



NY Rising Buyout and Acquisition Program POLICY MANUAL

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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 or to contact the info@stormrecovery.ny.gov to ensure that you have the latest version of GOSR's policies. There may be times, however, when a policy will change before the manual can be revised.

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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 developed the NY Rising Buyout and Acquisition Program (the Program), along with several other disaster recovery initiatives as outlined in the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan). The NY Rising Buyout and Acquisition Program is designed to help New Yorkers whose homes were damaged by Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee.

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

1.2 NY Rising Buyout and Acquisition Program

The NY Rising Buyout and Acquisition Program consists of two separate components: (1) the Buyout component (“Buyouts”), which includes the voluntary purchase of eligible properties within designated Enhanced Buyout Areas and (2) the Acquisition component (“Acquisitions”), which includes the voluntary acquisition of eligible properties that sustained substantial damage.

1.3 Oversight of Storm Recovery

Governor Cuomo established the Governor’s Office of Storm Recovery (GOSR), a division of the Housing Trust Fund Corporation in June 2013 to maximize the coordination of recovery and rebuilding efforts in storm-affected municipalities throughout New York State. GOSR operates within the New York State Housing Trust Fund Corporation (HTFC). HTFC is a component of New York State Homes and Community Renewal (HCR), a unified leadership platform, encompassing a variety of New York State agencies and public benefit corporations involved in the provision of housing and community renewal. GOSR was formed to direct the administration of federal Community Development Block Grant-Disaster Recovery funds.

GOSR works in close collaboration with local leaders to respond to communities’ most urgent rebuilding needs while identifying long-term and innovative solutions to strengthen the State’s infrastructure and critical systems. GOSR also administers a variety of programs related to repair and reconstruction of homes, economic development, and community reconstruction following the devastating impact of Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee.

1.4 Program Manual Overview

This manual is designed to outline the major program policies that the State and its agents use to direct the operation of the NY Rising Buyout and Acquisition Program. This manual is intended to serve as a resource for New York State residents and other parties interested in details of how the different programs are operated, including basic information on who is served by the Program, the types of assistance offered, and program recipient obligations. The manual serves as a general reference guide for administrative staff and other interested parties, including Property Owner recipients, contractors, units of general local government (city and county governments) that are engaged as “sub-grantees” to deliver assistance through the Program, and any non-profit organizations that are involved as “sub-recipients” or consultants.

As outlined in the State’s Action Plan, this manual establishes the Buyout component procedures and Acquisition component procedures GOSR follows to respond to the needs of Owners who are burdened by economic limitations or other hardship conditions; guard against fraud, waste, and abuse; and deliver Program assistance fairly and equitably to eligible Property Owners.

The manual is NOT intended to be a full compilation of all internal program procedures that must be put in place before the State and its agents can ensure the effective implementation of the policies contained in this manual. For every program policy that is established and set forth in this manual, the Program has established a comprehensive set of procedures to ensure that policies are implemented in a manner that is efficient and effective, and guard against fraud and abuse. These written procedures are in a corresponding procedures manual. This NY Rising Buyout and Acquisition Program Policy Manual and manuals for other programs are available for public review <http://www.stormrecovery.ny.gov>.

1.5 Meeting CDBG-DR Program Goals and National Objectives

As expressed in the Federal Housing and Community Development Act, the primary objective of the CDBG program is “the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income (LMI). However, in recognition of the special circumstances that exist in disaster recovery situations and the widespread needs that occur across income groups, the requirement that activities “principally” benefit LMI persons is adjusted from the standard 70% LMI targeting rule to a 50% LMI targeting rule for CDBG-DR funds. CDBG-DR funds must not only contribute to the development of viable communities, they must be targeted to those areas most impacted by the disaster or disasters. For New York State, a minimum of 80% of the funds awarded must be spent in Nassau, Suffolk, Rockland, and Westchester Counties. In support of the U.S. Department of Housing and Urban Development’s (HUD) recovery objective, New York State has specifically designed its programs to help impacted residents and communities recover from damage inflicted by storms of 2011 and 2012.

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

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

As described in the GOSR’s policies, most activities funded through the NY Rising Buyout and Acquisition Program will meet either LMI or Urgent Need National Objectives. Where a national objective is not met on the disposition of certain properties, the disposition will generate Program Income redirected to the State for eligible activities.

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

In addition to the direct benefits for the impacted households, the NY Rising Buyout and Acquisition Program is expected to encourage investment in communities by ensuring that properties are not just rebuilt but also become safer—especially for those areas where there is a high risk of future flooding; revitalizing the vibrancy of New York State’s disaster-impacted communities and enhancing the quality of life; and helping communities develop and implement strategies that facilitate the coordination of the NY Rising Buyout and Acquisition Program funding with other federal, State, and local community development resources.

The NY Rising Buyout and Acquisition Program and the other activities outlined in the Action Plan are based on the foundation of six key principles:

- 1) ***Building back better and smarter*** – As New Yorkers work to repair the severe damage caused by Superstorm Sandy, the State uses the opportunity to ensure that damaged buildings are not simply restored to their pre-storm condition or replaced with the same kind of structures. Instead, New York State invests in additional mitigation measures to prevent similar damage from occurring in the future.
- 2) ***State-led, community-driven recovery*** – New York State is collaborating closely with local governments and other organizations to ensure a coordinated and holistic response, while looking to individual communities to develop forward-looking local recovery plans that meet their specific needs.
- 3) ***Recovery from Irene and Lee*** – The recovery efforts also extend to those communities still recovering from Hurricane Irene and Tropical Storm Lee.
- 4) ***Leveraging private dollars*** – New York State undertakes programs that help unlock capital markets and increase the amount of low-interest financing of key projects by reducing the risk for private sector lenders.
- 5) ***Spending accountability and transparency*** – New York State implements rigorous controls and checks to ensure funds are spent responsibly and in compliance with federal and State guidelines.
- 6) ***Urgency in action*** – The recovery is a long-term endeavor, but people need immediate help. The projects and programs presented in the Action Plan are shaped to achieve the fastest delivery and best support possible.

1.7 Outreach, Communication Plan, and Citizen Participation Plan

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

- **Online:** Promotion of recovery resources and the State Action Plan are available on the Governor’s Office of Storm Recovery website at <http://stormrecovery.ny.gov>, and a link to the online application for assistance for Property Owners is available at <https://buyout.nyshcr.org>.
- **By Mail:** Program invitation letters are sent out by First Class Certified Mail – Return Receipt Requested to Property Owners in specific areas within impacted regions designated by county and local governments as being high risk for future storm damage.
- **In Person:** Availability of trained Program representatives to assist potentially eligible Property Owners with the completion and submission of an application at Intake Centers in impacted regions of Richmond and Suffolk counties; information on locations and hours of these centers is available at <http://stormrecovery.ny.gov>.
- **By Phone:**
 - Outbound phone calls by Program representatives to impacted residents and potentially eligible Property Owners, including those who have registered with the

- State expressing an interest in receiving assistance after one of the storms.
- Access to a State-supported disaster recovery hotline, **1-855-NYS-SANDY**, and dedicated Intake Centers, which provides trained representatives who can answer questions about the programs, guide Property Owners through the application process, and provide updates on the status of applications.
 - **By Events:** Leaders of locally created committees involved in disaster recovery efforts in the impacted regions may informally share information about the Program at community meetings and other community-based events.

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

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

The State may use currently available web-based resources, such as news releases made available on the Governor's Office of Storm Recovery website at <http://stormrecovery.ny.gov> or its social networking media, to provide information about the Program's progress. Other electronic resources, such as e-mail, may be used to provide timely communications and notifications to affected Property Owners as needed.

Program-related fact sheets are readily available for distribution by the State and its Program partners to public officials, municipalities, relevant non-profit organizations, and others as necessary or upon request.

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

1.7.1 Citizen Participation Plan

The New York State Citizen Participation Plan provides all New York citizens with an opportunity to participate in the planning, implementation, and assessment of the State's CDBG-DR Sandy, Irene, and Lee recovery Program(s). The Plan sets forth policies and procedures for citizen participation, in accordance to federal regulations, which are designed to maximize the opportunity for citizen involvement in the community development process. The State has attempted to provide all citizens with the opportunity to participate, with emphasis on low- and

moderate- income individuals, individuals with limited English proficiency, individuals requiring special accommodations due to disabilities, and individuals in CDBG-DR targeted communities.

The State's Citizen Participation Plan ensures that there is reasonable and timely access for public notice, appraisal, examination, and comment on the activities proposed for the use of CDBG-DR grant funds. In following HUD's guidance in the November 2013 Federal Register, substantial Action Plan Amendments now includes a thirty-day public comment process with at least one public hearing. The State has and will continue to coordinate outreach meetings with State entities, local governments, non-profits, private sector and involved associations. The State also invites public comments to the Action Plan and Substantial Amendments for the duration required by HUD. They are posted prominently and accessed on the GOSR official website. The State uses means such as press releases, posting notices on the New York State Governor's website and/or GOSR's website, to maximize access of program information to the impacted citizens and businesses.

The New York Citizen Participation Plan for CDBG-DR Sandy, Irene, and Lee Recovery is attached as Exhibit 1 to this Policy Manual.

2.0 Summary of NY Rising Buyout and Acquisition Program Activities

The NY Rising Buyout and Acquisition Program consists of two distinct components: the Buyout component and the Acquisition component. Both are facilitated by the Office of Acquisitions and Buyouts. An overview of each program is provided below.

The Office of Acquisitions and Buyouts implements the shared HUD and GOSR policy of providing assistance to community members, primarily LMI, owner-occupant households and to others who are eligible based on property location and urgent need. The majority of the properties that are assisted through the NY Rising Buyout and Acquisition Program are single family owner-occupied homes. However, two-unit homes in which the owner occupies one unit and a tenant occupies the other and certain rental properties, to the extent those properties are not considered “Second Homes” as defined by the Federal Register Vol. 78, No. 43, may also be eligible to receive assistance.

The process of purchasing properties consists of several steps including application, intake, eligibility determination, a Duplication of Benefits (DOB) process, the Verification of Benefits (VOB) process, finalization of award, closing, payment, relocation, and appeal.

2.1 NY Rising Buyout Component

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

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

Selection Criteria:

- Areas have a history of flooding and/or damage caused by extreme weather events.
- Areas have multiple contiguous parcels in the floodplain that evidence similar damage and where Property Owners collectively voiced interest in relocation from the floodplain.

- This interest must be documented in some way that allows the State to identify the individual parcels, and perform an analysis of the number and location of the parcels.
- The State and the areas respective municipal officials (local/county) have a mutual understanding of the benefit of permanently removing residents/homes from the floodplain permanently, and converting the site to a coastal buffer zone.

Under the Buyout component, the State purchases properties inside of the Enhanced Buyout Areas as “Buyouts,” as defined by the State and HUD. The State offers eligible Property Owners 100% of the Buyout property’s pre-storm fair market value (FMV). When available, the State provides incentives to Property Owners in Enhanced Buyout Areas ranging from 5% to 15% in addition to the pre-storm FMV. The purpose of the incentive is to encourage maximum participation by Property Owners, and remove as many properties as possible from high risk areas.

Assistance under the Buyout component is reduced by any duplication of benefits after accounting for all federal, State, local and/or private sources of disaster-related assistance, including, but not limited to, homeowners and/or flood insurance proceeds.

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

Reconstruction may NOT occur on properties in Enhanced Buyout Areas; properties in such Areas are maintained as coastal buffer zones or other non-residential/commercial uses, and may also include acquisition of vacant or undeveloped land in these targeted areas.

2.2 NY Rising Acquisition Component

Substantially damaged properties located inside the 100-year and/or 500-year floodplain may be eligible under the Acquisition component. A Property is considered to be “Substantially Damaged” if it has been issued a Substantial Damage Letter by the appropriate local authorized official or flood plain manager, indicating that the Property sustained damages that equal or exceed 50 percent of its pre storm FMV. Under this Program, purchase offers begin at the post-storm FMV of the property; the State also provides eligible Property Owners resettlement incentives, as applicable. Assistance under the Acquisition component is reduced by any duplication of benefits after accounting for all federal, State, local and/or private sources of disaster-related assistance, including, but not limited to, homeowners and/or flood insurance proceeds.

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

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

- Dwelling that is Substantially Damaged and is in the 100 year and/or 500 year Floodplain;
- Dwelling is in the Floodway; and/or
- Applicant is FEMA non-compliant and Substantially Damaged.

Please note that FEMA non-compliant applicants are not eligible to receive payment in excess of the post-storm FMV.

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

Properties purchased as Acquisitions are eligible for redevelopment in the future in a resilient manner to protect future occupants of this property. The post-purchase disposition of most acquired properties is determined by the State in consultation with local officials to ensure that the properties best serve the future goals of the community. For more details please see the NY Rising Buyout and Acquisition Program Disposition Plan in Exhibit 3. In some cases, the properties remain undeveloped and are transformed into parks or other non-residential uses, while in most cases they are redeveloped in a resilient manner.

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3.0 NY Rising Buyout and Acquisition Process

Phase	Key Steps
Phase 1: Application Submission and DOB Meeting	<input type="checkbox"/> Application Submission <input type="checkbox"/> Threshold Eligibility Determination <input type="checkbox"/> Completeness Review <input type="checkbox"/> Duplication of Benefits (DOB) Meeting <input type="checkbox"/> Obtain Appraisal
Phase 2: Environmental Assessments and Appraisal	<input type="checkbox"/> Phase I Environmental Site Assessment (ESA) <input type="checkbox"/> Phase II Investigation (if applicable) <input type="checkbox"/> Fair Market Value (FMV) Appraisal <input type="checkbox"/> Conditional Offer
Phase 3: Verification of Benefits (VOB) Review	<input type="checkbox"/> Property Eligibility Verification <input type="checkbox"/> Application and Owner Eligibility Verification <input type="checkbox"/> AFWA Verification <input type="checkbox"/> Receipt Review <input type="checkbox"/> Third Party Review <input type="checkbox"/> Award Calculation
Phase 4: Offer and Contract Execution	<input type="checkbox"/> Award Offer <input type="checkbox"/> Appraisal Appeals <input type="checkbox"/> Offer Revisions <input type="checkbox"/> Offer Meeting <input type="checkbox"/> State Contract Execution <input type="checkbox"/> Title Clearance
Phase 5: Relocation (if applicable)	<input type="checkbox"/> Tenant Relocation <input type="checkbox"/> Tenant Appeal
Phase 6: Closing	<input type="checkbox"/> Personal Property Inspection <input type="checkbox"/> Closing <input type="checkbox"/> Deed Restriction <input type="checkbox"/> Deed Recordation
Phase 7: Demolition and Remediation	<input type="checkbox"/> Property Management and Security <input type="checkbox"/> Pre-Demolition: Obtain permits, utilities Shut Offs, Reviews & Inspections <input type="checkbox"/> Demolition: Abatements, Permits, Demolition, and Load Documents <input type="checkbox"/> Post Demolition and Closeout: Final Inspection, Document collection, and Closeout Submission
Phase 8: Closeout & Deed Restrictions Monitoring	<input type="checkbox"/> Final Accounting and Audit. Implementation of perpetual Deed Monitoring and Reporting Process

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4.0 Phase 1: Application Submission & DOB Meeting

4.1 Application

All Property Owners are required to complete the NY Rising Buyout and Acquisition Program application and submit it along with supporting documentation.

Property Owners may submit applications in one of four ways:

- 1) Complete the online application at <http://www.stormrecovery.ny.gov> and submit electronically
- 2) Call **1-855-NYS-SANDY (1-855-697-7263)** to arrange for assistance by phone
- 3) Visit a Program Intake Center and have a Program representative assist with in-person submittal.

Please visit the New York State Recovery Resources website for Program Intake Centers at: <http://www.stormrecovery.ny.gov>

- 4) Complete a paper application by hand and return to any of the Intake Centers or by mail to:

NY Rising Buyout and Acquisition Program
Attn: Applications
535 Broad Hollow Road
Melville, NY 11747

An application **must** include all federal and State required documents to be complete. At a minimum, Property Owners need to provide the following documents:

- Documentation of ownership for residence (deed) or residential income property;
- Photo Identification;
- Documentation of household income (if applicable);
- Evidence of current property tax payment;
- Documentation of amounts received or approved, but not yet accepted, from **all** other disaster-related assistance, such as flood insurance, homeowner's insurance, the Small Business Administration (SBA), or other federal, State, local, private, and not-for-profit sources;
- Documentation of the status of mortgage payments;
- FEMA registration numbers (if applicable);
- Tax identification number (Social Security Number or Employee Identification Number, if investor owned); and,
- Lease or rental agreement, if investor owned.

4.1.1 Threshold Eligibility Determination

All applications undergo a threshold eligibility review to determine whether the property is located in an area eligible to receive assistance, and if so, for which NY Rising Buyout and

Acquisition Program. Each Property Owner that appears to qualify is assigned a Customer Representative who reviews the application in detail and schedules a meeting with the Property Owner.

The Customer Representative reviews the application and organizes the Property Owner's accompanying documents, then identifies any additional information or documents necessary to complete the application. The Customer Representative schedules the initial meeting with the Property Owner by mail, e-mail, or telephone. Confirmation of the meeting schedule is retained in the Property Owner's property file.

4.1.2 Completeness Review

A Customer Representative reviews and organizes the application and documents submitted by the Property Owner. The Customer Representative determines if all required information and documents are submitted, and identifies any additional information and documents needed.

4.1.3 Missing Documents Notification

Property Owners are given the opportunity to submit missing and deficient information in order to continue processing their application. The Customer Representative makes reasonable efforts to promptly contact Property Owners who submitted incomplete applications and/or are unresponsive for more than 14 days.

4.1.4 Intake Meeting

The Customer Representative meeting may take place at the designated Intake Centers. If the Property Owner wants to meet in person, the program provides accommodations to meet the Property Owner's special needs.

During this meeting, the Customer Representative provides a thorough overview of the Program, reviews the application with the Property Owner and collects required missing documentation, reviews and executes required forms, affidavits and/or disclosures documents, explains the remaining steps in the application process, and answers any outstanding questions the Property Owner may have.

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

4.2 Eligibility Criteria

The eligibility criteria summarized below and described in this Section is used to determine if the Property Owner is eligible for assistance under the Buyout component or Acquisition component.

In general, the NY Rising Buyout and Acquisition Program affords eligibility for voluntary purchase for one-unit and two-unit homes.

Eligible Buyout Properties are eligible to receive 100% of the pre-storm FMV whereas eligible Acquisition Properties are eligible to receive 100% of the post-storm FMV.

4.2.1 Summary of Eligibility Criteria for the Buyout Component

Property Criteria	
<input type="checkbox"/>	The Property is located in an eligible county. (see Section 4.2.3)
<input type="checkbox"/>	The Property is located in the 100 year floodplain
<input type="checkbox"/>	The Property was damaged during a qualified storm event. (see Section 4.2.4)
<input type="checkbox"/>	The Property matches one of the defined eligible types (see Section 4.2.5.1) and is not otherwise deemed ineligible (see Section 4.2.5.2)
<input type="checkbox"/>	The Property is in an Enhanced Buyout Area
Property Owner Criteria	
<input type="checkbox"/>	The Property Owner is the owner of the subject property and owned the property at the time of the storm. (see Section 4.2.7)
<input type="checkbox"/>	The Property Owner is a U.S. citizen or an eligible immigrant. (see Section 4.2.8)
<input type="checkbox"/>	The Property Owner meets one of the CDBG National Objectives. (see Section 4.2.9)
Criteria for Buyout Component Incentives of up to 15%	
<input type="checkbox"/>	5% In-County Replacement Dwelling Incentive – Property Owner-occupant’s Buyout Property is in an Enhanced Buyout Area <i>and</i> the Property Owner permanently relocates to a replacement dwelling in the same county as the Buyout Property. The 5 New York City boroughs are treated as a single county for purposes of this incentive.*
<input type="checkbox"/>	10% Enhanced Buyout Incentive – The Property is located in an Enhanced Buyout Area.

4.2.2 Summary of Eligibility Criteria for the Acquisition Component

Property Criteria	
<input type="checkbox"/>	The Property is located in an eligible county.(see Section 3.2.3)
<input type="checkbox"/>	The Property is located in either the 100 year and/or 500 year flood plain
<input type="checkbox"/>	The Property was damaged during a qualified storm event. (see Section 3.2.4)
<input type="checkbox"/>	The Property matches one of the defined eligible types (see Section 4.2.5.3) and is not otherwise deemed ineligible (see Section 4.2.5.4)
<input type="checkbox"/>	The Property was Substantially Damaged
Property Owner Criteria	
<input type="checkbox"/>	The Property Owner is the owner of the subject property and owned the property at the time of the storm. (see Section 4.2.6)
<input type="checkbox"/>	The Property Owner is a U.S. citizen or an eligible immigrant. (see Section 4.2.8)
<input type="checkbox"/>	The Property Owner meets one of the CDBG National Objectives. (see Section 4.2.9)
Criteria for Acquisition Component Incentives	
<input type="checkbox"/>	Gradient Resettlement Incentive offered as a percentage of the Post-Storm FMV depending on the lost in value of the Property.
<input type="checkbox"/>	Additional 50% post-storm FMV incentive- offered to those Property Owners who suffered a 50% loss or greater in the value of their structure.
<input type="checkbox"/>	Second Homes are NOT eligible for Acquisition Resettlement Incentives

4.2.3 Eligible Counties

The counties shown in the following table are eligible for assistance. Four of the New York City counties (shown in grey text) are not eligible for assistance under the Program. New York City administers CDBG-DR directly to those counties; however, GOSR administers the NY Rising Buyout and Acquisition Program for Richmond County (Staten Island). For that reason, Richmond County is also included. NYC and NYS work together closely on eligible Property Buyout and Acquisition component activities.

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

4.2.4 Property Damage from Qualified Storm Event

The Property must have damage from Superstorm Sandy (11/29/2012), Tropical Storm Lee (9/7/2011), and/or Hurricane Irene (8/28/2011) as documented through photographs, assistance received from other funding sources, and/or a damage assessment conducted by the Program.

4.2.5 Eligible Properties

Eligible structure types are limited to the following:

4.2.5.1 Eligible Properties for Buyouts

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

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

Rental Properties: A rental property is eligible for assistance to the extent that Property is not considered a Second Home as defined by IRS Publication 936 (see Section 4.2.5.2). A Rental Property for Program purposes is a Property which is rented out for part of the year as long as the Property Owner does not use the Property for more than 14 days or more than 10% of the days rented in the year.

Vacant Land: Vacant parcels of land within an Enhanced Buyout Area are eligible for assistance.

4.2.5.2 Ineligible Properties for Buyouts

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

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

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

Second Homes located in an Enhanced Buyout Area may be eligible for the Acquisition component for purchase at the post-storm FMV. Property held by an estate or a decedent at the time of the storm is not considered a Second Home for Program purposes.

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

4.2.5.3 Eligible Properties for Acquisition

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

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

Rental Properties: Rental properties are eligible for assistance. A Rental Property for Program purposes is a Property which is rented out for part of the year and a Property Owner does not use the Property for more than 14 days or more than 10% of the days rented in the year. Rental Property Owners are eligible for incentives to the extent that the Property is not considered a Second Home.

Second Homes: Second Homes are eligible for Acquisition at the post-storm FMV. Property Owners of Second Homes are not eligible for any incentives.

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

4.2.5.4 Ineligible Properties for Acquisition

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

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

Vacant Land: Vacant parcels of land not contiguous to an otherwise eligible Property are ineligible for Acquisition. Vacant Land does not include Properties where a structure once stood.

4.2.6 Ownership of Buyout or Acquisition Property

Property Owners of a Buyout or Acquisition Property must have owned the Property at the time of the qualifying storm event (with limited exceptions made for gifted properties and properties held by an estate as described below). In addition, all Property Owners must voluntarily agree to sell the Property to HTFC. Any Property Owner of a recorded interest in the Property who refuses to agree to sell the Property has the power to veto the transaction and prevent the Buyout or Acquisition. Ownership is defined as holding a fee simple title as evidenced by a warranty deed, bargain for sale deed, or a quit claim deed to the Property. The deed must be recorded with the county, city, or appropriate local municipality.

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

4.2.6.1 Clarifications on Type of Ownership

Ownership by an entity rather than an individual: Limited Liability Company (LLC), Limited Partnership (LP), Limited Liability Partnership (LLP) and Corporation ownership at the time of the storm are eligible forms of ownership so long as the Property is an Eligible Property as defined in Section 3.2.5.

Properties Held in Trust: Property held in trust for the benefit of natural persons can be eligible as long as at least one of the occupants at the time of the storm was a current beneficiary of the trust. The trustee's powers must include the ability to encumber the Property with liens. If the trustee's powers do not include the ability to encumber the Property with liens, the beneficiaries with an interest in the damaged property must sign the closing documents along with the trustee.

The following is required to confirm eligibility:

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

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

must execute the applicable contract and/or declarations.

Deceased Owners and Properties held by an Estate: If any Property Owner of a Property is deceased, whether before or after the storm event, the Executor (or Administrator) of the Estate of [decedent name] must join in the sale of the property to HTFC. Surrogate's Court consideration and approval is required before HTFC buys real property from any probate estate.

If a Property Owner passed away before the storm, the Property is not considered a Second Home if title is held by the Estate of the decedent or the decedent. If a beneficiary of the Estate has taken title to the Property, that beneficiary is required to meet all eligibility requirements and the Property may be found ineligible if a Second Home in Buyout.

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.

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

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

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

- Gift of Property made post-storm are eligible for post-storm FMV;
- Gift of Property made prior to the storm are eligible and eligibility is established in the same manner as other properties.

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

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

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

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

4.2.7 Verification of Ownership

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

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

4.2.8 Citizenship and Eligible Immigrants

The Property Owner must be a United States citizen or an eligible immigrant as verified by a signed declaration and one of the following:

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

4.2.9 Meeting CDBG National Objectives

All program activities must meet one of the three National Objectives required under the authorizing statute of the CDBG Program. The NY Rising Buyout and Acquisition Program principally provides assistance to those households meeting the LMI or Urgent Need Objective.

4.2.9.1 Low- and Moderate- Income Objective

Applicants are determined to be low- and moderate- income if the total household income is less than or equal to 80% of median income. In determining income, the Program uses the most recent signed federal income tax returns (e.g., IRS Forms, 1040, 1040A or 1040EZ).

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

- 1) Minimum of three current and consecutive months of check stubs (if the household member is paid monthly);
- 2) Minimum of four current and consecutive check stubs (if the household member is paid weekly, bi-weekly or bi-monthly);
- 3) Pension statement showing current monthly or yearly gross amount;
- 4) Social Security statement or IRS Form 1099;
- 5) Unemployment statement;
- 6) Certification of Zero Income Form; and,
- 7) Completed Household Income Worksheet and Certification.

4.2.9.2 Urgent Need Objective

Under the disaster recovery federal regulations, HUD 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 and welfare of community, the existing conditions are recent or recently became urgent (typically within 18 months), and CDBG-DR funds are needed to finance the activities. To the extent allowed under federal regulation, all Property Owners who cannot meet the LMI National Objective are placed into the Urgent Need category.

4.3 Floodplain, Floodway & Coastal High Hazard Area Policy

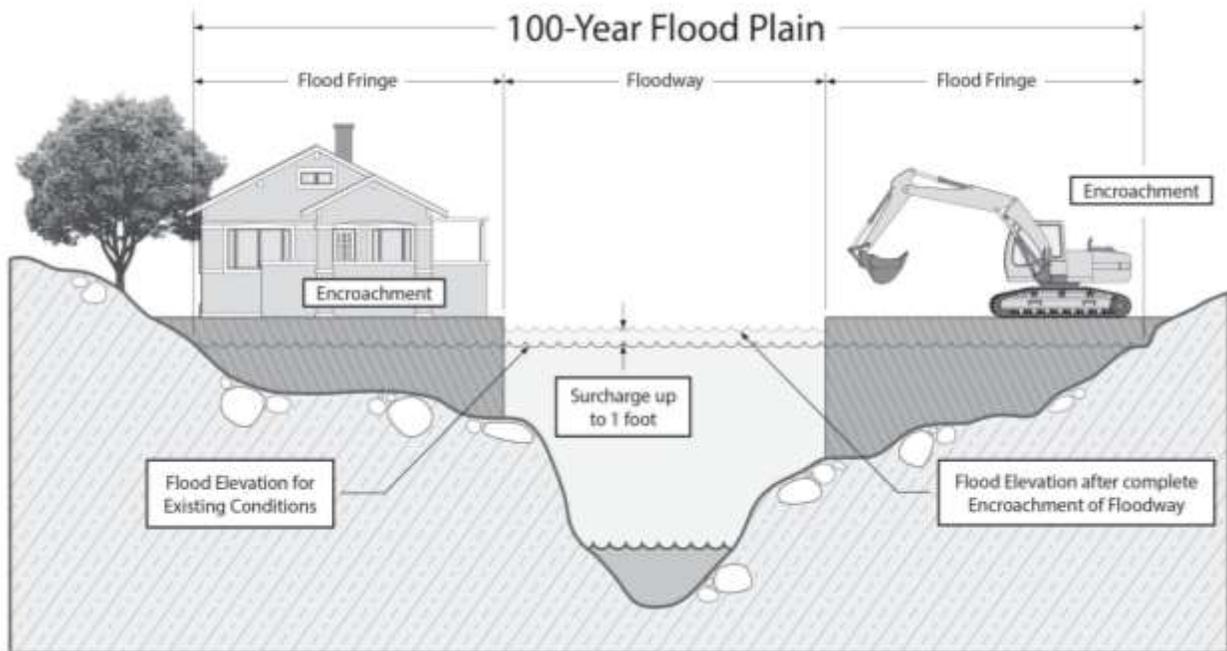
The federal government developed specific definitions and regulations regarding the 100-year floodplain, floodway, and the coastal high hazard area. To be consistent with federal regulations, GOSR has appropriated the following definitions:

Floodplain: (also known as the “Base Flood”): is the low, flat, periodically flooded lands adjacent to rivers, lakes and oceans and subject to geomorphic (land-shaping) and hydrologic (water flow) processes.

The 100-year floodplain is the land that is predicted to flood during a 100-year storm, which has a 1% chance of occurring in any given year. Areas within the 100-year floodplain may flood in much smaller storms as well. The 100-year floodplain is used by FEMA to administer the National Flood Insurance Program (NFIP).

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

Coastal High Hazard Areas: are the areas subject to high velocity waters, including but not limited to hurricane wave wash or tsunami as designated by the Flood Insurance Rate Map



(FIRM) under FEMA regulations as Zone V 1-30, VE or V (V Zones).

Federal regulations prohibit funding any action, other than a functionally dependent action, in a floodway. A functionally dependent action is an action that must necessarily be conducted in close proximity to water; for example, a dam, marina, port facility, water-front park, and many types of bridges. Acquisition Properties purchased in a floodway are not rebuilt.

Please see the 100-Year Flood Plain diagram on the following page. For additional definitions and acronyms see Section 12.0.

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

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

If some part of the “project activity” impedes upon the floodway such as the necessary fill or footings then the structure as a whole becomes part of the floodway and is therefore ineligible for funding unless it is a functionally dependent action.

The development standards for a floodplain encroachment depend on both the project location and the amount of information provided on flood hazard maps:

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

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

4.3.1 Homeowner transfers to NY Rising Acquisition Component

There may be cases where applicants ineligible for funding through the Homeowner Program are eligible to receive GOSR assistance through the NY Rising Acquisition Component.

If a Homeowner Program applicant is categorized as one of the following, they may be eligible for the Acquisition component:

- Dwelling is substantially damaged and in the 100- year Floodplain;
- Dwelling is in the Floodway; and/or
- FEMA non-compliant.

Please note that FEMA non-compliant applicants are not eligible to receive payment above the post-storm FMV. Additionally, there may be other circumstances in which an applicant to the Homeowner Program requests a transfer to Acquisition due to hardship; such requests are evaluated on a case-by-case basis. For example, Homeowners whose homes are on the FEMA repetitive loss list may be prioritized for transfer. Co-op and Condo Associations are not eligible for the Acquisition component unless the Homeowner's Association is dissolved.

4.4 Homeowner Assistance Incentives for Buyouts

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

- 1) A 5% In-County Replacement Dwelling Incentive is available to residents of dwellings in Enhanced Buyout Areas who purchase their replacement dwellings in the same county where their storm-damaged property is located (New York City residents may relocate in any of its five boroughs).
 - Note: Although the Action Plan does not explicitly prohibit a selling Property Owner from receiving this 5% incentive if the replacement dwelling is located in the highest risk area, that replacement dwelling location is contrary to the stated purpose of the Program. Contact the Customer Representative Manager if the situation arises with any Property Owner's replacement dwelling. The State may issue specific guidance on this topic at any time.

- In the event that a Property Owner in the Buyout component purchases a property outside the county in which their storm-damaged property is located, but within the State of New York, that Property Owner may file a hardship request to receive a 5% relocation incentive. The State recognizes that the impact of the storm has caused some families to relocate based on extenuating circumstances preventing them from returning to their pre-storm county. A hardship determination will permit a Property Owner to receive a 5% relocation incentive even in if the Property Owner purchases a new home outside the county of origin.
- In order to be eligible for a hardship determination, the Property Owner must submit a statement outlining their challenges for relocating within their County of origin. They must also sign a Declaration of Hardship Form that documents the submission of a statement of hardship. All Declaration of Hardship Forms are reviewed and approved by Program staff on a case-by-case basis.

2) A 10% Enhanced Buyout Incentive is available to Property Owners who purchase property outside of designated high-risk Enhanced Buyout Areas that are dedicated as coastal buffer zones in perpetuity.

This level of incentive is selected to ensure that Property Owners in the Enhanced Buyout Areas are sufficiently incentivized to sell their properties and relocate to lower risk areas, enabling the State to return high risk areas back to nature. The State believes that graduated incentives are essential to Property Owners to sell their properties.

4.5 Resettlement Incentives for Acquisitions

Eligible properties in the Acquisition component may be eligible for resettlement incentives depending on the loss in value of their Property. As outlined in the chart below, the State will provide a gradient incentive based on the *total* percentage of value lost. Additionally, for those homeowners who suffered a 50% loss or greater in the value of their *structure*, the Acquisition Component will offer an additional incentive equal to 50% of the post-storm fair market value:

Percentage Lost (Land + Structure)	Value +	Total Incentive	Total Incentive if Loss in Structure Value >= 50% Loss
90%+		95% of post-storm FMV	145% of post-storm FMV
60-90%		85% of post-storm FMV	135% of post-storm FMV
50-60%		75% of post-storm FMV	125% of post-storm FMV
40-50%		65% of post-storm FMV	115% of post-storm FMV
30-40%		55% of post-storm FMV	105% of post-storm FMV
20-30%		45% of post-storm FMV	95% of post-storm FMV
10-20%		35% of post-storm FMV	85% of post-storm FMV
0-10%		25% of post-storm FMV	75% of post-storm FMV

Property Owners whose property is a Second Home are NOT eligible for any resettlement incentives.

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

4.6 Property Tax Reimbursement

Property Owners who have applied to the Program must pay all property taxes due and payable on the storm-damaged property until the day of closing on the sale of their property to New York State through the Program. New York State may provide reimbursement to Property Owners for the property taxes paid for the period of time after ownership of the property was transferred to New York State (i.e., from the day of closing until the end date of the effective payment period). The pro rata reimbursement amount is calculated after the closing and the funds are provided to the Property Owner via direct deposit. Only payments made towards the principal of the property taxes due are subject to reimbursement from New York State; any interest or fees incurred from late or delinquent payments are not eligible for reimbursement.

4.7 Subrogation

Subrogation is the process by which duplicative assistance paid to the Property Owner after receiving an award is remitted to the Program to rectify a duplication of benefit.

4.7.1 Assignment Relation to Funds Received Under Program

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

The proceeds or payments from the above described duplicative assistance are referred to herein as "Proceeds." The rights the Property Owner assigns to the Program are specific to the Property with respect to which the Proceeds were paid. The Proceeds paid, as described in the Property

Owner's application with the Program, arise out of physical damage to the Property originally caused by the federally declared disaster, but also includes Proceeds received for damage to the Property caused by any subsequent event that occurred (until the time of purchase of the Property using Program funds). The Policies include, but are not limited to, policies characterized as damage, flood, or any other type of casualty or property damage insurance coverage held by the Property Owner which provides coverage for physical damage to the Property.

Once the Program has recovered an amount equal to the award proceeds, the NY Rising Buyout and Acquisition Program reassigns any rights assigned to New York State pursuant to this Agreement to the Property Owner.

4.7.2 Cooperation and Further Documentation

The Property Owner agrees to assist and cooperate with New York State should New York State elect to pursue any of the claims the Property Owner has against the insurers for reimbursement under any such Policies. The Property Owner's assistance and cooperation includes allowing suit to be brought in the Property Owner's name(s), giving depositions, providing documents, producing records and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by New York State. The Property Owner further agrees to assist and cooperate in the attainment and collection of any proceeds that the Property Owner would be entitled to under any applicable FEMA or SBA Program described above.

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

4.7.3 Authorization for Program to Contact Third Parties

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

5.0 Phase 2: Environmental Assessments and Appraisals

5.1 Environmental Review

Specific instructions concerning environmental requirements are made available to all recipients, sub-recipients, or contractors. CDBG-DR funding is contingent on compliance with the National Environmental Policy Act (NEPA) and related environmental and historic preservation legislation and executive orders. Accordingly, environmental review activities are carried out for site contamination and demolition control, and documented prior to commitment of funds.

5.1.1 Roles and Responsibilities

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

- The Governor's Office of Storm Recovery (GOSR), acting under the auspices of Housing and Community Renewal (HCR) and the Housing Trust Fund (HTFC), serves as the Responsible Entity (RE), responsible for undertaking compliance efforts for the Program.
- GOSR submits any requests for release of funds directly to HUD for review and approval.
- GOSR is responsible for performing the Environmental Review Records (ERRs) or for contracting out the preparation of the ERRs.
- The program management consultant conducts an environmental analysis and prepares compliance documentation in support of the broad and site specific environmental reviews, utilizing a tiered approach, in accordance with HUD's regulations and State Environmental Quality Review Act (SEQR).
- GOSR reviews all environmental draft documents as outlined in the required documentation and signs all documents requiring RE or agency official signatures.
- A broad, or Tier 1, review is completed before HUD releases funds and a site specific, or Tier 2, review is completed before funds are committed to that particular site. The site specific analysis, consisting of the Site Specific Checklist and supporting documentation is completed by the program management consultant with input from the construction manager. The site specific ERRs are reviewed and signed off by GOSR. Once these reviews have been completed there can be a commitment of funds.
- The construction manager and/or program manager is responsible for working in good faith with the GOSR where additional documentation may be necessary to resolve an outstanding environmental/historic preservation compliance factor.

6.0 Phase 3: Verification of Benefits Review

6.1 Duplication of Benefits

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

The Stafford Act requires HTFC to “assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other Program or from insurance or any other source.” 42 U.S.C. 5121. In accordance with the Stafford Act, Disaster Recovery funds issued through the U. S. 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. Financial assistance received from any organization that is provided for the stated purpose of housing repair, replacement housing assistance, or mortgage assistance may be considered a Duplication of Benefit (DOB). To this end, the Program obtains DOB information for each applicant from eligible Government and Third Party sources. The DOB is then verified by the Program, who helps the Property Owner identify and assemble documents supporting the request for assistance, and uses that substantiated information to make a determination of benefits the Property Owner is eligible to receive.

The NY Rising Buyout and Acquisition Program assists Property Owners who need to purchase replacement housing by offering a fair amount for each parcel to owners who wish to sell at a fair price. The amount of assistance received by a Property Owner from both governmental and non-governmental sources (except for documented repair expenses to the storm-damaged structure) must be subtracted from the FMV to determine the amount HTFC offers to pay the Property Owner to buy the storm-damaged property.

Customer Representatives schedule a DOB meeting with the Property Owner. The principle reason for the meeting is to assemble a fully executed set of documents required to prepare HTFC’s Contract of Sale and Rider together with the additional materials comprising the offer package (HTFC Offer) for the Storm-damaged property. Additional topics the Customer Representative and Property Owner cover include explanation of the timeline for responding to the Offer, exchange of contact information to quickly resolve any questions about the sale, and obtaining tenant information for currently occupied rental property.

6.2 Verification of Benefits (VOB) Process

To avoid making incorrect awards based on mistake, mischief, or misunderstanding, GOSR obtains third party verification of financial assistance provided or available from other programs,

insurance, and elsewhere for the same purpose as the benefits in this Program.

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

The VOB process is only one of the Anti-Fraud, Waste, and Abuse (AFWA) processes that New York State implemented in the Program to assure the funds provided by the citizens of the U.S. are spent to fulfill the intended purposes. Honest reporting by the Property Owner of storm recovery benefits received before contracting to sell the property is the linchpin of the VOB process. That limitation must not be overlooked, although it cannot be overcome by any practical technique. The VOB process can verify the accuracy of the amounts a Property Owner reports receiving from each of the various sources of recovery funds. However, it is impractical to ask every Property Owner insurance underwriter issuing policies in New York whether each Property Owner participating in the Program received an insurance settlement not reported as part of the application. The VOB team does, however, obtain records of benefits provided by both FEMA and SBA for every participant in the Program.

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

6.2.1 Duplicative Assistance

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

- 1) National Flood Insurance Program (NFIP):** Insurance proceeds received must be disclosed by the Property Owner and verified by the Program.
- 2) Private Insurance:** All insurance proceeds received must be disclosed by the Property Owner and verified by the Program by contacting insurance companies.

- If the insurance company confirms that no proceeds have yet been provided to the Property Owner, then the Property Owner is required to sign a subrogation agreement which subrogates the insurance proceeds up to the amount of the award. For more on the subrogation process, see Section 4.6.
- 3) **Federal Emergency Management Agency (FEMA):** FEMA proceeds received must be disclosed by the Property Owner and must be verified by the Program.
 - 4) **Small Business Administration (SBA):** SBA proceeds approved and/or received must be disclosed by the Property Owner and verified by the Program. Outstanding SBA loans must be satisfied prior to the State taking ownership of the property. The Property Owner's award is reduced by this amount at closing.
 - 5) **Single Family Homeowner Program:** Reimbursement payments and payments for future work received from the CDBG-DR Single Family Homeowner Program must be disclosed by the Property Owner and verified by the Program.
 - Reimbursement payments are a duplication of benefits but may be offset with the Allowable Activities (AA) inspection report of work completed.
 - Payments for future work received are duplicative program funds and may only be offset with eligible receipts if a documented hardship is approved by GOSR.
 - 6) **Interim Mortgage Assistance:** Interim Mortgage Assistance ("IMA") payments received are considered duplication of benefits and must be disclosed by the Property Owner and verified by the Program. IMA payments received may be offset by rental receipts to the extent that such funds have not already been accounted for as an otherwise eligible activity.
 - 7) **Other:** Funds received from other sources must be disclosed by the Property Owner and verified by the Program. Examples include nonprofits, other governmental agencies, and social groups.

6.2.2 Non-duplicative Expenditures

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

Examples of allowable expenditures:

- Funds received but used for a different eligible purpose. For example, funds received may have been used on temporary housing costs and would therefore not be duplicative to the extent that such funds are not used to offset the duplication of benefits calculation for assistance received through the Interim Mortgage Assistance Program.
- Funds not available to the Property Owner. For example, when insurance funds received must be used for a forced mortgage payoff based on the terms of the mortgage.
- Funds received from a private loan and not guaranteed by SBA are not duplicative.
- Assets or line of credit available to the Property Owner, e.g., checking or savings accounts, stocks are not duplicative.
- Funds received for repair that have already been used to repair the home might not be

counted against the award amount, e.g., CDBG-DR reimbursement for work completed.

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

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

7.0 Phase 4: Offer and Contract Execution

Once all verification steps are completed, GOSR mails an Offer Package to the Property Owner, which includes an award calculation outlining the benefits available to the Property Owner, a contract for sale and other relevant information concerning the offer. Property Owners have 30 days to respond to the Offer, after which date the Offer expires. GOSR can extend or waive the expiration on a case by case basis.

7.1 NY Rising Buyout and Acquisition Program Maximum Benefit

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

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

Acquisition: Substantially damaged properties located inside the 100 year and/or 500 year floodplain may be purchased through Acquisition at 100% of post-storm FMV (plus eligible resettlement incentives). New York State has the flexibility to hold any property purchased through Acquisition as undeveloped green space in perpetuity or to redevelop it in a resilient manner.

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

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

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

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

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

7.2 Award Calculations

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

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

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

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

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

An appeal can be filed if an offer is made and the Property Owner believes the offer is inadequate. If the appeal is in the Property Owner's favor, the VOB team creates a replacement VOB determination, which is the basis for a new offer. The Senior Customer Representative requests the re-determination of the VOB by email and furnishes a copy of the new FMV appraisal(s). For more on the appeal process, see Exhibit 4 Program Administrative Policies

8.0 Phase 5: Relocation

8.1 Relocation

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

Relocation Assistance:

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

(42 U.S.C. 5181)

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

This GOSR policy assures that persons displaced because of this federally-assisted Program do not suffer disproportionate injuries. HUD granted waivers of certain Program requirements so GOSR can apply similar rules and award similar amounts to similarly situated Property Owners without regard to which Program received the application.

For example, one agency’s program limits the availability of rental assistance to one amount. However, rules of a different agency’s program now contributing to assist with a disaster so large that it is not practical for a single agency to provide all needed assistance established a different

limitation long ago. HUD granted the waivers to enable all Property Owners to receive benefits according to the same rules and eliminate the risk of discovering too late that a different program would have provided additional benefits in view of a Property Owner's particular circumstances.

8.2 Occupancy Standards

GOSR policy requires that all residential dwellings in the Program are fit for human occupancy and are recognized as Decent, Safe, and Sanitary ("DSS"). To make this policy effective, GOSR requires that its funds and the funds that it administers are expended only for properties that are DSS. Comparable replacement dwellings must be adequate in size to accommodate all occupants of the displacement dwelling. It may not be possible to locate a replacement dwelling with the same size and floor plan as the displacement dwelling. The replacement dwelling must, however, provide the displaced person with the same utility and function as the displacement dwelling. The replacement dwelling must be currently available on the private market in an area that is at least as desirable as the location of the displacement dwelling and free of unreasonable adverse environmental conditions such as noise, dust, nuisances, traffic, litter, etc. The replacement dwelling must have the size, finish features, lot size, improvements, and utilities typical of residential developments in the area, and it must be within the financial means of the displaced person.

GOSR is committed to a policy of providing displaced persons with comparable permanent replacement dwellings that meet all occupancy standards established by HUD, NYS, and the International Property Maintenance Code (IPMC). New York occupancy standards specify both minimum habitable areas and minimum number of rooms based upon the number of household members who occupy the dwelling and the amount of living area needed to avoid overcrowding. Specific needs (e.g., medical needs) of household members must be considered, and the policy implemented to ensure that displaced persons consistently receive fair treatment.

8.3 Inspection of Replacement Dwelling

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 United States Code §4601 et seq., as amended (URA) defines the DSS standard as the standard of habitability to prevent expenditures of public funds in payment to any Owner of dwellings that are unfit for human habitation. Relocation Advisors must inform each occupant of the potential for lead-based paint hazards in dwellings built before 1978 in accord with applicable local, State, and federal requirements. The Relocation Customer Representative must certify that any replacement dwelling purchased or leased by a person

relocating because of a voluntary sale of property to HTFC is inspected and found to be DSS.8.4 Occupied Dwellings

HTFC does not purchase property in the Program that is occupied. The intended purpose of the Program is to acquire residential dwellings that have been deemed substantially damaged and demolish those homes. The sources of funding require that the funds be used for the purposes intended, so the Program cannot purchase any property unless all Property Owners vacate the property and join in the sale to HTFC.

The Program requires, in the case of condominium and cooperative properties, that every Unit Property Owner of each Unit and all Property Owners of any interest in the Buildings, Common Elements, and the Property (as defined in New York Real Property Code Article 9B, § 339-e) to be acquired join in the sale to HTFC. It is not possible for every closing to occur simultaneously, so it is not required that every condominium or cooperative Property Owner be present at a single closing. HTFC can take ownership of a condominium or cooperative property only after the property is vacant and every Property Owner has executed a real property sale agreement that is legally and equitably enforceable against every Property Owner and that mandates specific performance of the sale agreement by every Property Owner.

The sale must conclude unless every Property Owner who agreed to the sale withdraws from the Program before any Unit Property Owner closes on a sale under the Program

8.5 Tenant Appeal

The Federal Uniform Relocation Act (URA) requires GOSR to provide any displaced tenant who is dissatisfied with GOSR's determination with specific appeal procedures. A dissatisfied tenant may either appeal denial of eligibility to receive relocation assistance under the CDBG-DR Program or appeal the amount of relocation assistance HTFC offers under CDBG-DR Program rules. The tenant must make the appeal to GOSR in writing.

8.6 Relocation of Tenant Who Waives Eligibility for Section 8 Housing

The voluntary nature of the Program minimizes the impact on Property Owners, since the Property Owners are not forced to sell their property to HTFC or to move. A tenant of a dwelling that the Property Owner decides to sell to HTFC as part of the CDBG-DR Program, however, is required to vacate that dwelling, and thereby becomes displaced because of the CDBG-DR Program. HTFC will not close on any parcel that is occupied.

Some properties in the CDBG-DR Program are Section 8 qualified low-income rental housing. Each tenant who is dislocated from subsidized housing is relocated to an equivalent subsidized replacement dwelling, unless the tenant elects to withdraw from the Section 8 Program and relocate into a market-rate dwelling.

It is possible that some tenants may discontinue their participation with the Section 8 Program

and choose to relocate into market-rate housing for a variety of reasons. Tenants relocating from one subsidized unit to another do not have the relocation costs that market-rate tenants are likely to incur since the moving expenses are paid, and the replacement dwelling is equivalent or better than the displacement dwelling under federal rules. Relocation counsel may be particularly important to tenants displaced from subsidized housing. Subsidized housing availability is sometimes inadequate to accommodate the number of tenants eligible for that assistance. A family that withdraws from the Section 8 Program to receive relocation assistance might be unable to locate a subsidized dwelling if that need arises again. Relocation assistance could easily be expended to meet needs other than housing rental payments such as utility bills, automobile repairs, medical expenses, clothing, and a host of less durable items. A family could quickly find that it cannot maintain the market-rate lease, and could become homeless.

8.7 Housing of Last Resort Relocation Assistance Payments

A number of the Storm-damaged properties in the Program were rental properties occupied by low- and very low-income tenants. Tenants may be displaced when the Property Owner participates in the Program. Sometimes, it is not possible to locate an affordable comparable replacement dwelling for a displaced tenant. GOSR policy is to provide Housing of Last Resort (HLR) to any tenant displaced by this Program pursuant to the URA and Real Property Acquisition Policies Act of 1970, as amended. The GOSR Relocation Plan and its Policy and Procedure to assure that eligible tenants receive relocation assistance in compliance with the URA, New York State, and federal regulations recited therein provide relocation benefits under those circumstances.

GOSR provides HLR on a case-by-case basis, for good cause, giving consideration to the circumstances of the displaced tenant, the availability and location of comparable replacement housing, and the resources available to provide comparable replacement housing. The flexibility provided is subject to oversight by the Program Manager of each relocation advisor request for HLR relocation to render assistance when it is needed and for reasonable cost consistent with providing comparable replacement housing that complies with Program goals and meets tenant needs. GOSR invokes HLR replacement housing procedures as infrequently as practical, and in those instances where replacement HLR is needed, to provide that assistance efficiently.

9.0 Phase 6: Closing

9.1 Closing Meeting

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

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

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

9.2 Final Award Documentation

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

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

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

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

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

- Proof of citizenship/eligible immigrant status (Passport, birth certificate, certificate of naturalization, see Section 3.2.8);
- Deed;
- Property tax receipts (most current);
- Copy of any liens or encumbrances against the deed;
- Documentation of the status of mortgage payments (mortgage statement);
- Proof of residency (utility statements or taxes at the time of storm, see Section 3.2.6);
- Household income information;
- DOB documentation; and,
- Environmental Review.

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

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

It is GOSR policy to avoid undue procedural obstacles that delay, inconvenience, or impair completing transactions under the Program. For this reason, GOSR accommodates reasonable seller requests and while not exposing HTFC to delay, liability, extra costs, or risk of loss.

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

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

9.4 Recording Covenants and Restrictions Concerning Property Acquired in the Program

It is the policy of HCR to use property acquired under the CDBG-DR Program only as authorized by Program rules. HCR policy concerning CDBG-acquired property is also to restrict use to that authorized under statute and applicable agency rules, and further, to prohibit conveyance of any part of the acquired property except as authorized under governing law. The policy is expected to reduce economic loss from future flooding and to yield additional benefits important to residents and visitors.

To make the policy effective, GOSR memorializes the covenants made in connection with the acquisition of property in the CDBG-DR Program. HCR also gives notice of the restrictions imposed upon the acquired land.

Every property in the Program is classified as either a BUYOUT by being within the Enhanced Buyout Area or an ACQUISITION by being outside of the Enhanced Buyout Area. The covenants and restrictions for the two types of property are different as the former property is restricted to be held in green space in perpetuity and the latter property may be eligible for resilient re-development. The following procedure applies to recording covenants and restrictions regarding both types of property.

Buyout Properties:

- 1) HUD funds granted to New York State pay for the Buyout properties purchased by the State. A condition of that funding is that property situated within the Enhanced Buyout Area be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices.
- 2) The covenants and restrictions concerning acquired parcels in Enhanced Buyout Areas prohibit almost all structures or other improvements and sale or other conveyance of the property in perpetuity (with few exceptions).
- 3) The covenants and restrictions on land **inside of the Enhanced Buyout Area** that New York State purchases are described in a *Declaration of Covenants and Restrictions by New York State Homes and Community Restoration Division* (EBA Agreement) incorporated with the deed for each parcel of land located inside the EBA purchased in the Buyout component and recorded in the real property records office that serves the county where the property is found. New York State may elect to record the applicable deed restrictions periodically or at the conclusion of the Program instead of adding the deed restrictions to each deed delivered by the various Owners.

Acquisition Properties:

- 1) Parcels acquired through the Acquisition component located **outside of the Enhanced Buyout Area** are also subject to a variety of covenants and restrictions. The covenants and restrictions concerning acquired parcels outside of Enhanced Buyout Areas vary depending on the ultimate disposition of the property.
- 2) The covenants and restrictions on land **outside of the Enhanced Buyout Area** that NYS purchases are described in a *Declaration of Covenants and Restrictions by New York State Homes and Community Restoration Division* (non-EBA Agreement) incorporated with the deed for each parcel of land located outside of the EBA purchased in this Buyout component and recorded in the real property records office that serves the county where the property is found. New York State may elect to record the applicable deed restrictions periodically or at the conclusion of the Program instead of adding the deed restrictions to each deed delivered by the various Owners.

10.0 Phase 7: Demolition and Remediation

Property demolition and cleanup implements NYS policy by bringing the properties that HTFC purchases into the condition established as the goal of this Program. This process is comprised of three distinct phases: Pre-Demolition, Demolition and Post-Demolition & Demolition Close

Pre-Demolition:

- Property Management File (PMF) Completion Items 1-12;
- Development, Review, Procurement Issuance, and Contract Awards;
- Environmental Reviews; and,
- Asbestos Containing Materials (ACM) and Polychlorinated Biphenyls (PCB) Inspection.

ACM-PCB's are hazardous contaminants of particular concern because of widespread presence and potential to become airborne, but other hazardous materials may require environmental review.

Demolition:

- The terms Hazardous Material “Remediation” and “Abatement” are ordinarily applied in connection with cleanup of Hazardous Material from soil or water and Hazardous Material preventing aerosolization by proper disposal or stabilization, respectively. For convenience, this document uses the term “Abatement” to include both remediation and abatement except where the context indicates otherwise.
- Hazardous Material Survey or Abatement;
- Securing of Required NYC Permits;
- Demolition and Site Restoration; and
- Load Documentation.

Post-Demolition & Demolition Close:

- Property Management File (PMF) Completion Items 13-29;
- Collection of Load Documentation and Property Invoices;
- 60 Day Final Inspection; and,
- Submission for closeout.

This list is not exclusively sequential. Phases sometimes overlap to a degree, and several process tasks within a phase can be underway simultaneously.

10.1 Pre-Demolition

- 1) Program Demolition Team facilitates Phase I – Tier I & II assessments and Phase II Investigations as needed in accordance with 24 CFR §570.205.

- 2) Program Demolition Team works with the Program Environmental Team to obtain State Environmental Quality Review Act (SEQRA) Environmental Clearances including Wetland Delineation Studies.
- 3) The Customer Representative transfers PMF data to Demolition Team after closing.
- 4) Program Demolition Team facilitates security protocols including fencing and boarding of properties and monitors work in accordance with contract scope of work and specifications.
- 5) Procurements are developed and reviewed in accordance with 24 CFR §85.36 procurement standards.
- 6) Procurements are let, submissions received, tabulated, “scored,” awarded, and executed in accordance with 24 CFR §85.36 Standards.
- 7) Program Demolition Team facilitates and monitors Hazardous Material Inspection.
- 8) ACM—PCB Inspections are completed and reports are submitted to Program Demolition Team for inclusion in PMF.
- 9) Program Demolition Team receives copies of all signed contracts, agreements, submission tabulations, report summaries, and solicitations.
- 10) Program Demolition Team reviews all submissions of required pre-demolition data or artifacts, certifies PMF 1-12 and issues a “Notice to Proceed” to initiate commencement of the demolition process.

10.2 Demolition

- 1) The General Contractor receives copy of Hazardous Material Inspection so that remediation or abatement work can commence.
- 2) Not all properties require Hazardous Material inspection. Storm-caused structural damage made some properties too dangerous for NYC Department of Buildings (DOB) inspectors to enter and inspect. Demolition of those properties is performed according to the standards applicable for sites contaminated with Hazardous Material and Hazardous Waste. Other properties are vacant with no structure or other improvement.
- 3) Program Demolition Team in its role of Project Management and Oversight monitors Hazardous Material abatement for safety, contract compliance, debris management protocols, and load documentation through General Contractor Load Tickets and Waste Manifests. The internment site for the debris is researched for compliance with federal and state licensing and documented by photograph and GPS Coordinates.

- 4) General Contractor initiates process for receiving NYC Demolition Permit
- 5) General Contractor facilitates Electric, Natural Gas, and Cable Television disconnects and facilitates notification of disconnects to DOB as part of permit requirements.
- 6) General Contractor secures permits and executes shutoffs of water and sewer in accordance with NYC DEP (NYC Rules, Title 15, Chapter 1) requirements.
- 7) Program Demolition Team in its role of Project Management and Oversight monitors Hazardous Material abatement for safety in accordance with OSHA-29 CFR 1926 (c) and EPA-40 CFR §61.145 requirements, and contract compliance. NYC DEC inspects the completed work prior to fill of excavation.
- 8) General Contractor completes the permit process and is issued a Demolition Permit.
- 9) General Contractor executes demolition and removes debris. Demolition methodology is dependent upon NYC DOB building inspection.
 - a) Properties too dangerous to test for Hazardous Materials are assumed to be Hazardous Material and Hazardous Waste contaminated, and are demolished according to OSHA-29 CFR 1926 (c) and EPA-40 CFR §61.145 requirements. The debris from the demolition will be transported and interred as Regulated Asbestos Containing Material (RACM). Salvage from these structures is not permitted. National Emission Standards for Hazardous Air Pollutants for Asbestos (NESHAP). Polychlorinated Biphenyls (PCB).
 - b) Properties that were tested and abated of Hazardous Material or regulated waste are demolished as Hazardous Material and Hazardous Waste-free structures and the debris removed as common construction debris. Salvage is an option after abatement processes are completed and certified by the Hazardous Material Inspector and Program Demolition Project Manager respectively.
- 10) In its Project Management and Oversight role, the Program Demolition Team monitors demolition processes for safety in accordance with OSHA (29 CFR §1926(c)) and EPA (40 CFR §61.145) requirements, contract compliance, debris management protocols, and load documentation through General Contractor Load Tickets and Waste Manifests. Team members research the internet site to confirm compliance with federal and State licensing and document the location with photograph and GPS Coordinates.
- 11) Program Demolition Team in its role of Project Management and Oversight inspects demolition site and gives verbal “Notice to Proceed” to start backfill process and site restoration (including erosion control seeding).

- 12) Program Demolition Team in its role of Project Management and Oversight inspects lot restoration (including erosion control seeding) and releases contractor from the property. In addition, photographs of site with GPS Coordinates are taken by Program Demolition Team.
- 13) Contractor completes post demolition requirements with NYC DOB and submits them to complete process with the City.
- 14) Contractor forwards load documentation data and invoice to Program for closeout of demolition.

10.3 Post-Demolition and Demolition Close

- 1) After demolition is completed and General Contractor is released from the property, the Program Demolition Team ensures that the street is marked with Property address in preparation for re-locating the parcel 60 days after the demolition is complete.
- 2) General Contractor forwards to the Program Demolition Team copies of all load tickets, landfill tickets, waste manifests, and invoices in preparation for closeout of demolition process.
- 3) The Program Project Manager and General Contractor re-inspect property 60 days after the completion of the demolition and site restoration to determine if settling has occurred and if seed germination was successful. The contractor is either asked to remediate restored lot issues or notice that all work associated with the demolition is complete.
- 4) Contractor submits final invoice within 30 days of the final inspection and provides a copy to the Program Demolition Team.
- 5) Program Demolition Team Project Manager takes final photographs of the site with GPS Coordinates.
- 6) Program Demolition Team Project Manager submits Demolition Field Process Checklist to satisfy Items 13-29 of the PMF, Contractor Completion Signature Page, and final site photographs for inclusion in the PMF.
- 7) Program Demolition Team completes the PMF and inserts required photographic documentation.
- 8) The Contract, Manager or Senior Project Manager then certifies the PMF.
- 9) Electronic Copies are made of the completed file, all procurement documentation including change orders, contract amendments, and all load documentation.
- 10) Forward PMF and all other relevant data to GOSR for closeout.

11.0 Phase 8: Final Closeout and Deed Restriction Monitoring

11.1 Closeout

When the Buyout and Acquisitions are completed or declined, staff members review the files after the clearing of all fixtures from the subject properties. Any program revisions that may have occurred are noted in the Administrative Plan and all files are kept in accordance with the State's standard file policies and procedures. Inclusive of the closeout is a final review of the files, and confirmation that the documents reviewed per Section 9.2, Final Award Documents, are present in the file.

11.2 Record Retention and Audit Requirements

Maintain books, records, documents, and other evidence pertaining to all costs and expenses incurred and revenues received in sufficient detail to reflect all costs, direct, and indirect, of labor, materials, equipment, supplies, services, and other costs and expenses of whatever nature, for which payment is claimed. Records are maintained for a minimum of five years beyond the date that the final audit of the Project is accepted by the State. Records for non-expendable property acquired are retained for a five year period after the final disposition of property. Records are retained beyond the prescribed period if any litigation or audit is begun or if a claim is instituted involving the grant or agreement covered by the records. In these instances, the records are retained until the litigation, audit or claim has been finally resolved.

11.3 Deed Restriction Monitoring

New York State memorializes the covenants made in connection with the property in the CDBG-DR Program. New York State also gives notice to all persons of the restrictions imposed upon the land purchased under this Program.

HTFC must report to HUD annually regarding the use and current ownership of the land purchased in this Program according to the schedule described above.

11.4 Property Management- Restrictions of Reuse

11.4.1 Restricted Use of Enhanced Buyout Area Property

Any property acquired that is located in an Enhanced Buyout Area is dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices. Except as provided in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (the "Disaster Act"), no new structure may be erected on such property and no subsequent application for federal disaster assistance may be made for any purpose. Such property may be leased to owners of adjacent property or other parties, with the lease to be limited to the uses set forth above, in return for a maintenance agreement. In the event such property is sold, a deed restriction or covenant running with the land must require that the

property be dedicated and maintained for the uses set forth above in perpetuity.

11.4.2 Post-Settlement Transfer of Property Interest

Properties acquired with CDBG-DR funds retain a CDBG identity and must continue to meet a National Objective even if the use of the property changes after Buyout or Acquisition.

If the use of the property after Buyout or Acquisition is green space in perpetuity, then the demolition of the structure is the end activity and the property is green space.

Properties that are outside of an Enhanced Buyout Area, where there will be an activity on the property post-acquisition, must continue to meet CDBG regulations for activity and National Objective until such time there is a transfer of property interest that relieves the CDBG identity.

HTFC follows the CFR 24 CFR 570.489(j) Change of Use of Real Property Acquired by CDBG-DR Voluntary Acquisition guidance from HUD for the reuse and/or disposition of property.

12.0 Acronyms and Definitions

12.1 Acronyms

Acronym	Name
AA	Allowable Activities
ACM	Asbestos Containing Materials
CDBG-DR	Community Development Block Grant
DHAP	Disaster Housing Assistance Program
DHCR	Division of Housing and Community Renewal
DOB	Duplication of Benefit
DOS	Department of State
DRGR	Disaster Recovery Grant Reporting System
DSS	Decent, Safe, and Sanitary
EBA	Enhanced Buyout Area
ECR	Estimated Cost of Repair
EPA	Environmental Protection Agency
ERR	Environmental Review Record
ESA	Environmental Site Assessment
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Maps
FHA	Federal Housing Administration
FMV	Fair Market Value
GIS	Geographic Information System
GOSR	Governor's Office for Storm Recovery
HCR	Office of Community Renewal
HLR	Housing of Last Resort
HQS	Housing Quality Standards
HTFC	Housing Trust Fund Corporation
HUD	Department of Housing and Urban Development
IMA	Interim Mortgage Assistance
ION	Initiation of Negotiations
IPMC	International Property Maintenance Code
IRS	Internal Revenue Service
LEP	Limited English Proficiency
LLC	Limited Liability Corporation
LLP	Limited Liability Partnership
LMI	Low- to Moderate- Income
LP	Limited Partnership
NEPA	National Environmental Policy Act

NESHAP	National Emission Standards for Hazardous Air Pollutants
NFIP	National Flood Insurance Program
OIA	Office of Internal Audit
PCB	Polychlorinated Biphenyls
PMF	Project Management File
QPR	Quarterly Performance Report
RACM	Regulated Asbestos Containing Material
RE	Responsible Entity
SAVE	Systematic Alien Verification for Entitlements
SBA	Small Business Administration
SEQR	State Environmental Quality Review
SFHA	Special Flood Hazard Area
SOW	Scope of Work
SSC	Site Specific Checklist
SSDI	Social Security Disability Income
STAR	School Tax Relief Program
URA	Uniform Relocation Act

12.2 Definitions

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

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.

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

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

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

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

Community Development Block Grant-Disaster Recovery (CDBG-DR): A federal program administered by the US Department of Housing & Urban Development (HUD) which provides grant funds to local and state governments. The CDBG-DR program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses.

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

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

- Common elements owned in undivided shares by unit owners
- Other real property in which the unit owners have use rights

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

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

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

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

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

Duplex: A residential structure consisting of two separate dwelling units, side by side or one above the other.

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

Earth Movement: Is a FEMA term where there are shifts to land caused by landslide, slope failure, saturated soil mass moving by liquidity down a slope, or sinking of the earth.

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

Encroachment: Any floodplain development that could obstruct flood flows, such as fill, a bridge, or a building. A driveway, road, or parking lot at grade (without any filling) would not cause an obstruction. Development of lakeshore floodplains, where there is no flow, is not considered an encroachment.

Environmental Review Record (ERR): A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents

Environmental Code: Properties located where federal assistance is not permitted are ineligible for Program assistance. Properties must 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.

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

Federal Emergency Management Agency (FEMA): An agency of the United States Department of Homeland Security. The agency's primary purpose is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.

Floodplain: Also known as the 'Base Flood' it is the low, flat, periodically flooded lands adjacent to rivers, lakes and oceans and subject to geomorphic (land-shaping) and hydrologic (water flow) 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' it is the portion of the Floodplain effective in carrying flow where flood hazard is generally the greatest, and water velocity is the highest. In the Floodway, fill or other development is likely to divert flow and contribute to increased water depths during a flood. Ideally, Floodways should be undeveloped areas that can accommodate flood flows with minimal risk.

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

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 (GC): A registered/licensed professional or specialty trade serving as the prime or subcontractor that carries out design and construction activities for the Homeowner in

the program; the GC for the intent of this program may subcontract out portions of the work as necessary.

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

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

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

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

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

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

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

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

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

Limited English Proficiency (LEP): A designation for person that are unable to communicate effectively in English because their primary language is not English and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. An LEP person will benefit from an interpreter who will translate to and from the person’s primary language. An LEP person may also need documents written in English translated into his or her primary language so that person can understand important documents related to health and human services.

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

Low- and Moderate- Income (LMI): Low to moderate income people are those having

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

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

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

Minority Business Enterprise (MBE): A business that is owned and controlled (minimum of 51 percent ownership) by a member of a minority group.

Mixed Family: Is a family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

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

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

National Environmental Policy Act (NEPA): Establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government give proper consideration to the environment prior to undertaking any major federal action that could significantly affect the environment.

National Flood Insurance Program (NFIP): Created by Congress in 1968 to reduce future flood damage through floodplain management and to provide people with flood insurance through individual agents and insurance companies. FEMA manages the NFIP.

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

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

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;

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

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

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

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

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

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

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

(iv) **Policy Change Control Board (PCB):** will review the change, and approve or deny the proposed changes as they believe appropriate. The PCB will evaluate Cost, Scope and Schedule prior to making any policy changes. The PCB will be represented by Public Relations, Training, Information Technology, Anti-Fraud Waste and Abuse, QA, Contracting & Procurement, Federal Compliance and Program Directors.

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 Owner: Individual or entity in possession of title for land, building, or other item.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Slum and Blight: “Slum and blight” mean an area in which at least seventy percent of the parcels are blighted parcels and those blighted parcels substantially impair or arrest the sound growth of the state or a political subdivision of the state, retard the provision of housing accommodations, constitute an economic or social liability, or are a menace to the public health, safety, morals, or welfare in their present condition and use.

Small Business Administration (SBA): SBA’s Office of Disaster Assistance (ODA) provides affordable, timely and accessible financial assistance to Property Owners, renters, and businesses. The SBA low-interest, long-term loans are the primary form of federal assistance for the repair and rebuilding of non-farm, private sector disaster losses.

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

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

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 Property Owner 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.

Substantial damage may be determined by the following:

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

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

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

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

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

Urgent Need Objective: Under the disaster recovery federal regulations, HUD has determined that an urgent need exists within the Presidentially Declared counties. An urgent need exists because existing conditions pose serious and immediate threat to health/welfare of community, the existing conditions are recent or recently became urgent (typically within 18 months), and the sub-grantee or state cannot finance the activities on its own because other funding sources are not available. All Property Owners which do not meet the LMI criteria will be placed into the Urgent Need category.

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Exhibit 1 – Citizen Participation Plan

Citizen Participation Plan

Community Development Block Grant Disaster Recovery Hurricane Irene, Tropical Storm Lee, & Superstorm Sandy

January 5, 2015

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. A summary of all comments received and reasons why any comments were not incorporated into the Substantial Amendment will be included in the HUD request for a Substantial Amendment and posted

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

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

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

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

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

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

- .2% still water elevation (500 year flood)
- **SLOSH storm surge inundation zones (NY3 Basin).** The Sea, Lake, and Overland Surges from Hurricanes (SLOSH) model of the National Hurricane Center estimates hurricane storm surge. Because category 3 hurricanes (Saffir-Simpson scale) have occurred numerous times in New York, the SLOSH category 3 inundation zone was used to identify the geographic extent of coastal inundation risk.
 - **Sea level rise scenario.** 0-3FT above Mean Higher High Water (MHHW) shoreline using NOAA VDatum for MHHW surface that shows both possible and more likely areas that will be impacted based on mapping confidence. Future sea level rise was also accounted for by adding 3 feet of elevation to the NOAA National Weather Service coastal flood advisory and adding 3 feet of elevation to the inland extent of the 100 year flood zone.
 - **Shallow coastal flooding.** NOAA National Weather Service (NWS) shallow coastal flood advisory thresholds. An analysis of the number of events and duration of coastal flooding over the past 3 years and what 0.5m and 1m of SLR will do to increase those was carried out. See SLR viewer flood frequency tab for examples www.csc.noaa.gov/slr
 - **Susceptible Natural Shoreline Features.** Areas subject to shoreline erosion are at risk of chronic impacts as well as increased storm impacts.
2. **Compile mapping into a summary, classifying geographic areas according to differences in vulnerability.** Mapped areas described in Step 1 above were overlaid, combined vulnerabilities were used to discriminate geographic areas into three classes:
- a. Extreme Risk Areas: Areas currently at risk of frequent inundation, vulnerable to erosion in the next 40 years, or likely to be inundated in the future due to sea level rise:
 - i. FEMA V zone.
 - ii. Areas subject to Shallow Coastal Flooding per NOAA NWS's advisory threshold.
 - iii. Areas prone to erosion, natural protective feature areas susceptible to erosion.
 - iv. Added 3 feet to the MHHW shoreline and extended this elevation inland over the digital elevation model (DEM) to point of intersection with ground surface.
- Result:** An area depicting the maximum extent of the above areas was compiled. This is the Extreme Risk Area.

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

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

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

c. Moderate Risk Areas: Areas outside the Extreme and High Risk Areas but currently at moderate risk of inundation from infrequent events or at risk in the future from sea level rise.

- i. Area bounded by the 0.2% annual risk (500 year) flood zone, where available.
- ii. Added 3 feet to the Base Flood Elevation for the current 1% annual risk flood event and extended this elevation inland over the DEM to point of intersection with ground surface.
- iii. Area bounded by SLOSH category 3 hurricane inundation zone.

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

Exhibit 3 – New York Rising Buyout and Acquisition Program Disposition Plan

Introduction

Governor Cuomo established the Governor’s Office of Storm Recovery in June 2013 to maximize the coordination of recovery and rebuilding efforts in storm-affected municipalities throughout the State of New York (State). The Governor’s Office of Storm Recovery (GOSR) operates within the New York State Housing Trust Fund Corporation (HTFC). HTFC is a component of New York State Homes and Community Renewal (HCR), a unified leadership platform, encompassing a variety of 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 (CDBG-DR) funds.

Following Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee, the State developed the NY Rising Buyout and Acquisition 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.”

This Disposition Plan (the Plan) consists of disposition strategies for two separate activities of the NY Rising Buyout and Acquisition Program: (1) The New York Rising Buyout component¹ (“Buyouts”), which includes the purchase of properties within designated “Enhanced Buyout Areas;” and (2) The NY Rising Acquisition component² (“Acquisitions”), which includes the acquisition of properties that sustained substantial damage. All purchases are voluntary sales. The Program estimates that they will purchase approximately 700 parcels through Acquisition and 750 parcels as a result of the Buyout process.

The Buyout component purchases properties in “Enhanced Buyout Areas,” the highest risk areas inside the floodplain. The program is intended to reduce risk from future flooding events. Purchased properties are dedicated and maintained in perpetuity for a use compatible with open space, recreation, or wetlands management practices. No new structure may be erected on a Buyout property other than a public facility open on all sides and functionally related to the designated open space, a rest room, a flood control structure, or a structure approved by the local floodplain manager in writing before commencement of construction of the structure.

¹ This activity is titled “The Buyout for Floodplain Restoration” in HUD’s Disaster Recovery Grant Reporting System (DRGR).

² This activity is titled “Acquisition for Redevelopment” in in HUD’s Disaster Recovery Grant Reporting System (DRGR).

The Acquisition component purchases substantially damaged properties in a 100 and/or 500 year floodplain. Acquired properties may be redeveloped in a resilient manner pursuant to applicable local and State building codes.

As outlined in the State’s Action Plan and Amendments, this Disposition Plan establishes procedures GOSR follows to dispose of properties acquired with CDBG-DR funds through the NY Rising Buyout component and NY Rising Acquisition component.

Objectives of the Plan

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

The State will dispose of Acquisition properties so as to facilitate the availability of a new housing stock that meets all current codes and standards. The Plan seeks to return property to the municipal tax rolls, promote production of resilient structures, build equity and wealth in storm-affected communities at high risk of flooding, and, increase affordable housing stock for low- and moderate-income residents.

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

Conformance with CDBG-DR National Objectives

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

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

This National Objective requirement applies from the date CDBG-DR funds are first spent for the property until five years after closeout of the State’s CDBG-DR grant. The disposition of properties will either meet a CDBG-DR National Objective or properties will be sold at current fair market value (FMV) and revenue will return to the State. As we anticipate proceeds will exceed \$35,000 annually, all such proceeds, less disposition costs, will be considered Program Income and redirected to the State for eligible activities.

NY Rising Buyout Component

The New York Rising Buyout component includes the purchase of eligible storm-impacted properties in Enhanced Buyout Areas. Enhanced Buyout Areas are certain high risk areas in the floodplain determined to be among the most susceptible to future disasters. The State has conducted purchases inside of the Enhanced Buyout Areas starting at 100% of the property's *pre-storm* FMV, plus available incentives. Properties purchased through the Buyout component will be dedicated in perpetuity for uses compatible with open space, recreation, or wetlands management practices. The State will work with municipalities and neighborhoods to identify capable entities to maintain the properties over time.

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

Disposition of Buyout Properties

Properties purchased through the Buyout component will be transferred either to units of State or local government or to nonprofit organizations (including non-profit land trusts) with a chartered mission of the preservation and maintenance of open space. In either case, land will be dedicated in perpetuity for uses compatible with open space, recreation, or wetlands management practices. Preservation of open space includes, but is not limited to, maintaining greenspace, wetlands restoration, flood mitigation and/or water quality projects, pocket parks, bike paths, and other recreational amenities indicated in the March 5, 2013 Federal Register Notice (78 FR 14329).

NY Rising Acquisition Component

The Acquisition component includes the purchase of eligible substantially damaged properties inside the 100 and/or 500 year floodplain in storm-impacted areas. The Acquisition component is necessary to allow homeowners with storm-damaged property in flood-prone areas to relocate to safer areas. It is the State's intention that buyers redevelop these sites in a resilient manner.

Properties purchased as Acquisitions have been determined to be "substantially damaged" by the local floodplain administrator or similar official. Redevelopment of these properties must meet the elevation and all floodplain development and design requirements set forth in the New York State Building Code and any local building code. These requirements meet or exceed the U.S. Department of Housing and Urban Development (HUD) requirement to elevate substantially improved properties to one foot above base flood elevation (BFE), which is the absolute minimum height of all elevation for all properties receiving CDBG-DR assistance.

Further, all redevelopment must meet any long-term resiliency/retrofit activities as required by New York State and local building code which may include:

- Elevation of electrical systems and components above design flood elevation;
- Securing fuel tanks;
- Changing the use of below-design flood elevation spaces;
- Installation of flood vents in basements and crawl spaces in flood zones; and/or,
- Installation of sewer backflow valves.

Most acquired properties will be disposed of at a public auction for current fair market value and subject to a deed restriction that redevelopment of the property must occur within three years from the date of the closing. Purchasers will be required to submit periodic documentation on the progress of redevelopment of purchased properties, which will be described in the Program's policy and/or procedure manual. Failure to rebuild in the required timeframe will result in the reversion of the property to HTFC. GOSR reserves the right to grant short extensions on a case-by-case basis upon demonstration that the purchaser has made significant progress to meet this rebuilding. A purchaser must produce a final Certificate of Occupancy to demonstrate performance on the obligation to redevelop.

Auction

The State will dispose of acquired properties by conducting a public auction for the sale of individual lots. The final purchase price at auction of the property shall establish FMV. Proceeds from the sale of the properties, less disposition costs, will be considered program income. To this end, the State has competitively procured the services of a local auctioneer and real estate broker ("Vendor") to develop minimum buyer qualifications and conduct the public auction of the Acquisition properties.

Overview of Auction Terms and Conditions

The State will work with the Vendor to ensure that all bidders are aware of the auction's Terms and Conditions before it commences. These include, but are not limited to:

1. A prohibition on limiting an otherwise qualified bidder from placing a bid based upon his or her age, race, color, creed, national origin, sex, handicap, marital status or sexual orientation;
2. An agreement that the auction deposit, dependent upon the Purchase Price, will be paid in cash or by official bank check, certified check, bank money order or postal money order on the Date of Sale;

3. The Balance of the Purchase Price will be compensated within forty-five (45) calendar days of the Date of Sale by official bank check, certified check, bank money order or postal money order;
4. The Purchaser will be required to accept the Property in its “as is” circumstance;
5. If damage occurs to the property between the date of sale to Title Closing, the Purchase Price will not be reduced;
6. All sales are made subject to all building restrictions and zoning regulations in effect up to Title Closing;
7. All redevelopment of the property must be consistent with local use and zoning regulations and must be completed, as evidenced by a duly issued final certificate of occupancy from the local building department with jurisdiction, within three years of the date of the closing or else the property will revert back to HTFC;
8. All redevelopment must meet the elevation and all floodplain development and design requirements set forth in the New York State Building Code and any local building code. These requirements meet or exceed the HUD requirement to elevate substantially improved properties to one foot above BFE, which is the absolute minimum height of all elevation for all properties disposed at auction;
9. The provisions of all laws, codes, statues, ordinances, acts, rules, regulations, etc. of any local, state or federal government, or any agency or subdivision thereof, apply at all times;
10. Provisions outlining the parameters of a Purchaser’s default such as a failure to make the Auction Deposits due on the Date of Sale or a failure timely to make any other payment(s) and/or fees required to be made pursuant to the Terms and Conditions; and,
11. The bidders must affirm under penalty of perjury, that the price in its bid was arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, or as to any matter relating to such prices with any other bidder or with any competitor. The bidder will further affirm this by having an authorized and responsible person execute and deliver a non-collusive bidding certification as a part of the bidder’s affirmation to GOSR or its designated representative at or before the time their bid is accepted.
12. Previous owners of record are prohibited from bidding on Properties they previously sold to HTFC as a part of the New York Rising Buyout and Acquisition Program.

Disposition of Acquisition Properties

Most properties purchased through the Acquisition component will be disposed of through an auction process. Program income generated from the disposition of properties will be used in accordance with the State's CDBG Disaster Recovery Action Plan and Amendments. The State's CDBG Action Plan includes allocations for multifamily affordable housing and Public Housing Assistance Relief.

In some instances, properties may be transferred or sold at or below FMV to appropriate non-profit housing providers and will be dedicated to producing affordable housing units for low- and moderate- income individuals. In these instances, the disposition of the property will meet the low- and moderate income National Objective.

Lastly, properties that do not conform to the surrounding area and/or are of greater use to the community as open space will be transferred to local units of government with a deed restriction mandating that they remain open space in perpetuity. The process of identifying which properties will be disposed of through an auction or another method will be included in the Program's policy and/or procedure manual as well as a procedure for properties that change in use.

Additional Disposition Strategies

If the State identifies other disposition strategies which are not currently outlined in the Plan, the State will update the plan to reflect any updated strategies. All additional strategies will be approved by the GOSR Executive and Policy Team.

City of New York Acquisition Activities

The State has entered into a partnership with the City of New York to perform acquisition activities. More specifically, "[NYC Build it Back](#)" is working with the State to administer and fund the New York State Acquisition for Redevelopment Program. This Program is designed to offer owners of properties affected by Hurricane Sandy the opportunity to sell their property to the State. **[DETAILS TBD]**

Exhibit 4 – 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/subrecipient, 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 subrecipient 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 subrecipient 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 Act³ 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 subrecipient 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.⁴ 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

³ 40 U.S.C. 3141 *et seq.*

⁴ 41 CFR Part 60.

in, denied the benefit of, or subjected to discrimination in any housing program or activity 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](#)⁵ (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.⁶ 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,

⁵ 29 U.S.C. 201.

⁶ *Id.*

- 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.

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, CDBG-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.