA mitigation loans).

### **3.6.2 Non-Duplicative Assistance and DOB Offsets**

Funds that have been received in other federal programs or other sources may not always be determined as a DOB. In some cases, when the Program determines that other funds received are unavailable to the Applicant; were intended for different purposes; or were intended for the same purpose but were used for separate eligible purposes, then an offset, or reduction of DOB applied to the Program award calculation may be made.

Examples of non-duplicative benefits include, but are not limited to:

- Funds provided for a different purpose. For example, insurance payments or other benefits may include funds for detached garages, landscaping, or other items not eligible for Program funds. If this can be documented, then those funds are not considered a DOB;
- Funds not available to the Applicant. 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;

Assets or line of credit available to the Applicant, 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.

### **3.6.3 Permissible Uses of Funds Received For Repair or Reconstruction**

If Applicants receive assistance for generally the same purpose, but use the funds for separate eligible purposes, the funds may not be duplicative. Applicants must document their use of the funds to evidence that it was used for different purposes.

Examples of allowable expenditures:

- Applicants 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 Applicant's insurance

company to obtain a settlement) may request that the Program offset the benefit by the actual amount of legal costs incurred, not to exceed one third of the total amount of the benefit.

Examples of unallowable expenditures that are not considered eligible uses of funds received for repair or reconstruction include, but are not limited to:

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

### **3.6.4 Declining of a Small Business Administration Loan**

Loans from the SBA are a major source of disaster recovery assistance, and many Applicants of residential property find that SBA loans meet all of their uninsured disaster recovery assistance requirements. If an Applicant has available assistance available from another source such as the SBA, the State must determine whether program assistance is necessary and reasonable with Federal financial standards.

A variety of reasons, however, might preclude an Applicant from accepting SBA assistance. In addition to the Demonstrable Hardship policy established by the Program there are acceptable circumstances for Applicants 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 debt in relation to their household income. In these cases, the SBA loan, or the fact that an Applicant fails to avail itself of an SBA loan, will not be considered a DOB and the Applicant will receive the full benefit for which they are eligible.

The Program requires that all Applicants with SBA funds available to them, or who have not or will not draw down the current 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 the assistance. If the Applicant cannot adequately demonstrate a hardship, then the current amount of the SBA loan will be applied as a DOB to their award.

### 3.7 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:

Program Award Caps	
<b>Base Cap</b>	The base cap amount for single-family repair and/or reconstruction coverage is <b>\$300,000</b> .
<b>LMI Allowance</b>	Applicants who are determined to be low or moderate income (total household income is less than or equal to 80 percent of area median income) qualify for an <b>increase of \$50,000 in the cap</b> amount. (\$300,000 Base + \$50,000 LMI = \$350,000 maximum allowed cap).
<b>Elevation Allowance</b>	Applicants with Properties substantially damaged (greater than 50 percent damage against pre-storm value) or substantially improved (greater than 50% improvement) AND within the 100-Year Floodplain are eligible for a <b>\$50,000 increase</b> in the cap amount to facilitate elevation (\$300,000 Base + \$50,000 Elevation = \$350,000 maximum allowed cap).
<b>Both Elevation &amp; LMI Allowances</b>	Applicants 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)
<b>Optional Elevation Allowance</b>	Properties, within the 100 Year Floodplain, <b>that are</b> not substantially damaged or substantially improved are qualified to apply for funds to elevate; however, the \$50,000 cap increase does not apply unless the AA and ECR exceed \$150,000.

Any repair or reconstruction costs in excess of the allowed cap amount are the responsibility of the Applicant.

### 3.8 Award Calculations

#### 3.8.1 Award Calculations for Repair and Reimbursement Activities

Award calculations take the amount of the ECR and AA and then deduct duplicative benefits received. Funds received from other sources that were intended for repair or reconstruction are a duplication of benefits and are deducted from the award amount. The result is the Unmet Need amount.

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

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

Unmet Need payments for Reimbursement activities are disbursed upon meeting the first payment eligibility threshold criteria (see Sections 3.1.1 – 3.1.3).

Unmet Need payments for Repairs activities are disbursed in increments: half upon completion of the first payment eligibility threshold criteria (see Sections 3.1.1 – 3.1.3) and half upon completion of construction and eligibility closeout criteria (see Sections 3.1.4 – 3.1.6). Applicants may request an interim payment if they have completed at least half of the Repair construction of their damaged property. Interim payment requests are approved at the discretion of Program.

### 3.8.2 Award Calculations for Reconstruction Activities

The Reconstruction award calculation is based upon the pre-storm taxable square footage of the home as determined through a review of property tax records. The pre-storm taxable square footage is multiplied by \$160 per square foot, which represents the necessary and reasonable cost of reconstruction throughout New York State.

The reconstruction award calculation also includes a \$25,000 allowance for extraordinary site conditions and a \$5,000 allowance for demolition that is automatically included in all Reconstruction awards. The \$160 per square foot cost includes the cost of designing the reconstructed home and elevating the reconstructed home to the New York State required minimum elevation if the reconstructed home is located in a 100 year floodplain. The \$160 per square foot cost does not include the cost of mitigating or remediating environmental hazards such as lead based paint or asbestos. The \$160 per square foot cost does not include the cost of repairing or replacing bulkheads. Applicants may seek additional funds for activities such as environmental mitigation or remediation or the repair of bulkheads.

In order to retain the \$25,000 for extraordinary site conditions award, Applicants must have their designer or contractor complete and submit an Extraordinary Site Condition Form. Applicants may retain the award if extraordinary site conditions must be addressed during construction. Acceptable extraordinary site conditions include:

- Sites which are sloped more than a 7.0% grade;
- Sites which require preparation such as excavation and trenching;

- Sites which require additional access to the building;
- Sites which require protection of adjacent elements;
- Where local building code requires sprinklers; and/or,
- Sites with soil conditions that require non-typical foundation systems.

If an Applicant has been classified for a Reconstruction award but wants to Repair their home instead, they may do so and are eligible to receive for the lesser of the two award calculation methods after DOB has been deducted: either the \$160 per square foot calculation or an itemized repair calculation, which is computed at the Final Site Inspection. In either case, Applicant would still be required to elevate and/or produce a Certificate of Occupancy.

In order for the Property to be considered for a reclassification from a Repair award to a Reconstruction award, the Applicant 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.

If an Applicant has been given a Repair award but wishes to Reconstruct their home instead, and cannot provide one of the aforementioned documents, they may do so and are eligible for the lesser of the two award calculation methods after DOB has been deducted: either the \$160 per square foot calculation, including the extraordinary site conditions and demolition funds if applicable, or the original repair award.

### **3.8.3 Award Calculations for Elevation Activities**

For elevation projects, the Program pays for base flood elevation plus 2 feet additional height is considered an upgrade.

Funds received from other sources that were intended for elevation are a duplication of benefits and are deducted from the ECR.

If the Applicant is required to elevate pursuant to local code, because the home was substantially damaged, because the home will be substantially improved, or due to a 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, a pre-elevation certificate signed and sealed by a land surveyor, an engineer or architect authorized by law to certify elevation information must accompany a Certificate of Occupancy for reimbursement under the Program. The Applicant may apply to the Program for elevating after work was completed.

Applicants who opt into elevation first receive 10% of the estimated elevation cost as a design fee, but do not receive the 50% of the construction cost for elevation until the required construction documents have been submitted to the Program.

If at the Final Site Visit (see Section 3.15.1), the elevation is lower than that contemplated in the ECR the ECR award is reduced by the difference. If the local building department requires an elevation higher than that contemplated in the ECR then the ECR award is adjusted accordingly. Applicants who need to elevate fewer than 3 feet to meet the minimum Base Flood Elevation (BFE) requirement have their award computed on a 3 ft. elevation, in order to account for mobilization and fixed costs.

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

Local building departments may require a design professional. If the scope of work is \$10,000 or more, Applicants will be funded to consult with an architect and/or engineer for the project.

The Program has included a 10% allowance for design costs, construction management services, provided either by a dedicated design professional, or by the contractor as part of the construction scope. Ancillary design expenses incurred for surveys, soil tests, foundation investigations, and/or elevation certificates prepared by an engineer are also eligible for funding.

The Program does not select a Contractor for the Applicant. Applicants should hire a Contractor who is legally allowed to work in the jurisdiction of the Property. General construction contractors should meet the requirements of the locality, in which they are working, and must not be on the federal debarment list, SAM.gov. The Applicant is responsible for negotiating the final costs of construction with their Contractor.

### **3.10 Design Standards and Construction Specifications**

All Properties must meet the State and locally adopted and approved building codes, standards and ordinances.

All reconstructed homes and substantially damaged or substantially improved homes **must** incorporate Energy Conservation Construction Code of New York State (ECCCNYS 2010) into construction and receive a Certificate of Occupancy.

All homes receiving assistance to repair less than substantial damage must follow the guidelines in the HUD CPD Green Building Retrofit Checklist. This is accomplished by following the scope of work as stated in the program's ECR and compliance is verified through a program inspection and Applicant or contractor certifications. All homes receiving assistance to repair more than substantial damage must also incorporate Green Building Standards through the New York State Energy Conservation Construction Code of 2010.

Due to the highly regulated nature of construction activities in New York State, compliance with the aforementioned requirements is determined through inspection and approval by the local code official that is vested with the authority to determine compliance with local and State requirements.

### **3.11 Construction Change Orders**

Change orders are granted for conditions that were not incorporated into the ECR and which materially affect the price or scope of work's price and are required to complete the work in a safe and sanitary manner and in compliance with federal and State guidelines. If approved, the award allocation is adjusted to reflect the increase or decrease.

The Contractor or the Applicant may request the change order. Documentation required in support of the change order request is 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; and,
- 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 Scope of Work (SOW) requested through the change order request must be divided into two parts; program eligible expenses and owner expenses.

### **3.12 Grant Agreement and Disbursement of Grant Awards**

Before the Applicant receives proceeds from the Program, all Owners of the Property are required to sign, either electronically or in person, a Grant Agreement. The funds are then disbursed directly to all Owners of the Property.

If the award is for reimbursement only, the entire amount of the grant award, as indicated on the Allowable Activities (AA) less the duplication of benefits, may be disbursed after the Applicant's file has been verified to contain all documentation necessary for program compliance and closeout.

If the award is for construction work to be done, either repair or reconstruction, 50% of the grant award for prospective work, as identified in the Program's ECR less the DOB, is paid to the Applicant once a Grant Agreement has been signed. At Construction Completion and Project Closeout the remainder 50% of the ECR, less DOB plus any additional optional mitigation award amount is paid to the Applicant as an initial payment.

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

The initial payment of fifty percent of the CDBG-DR grant for Mandatory Prospective Work is released upon execution of the Grant Agreement and engagement of the services of either a design professional and/or a 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.

### **3.13 Final Program Close-out**

#### **3.13.1 Final Site Visit**

At the end of construction, the Applicant may request a Final Site Visit from the Program in order to receive final payment. The purpose of the Final Site Visit is to document that all work called for in the ECR scope and additional Resiliency Measures activities has been completed.

#### **3.13.2 Closing Meeting**

**A formal closing meeting is not required by the Program, however if the Applicant needs assistance to complete program required documents, the Applicant may request an in-person closing meeting.**

**3.13.3 Final Payments**  
The final payment is contingent upon receipt of required closeout documents. See Exhibit 4 for a list of final documents needed for closeout. Specific circumstances may not require all Applicants to submit all documents.

### **3.14 Program Withdrawal**

Applicants who wish to withdraw from the Program and who signed the Grant Agreement must:

- Sign the Withdrawal Form
- Write the Program a check returning all funds

### **3.15 Subrogation**

Subrogation is the process by which duplicative assistance paid to the Applicant after receiving an award, which reimburses the Applicant twice for the same loss, must be remitted to the Program. By signing the Grant Agreement, the Applicant warrants that he/she remits any excess funds to the Program, whenever received.

### **3.16 Compliance and Monitoring**

The State is required to monitor all aspects of the Program, including, but not limited to, ensuring that Applicants are in compliance with all program requirements.

GOSR ensures Program integrity by monitoring documentation submitted by all Applicants in order to adhere to its policies outlined in this Policy Manual.

Once the Program has recovered an amount equal to the award proceeds, the Program reassigns to the Applicant any rights pursuant to the Grant Agreement.

### 3.16.1 Cooperation and Further Documentation

The Applicant agrees to assist and cooperate with the Program should it elect to pursue any of the claims the Applicant has against the insurers for reimbursement under any such Policies and any application to FEMA, SBA or any other applicable government program. The Applicant's assistance and cooperation shall include allowing suit to be brought in the Applicant'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.

### 3.16.2 Authorization for Program to Contact Third Parties

The Applicant explicitly allows HTFC to request of any company with which the Applicant 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 Applicant's consent to such company to release said information to the NY Rising Housing Recovery Programs.

### 3.17 Clarification Review

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.

After an Applicant has received an Eligibility or Award Letter an Applicant may request a clarification review of their file by contacting their Customer Representative.

Once an Applicant receives a Clarified Determination Form (CLDF), the Applicant must either accept or decline the determination and execute the CLDF. They should do so within 30 days of receipt, if not the Program will assume that the CLDF has been accepted. If the Applicant accepts the determination they have waived the right to appeal.

If the clarification results in an increase in an award and there are no obstacles and the applicant accepts the determination in the CLDF, then a Grant Agreement and a new Award Calculation Table is immediately sent to the Applicant and the grant award funds are issued to the Applicant within 60 days of execution of the grant agreement and they waive their right to appeal.

Please note, if an applicant has any unsigned or rejected clarifications determinations outstanding for matters other than the issue addressed in this appeal, or if there is any other matter which places a hold on the issuance of checks then the Award calculation table and the Grant Agreement will not be sent.

If the Applicant **declines** the CLDF, he/she has 60 days to file an appeal. An appeals form can be obtained from a Customer Representative. Once the 60 day appeals window has passed, the Applicant has waived their right to appeal.

If the applicant is unresponsive, then GOSR considers the issue closed and the clarified determination as GOSR interprets it stands.

An application must respond by either accepting or rejecting the Clarification Determination(s) within 30 days from the date of this email/letter. If not accept or reject within 30 days from the date of this email/letter, your Clarifications will be closed, and you will have also lost your right to appeal the determination.

### **3.18 Appeals**

If the Applicant believes that the program's determination of their funding award calculation or eligibility status is incorrect after a clarification Review is completed, the Applicant can request a Formal State Appeals Form from their Customer Representative.

An Applicant has a right to appeal the following:

- Eligibility Determination
- Award Determination

In order to appeal, an Applicant must submit a Formal State Appeals Form within 60 days from either their Eligibility Letter or their CLDF to the e-mail address: [housingappeals@stormrecovery.ny.gov](mailto:housingappeals@stormrecovery.ny.gov)

After the Appeal Team reviews the case a letter with the Final Determination is issued to the applicant. If the determination is in their favor and an award has been increased then a then a Grant Agreement and a new Award Calculation Table is sent to the Applicant.

### **3.19 Demonstrable Hardship**

A demonstrable hardship is a substantial change in an Applicant's financial situation that prohibits or severely affects their ability to provide a minimal standard of living or the basic necessities of life including food, housing, clothing, and transportation without causing economic distress well beyond mere inconvenience as shown by objective evidence. A demonstrable hardship must occur after the named storms.

The demonstrable hardship must be of a severe, involuntary, and unexpected nature. It must not be one that is generally shared by other Applicants affected by the named storms or within the impacted counties. Examples of a demonstrable hardships may include job loss, failure of a business, divorce, severe medical illness, injury, death of a family member or spouse, unexpected and extraordinary medical bills, disability, substantial income reduction, unusual and excessive amount of debt due to a natural disaster, 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 evaluates on a case-by-case basis after review of all of the circumstances.

Applicants claiming a Demonstrable Hardship are required to provide evidence of such claimed Demonstrable Hardship to Customer Representative. The State determines what a Demonstrable Hardship is for purposes of this program and its decision is final.

### **3.20 Unmet Needs**

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

Eligible reasons:

- Theft/vandalism; and/or
- 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; and/or
- 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.

## 4.0 Two-Unit Owner Occupied Properties

The majority of the Properties that are assisted through the Program are single-family owner-occupied homes. However, two-unit homes, in which the owner occupies one unit and a tenant (Tenant) occupies the other, may be eligible to receive assistance. If construction renders a Property temporarily uninhabitable, the tenant occupying the two-unit home may be eligible for Federal Uniform Relocation and Real Property Acquisition Policies Act of 1970 (URA) protections and relocation benefits. The Applicant, however, is voluntarily accepting rehabilitation/reconstruction assistance and would therefore not be eligible for URA assistance but may be eligible for IMA assistance (see Section 6). Consequently, the State has developed this Tenant Relocation Policy.

### 4.1 Requirements for the Applicant

- Approval of a Two Family Applicant's application for rehabilitation assistance is contingent on their providing the Program with Tenant information, including but not limited to the name, address and contact information of their tenants.
- The State does not compensate Applicants for lost rent during the time that their tenants are displaced.
- Applicants 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.
- 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 Applicant knowingly violated the Program rules and precipitated the involuntary permanent displacement.
- Applicants who are in violation of the URA may, at the full discretion of the Program, be required to pay the relocation expenses of the tenant.
- The Program is not imposing restrictions on Applicants regarding tenant income or other household requirements for Tenants.

### 4.2 Protections and Benefits Available to the Tenant

- The State does not require tenants to make their regular rental payments to the Applicant (their landlord) while they are temporarily relocated. Instead, payments are made to the temporary landlord.
- The "incremental" housing cost payments is 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 does 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 is also subject to caps established by the Program.

- The Program covers all reasonable costs of temporary relocation, including moving expenses and compensation for any additional incidental costs required during the period of temporary relocation.

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

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## **5.0 Cooperative and Condominium**

### **5.1 Eligibility Requirements**

Co-op and condo owners (“Owners”) may be eligible for assistance when the repair or reconstruction of a unit is found to be feasible. Condo Associations or Co-op Boards (“Associations/Boards”) may be eligible for assistance to repair damaged common elements of the building or to support an Owner’s application for unit repairs in the case that the Association/Board holds title or holds flood insurance for the unit.

Co-op and condo applicants are subject to all policies in this manual unless specified otherwise in this section. Applications are reviewed on a case-by-case basis to assess the feasibility of restoring the unit or common elements, and also considering the intentions of the Applicant’s Association/Board and the ability of that Association/Board to complete any work in the building that materially affects the livability of the Applicant’s unit.

### **5.2 Eligibility Requirements for Condos**

For assistance for repair work for common areas, such as roof, heating and cooling systems, and hallways, the Condo Association will be required to apply. In addition, the Condo Association will be required to obtain supportive applications from individual unit Owners in their property in order to determine the eligibility of the condo (discussed in Section 5.4). Further, 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.

Unit Owners within a condo are also allowed to apply for assistance from the Program but their eligibility will be determined by the organization and by-laws of their condo.

### **5.3 Eligibility Requirements for Co-ops**

For assistance for repair work in common areas, such as roof, heating and cooling systems, and hallways, the Co-op Board will be required to apply. In addition, the Co-op Board will be required to obtain supportive applications from individual unit shareholders in their property in order to determine the eligibility of the co-op (discussed in Section 5.4). Further, if the scope of work for an individual’s unit includes the rebuilding of a wall that is shared with another unit, then Association/Board and shareholder of the impacted adjacent unit must agree to the work.

While shareholders of individual units in a co-op are eligible to receive assistance from the Program, the Co-op Board must also submit an application prior to the Program approving any assistance for the units. Awards will be directed to the Co-op Board who will be responsible for spending these funds and making repairs to the individual units as directed.

### **5.4 Flood Insurance Requirements**

The flood insurance requirement extends to units and buildings organized as condos or co-ops. For assistance to the common elements of a condo or co-op, the Association/Board is required to

obtain and maintain flood insurance and sign a Covenant to be recorded against the building and its common elements. A condo unit Owner who receives assistance for repair to or reimbursement of their individual unit will also be required to maintain flood insurance and sign a Covenant on their unit. Condo unit Owners whose Associations maintain flood insurance may provide proof that the Association has obtained insurance in lieu of obtaining the insurance themselves. In those instances, the condo unit Owner will need the Association to apply to the Program as well.

However, since Shareholders of a cooperative unit do not have a real estate interest in their units, they are ineligible to obtain flood insurance on their individual unit. As a result, in order for Shareholders of a cooperative unit to receive assistance from NY Rising for repair to or reimbursement of individual units, the Board must obtain flood insurance covering the individual unit(s) and sign a Covenant.

### 5.5 Award Caps

Each individual Applicant in a condo or co-op unit is subject to the same award caps that are applied to Owners of single-family homes. Additionally the program establishes a building wide cap. The building wide cap is set at the sum of all of applicable individual caps. In the instance where the Program directs awards to the Association/Board with the concurrence of awards to individual Owners, the sum of all awards must be less than the overall building wide cap.

The amount that the Program may expend on the common areas and building systems is limited to the difference between the overall building-wide caps 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.) is limited to the aggregate percentage interest in the common elements held by eligible Applicants in that property. However, if that aggregate percentage interest is over 66%, the Program funds the entire cost of the work.

Award caps for optional mitigation measures are:

Optional Items			
Item	Type	Amount	Comments
<b>Optional Mitigation</b>	Allowance	<b>\$30,000</b> (First 1-2 units) <b>\$25,000</b> per additional unit (up to 7 units) <i>Max Allowance: \$155,000</i> (8+ units) Designer's Scope Cost: <b>\$2,500</b>	Funding cannot exceed overall award cap
<b>Bulkheads</b>	Allowance	Designer's Scope Cost: <b>\$2,500</b>	Funding cannot exceed overall award cap

## 6.0 Interim Mortgage Assistance Program

Interim Mortgage Assistance (IMA) may be available for Applicants who are eligible participants in the NY Rising Housing Recovery Program and have had or are having financial difficulties in paying their mortgage notes due to additional housing payments.

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 the Monthly Mortgage Amount (interest, principal, taxes, and escrow) of an Applicant's primary residence damaged by a qualifying storm. Applicants must show proof of an Additional Housing Expenses payment (including but not limited to hotel receipts, rental payments + utilities gas, electric, oil, water) to be eligible for reimbursement.

### 6.1 Eligibility Requirements

- Applicant has applied for and is an eligible participant in the NY Rising Housing Recovery Program.
- Applicant has an outstanding mortgage loan on their primary residence which was damaged by either Hurricane Sandy, Hurricane Irene or Tropical Storm Lee
- Payments cover obligations on first mortgages, including seller-financed mortgages, in place at the time of the storm, which impacted the Applicant applying to the IMA Program.
- Applicant's primary residence is or was uninhabitable during the months that IMA is requested for as a result of one of the qualifying storms and therefore the Applicant is experiencing or has experienced increased monthly housing expenses (e.g., rent) for a minimum of one month.
- Applicants with post-storm arrears may be eligible for the IMA Program. 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.
- IMA assistance may be available to displaced condo/co-op owners. In addition, 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 may be eligible for the IMA Program. IMA payments are applied as a DOB at the time that the State acquires the Property.

## 6.2 Award Calculation Methodology

- Assistance covers past, current and future debt service obligations of the mortgage.
- Monthly IMA payments are capped at \$3,000 per month for 20 months or \$60,000.
- Reimbursement can be provided going back to the date of the storm, for a maximum of 6 months prior to the Applicant's application date to the IMA program. If there are more than 6 months retroactive payments requested the award is calculated beginning with the most recent mortgage statement.
- Temporary housing assistance from other sources such as FEMA rental assistance, Temporary Shelter Assistance, or mortgage assistance from insurance providers, is deducted as a DOB from the total amount spent on rent while displaced.
- An Applicant who participated in the Federal Emergency Management Agency (FEMA) DHAP (Disaster Housing Assistance Program) may be eligible for mortgage assistance payments provided they meet all the other eligibility requirements. However, IMA reimbursements are not made for months that an Applicant participated in DHAP.
- If an Applicant in the IMA program stops participating in the NY Rising Housing Recovery Program, he/she is subject to the Recapture Policy in Exhibit 1, Program Administrative Policies.

## 6.3 Method of Distribution

- IMA participants execute a single grant agreement before receiving the first payment.
- Payments are paid as direct reimbursement to Applicants for payments they made to their mortgage lenders. All mortgage payments are by reimbursement only. Applicants 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.
- For continued eligibility, the Applicant needs to provide proof of mortgage payment and proof of rental payment.

## 7.0 Acronyms and Definitions

### 7.1 Acronyms

Acronym	Name
<b>AA</b>	Allowable Activities
<b>BFE</b>	Base Flood Elevation
<b>CDBG</b>	Community Development Block Grant
<b>DHAP</b>	Disaster Housing Assistance Program
<b>DHCR</b>	Division of Housing and Community Renewal
<b>DRGR</b>	Disaster Recovery Grant Reporting System
<b>DOB</b>	Duplication of Benefit
<b>ECR</b>	Estimated Cost of Repair
<b>FMV</b>	Fair Market Value
<b>FEMA</b>	Federal Emergency Management Agency
<b>HTFC</b>	Housing Trust Fund Corporation
<b>HQS</b>	Housing Quality Standards
<b>HUD</b>	Department of Housing and Urban Development
<b>IRS</b>	Internal Revenue Service
<b>LEP</b>	Limited English Proficiency
<b>LIHEAP</b>	Low Income Home Energy Assistance Program
<b>LLC</b>	Limited Liability Corporation
<b>LLP</b>	Limited Liability Partnership
<b>LMI</b>	Low to Moderate Income
<b>LP</b>	Limited Partnership
<b>MBE</b>	Minority Business Enterprise
<b>NEPA</b>	National Environmental Policy Act
<b>NFIP</b>	National Flood Insurance Program
<b>HCR</b>	Office of Community Renewal
<b>OIA</b>	Office of Internal Audit
<b>OIG</b>	HUD Office of Inspector General
<b>POA</b>	Power of Attorney
<b>QA</b>	Quality Assurance
<b>QC</b>	Quality Control
<b>QPR</b>	Quarterly Performance Report
<b>REO</b>	Real Estate Owned Property
<b>RE</b>	Responsible Entity
<b>SAVE</b>	Systematic Alien Verification for Entitlements
<b>SBA</b>	Small Business Administration
<b>SEQR</b>	State Environmental Quality Review
<b>SFHA</b>	Special Flood Hazard Area
<b>SOW</b>	Scope of Work
<b>SSC</b>	Site Specific Checklist
<b>STAR</b>	School Tax Assessment Relief
<b>TANF</b>	Temporary Assistance for Needy Children
<b>URA</b>	Uniform Relocation Act
<b>WIC</b>	The Special Supplemental Nutrition Program for Women, Infants and Children

## 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.

**Applicant:** The homeowner who submitted an application to the NY Rising Housing Recovery Program.

**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 Applicant 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 Barrier Resource Act (CBRA):** In 1982, Congress enacted the Coastal Barrier Resources Act (CBRA, Public Law 97-348; 96 Stat. 1653; 16 U.S.C. 3501 et seq.), which was later amended in 1990 by the Coastal Barrier Improvement Act (CBIA, P.L. 101-591; 104 Stat. 2931). The legislation was implemented as part of a Department of Interior (DOI) initiative to preserve the ecological integrity of areas that serve to buffer the U.S. mainland from storms and provide important habitats for fish and wildlife. In order to discourage further development in certain un-developed portions of barrier islands, the law prohibits the availability of new Federal financial assistance, including Federal flood insurance, in areas DOI designates as part of the Coastal Barrier Resources System.

**Coastal Barrier Resource System (CBRS):** The CBRS is a system of protected coastal areas that includes oceanfront land, the Great Lakes and Other Protected Areas (OPAs). Coastal barriers serve as important buffers between coastal storms and inland areas, often protecting properties on land from serious flood damage. Also, coastal barriers provide a protective habitat for aquatic plants and animals. The Coastal Barrier Resources Act (CBRA) of 1982 restricted development on the CBRS, in an effort to protect the barrier system and prevent future flood

damage. If you live in a CBRS area, you are eligible for federally regulated flood insurance only if your property was built before 1982 and your community participates in the NFIP.

**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.

**Conditional Sale Contracts:** A lease agreement banks can offer to business customers that wish to finance purchases of new equipment. The business is able to take possession of the property as soon as the agreement is in force, but does not own the property until it has paid for it, which is usually done in installments.

**Condominiums:** Condominiums are a form of ownership in which the separate owners of the individual units jointly own, or manage through a Condo Association the Property's common areas and facilities.

**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.

**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.

**Disaster Housing Assistance Program (DHAP):** A rental assistance program that provides temporary rental payments directly to landlords to help families displaced by disasters. DHAP-Sandy helps families find intermediate housing as they rebuild their lives.

**Disaster Recovery Grant Reporting System (DRGR):** The Disaster Recovery Grant Reporting system was developed by HUD's Office of Community Planning and Development for the Disaster Recovery CDBG program and other special appropriations. Data from the system is used by HUD staff to review activities funded under these programs and for required quarterly reports to Congress.

**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.

**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.

**Energy Star Standard:** Energy Star is a U.S. Environmental Protection Agency voluntary program that helps businesses and individuals save money and protect the climate through superior energy efficiency.

**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 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.

**Owner:** 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.

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

**Lease-to-Own:** An arrangement where an individual enters into a lease agreement with an owner with the inclusion of a clause that typically gives the individual the right, but not the obligation, to purchase the item leased at a predefined price and time.

**Limited English Proficiency (LEP):** A designation for person that are unable to communicate effectively in English because their primary language is not English and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. An LEP person benefits from an interpreter who translates to and from the person’s primary language. An LEP person may also need documents written in English

translated into his or her primary language so that person can understand important documents related to health and human services.

**Limited Liability Corporation (LLC):** A limited liability company is the U.S.-specific form of a private limited company. It is a business structure that combines the pass-through taxation of a partnership or sole proprietorship with the limited liability of a corporation.

**Limited Liability Partnership (LLP):** A limited liability partnership is a partnership in which some or all partners (depending on the jurisdiction) have limited liabilities. It therefore exhibits elements of partnerships and corporations. In an LLP, one partner is not responsible or liable for another partner's misconduct or negligence.

**Limited Partnership (LP):** Two or more partners united to conduct a business jointly, and in which one or more of the partners is liable only to the extent of the amount of money that partner has invested.

**Lost Ownership:** Applicant s 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.

**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. Both manufactured/mobile homes on applicant-owned land and those on leased land are eligible, with valid documentation..

**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.

**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.

**Property:** The storm-damaged home and surrounding land, of which the Applicant is applying for assistance to repair or reconstruct.

**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.

**Real Estate Owned (REO):** Real estate owned is a term used to describe a class of property owned by a lender—typically a bank, government agency, or government loan insurer—after an unsuccessful sale at a foreclosure auction.

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

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

**Responsible Entity (RE):** Under 24 CFR Part 58, the term “responsible entity” (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 an Owner convert the equity in his/her home into cash. To qualify, the Applicant 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 the household uses it 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.

**Single Family Residences:** A single-unit family residence detached or attached to other housing structures.

**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 Applicants, 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 Applicant 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 Applicants 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.

**Two-Unit Owner Occupied Properties:** Two-family homes are homes with at least one owner-occupied unit and one rental-unit. The home is considered two-unit whether or not the rental unit is income producing or rented on a full-time basis.

**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 Applicants that cannot meet the LMI National Objective are placed into the Urgent Needs category.

# Exhibit 1 – Program Administrative Policies

## Monitoring and Compliance Oversight

The Governor’s Office of Storm Recovery (GOSR) has established a Monitoring Plan administered by the Monitoring and Compliance Department (MCD) to ensure that all programs and projects comply with applicable federal, State, and local regulations and effectively fulfill the goals set forth in the Action Plan and the Action Plan Amendments. GOSR must ensure compliance with the United States Department of Housing and Urban Development (HUD) regulations, which include but are not limited to: Record Keeping, Administrative and Financial Management, Environmental Compliance, Citizen Participation, Conflict of Interest, Procurement, Davis-Bacon Labor Standards, Diversity and Civil Rights regulations (Minority and Women’s Business Enterprise, Section 3, Fair Housing, Limited English Proficiency, and American with Disabilities Act), Property Acquisition and Management, Displacement, Relocation, and Replacement.

The Monitoring Plan serves to identify risks, deficiencies, and remedies relating to GOSR directly administered programs, administrative and financial management, and programs administered via GOSR subrecipients. The Monitoring Plan seeks to accomplish the following objectives:

- To determine if a grantee/subrecipient is carrying out its obligations, and its activities as described in the Action Plan for CDBG-DR assistance and its related Grant or Subrecipient Agreement (Agreement).
- To determine if a grantee/subrecipient is carrying out its activities in a timely manner, in accordance with the schedule included in the Agreement.
- To determine if a grantee/subrecipient is charging costs to the project that are eligible under applicable laws and CDBG-DR regulations, and reasonable in light of the services or products delivered.
- To determine if a grantee/subrecipient is conducting its activities with adequate control over program and financial performance, and in a way that minimizes opportunities for waste, mismanagement, fraud, and abuse.
- To assess if the grantee/subrecipient has a continuing capacity to carry out the approved project, as well as future grants for which it may apply.
- To identify potential problem areas and to assist the grantee/subrecipients in complying with applicable laws and regulations.
- To assist grantee/subrecipients in resolving compliance problems through discussion, negotiation, and Technical Assistance and training.
- To provide adequate follow-up measures to ensure that performance and compliance deficiencies are corrected by grantee/subrecipients, and not repeated.

- To comply with the federal monitoring requirements of 24 CFR 570.501(b) and with 24 CFR 84.51 and 85.40, as applicable.
- To determine if any conflicts of interest exist in the operation of the CDBG-DR program per 24 CFR 570.611.
- To ensure that required records are maintained to demonstrate compliance with applicable regulations.

Consistent with HUD requirements,(MCD) conducts risk assessments on all entities being monitored, including all programs, contractors, and subrecipients in order to identify the appropriate level of monitoring, including the frequency and depth of review. Entities being monitored are assessed on a scale ranging from low risk to medium risk to high risk. Depending on the results of the risk assessment, MCD conducts levels of monitoring commensurate with the level of risk assessed. In general, the levels of monitoring range from desk auditing, to on-site monitoring, to integrity monitoring. GOSR makes necessary adjustments in its monitoring plan based on the most current information, data, and analyses available. Any risks and deficiencies identified result in a request for timely corrective action from the entity being monitored. GOSR provides Technical Assistance (TA) to all entities being monitored in order to facilitate compliance with all applicable federal, State, and local regulations. **Refer to the “Monitoring and Compliance Policy Manual” for additional guidance and protocols.**

## Investigations

The Investigations Department at GOSR is responsible for the following duties: 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. **Refer to the “Investigations Department Policy Manual” for additional guidance and protocols.**

## Cross-Cutting Federal Regulations

The Governor’s Office of Storm Recovery (GOSR) and its subrecipients must adhere to all applicable State and federal laws, rules, and regulations. This section provides a summary of the significant and applicable federal regulations.

### Americans with Disabilities Act (ADA)

GOSR takes affirmative steps to ensure that qualified persons with disabilities are informed of the availability of program services and activities, and GOSR’s programs or services are readily accessible to, and usable by, individuals with disabilities. GOSR will also ensure that handicapped persons are provided with benefits and services as those provided to non-handicapped individuals;; And will ensure that all programs and activities are accessible, both structurally and administratively, to handicapped and disabled persons. The types of reasonable

accommodations that can be provided include accommodations or adjustments to a rule, policy, practice, or service.

## **Davis-Bacon Act and Related Acts (DBRA)**

The [Davis-Bacon Act<sup>1</sup> and Related Acts \(DBRA\)](#) requires all contractors and subcontractors funded whole or in part with CDBG-DR financial assistance through the GOSR in excess of \$2,000 to pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. In some cases, New York State Prevailing Wage Law is in effect. In these cases, the higher prevailing wage rate between the federal and State must be adhered to and made applicable. For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week.

Additionally, GOSR must follow the reporting requirements per the United States Department of Housing and Urban Development (HUD) and Department of Labor (DOL) regulations. This requirement also extends to GOSR subrecipients and contractors.

The Monitoring and Compliance Department (MCD) ensures that GOSR's applicable programs and services are in compliance with DBRA through the submission of weekly payrolls as well as interviews with laborers. GOSR utilizes its Davis-Bacon FTP Submission website and electronic tracking system to both track and monitor weekly payroll submissions by contractors

## **Equal Employment Opportunity**

[Executive Order 11246](#), Equal Employment Opportunity, as Amended, prohibits federal contractors and federally-assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.<sup>2</sup> This regulation is adhered to within GOSR programs

## **Fair Housing**

The [Fair Housing Act](#) requires all grantees, sub-recipients, and/or developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity

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<sup>1</sup> 40 U.S.C. 3141 *et seq.*

<sup>2</sup> 41 CFR Part 60.

because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability or marital status. GOSR enforces the Fair Housing Act by ensuring that all grantees, sub-recipients, and/or developers meet the applicable Fair Housing and Affirmative Marketing requirements and provide a marketing plan and report on compliance in accordance with the Fair Housing Act and the associated [forms](#) on HCR's website, where applicable. The Affirmative Marketing Plan must be in compliance with applicable Fair Housing Laws and demonstrate how the Applicant will affirmatively further fair housing throughout applicable GOSR disaster recovery programs. **Refer to the “Fair Housing Policy Manual” in Fair Housing Requirements for additional guidance and protocols.**

### **Fair Labor Standards Act of 1938, as Amended (FLSA)**

The [Fair Labor Standards Act of 1938](#)<sup>3</sup> (FLSA) establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week.<sup>4</sup> These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project. Excluding the exceptions listed below, all workers employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under GOSR CDBG-DR program must be paid wages at rates not less than those prevailing on similar construction in the Locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

In some cases, New York State Prevailing Wages and Davis-Bacon Prevailing Wages both apply. In such instances, the higher of the two prevails.

Exceptions to Fair Labor Standards Act of 1938, as Amended (FLSA) include:

- Construction contracts of \$2,000 or less;
- Real property acquisition;
- Architectural and engineering fees;
- Other services (such as legal, accounting, construction management);
- Other non-construction items (such as furniture, business licenses, real estate taxes);
- Rehabilitation of residential property designed for fewer than eight families; and,
- Demolition and/or clearance activities, unless related to construction (demolition and clearance as independent functions are not considered construction). Contact a GOSR CDBG-DR Labor Specialist for assistance.

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<sup>3</sup> 29 U.S.C. 201.

<sup>4</sup> *Id.*

## Limited English Proficiency (LEP)

[Federal Executive Order 131661](#) and [State Executive Order #26](#) require GOSR and all satellite offices, programs, subrecipient, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with LEP and/or Deaf/Hard of Hearing. GOSR ensures fair access through the implementation of a Language Assistance Plan (LAP) which includes non-English based outreach, translation services of vital documents, free language assistance services, and staff training. GOSR's LEP Coordinator is responsible for coordinating all activities associated with the LAP, and the (MCD) monitors its implementation. Refer to the "Language Assistance Plan" Provision of Language Assistance Services for additional guidance and protocols. **Refer to the "Language Assistance Plan" Provision of Language Assistance Services for additional guidance and protocols.**

## Minority/Women-Owned Business Enterprises (MWBE)

The federal [Executive Order 12432](#) guidelines requires for selected federal agencies to promote and increase the utilization of Minority Business Enterprises. 24 CFR 85.36 requires grantees to ensure that all sub-recipients, contractors, sub-contractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance to make a commitment or demonstrate an acceptable "good faith effort" toward ensuring that contracts and other economic opportunities are directed to small and minority firms, women's business enterprise, and labor surplus area firms.

In addition, GOSR ensures compliance by requiring sub-recipients, contractors, and/or developers to achieve an overall MWBE participation goal of 30 percent of the entire contract value, consisting of 15 percent for Minority-Owned Business Enterprises (MBE) and 15 percent for Women-Owned Business Enterprises (WBE). GOSR verifies MWBE certification and monitors to ensure compliance with all reporting requirements. **Refer to the "MWBE Policy and Procedure Manual" in the Policy Statement Section and Housing Trust Fund Corporation's General Provisions for additional guidance and protocols.**

## Section 3

Section 3 of the Housing and Urban Development Act of 1968 requires grantees, sub-recipients, contractors, sub-contractors, and/or developers funded in whole or in part by the CDBG-DR funding, to the greatest extent feasible, extend hiring opportunities and contracts to Section 3 eligible residents and businesses. Section 3 eligible residents are low- and very low- income persons, particularly those who live or reside in public or government assisted housing. For those entities that receive more than \$200,000 in HUD CDBG-DR assistance and contractors that are awarded covered contracts that exceed \$100,000, GOSR requires that an approved Section 3 plan be in place before the project is awarded and approved. GOSR's Monitoring and Compliance Team monitors contracts with, sub-recipients, contractors, subcontractors, and/or developers. GOSR manages the education and outreach efforts, reviews the proposed Section 3 Plans, and provides Technical Assistance (TA) when needed. **Refer to the "Section 3" Policy Manual in**

### **Section 3 Policy for Prospective Bidders or Policies and Procedures for additional guidance and protocols.**

## **Uniform Relocation Act and Real Property Acquisition**

CDBG-DR federal funds, administered by the GOSR and disbursed to subrecipients and direct contractors and/or beneficiaries, are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 CFR Part 24 (URA), 24 CFR Part 42 (Section 104(d)), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

Section 104(d) requires relocation assistance for lower-income individuals displaced as a result of the demolition or conversion of a lower-income dwelling and requires one-for-one replacement of lower-income units demolished or converted to other uses.

Subrecipients or contractors must provide the following benefits to households that they displace:

- Relocation advisory services;
- A minimum of 90 day notice to vacate;
- Reimbursement for moving expenses; and
- Payments for added cost of renting or purchasing comparable replacement housing.

GOSR programs subject to the Uniform Act and Section 104(d) includes the CDBG-DR programs. GOSR rules, Notices of Funding Availability (NOFAs), applicant certifications and/or written agreements for funds subject to the Uniform Act and Section 104(d) shall refer to federal and State rules, as appropriate.

### **Real Property**

The Monitoring and Compliance Department (MCD) ensures that CDBG-DR funds are used to acquire real property, and the property continues to be used for its intended (and approved) purpose, proper records are maintained to keep track of it, steps are taken to protect and maintain it, of it and that if the property is sold, GOSR is reimbursed for the CDBG-DR share of the property's value. GOSR, as the grantee, along with its subrecipients and contractors, must tag and log all property valued greater than \$1,000 and update inventory records annually.

This fairly straightforward proposition about the ownership, use, management, and disposition of property is complicated by two facts. First, the rules about property management and disposition differ slightly depending on whether a grantee is a public-sector grantee. (The rules are generally more explicit for governmental grantees). Second, the rules depend on the nature of the property. Real property (e.g., land, buildings) is treated differently than personal property (e.g., equipment, supplies, intangible property like copyrights). (Property Management and Disposition Regulations 24 CFR 570.503; all subrecipients (subs) 24 CFR 85.32; 85.34, govt. subs 24 CFR 84.32; 84.34, nonprofit subs).

The federal requirements relating to property are organized according to title (ownership), use, and disposition. In general, the property management system must provide for accurate records, the conduct of regular inventories, adequate maintenance and control and proper sales procedures. Grantees must follow sales procedures that provide for competition, to the extent practicable, and that result in the highest possible return.

## **Financial Management**

Pursuant to the Disaster Relief Appropriations Act, 2013 (Public Law 113-2) GOSR maintains and has in place proficient financial controls. As the grantee, the MCD ensures that GOSR, as well as those administering CDBG-DR disaster recovery resources; continuously demonstrate conformity to financial management requirements as required by the Department at 78 FR 14329 (published March 5, 2013). These requirements include, but are not limited to, areas covering: Financial Management; Advances; Internal Controls; Accuracy of Report Information; Program Income; Salaries and Wages; Indirect Costs; Lump Sum Drawdowns; and OMB Circular A-133. GOSR's financial management system will be consistent with and in compliance with 24 CFR Parts 84, 85, and 570 (as applicable), which ensures that GOSR funds are managed with high levels of accountability and transparency.

The MCD ensures that GOSR's Financial Management practices adhere to the following:

1. Internal controls are in place and adequate;
2. Documentation is available to support accounting record entries;
3. Financial reports and statements are complete, current and reviewed periodically; and
4. Audits are conducted in a timely manner and in accordance with applicable standards.

## **Procurement Policy**

GOSR has established and adopted a procurement policy. With a procurement policy in place, the Monitoring and Compliance Department (MCD) reviews the policy (as amended) to ensure it meets state and federal requirements, and ensures that GOSR adheres to its established policies.

## **Record Keeping, Retention and File Management**

In accordance with HUD regulations, GOSR as a grantee and recipient of CDBG-DR funds follow the records retention as cited in 24 CFR 84.53, which includes financial records, supporting documents, statistical records and all other pertinent records are maintained for five years. GOSR established record keeping and retention requirements in its subrecipient and contractor agreements in accordance with the guidelines established in 24 CFR 570.503(b)(2). For all subrecipients, their retention of records shall be kept in accordance with 24 CFR 85.42, as modified by 24 CFR 570.502(a)(16), which requires for records to be maintained at least for a period of four years following the close out of all activities associated with each particular program.

Every subrecipient and contractor is required to establish and maintain at least three major categories of records: Administrative, Financial, and Project Case files.

**Administrative records:** These are files and records that apply to the overall administration of the subrecipient's CDBG-DR activities. They include the following:

- a. Personnel files;
- b. Property management files;
- c. General program files: Files relating to the subgrantee, subrecipient's, or contractor's application to the grantee, the subrecipient Agreement, program policies and guidelines, correspondence with grantee and reports, etc.; and,
- d. Legal files: Articles of incorporation, bylaws of the organization, tax status, board minutes, contracts and other agreements.

**Financial records:** These include the chart of accounts, a manual on accounting procedures, accounting journals and ledgers, source documentation (purchase orders, invoices, canceled checks, etc.), procurement files, bank account records, financial reports, audit files, etc.

**Project/case files:** These files document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.

## Reporting

As a recipient of CDBG-DR funds, GOSR established reporting requirements for all subrecipients and contractors in their respective subrecipient and contractor agreements and contracts in accordance with 24 CFR 570.503(b)(2). GOSR established its own reporting requirements in accordance with the provisions as found in 24 CFR 85.40(a) and (e) and 85.41(c) and (d) for Units of General Local Government (UGLGs) or 24 CFR 84.51(a) for non-profit subrecipients reporting requirements.

Generally speaking, GOSR monitors reporting requirements at five different program intervals:

1. At execution of agreements;
2. Monthly;
3. Quarterly;
4. Annually; and
5. As required.

Subrecipients and contractors submit the documents and reports to the State at the times indicated in the subrecipient and grant and/or contract agreement, and in the format prescribed by GOSR staff. Deviations from this requirement must be approved by GOSR staff.

## Record Retention

Record retention is a requirement of the Program. Records are maintained to document compliance with Program requirements and federal, State, and local regulations and to facilitate an audit review by HUD. Records are maintained in accordance with 24 CFR 570.3, which states

they must be maintained for a period of 5 years following the closeout 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.

### **Access to Records**

24 CFR 570.49 Recordkeeping requirements:

*“(c) Access to records.*

*(1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.*

*(2) The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.”*

The availability of records is subject to the exemptions to public disclosure set forth in section 87(2) of the New York State Public Officers Law. All Freedom of Information Law (FOIL) requests under the Public Officers Law must be made in writing to the Records Access Officer and will be processed in accordance with the procedures set forth therein.

### **Audit Trail**

All records defined by the organization as important are captured into GOSR’s recordkeeping systems (e.g., SharePoint, Intelligrants, Tribuo, Elation, Imarc, GSP, etc. 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.

Within the NY Rising Community Reconstruction Program and the NY Rising Infrastructure Program, GOSR Subrecipient Portal (GSP) will serve as GOSR's management information and model file system. GSP contains both grantee and project level files, providing immediate tracking and imaging of Program documentation, including but not limited to, project selection, development and implementation activities, subrecipient agreements and other agreements, financial management and citizen participation data. Ensuring data security and oversight to creating a clear audit trail of the Programs.

All applicant data is 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 are in place. For example, hardware and software data security protocols such as the requirement for signed non-disclosure agreements prior to receipt of access credentials for Intelligrants. GOSR also requires that hard copy files containing non-public personal information are kept in locked file cabinets to ensure their physical security.

## **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 that are receiving CDBG-DR funds.

The conflict of interest regulations contained in the contract between the subrecipient and the HCR prohibit local elected officials, HCR staff, subrecipient 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 requires all Program staff to disclose any relationship with an Applicant or contractor. State program staff, sub-grantees, program administrators, and contractors who disclose such relationships are placed in roles where there is no opportunity for them to display favoritism or collude in order to financially or otherwise benefit themselves, the Applicant, the 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).

GOSR may consider granting an exception to the conflict of interest provisions per 24 CFR 570.489(h)(4) if GOSR has determined that the subrecipient 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 subrecipient has complied with the requirements listed in 24 CFR 570.489(h)(4)(i) and (ii). GOSR considers whether the exception are 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 results 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 Applicants 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 an Applicant to those with official Power of Attorney for the Applicant or for whom the Applicant 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.

## 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 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 notifies the State of all potential DOBs;
- Verification of specific DOBs through various available sources; and,
- Enforcement of certification to the fullest extent of the law.

## Recapture Policy

The New York State Housing Trust Fund Corporation (HTFC) under the Division of Homes and Community Renewal (HCR) through GOSR is responsible for ensuring that 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.

To monitor operations and to guard against fraud or unintentional violations of program requirements, GOSR has established quality control procedures. If a program violation is identified, the State recaptures 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.

## **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 application 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; and/or
7. Searches for New York State child support warrants (for relevant application types).

### **Review of AFWA Check Findings**

After AFWA checks are completed, findings are delivered to Customer Representatives who receives reports notifying them of any flags that were identified. In their review of AFWA check findings, Customer Representatives examines 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.

### **Adjudication and Escalation of AFWA Findings**

Using relevant federal and State policy and procedure guidelines, Customer Representative/Business Advisor determines:

- 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 is not 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.

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## Exhibit 2 – Citizen Participation Plan

**State of New York**  
**Citizen Participation Plan**  
**Community Development Block Grant Disaster Recovery**  
**Hurricane Irene, Tropical Storm Lee, & Superstorm Sandy**  
January 5, 2015

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The primary goal of the New York Citizen Participation Plan is to provide all New York citizens with an opportunity to participate in the planning, implementation, and assessment of the State's CDBG-DR Sandy recovery program(s). The Plan sets forth policies and procedures for citizen participation, which are designed to maximize the opportunity for citizen involvement in the community redevelopment process. New York State developed the Citizen Participation Plan to meet the requirements of the CDBG Disaster Recovery (CDBG-DR) funding for Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. The Plan reflects the alternative requirements as specified by the U.S. Department of Housing and Urban Development (HUD) in the Federal Register (FR-5696-N-01), Federal Register (FR-5696-N-06), Federal Register (FR-5696-N-11), and notice of specific waivers.

The State will ensure that any Units of General Local Government (UGLG) or sub-recipients who receive funds will have a Citizen Participation Plan that meets the CDBG-DR regulations and takes into consideration the waivers and alternatives made available under CDBG-DR funding.

In order to facilitate citizen participation requirements and to maximize citizen interaction in the development of the New York Disaster Recovery Action Plan, substantial amendments to the Action Plan, and the Quarterly Performance Reports (QPR), the State has laid out targeted actions to encourage participation and allow equal access to information about programs by all citizens, including those of low and moderate income, persons with disabilities, the elderly population, persons receiving Disaster Housing Assistance Program (DHAP) funding, and persons with limited English proficiency.

### **Public Outreach**

GOSR is committed to ensuring that all populations impacted by the storms are aware of the programs available to assist in the recovery from Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy. Through in person meetings, outreach events, online and traditional media, GOSR has publicized programs and conducted outreach efforts throughout the storm impacted areas. In addition, the Governor initiated the NYRCR Program, a grass-roots community driven process that engages the public as a key stakeholder in the planning and rebuilding process. Through 61 cross-jurisdictional Planning Committees representing 119 communities, the

NYRCR stakeholders helped to inform their communities about the available recovery programs as they came online.

## **Programmatic Outreach**

Through the NYRCR Program, there have been over 650 Planning Committee Meetings to construct a vision statement; to conduct an inventory of critical assets and an assessment of risks; and then ultimately to craft the strategies, and proposed projects or actions to address these risks. All meetings were open to the public and were publicized by media advisories, flyers, and posters hung in public buildings; radio announcements; and through social media. Where necessary, meetings were advertised in various languages to ensure the immigrant population was informed. Translators were also present at meetings so that information was clearly understood. For the hearing impaired, sign language interpreters were also available.

More than 250 Public Engagement Events attracted thousands of community members, who provided feedback on the NYRCR planning process and proposals and made additional suggestions. Planning Committees members were instrumental in representing communities that are traditionally underrepresented in disaster recovery, from engaging immigrant populations to working with high school students. Committee members made presentations at senior housing complexes, religious gatherings, schools, and at Chambers of Commerce.

For the Small Business program, GOSR worked in coordination with the Empire State Development Corporation (ESD) as well as its sub-recipient, the Small Business Development Center (SBDC) to create a multi-pronged approach to reach out to more than 3,000 businesses in the impacted communities has included paid advertising, door-to-door visits, press releases and other public relations efforts, and collaboration with various constituents and community organizations.

For the NY Rising Homeowner Program, early on the State partnered with the Long Island Housing Partners to target community outreach including but not limited to, persons with disabilities and other special needs, and senior households, with a focus on low- and moderate-income minority communities; outreach to and coordination with civic associations, religious and advocacy groups (racial equity), social service agencies, emergency aid not-for profits, educational institutions, and outreach to residences impacted by the disaster.

The State's vendors on the project also held numerous meetings to inform the public about the availability of grants for home repairs. This outreach consisted of a variety of methods: media announcements, online updates on the Storm Recovery website and through Storm Recovery profiles on social media platforms including Facebook, Twitter, and Instagram, community meetings, and partnerships with sub-recipients. Additionally, staff frequently made presentations to community groups, specifically in Long Island, to provide updated program information. A similar effort has been conducted in counties in upstate New York to make sure that all impacted homeowners have the most up to date information about the program. In addition, frequent

technical assistance meetings were held with applicants to assist homeowners in better understanding the program and completing the rebuilding process successfully.

Further the State also engaged the Welfare Council of Long Island/Long Island Long-Term Recovery Group (LTRG) to conduct targeted outreach to low and moderate income individuals that were affected by the Superstorm Sandy, in order to encourage these individuals to apply to the NY Rising Housing Recovery Assistance Program before the April 11, 2014 deadline.

For its rental programs, the State will continue to conduct outreach to potential landlords throughout the impacted areas that may be eligible for the program. As part of its implementation, the State will also conduct outreach to previous tenants of the damaged rental units to make them aware of potential repaired and newly built units as they are completed.

### **Outreach to Vulnerable Populations**

The State has also conducted outreach to residents with more acute needs, particularly low and moderate income household and households headed by non-English speaking persons. As noted above, within the NYRCR program, where necessary, meetings were advertised in various languages to ensure the immigrant population was informed. Translators were also present at meetings so that information was clearly understood. For the hearing impaired, sign language interpreters were also available.

As the State continues to implement programs and work with communities to recover from Hurricane Irene, Tropical Storm Lee and Superstorm Sandy, GOSR is committed to continued outreach and program accessibility to vulnerable populations and ensuring that program information is accessible to populations with language barriers. For example, the APA is translated into Spanish, Russian and Chinese, which are the three languages most needed for persons with language barriers in impacted counties (based on the 2008-2012 ACS 5-Year Estimates, Table B16001, Populations 5 Years and Over Who Speak English less than “very well”).

Currently documents are translated into the three above-mentioned languages. The State will continue to translate programmatic materials within its programs. The State will also continue to provide translation services as needed in case management and public meetings.

The State is in the process of upgrading its entire website. In the interim, prior to deployment of the revised website, the State continues to update its current website to enable language access capabilities. In addition, as it rolls out the revised website, the State will prioritize language translation functionality as one of the first phases of the development process. The State will also provide translation of any document into additional languages, braille, or any other formats for persons with visual impairments upon request.

The State continues to further these efforts to reach out to all populations and ensure that the community is educated and aware of all of the recovery programs. As programs adjust and move into new phases, the State will continue to adjust their public outreach to ensure comprehensive outreach to all populations.

## **Public Notices, Public Hearings, and Comment Period**

The State Citizen Participation Plan will ensure that there is reasonable and timely access for public notice and comment on the activities proposed for the use of CDBG-DR grant funds. In the Notices for the Second and Third Allocation HUD revised the requirements for public hearings. The State will always hold a minimum of one public hearing for each substantial amendment which started with APA6. Written minutes of the hearings and attendance rosters will be kept for review by State officials. The State will continue to coordinate outreach meetings with State entities, local governments, non-profits, private sector, and involved associations. The State invited public comment to the New York Disaster Recovery Action Plan and will continue to invite public comment for any future Substantial Amendments for a minimum thirty days, posted prominently and accessed on GOSR's official website.

## **Substantial Amendments to the Action Plan**

The State has defined Substantial Amendments to the Action Plan as those proposed changes that require the following decisions:

- Addition or deletion of any allowable activity described in the approved application;
- The allocation or re-allocation of more than \$1 million; and,
- Change in the planned beneficiaries.

Those amendments which meet the definition of a Substantial Amendment are subject to public notification, public hearings and public comment procedures. Citizens and units of local government will be provided with reasonable notice and an opportunity to comment on proposed Substantial Amendments to the Action Plan. A notice and copy of the proposed Substantial Amendment will be posted on the agency's official website. Citizens will be provided with no less than thirty days to review and comment on the proposed amendment. Written comments may be submitted to:

Governor's Office of Storm Recovery  
64 Beaver Street  
P.O. Box 230  
New York, New York 10004

Comments may also be made at [www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov). A summary of all comments received and reasons why any comments were not incorporated into the Substantial Amendment will be included in the HUD request for a Substantial Amendment and posted to GOSR's official website.

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

## **Performance Reports**

The State must submit a Quarterly Performance Report through HUD's Disaster Recovery Grant Reporting (DRGR) system no later than thirty (30) days following the end of each calendar quarter. Within three (3) days of submission to HUD, each QPR must be posted on GOSR's

official website for public review and comment. The State's first QPR is due after the first full calendar quarter after the grant award. QPR's will be posted on a quarterly basis until all funds have been expended and all expenditures have been reported.

Each QPR will include information about the uses of funds in activities identified in the Action Plan as entered in the DRGR reporting system. This includes, but is not limited to: project name, activity, location, and National Objective; funds budgeted, obligated, drawn down, and expended; the funding source and total amount of any non-CDBG-DR funds to be expended on each activity; beginning and actual completion dates of completed activities; achieved performance outcomes such as number of housing units complete or number of low and moderate income persons benefiting; and the race and ethnicity of persons assisted under direct-benefit activities. The State must also record the amount of funding expended for each Contractor identified in the Action Plan. Efforts made by the State to affirmatively further fair housing will also be included in the QPR.

During the term of the grant, the grantee will provide citizens, affected local governments, and other interested parties with reasonable and timely access to information and records relating to the approved program and to the grantee's use of grant funds as well as contracts procured with CDBG-DR funding. This information shall be posted on the grantee's official website and provided on request.

### **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.

### **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 DR funds from the State are as follows:

Each applicant shall provide citizens with adequate opportunity to participate in the planning, implementation, and assessment of the CDBG program. The applicant shall provide adequate information to citizens, obtain views and proposals of citizens, and provide opportunity to comment on the applicant's previous community development performance.

UGLGs receiving CDBG-DR funds must have a written and adopted Citizen Participation Plan which:

- Provides for and encourages citizen participation, with particular emphasis on participation by persons of low- and moderate- income who are residents of slum and blighted areas and of areas in which funds are proposed to be used;

- Provides citizens with reasonable and timely access to local meetings, information, and records relating to the State's proposed method of distribution, as required by regulations of the Secretary, and relating to the actual use of funds under Title I of the Housing and Community Development Act of 1974, as amended, and the unit of local government's proposed and actual use of CDBG funds;
- Provides for technical assistance to groups representative of persons of low- and moderate- income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;
- Provides for the review of proposed activities and program performance by potential or actual beneficiaries, and with accommodations for the disabled;
- Provides for a timely written answer to written complaints and grievances, within 15 working days where practicable;
- Identifies how the needs of non-English speaking residents will be met where a significant number of non-English speaking residents can be reasonably expected to be involved;
- Establishes procedures and policies to ensure non-discrimination, based on disabilities, in programs, and activities receiving Federal financial assistance as required by Section 504 of the Rehabilitation Act of 1973, as amended.

The plan must be made available to the public and must include procedures that meet the following requirements:

- *Performance Hearings:* Prior to close out of the disaster recovery program, the Program, the UGLG and State sub-recipients may be required to hold a public hearing to obtain citizen views and to respond to questions relative to the performance of the program. This hearing shall be held after adequate notice, at times and locations convenient to actual beneficiaries and with accommodations for the disabled and non-English speaking persons provided. Written minutes of the hearings and attendance rosters will be kept for review by State officials. Nothing in these requirements shall be construed to restrict the responsibility and authority of the applicant for the development of the application.
- *Complaint Procedures:* The State will ensure that each UGLG, or Sub-recipient funded with CDBG-DR funds will have written citizen and administrative complaint procedures. The written Citizen Participation Plan shall provide citizens with information relative to these procedures or, at a minimum, provide citizens with the information relative to the location and hours at which they may obtain a copy of these written procedures. All written citizen complaints which identify deficiencies relative to the UGLG, Sub-recipient's community development program will merit careful and prompt consideration. All good faith attempts will be made to satisfactorily resolve the complaints at the local level. Complaints will be filed with the Executive director or chief elected official of the entity who is receiving the funds and who will investigate and review the complaint. A written response from the Chief Elected Official, Agency Head, or Executive Director to the complainant will be made within 15 working days, where practicable. A copy of the complaint and determination must be sent to GOSR's head of Monitoring and Compliance.

## Exhibit 3 – Closeout Document List

No	Closeout Review	Document
1	<b>Government Issued ID</b>	At least one of the following documents <ul style="list-style-type: none"> <li>▪ Passport</li> <li>▪ Driver's license</li> <li>▪ Other government issued PHOTO ID</li> </ul>
2	<b>Application signature</b>	<ul style="list-style-type: none"> <li>▪ At least one Applicant who is on the deed should have a signed application e-signed and/or paper signed</li> </ul>
3	<b>Intake Documents</b>	Signed by Applicant and co-Applicant <ul style="list-style-type: none"> <li>▪ Program Eligibility Certification</li> <li>▪ Consent and Release</li> <li>▪ Insurance Certification</li> <li>▪ Income Certification</li> </ul>
4	<b>Income Verification Form</b>	<ul style="list-style-type: none"> <li>▪ Income verification form and supporting income documentation (if applicable)</li> </ul>
5	<b>Citizenship Documentation</b>	One Applicant who is also on the deed should have at least one of the following documents <ul style="list-style-type: none"> <li>▪ Passport</li> <li>▪ Birth Certificate</li> <li>▪ FEMA assistance summary/ FEMA match memo</li> <li>▪ DMV Match (review completed at pre-disbursement phase)</li> <li>▪ SBA Match</li> </ul>
6	<b>Primary Residency</b>	<p>One Applicant who is also a deed owner should have at least one of the following:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> FEMA Individual Assistance (IA), a copy of FEMA's letter showing payment OR FEMA match</li> <li><input type="checkbox"/> Proof of School Tax Relief (STAR) exemption</li> <li><input type="checkbox"/> Federal income taxes return showing Home Address as the damaged property address.</li> <li><input type="checkbox"/> NY State income tax return, showing Permanent Home Address as the damaged property OR DTF Match</li> <li><input type="checkbox"/> 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.</li> </ul> <p><u>Or</u> a combination of two of the following?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Another insurance document to show evidence of primary residency (doc should specify explicitly that address is primary residence)</li> <li><input type="checkbox"/> DMV match memo from GOSR</li> <li><input type="checkbox"/> 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. And 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</li> </ul>

		months immediately preceding the time of the incident in which the damage occurred, and were mailed to the damaged property address.
7	<b>Title</b>	<input type="checkbox"/> Deed <input type="checkbox"/> Title report <input type="checkbox"/> Review of power of attorney (if applicable) <input type="checkbox"/> Trust/Executor Affidavit
8	<b>AA/ECR</b>	<input type="checkbox"/> Allowable Activities (AA) report <input type="checkbox"/> Estimated Costs of Repair (ECR) report (if applicable)
9	<b>Elevation Estimate Report</b>	<input type="checkbox"/> If Property is in the 100 year floodplain an elevation estimate report is necessary
10	<b>Award Letter and Calc. Table</b>	<input type="checkbox"/> Award letter
11	<b>GA and GA Amendment</b>	<input type="checkbox"/> Signed Grant Agreement (GA) if Applicant received funds
12	<b>Name and License number for Contractor OR Designer</b>	<input type="checkbox"/> Contractor or Designer information is provided for purposes of debarment check (if applicable).
13	<b>Tier 2 Document</b>	<input type="checkbox"/> Signed Tier II
14	<b>Proof of Current Flood Insurance</b>	<input type="checkbox"/> If Tier II designation is in the 100-year flood plain, proof of current flood insurance policy is necessary.
15	<b>Substantial Damage Evidence</b>	<input type="checkbox"/> If the Property is substantially damaged (50% or more) there should be a substantial damage letter from a municipality with the correct damaged property address.
16	<b>Optional Measures opt-in and opt-out form</b>	<input type="checkbox"/> Applicants should have received a notification for optional measures.
17	<b>Pre and Post Construction Elevation Certificate</b>	<p>One of the following documents should be in file for Properties in the floodplain, which were substantially damaged</p> <input type="checkbox"/> Pre- and post-elevation certificates should have at least two photos of the elevation work completed if the final site visit or AA doesn't have photos of the elevated home. <input type="checkbox"/> Elevation survey can be used in lieu of a pre-elevation certificate.
18	<b>Certificate of Occupancy</b>	<p>One of the following documents may be collected as applicable</p> <input type="checkbox"/> Certificate of Occupancy (COO) <input type="checkbox"/> Certificate of Completion (COC) <input type="checkbox"/> AHJ letter on the municipality letterhead and signed off by the municipal building department is mandatory. <input type="checkbox"/> Substantial damage/improvement assessment memo
19	<b>Environmental Clearance</b>	<input type="checkbox"/> Lead clearance (if applicable pre-1978) <input type="checkbox"/> Asbestos clearance <input type="checkbox"/> Radon clearance [only for upstate]
20	<b>Addendum for Two Family Home Owners</b>	<p>If Property has a rental unit</p> <input type="checkbox"/> URA questionnaire <p>If Applicant confirms having a tenant</p> <input type="checkbox"/> URA General Information Notice

21	<b>Final Site Visit Report - REPAIR</b>	<input type="checkbox"/> If application is repair and/or reconstruction/repair, there should be a Final Site Visit Report. (If applicable)
22	<b>Final Site Visit Photos - REPAIR</b>	<input type="checkbox"/> Applicants with a repair component in their award should have interior and exterior photos in the Final Site Visit report. Reconstruction properties only need Exterior Photos
23	<b>Applicant request for final site visit form - REPAIR</b>	Only applicable if there is a repair component in the award. <input type="checkbox"/> Confirm the form has the correct Applicant's name(s) and damaged property address, is signed and completed and contractor/designer name provided.
24	<b>Final signed completion checklist and certification REPAIR</b>	<input type="checkbox"/> Signed by the Applicant or contractor/designer. Only applicable if there is a repair component in the award.
25	<b>Extraordinary Site Conditions Certification</b>	<input type="checkbox"/> The Extraordinary Site Conditions certification (only applicable to reconstruction Applicants)
26	<b>Clarification completeness review</b>	<input type="checkbox"/> Sign Clarification Determination Form or administratively canceled Clarification (if applicable).
27	<b>Applicant withdrawal documentation</b>	<input type="checkbox"/> Withdrawn Letter (if applicable)