



New York City Build It Back
Applicant Guidebook for
1-4 Unit Homes



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Approved By:

HRO LEGAL AND COMPLIANCE



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NYC BUILD IT BACK APPLICANT GUIDEBOOK

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1 Program Overview

The New York City Build It Back Program (BIB or the Program) provides assistance to New York City property owners whose properties were damaged by Hurricane Sandy. BIB has six options for assistance:

- Repair of a storm-damaged property
- Repair and elevation of a storm-damaged property
- Rebuilding of a severely storm-damaged or completely destroyed property
- Acquisition for Redevelopment or Buyout of a severely storm-damaged or completely destroyed property
- Relocation for applicants in certain geographic areas
- Reimbursement for out-of-pocket repair or rebuilding expenses

The funding for the Program is provided through the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grants (CDBG) program. As a result, we are required to follow certain federal rules and regulations and the Program must ensure that:

- applicants meet eligibility standards,
- residential units are elevated according to requirements,
- projects are in compliance with environmental rules, and
- the majority of BIB's funds are spent on low-to-moderate income (LMI) households.

2 National Objective Determination

The Program's prioritization policy was created when it was unclear whether Build It Back would receive sufficient funding from HUD to serve all impacted homeowners. The City of New York was successful in securing additional funding from HUD and it is likely that the Program will have sufficient funding to serve all eligible applicants. The Program has now determined that all applications will be processed regardless of priority.

The federal CDBG funds that the City has received for Hurricane Sandy disaster recovery must be spent on an eligible CDBG National Objective. There are two eligible National Objectives for the Build It Back Program. The first is providing disaster recovery housing assistance to Low to Moderate Income households. The second is providing disaster recovery housing assistance to higher income households which have an urgent disaster recovery housing need (Urgent Need). Under our agreement with the federal government, the City is required to direct at least 50% of funds received to benefit Low and Moderate Income households affected by Hurricane Sandy.

Although the Program will no longer be classifying applications using the priority system, the Program must continue to classify all applications as meeting either the Low to Moderate Income ("LMI") or Urgent Need National Objectives as required by HUD. This is done by measuring the income of the household against the Area Median Income (AMI) level for New York City as determined by the federal government. It is important to note that while household income is used to determine the application's National Objective, no applicant is deemed ineligible based on their household income.

Table 1 shows the different income brackets based upon the number of people who live in the household. Applicants can determine their income level by determining the size of their household and then determining the total income of their household.

Table 1 – 2013 Income Brackets by Household Size

Household Size	< 80% AMI (LMI)	< 165% AMI (Non-LMI)	> 165% AMI (Non-LMI)
1	< \$48,100	< \$99,330	> \$99,330
2	< \$55,000	< \$113,520	> \$113,520
3	< \$61,850	< \$127,710	> \$127,710
4	< \$68,700	< \$141,735	> \$141,735
5	< \$74,200	< \$153,120	> \$153,120
6	< \$79,700	< \$164,505	> \$164,505
7	< \$85,200	< \$175,890	> \$175,890
8	< \$90,700	< \$187,110	> \$187,110

2.1 Household Income

The applicant must report the income of every household living in each occupied unit on a property. The Program verifies income through a self-certification form and then determines which income bracket the household falls within.

2.2 Income at the Application Level

Each property must have its own Program application. Each residential unit located on that property is included in the application. A residential unit is defined as a separate living space (such as an area of the house that has a separate entryway with its own bedroom, living area, kitchen and bathroom). The Program determines how many units are in a property during the damage assessment. LMI status is assigned at the application level, not at the individual unit level.

When calculating income, the Program follows a modified 1040 method, based upon the IRS 1040 form, which takes gross income and incorporates deductions to reach Adjusted Gross Income.

The Program uses the following rules to determine whether the property and application qualifies as LMI.

- One unit: The household occupying the unit must be at or below 80% of the Area Median Income.
- Two units: At least one household occupying one unit must be at or below 80% of the Area Median Income.
- Three units: Two units must have households at or below 80% of the Area Median Income.

- Four units: Three units must have households at or below 80% of the Area Median Income.

2.3 Income Verification for Owner-Occupied Units

For owner-occupied units, the Program requires that the head of household complete an income certification form declaring household income and household size. For LMI households, the Program verifies income through backup documentation, which must be attached to the income certification form. If household members file taxes separately, the applicant must provide backup income documentation for each filer, but there should only be one income certification form per household. The head of household may also indicate whether the household's income is expected to change in the coming twelve months and explain the reason for the expected change. The Program adjusts the household's income to reflect the declared change. Applicants must explain why they expect their income to change.

2.4 Income Verification for Tenant Occupied Units

For tenant-occupied units, the Program requires that one of the adults who files taxes for the household self-certify household income using a form which is supplied to the Program by the unit owner. If an owner is unable to provide an income certification form for a tenant-occupied unit, the owner may indicate that the certification was refused (by writing "REFUSED" on the certification form) and the unit will be presumed to contain a non-LMI tenant.

If a unit becomes unoccupied or occupied by a lower income household before the landlord signs the Program's Grant Agreement, the landlord applicant may provide updated tenant income information and request that their application be reclassified based upon the new household's income.

The Program requires a landlord applicant to either continue renting the unit to the household that signed the self-certification form as co-applicant, or to another household with income at or below the same classification of the household that executed the form. This requirement is included in the Grant Agreement and it lasts for one (1) year.

3 Eligibility Determination

In order to determine whether or not an application is eligible for BIB, we conduct an eligibility review process. The following Program rules apply to every application. Please refer to our website (www.nyc.gov/builditback) for more information about acceptable documents that would support the following criteria for eligibility.

3.1 Location in New York City

The Program must verify that the applicant's property is located within one of the five boroughs of New York City (Brooklyn, Queens, Manhattan, Staten Island and the Bronx).

3.2 Applicant's Identity

The Program must verify the identity of the applicant(s) listed on the application. This ensures that the individual executing documents and providing information has authority to provide access to the property and execute legal documents. Each property owner must be either an applicant or a co-applicant. Non-owners may not be applicants. (For example, family members that are not on the deed.)

Each applicant must submit government-issued photo identification, such as a current or expired driver's license, state-issued identification card, passport, passport card, permanent resident card, military identification card or other officially issued federal or state photo identification card.

3.3 Property Ownership

The Program must determine that the applicant owned the property or had an ownership interest in the property on the date Hurricane Sandy occurred, October 29, 2012. Ownership interest is defined as having partial ownership or a right to ownership such as being an heir who inherits a property. The Program must also determine that the applicant currently owns the property or has an ownership interest in the property in order to verify that the applicant can properly execute both documents relating to the property and contractual documents. The Program must also determine that all owners of the property are applying for BIB benefits.

The Program must verify ownership independently. In certain cases, applicants may be required to submit documentation associated with ownership, such as deeds, certificates of ownership of cooperative shares, proprietary leases, death certificates, wills, corporate ownership documentation or other ancillary documentation, all of which help the Program determine ownership.

3.3.1 Cooperative-Owned Buildings

It is common in cooperatively owned (Co-Op) buildings for applicants to own "shares" in the building corporation, rather than owning a specific unit. For this reason, the Program generally requires that the Co-Op's governing body (usually the Co-Op Board) be the primary applicant for the entire building. The Co-Op member whose dwelling is receiving assistance from the Program is required to participate as a co-applicant. If the Co-Op only owns the land on which the structure is located (such as in Breezy Point), the Co-Op will not be required to be a co-applicant. The Program will not perform any construction within any Co-Op unit without the agreement of the individual unit dweller and the Co-Op's governing body. Both the Co-Op and the individual member will be required to sign documents, including the Program's Grant Agreement. These requirements will not apply to reimbursement applications.

3.3.2 Condominiums

Condominium buildings (condos) are encouraged, but not required, to apply as a single building to facilitate the efficient delivery of Repair or Rebuild. In cases where a condominium building applies collectively, the Condominium Association is the primary applicant for the building. To perform construction on each condo unit, the relevant condo owner will be required to participate as a co-applicant. The Program will not perform any construction within any condominium unit without the agreement of the owners of the individual unit. However, in cases where an individual condo owner applies independent of the Condo Association, construction can be conducted within the owner's unit without an application from the Condo Association. These requirements will not apply to reimbursement applications.

3.3.3 Cases in Which the Property Owner is an Entity, Not a Person

In cases where a property is owned by a corporation, non-profit, partnership, trust or another entity, the Program requires a person to sign an affidavit stating that they have the authority to sign documents and make decisions on behalf of the entity that owns the property.

3.4 Citizenship or Qualified Immigrant Status

Only citizens and qualified aliens (e.g., legal permanent residents, refugees) are eligible to receive assistance under the Program as required by federal law. An alien who is not a "qualified alien" as defined by the Personal Responsibility and Work Opportunity Reconciliation Act ("PRWORA") of 1996 is not eligible for any "federal public benefit."

The Program determines status by first determining if the applicant has received assistance from another federal disaster recovery program with similar rules. If the applicant has not received assistance previously, the applicant must submit documentation, such as a current or expired US Passport or Passport Card, a current or expired New York State Enhanced Driver's License ("EDL") or Enhanced Non-Driver Photo ID Card ("ENDID"), a valid US Birth Certificate, a Certificate of Naturalization or a Certificate of Citizenship.

If the applicant is a qualified alien, the applicant must provide an Alien Number, or an I-94 Admission Number, to facilitate a screening through the US Department of Homeland Security (DHS) program for Systematic Alien Verification for Entitlements (SAVE). In those cases where the property owner is a trust or corporate entity (such as an LLC or LLP), no citizenship/qualified alien status documentation is required.

3.5 Primary Residency for Owner-Occupied Units

The Program must verify that at least one unit located on a property served as a primary residence at the time of Hurricane Sandy. The Program determines primary residency by first determining if the applicant has received assistance from another previous federal disaster recovery program with similar rules. If the applicant has not received assistance previously, the applicant must submit at least one of the types of documentation listed in the following table. The documentation will be accepted if it contains the applicant's name, is clearly dated within the required date range and includes the address of the damaged property.

Table 2 – Documents to Prove Primary Residency

<ul style="list-style-type: none"> • Proof of 2012 School Tax Relief (STAR) Exemption • 2012 Homestead Exemption • 2012 Federal Tax Return • 2012 Tax Return Transcript • Vehicle Registration or Renewal for 2012 • Certificate of Title for Vehicle Issued in 2012 • Government issued identification issued before October 29, 2012, and expiring on or after October 29, 2012 		
<p>Receipt of any of the following government benefits received for at least one (1) month during the six (6) months prior to or after October 29, 2012.</p>		
<p>Social Security (All types including, but not limited to, Retirement, SSDI, SSI and Survivors)</p>	<p>Temporary Assistance for Needy Families (TANF)</p>	<p>Medicare</p>
<p>New York Child Health Plus (CHIP)</p>	<p>New York Head Start</p>	<p>New York Low Income Home Energy Assistance Program (LIHEAP)</p>
<p>New York Medicaid</p>	<p>New York Special Supplemental Nutrition Program or Women, Infants and Children (WIC)</p>	<p>New York State Supplemental Nutrition Assistance Program (SNAP)</p>
<p>New York Temporary Assistance (TA)</p>	<p>New York Unemployment Insurance</p>	
<p>Copy of water, electric or gas bill(s) showing service for the six (6) months prior to October 29, 2012 and showing usage consistent with primary residency as judged by the Program’s eligibility review team.</p>		
<p>Letter from a water, electric or gas service provider stating that service was provided in the name of the applicant(s) for the six (6) months prior to October 29, 2012 and that the level of service was consistent with a primary residence.</p>		
<p>Other documentation from a government or commercial source which would tend to evidence that the applicant resided at the address listed on the application on October 29, 2012 as their primary residence. Non-standard documentation is subject to review and approval by the Program.</p>		
<p>Copy of water, electric or gas bill(s) showing service for the six (6) months prior to October 29, 2012 and showing usage consistent with primary residency as judged by the Program’s eligibility review team.</p>		

3.6 Primary Residency for Tenant-Occupied Units

If the property contains rental units, primary residency can be verified by the applicant providing proof for the tenant co-applicant in at least one of the units, through one of the methods listed below:

1. Rent Roll reflecting the rent charged/received for each rental unit in the building for the 12 month period up to November 2012, OR
2. Signed 12-month lease for period including the date Sandy occurred (October 29, 2012), OR
3. Proof of payment of rent for the 12 months prior to November 2012

In cases where a home is not owner-occupied, but is occupied by an individual(s) **who does not pay rent to the owner** (generally, a friend or family of the owner), the individual(s) living in the home must provide the same primary residency documentation as is required for owner-occupants.

3.7 National Flood Insurance Program (“NFIP”) Coverage (If Required)

As a condition of BIB eligibility for Repair or Rebuild options, properties that received FEMA federal disaster assistance previously for housing repair or replacement are required to carry flood insurance through the National Flood Insurance Program (NFIP). If the property listed on a BIB application was damaged by Hurricane Sandy but the owner failed to maintain the required flood insurance per applicable federal law, then the property is not eligible for Reimbursement, Repair or Rebuild through the Program. Applicants that did not maintain the required NFIP coverage will only be eligible for Program options such as Breezy Point Relocation or New York State Acquisition for Redevelopment or Buyout. The Program determines if this requirement has been met based upon data provided by FEMA.

3.8 Hurricane Sandy Damage

The residential unit must have sustained physical damage as a result of Hurricane Sandy. Damage is defined as rain, wind and/or flood damage received as a direct result of the storm, which occurred on October 29, 2012, plus any subsequent damage related to the original storm damage. Damage is verified through data provided by the New York City Department of Buildings, FEMA and/or other federal agencies and/or through the Program’s damage assessment.

3.9 Unrepaired Hurricane Sandy Damage

In order to be eligible for Repair or Rebuild assistance, the Program’s damage assessor must identify storm damage that has not been repaired. If the Program cannot verify such storm damage, but the Program has verified that the structure suffered Hurricane Sandy damage, the applicant is considered only for the Reimbursement program option. If all storm damage has been repaired, the applicant may be eligible for Reimbursement assistance.

3.10 Eligible Structure Type

The Program must verify that it is providing assistance to residential units. Commercial buildings that have no residential units and mobile structures are ineligible for assistance. In mixed-use buildings, assistance is given only to repair or rebuild the residential portions of a structure. Commercial portions of the structure are not assisted, except to the extent that the

commercial and residential portions of a building cannot be separated, for instance in the case of common mechanical systems. Residential structures containing more than four units are assigned to the Multi-Family Program. Other structures may be referred to another appropriate disaster recovery program for assistance.

3.11 Property Insurability

All properties that receive Program assistance and are located in a Special Flood Hazard Area (SFHA) or floodplain must obtain and maintain flood insurance in an amount at least equal to the CDBG funds received. Properties that are not eligible for NFIP flood insurance coverage are ineligible to receive Repair or Rebuild assistance, but may be eligible for Acquisition for Redevelopment or Buyout.

4 Coordination of Benefits

Federal law prohibits any Program applicant from receiving duplicate benefits – federal funds for any part of a disaster-related loss for which he or she has already received financial assistance to meet his or her housing need, either from insurance or other programs. Funds received by the applicant from other sources for the same property and same purpose are considered duplicative benefits. The Program considers the following types of benefits as being potentially duplicative of Program assistance.

Table 3 – Duplicative Assistance Types

Federal Programs	Other Assistance Types
FEMA Individual Assistance	Empire State Fund
FEMA Increased Cost of Compliance (ICC)	Disaster Homeownership Repair and Rebuilding Fund (HRRF)
Federal Flood Insurance Program (NFIP)	State of New York “NY Rising” CDBG Program
Small Business Administration (SBA) Loans	Private Insurance
	Philanthropic Assistance

4.1 Assistance Overview

The Program provides two types of awards to applicants after determining they are eligible to receive assistance. If an applicant is receiving construction assistance to repair, repair and elevate or rebuild their home, the Program does not give money directly to the applicant. Instead, the Program pays contractors directly for construction work which is completed. If an applicant is receiving Reimbursement or Relocation assistance, the Program will make a payment directly to the applicant. New York State Acquisition and Buyout payments are made by the State directly to the applicant.

Coordination of benefits is the process where the Program determines if the applicant has an unmet need which can be met with CDBG funds. An unmet need is defined as the additional

amount needed by an applicant for housing recovery after all previous benefits received by the applicant for housing recovery are taken into consideration.

In order to determine unmet need, the Program must first identify all of the benefits that an applicant received and then it must determine if those benefits were spent properly or if they have not yet been spent. Benefits which were either spent improperly or which have not yet been spent by the applicant are duplicative and the Program must reduce the amount of CDBG assistance the applicant receives by the duplicative amount.

If an applicant is receiving construction assistance from the Program, the applicant's maximum award amount is the cost of the construction project. If the Program determines that there is a duplication of benefits, the Program must reduce its award by that amount and the applicant must make up the difference between the cost of completing the construction project and the amount of the duplication. This is called a "transfer amount" and it is the applicant's contribution towards the cost of the project.

If an applicant is receiving a direct payment from the Program, the Program will determine the maximum award amount that the applicant can receive. If the Program determines that there is a duplication of benefits, the Program must reduce the direct payment amount by the duplicative amount.

4.2 Calculating Assistance

If a BIB applicant receives Program assistance through the Repair, Reimbursement or Rebuild Programs, all assistance previously received by the applicant for such construction activities must be considered when calculating the applicant's grant award. If an applicant receives Program assistance through the Relocation, Acquisition or Buyout Programs, the award may include housing replacement cost and additional cost assistance. In such cases, the Program must consider all benefits received by the applicant for each of those purposes when calculating the applicant's grant award.

Consistent with federal law, if the applicant received prior assistance, the Program must determine if such assistance was spent on allowable activities to avoid a potential duplication of benefits. Allowable activities are expenditures on items and services made by the applicant for the purpose they were intended when the applicant received the assistance. For example, an allowable activity would be spending FEMA funds received for the purpose of temporary housing on renting an apartment. By contrast, spending these FEMA funds on replacing a damaged car would not be an allowable expense. If the Program determines that an applicant has an unmet need but the applicant is unable to prove that prior assistance received was spent on allowable activities, the applicant's award must be decreased.

If a duplication of benefits is identified and the applicant is receiving Repair or Rebuild assistance, the Program must collect the duplicated funds from the applicant before construction can start. These funds are referred to as the "Transfer Amount". The Transfer Amount is the amount of previously received benefits that the applicant cannot prove were spent on allowable activities.

If the applicant is receiving Reimbursement, Acquisition and Relocation or Relocation assistance from the City and a duplication is discovered, the applicant's award is reduced by the amount of the duplication. New York State will calculate all benefits for the State Acquisition and Buyout programs.

If the Program determines that the applicant has already received assistance from other sources that is sufficient to meet or exceed the applicant's disaster recovery needs, the applicant is not eligible to receive Program assistance because the applicant does not have an unmet need.

4.3 Transfer Amounts

If an applicant is receiving construction assistance from the Program and the calculation shows that the applicant has a transfer amount, the applicant must provide that transfer amount to the Program before construction can begin. For applicants receiving repair assistance, the payment may be made after design consultation. For applicants receiving rebuild assistance, the payment may be made after preliminary design. Applicants are given the option of funding the Transfer Amount with unspent disaster-related financial assistance or personal funds. Applicants may not use new disaster recovery funds to fund the Transfer Amount. If the applicant cannot fully fund the required Transfer Amount in part or in whole, the Program may, in some cases, reduce the Program benefit received by the applicant in an amount that is equal to or greater than the unpaid Transfer Amount. Repair or Rebuild applicants may receive a reduced construction benefit if the Program can remove scope items or reduce the overall construction benefit and still complete the project successfully.

4.4 Using Transfer Amounts for Temporary Housing During Construction

The Program allows rebuild applicants with transfer amounts to set aside a portion of their transfer amount funding to pay for temporary housing expenses while construction is ongoing. The Program does not provide this assistance to applicants who do not have transfer amounts or to applicants who are not in the Rebuild Program.

4.5 Allowable Activity Credits

Applicants that used assistance received from other sources to repair damage may receive a credit to offset the disaster recovery benefits that they received. The Program damage assessor provides an estimated value for repairs that were made to the structure and paid for by the applicant. This value is used both to calculate the applicant's allowable activity credits and to evaluate the application for reimbursement. Applicants that used benefits for eligible disaster related expenses other than repairs may also receive a credit to offset their Transfer Amount. The Program verifies non-repair expenditures through a review of documentation, including proof of payment, provided by the applicant. Applicants may refer to the Program's F13 form for more information.

4.6 Funds Received After Application

Any additional disaster recovery funds that a BIB applicant receives after the completion of the application must be reported to the Program. Applicants are also required to execute a Subrogation Agreement, obligating the applicant to notify the Program if benefits are received in the future and, if applicable, transfer such funds to the Program.

4.7 SBA Loan Policy

Applicants may have applied for a U.S. Small Business Administration (SBA) disaster loan while also applying for BIB assistance. Due to federal requirements, if the applicant drew down all or part of the SBA loan, the Program must count the entire approved amount of the loan as potentially duplicative. If the applicant was approved for an SBA loan, but the applicant

cancelled the loan in its entirety, the Program may examine the circumstances under which the loan was cancelled to determine whether the cancelled loan amount should be considered potentially duplicative. The Program must consider SBA loans cancelled at the request of the applicant as potentially duplicative unless the applicant can provide evidence that the loan amount should not be considered. **Loans which were cancelled or revoked by SBA are not considered duplicative.**

4.8 Private Insurance Settlement Policy

If an applicant obtained insurance proceeds through legal action, then incurred legal fees are credited to the applicant and not considered duplicative benefits. Amounts recovered through legal action for punitive damages, contents or other non-structural coverage are not considered duplicative benefits. The applicant's attorney must provide a written statement showing these amounts in order for the Program to consider them non-duplicative.

5 Damage Assessment

The Program performs an assessment of the property to determine if the BIB applicant's home meets all of the eligibility criteria listed in Section 3. This assessment is used by the Program to evaluate completed repairs and to identify repairs that still need to be completed. The assessors also collect information to determine if the applicant's home must be elevated or rebuilt.

5.1 Repair or Rebuilding Activities After Damage Assessment

Pursuant to HUD requirements, applicants should cease all demolition, repair and rebuilding activities at the time that the damage assessment is scheduled. The applicant may not resume construction activities after the damage assessment. If an applicant demolishes their home after the damage assessment is performed, they will be considered ineligible unless the City of New York ordered the demolition.

5.2 Cost to Complete for Potential Repair Projects

The damage assessment provides a total cost to complete the project which includes repairing Sandy damage and repairing other items as required. The cost to complete may include the elevation of critical utilities, the elevation of the entire structure, and costs to address code, health and safety issues. The cost to complete may also include the mitigation of lead based paint, asbestos and mold, if required.

The Program bases the cost to complete on the amount the Program would pay to do the work if it was done by a Program contractor. The cost to complete is not based upon the cost to replace the exact type or kind of items which were damaged or destroyed. The cost to complete is a preliminary estimate of the cost to repair the home. The final decisions about the scope and cost of repairs is made later in the process, at a Design Consultation.

5.3 Elements Excluded From the Cost to Complete

The following items are not covered by the Program and will not be repaired or replaced. If damaged, these items may be demolished or removed if they pose a health and safety risk to the occupants of the home.

- Repair or replacement of detached structures such as sheds and garages, swimming pools, decks and docks or boat ramps.

- Replacement of special features, trims and designer features that exceed basic livability requirements and features of standard grade homes such as solar panels, sky lights, wainscoting and wood paneling, hot tubs, copper gutters and non-standard roofs unless the damage to these items present a health or safety hazard (whereby they will be replaced with the Program standard quality of material).
- Replacement of protected historical features of the residential structure.
- Repair or replacement of fencing or security systems.
- Replacement of clothes washer and/or dryer.
- Repair of illegal units.

5.4 Repairs Less Than \$5,000

The Program will not perform repairs to the home if the total cost to complete the repairs is less than \$5,000. However, the Program has a strong interest in making homes more resilient to future storm events by performing work such as elevating mechanical or electrical systems. If an applicant is eligible to receive resiliency assistance, the Program may perform work to make the structure more resilient regardless of whether the cost falls below the \$5,000 threshold.

5.5 Value of Completed Repairs

The damage assessment must provide an estimated value of all completed permanent repairs after Hurricane Sandy. For each repair, the assessment must state whether the repair was performed by the applicant, a contractor or other professional, the NYC Rapid Repairs Program or a charitable entity who was not paid by the applicant. During the damage assessment, the applicant must identify to the assessor what specific work was performed and who performed the work. The value assigned to these repairs must be based upon reasonable post-Hurricane Sandy pricing for similar repairs using a standardized cost estimating tool. Non-permanent repairs must be considered to be unrepaired storm damage and will not be included in the assessment as completed repairs for valuation purposes.

5.6 Elevation and Repair Feasibility Determination

Land areas at high risk for flooding are called Special Flood Hazard Areas (SFHA). All structures within the 100-year flood zone and/ or high wind velocity zone are considered to be located within a SFHA, as determined by FEMA. These residential units must undergo a review to determine the extent of damage and whether the structure requires elevation. Structures in the SFHA that are determined to be substantially damaged by Hurricane Sandy or substantially improved with Program funds must be elevated. “Substantial damage” or “substantial improvement” are standard FEMA terms applied by the Program to a damaged structure located in the SFHA for which the total cost of repairs or construction work is 50 percent or more of the structure’s market value before Hurricane Sandy occurred. To determine base flood elevation (BFE) heights for these structures the Program requires application of FEMA’s best available flood elevation data plus freeboard, which is a factor of safety specified in the City’s Building Code.

5.7 Repairs in Non-Substantially Damaged/Improved Structures

If the Program determines that a structure located in a SFHA is not substantially damaged and will not be substantially improved, the Program may allow equipment or finishes of the same types in the same locations to be replaced. The Program does not allow for an increase in the

degree of noncompliance with Appendix G of the 2008 NYC Building Code. Noncompliant actions include, but are not limited to:

- Finishing an unfinished basement,
- Creating a basement apartment,
- Adding new or additional mechanical equipment, or
- Changing occupancy to one with a higher Design Flood Elevation, which reflects the application of design criteria to achieve elevation greater than the BFE

5.8 Final Elevation Determination

The Program makes a final substantial damage and preliminary substantial improvement determination based upon data collected during the damage assessment. The Program's final substantial improvement determination is made after the design consultation is completed. In some cases, the substantial damage determination may show that elevation is not required while the preliminary substantial improvement determination shows that elevation may be required. In those cases, the applicant will be provided with a choice to proceed with elevation based upon the preliminary substantial improvement determination or to proceed to a non-elevation design consultation where the Program will make a final determination as to whether elevation is required.

5.9 Repair Feasibility

The Program must determine if it is feasible to repair a structure by performing a cost and risk based analysis of the potential repair project. Structures which cannot be successfully repaired in a safe, cost effective and timely manner may be rebuilt. Generally, applicants will be given the option to repair if the estimated cost to complete all repairs and any required elevation is less than 75% of the estimated cost to rebuild the structure. Applicants with an estimated cost to repair or repair and elevate between 75% and 100% of the estimated cost to rebuild may receive the choice of either Repair or Rebuild, if possible. If the estimated cost to repair or repair and elevate is greater than the estimated cost to rebuild the home, the applicant will only qualify for Rebuild.

5.10 Infeasible Construction

Throughout the process, the Program may make exceptions to the Program policies and procedures to allow safe, cost effective and practical rebuilding of the damaged homes. In limited cases, the Program may determine that Repair or Rebuild of housing structures as they existed before the storm may not be feasible due to site conditions.

5.11 Processing Exceptions Due to Construction Issues

In cases such as attached and adjacent structures that share critical mechanical and structural components, the Program will be required to perform work and expend funds on structures and in areas which may not have applied for assistance or which may be at different stages in the Program's review processes. In such cases, the Program will determine the best available and most responsible engineering solution to provide a housing solution to an eligible applicant. If required, the Program may conduct outreach to encourage nonregistered homeowners to apply for the Program or it may accelerate the processing of an application. Registration exceptions may be made on a case-by-case basis to allow an otherwise eligible applicant to apply after the close of registration.

5.12 Open Permits

If an applicant is receiving repair assistance, the applicant may be required to close open Department of Buildings permits relating to the property before the Program can begin construction work. If an applicant is receiving reimbursement assistance, open permits or violations which originated after October 29, 2012 may require resolution before the applicant is eligible to receive reimbursement.

6 Environmental Review

The Program must comply with the National Environmental Policy Act (NEPA), HUD housing construction standards, and other federal, state and local environmental regulations that apply to the Program option(s) offered to a BIB applicant. A site-specific environmental assessment of the applicant's residential property is performed to evaluate specific environmental criteria required by applicable laws and regulations. The Program must also determine whether the applicant's home contains certain hazards such as lead-based paint, asbestos and mold. If environmental issues or hazards are discovered during the review process, the Program will make a determination as to how those issues or hazards should be addressed. In rare cases, the Program may discover an environmental condition of the property or the home that cannot be addressed and would result in the disqualification of an application.

7 Other Considerations

7.1 Reasonable Accommodation

The Program must provide reasonable accommodation to BIB applicants with disabilities and to make reasonable modifications to its policies, practices or procedures to avoid discrimination on the basis of disability and to ensure meaningful access to programs, benefits and facilities. Any accommodations or modifications that would fundamentally alter the nature of a Program service, program or activity are considered unreasonable. Applicants who assert that they have a disability may request a reasonable accommodation/modification from the Program.

7.2 Referral to Program Counseling or Other Resources

The Program will refer certain applicants for financial and legal counseling as appropriate to clarify requirements and assist applicants in the completion or during processing of their BIB applications. At different times during case development, applicants may receive referrals for multiple counseling topics, including various matters associated with debt, taxes, flood insurance, health status, property ownership, etc. The Program also provides appropriate referrals to applicable external programs, including the Neighborhood Revitalization NYC (NRNYC) Mold Treatment Program and the NRNYC Home Repair Program.

7.3 Voluntary Withdrawal and Ineligibility

The Program may accept the voluntary withdrawal of any application at any time, as evidenced by a document signed by one or more applicants. The withdrawal form can be submitted online or at any of the Build It Back centers. The Program may also accept the partial withdrawal of an application if an applicant does not wish to receive one type of benefit for which he or she is eligible, but the applicant wishes to preserve the ability to receive another type of benefit. The Program may make an application ineligible if the applicant fails to participate in the Program or if an applicant fails to respond to a request for information or documentation if the applicant is

provided written notice of the failure to participate or respond and the applicant fails to cure the defect within the time specified by the Program.

7.4 Fraud

An applicant's failure to disclose accurate and complete information may delay the application process and could constitute fraud. Potential fraud cases are examined by the Program on a case-by-case basis. Suspected cases of fraud are referred to the NYC Department of Investigation. If restitution is required, further assistance is denied unless restitution is made in full.

7.5 Transfer of Property Ownership Post-Storm

If a person takes ownership of a property due to transfer of ownership prior to the execution of the Program's grant agreement, the new owner may be eligible to receive assistance from the Program. In order to be eligible, the original owner must have owned the property at the time of the storm, October 29, 2012, and the property must have been the new owner's primary residence at the time of the storm.

Transfer of the property can occur by death or by voluntary transfer while the original owner is still living. For income calculation purposes, the income of the new household will be used to determine national objective. The new owner will be the applicant and the new owner must complete all required documentation and satisfy all Program requirements.

If the new owner cannot prove that the property was their primary residence at the time of the storm or if the property which was transferred contains only rental units, the property is not eligible to receive assistance from the Program.

7.6 Deceased Applicants

If an applicant dies after the execution of the Program's Grant Agreement and there is no co-owner who executed the Grant Agreement, the Program will complete its commitment to the repair or rebuild project by completing construction, if the new owner agrees in writing to continue the project. The new owner of the property will not be bound by the terms of the Grant Agreement, and the Program will consider the original owner to have been the beneficiary of the Program's funds for national objective purposes. This policy does not apply to Acquisition for Redevelopment.

7.7 Uniform Relocation Act

The Uniform Relocation Act (URA) provides protection to tenants who are involuntarily removed from their dwellings, either permanently or temporarily, as a result of participation in a federally funded CDBG program. URA protections will not apply to homeowners participating in the Program, as homeowner participation is voluntary. Tenants, however, may be involuntarily required to leave the property during construction activities. Property owners are obligated to pay for reasonably incurred relocation costs associated with tenants being *temporarily* relocated during the repair or rebuilding of a property. Such costs may include: rent differentials, hotel stays, and/or moving expenses, as applicable. However, the City is responsible for funding benefits to *permanently* displaced tenants as required under the URA.

The Program determines whether a unit is suitable for Repair or Rebuild and if an occupant may remain in the dwelling while work is being performed. This information determines whether a tenant is to be permanently displaced or temporarily relocated. If a property containing

occupied rental units is acquired, the tenants in those units will be considered to be permanently displaced.

7.8 Appeals

At any point during the BIB process, an applicant may initiate the issue resolution process and contest specific written determinations regarding their application. Upon applicants filing a Request for Review, a formal review process is initiated with the Program. If an applicant is unsatisfied with the Request for Review decision regarding Program eligibility, then they may file an Appeal of the decision. The purpose of the issue resolution process is to provide explanations and resolve disagreements in a timely manner.

Please note that the Program values permanent repairs for reimbursement through the damage assessment. Repairs are valued using standardized pricing which is intended to provide a reasonable value for the repairs which were completed as required by HUD. The Program will not accept Requests for Review or Appeals requesting additional reimbursement where an applicant claims that the assessment undervalued the repairs which were completed.

7.9 Complaints

The Program accepts written complaints through United States mail from citizens on issues related to the Build It Back disaster recovery program. The Program will make every effort to provide a timely written response to every citizen complaint within fifteen (15) working days of the receipt of the complaint, where practicable. Written complaints should be mailed to:

NYC Build it Back
Attn: Complaints
14 Murray Street #150
New York, NY 10007

The Program also receives informal complaints through electronic mail and telephone calls. These complaints are fielded through the Program's dedicated customer service team. Informal complaints are responded to by customer service representatives when practicable or they are escalated to the appropriate party for response.

7.10 Discrimination Complaints

Under the New York City Human Rights Law, Program applicants cannot be denied housing because of the applicant's actual or perceived race, creed, color national origin, age, disability, gender (including gender identity and sexual harassment), sexual orientation, marital status, partnership status, alienage or citizenship status, lawful occupation, lawful source of income, or because children may be residing with the applicant. In addition, under Federal law, it is illegal to discriminate against any person because of race, color, religion, sex, handicap, familial status, or national origin.

Applicants may file discrimination by dialing the City's 311 system to reach the NYC Commission on Human Rights, by visiting www.nyc.gov/cchr or by making a complaint directly to the Regional HUD office contact:

http://portal.hud.gov/hudportal/HUD?src=/states/new_york/offices

7.11 Complaints of Fraud, Waste or Abuse

Complaints of fraud, waste or abuse may be reported to the Program at any time, either in writing or verbally. To document and track complaint resolution efforts the Program will provide a written acknowledgement of the receipt of the complaint to the complainant where appropriate. The Program will perform an initial investigation of the complaint to determine if it may be valid, and forward all valid complaints to the appropriate Local, State or Federal authorities for investigation. The Program will document all investigative findings, facts or other relevant information in a memorandum to be forwarded.

7.12 Program Compliance Requirements

All applicants who receive a benefit from the Program will be required to execute a program compliance document called a Grant Agreement which details their obligations. The Grant Agreement contains certain requirements which the applicant(s) must agree to follow, such as owning the home for one (1) year and maintaining flood insurance. The grant amount stated in the Grant Agreement is the Program's contribution towards the project. If an applicant fails to follow the requirements stated in the grant agreement, the applicant may be required to pay back all or part of the grant amount.

7.13 Flood Insurance Requirements

Special Flood Hazard Areas (SFHAs) are indicated on Flood Insurance Rate Maps (FIRMs) published by FEMA. These areas are considered at high risk for flooding. Applicants receiving Repair, Rebuild or Reimbursement assistance whose homes are located in a SFHA or floodplain will be required by federal law to carry flood insurance in an amount at least equal to the amount of assistance provided by the Program for the Program's compliance period. This obligation continues after the term of the Grant Agreement ends, and federal law requires that the building be covered by flood insurance for the life of the property. Additionally, the applicant must inform any new owner of the requirement to purchase and maintain flood insurance if they should sell the property, as required by federal law.

Failure to carry flood insurance could result in the denial of future federal disaster assistance under federal law. This requirement applies to all persons in a SFHA or floodplain who have already received FEMA or SBA assistance for flood damage to their homes.

8 Program Options

Once the Program determines that an applicant is eligible to receive assistance, the Program determines which options will be offered to the applicant. In some cases, an applicant may be eligible for multiple options, such as being eligible to receive repair assistance and reimbursement. Additional information on each Program option is available on the NYC Build It Back website (www.nyc.gov/recovery) or by contacting Customer Service.

8.1 Repair Program Option

If applicants qualify for the Repair Program, they have a choice to use either a Program Contractor procured by the City or to select their own contractor through the Choose Your Own Contractor (CYOC) option. Applicants who choose the CYOC option must have their contractor register with the Program and be reviewed for eligibility by the City. For each repair project, the Program will prepare a detailed scope of work in partnership with the applicant. The detailed scope of work results in the final estimated construction cost for the project.

Applicants are not permitted to have any out-of-scope construction work performed during participation in the Program. Applicants may upgrade from the standard Program specifications if they choose the CYOC option. If an applicant in the CYOC option chooses to upgrade materials or finishes, the Program may require the applicant to use a non-Program-provided architect who is New York State licensed to perform the design work. In these cases the Program will reimburse the applicant's contractor at a set unit price for work performed that is equal to the cost the Program would have paid if the applicant was utilizing a Program contractor standard materials.

Upgrades are not allowed if the applicant uses a Program Contractor or if the Program reduces an applicant's scope of work due to an unpaid coordination of benefits Transfer Amount. Determining the cost and scope of upgrades under the CYOC option is solely within the control of the applicant and the applicant's contractor. The Program will not assist the applicant with upgrades and the Program will not intervene in any dispute arising over out-of-scope work. In cases where the cost of upgrades would result in a substantial improvement which would require elevation, the homeowner must agree to eliminate the upgrades from the scope of work. If the homeowner will not agree to eliminate the upgrades, the Program will be unable to fund any portion of the scope of work.

8.2 Rebuild Program Option

The Rebuild Program option is available to applicants whose original home was completely destroyed, severely damaged, or where the Program determines that it would not be feasible to repair the home. The Program will determine the amount of assistance based on the pre-storm size and unit count of the home, minus the Transfer Amount to be provided by the applicant. All rebuilt homes in a SFHA will be elevated as required by NYC Building Code.

There are two options in the Rebuild Program for applicants. Applicants can choose to rebuild their home through a City-selected Developer or by using his/her own contractor through the Choose Your Own Contractor (CYOC) option. Rebuild with a City-selected Developer is performed by Development Teams that include general contractors, architects, and community partners specializing in small homes construction, design, and outreach. In the Developer option, the Developer will assist the homeowner through the design, permits, legal closing, construction, and close-out process. Developers will utilize designs and budgets reviewed and pre-approved by the Program in order to enable expeditious preconstruction and construction for applicants.

Rebuild with the CYOC option requires applicants to be prequalified by the Program. This process includes a review of plans and specifications, proposed construction budget, the architect and general contractor. Review and approval of the pre-qualification requirements is required before the Program will consider the project for Rebuild assistance. The Program will review the applicant's proposed architect and general contractor as part of the pre-qualification requirements. The proposed general contractor is subject to background check and review by the Program before being approved for rebuilding.

The Program will determine the amount of assistance based upon the cost to rebuild a new home using the pre-storm size and unit count of the home. If site conditions and zoning regulations permit, a larger home or a home with more expensive amenities may be built upon the property, provided that the applicant pays the difference between the Program's cost and the cost of the larger home.

The Program may place limits on the maximum assistance allowed to be funded and on any requests by an applicant to rebuild a larger home or a home with more expensive amenities. The decision to limit an applicant's assistance will be based upon factors such as time constraints, the practicality of construction and site characteristics.

8.3 Reimbursement Program Option

The Program may reimburse applicants who used **personal funds** to repair Hurricane Sandy damage to their homes or to rebuild their Sandy-destroyed homes. The amount an applicant may be eligible to be reimbursed is determined on a case-by-case basis. Applicants may only be reimbursed if they expended personal funds on eligible permanent repairs which are over and above the funds already received from other sources that were intended for home repair or rebuilding. In order to be eligible for reimbursement, the applicant must have incurred eligible expenses to complete permanent repairs before October 29, 2013 or the date of the Program's damage inspection, whichever is earlier. The Program defines "incurred" as having spent funds or being under contract to spend funds in the future.

Reimbursement payments will be made regardless of property income or owner income. In order to be eligible for the first round of reimbursement payments, the following criteria must be met:

- The property must be owner occupied.
- The property must not have any uncorrectable environmental deficiency which would prevent the use of federal funds for reimbursement.
- If the property was reconstructed, all construction must be complete, the property must have been properly elevated (if required) and it must have been issued a Certificate of Occupancy by the NYC Department of Buildings.
- The property must not be receiving Rebuild or Relocation assistance from the Program.
- The property must not be receiving Acquisition for Redevelopment or Buyout assistance from New York State.

The determination of whether the property was substantially damaged is made after the damage assessment. Substantially damaged properties are not eligible to receive reimbursement unless they have already been properly elevated in compliance with NYC DOB requirements.

Applicants who are receiving reimbursement and repair assistance will undergo a review after the repair scope of work is completed by the Program to determine if the applicant's home will be substantially improved. If an applicant has already received reimbursement from the Program and it is determined that the home will be substantially improved by the Program's repairs, the applicant's home must be elevated in accordance with NYC DOB requirements.

8.4 Breezy Point Relocation Option

Breezy Point Cooperative, Inc. is a domestic cooperative that manages the 500-acre community of Breezy Point, Queens, in which all residents pay the maintenance, security, and community-oriented costs involved with keeping the community private. Residents own their homes and hold shares in the Cooperative. Properties within the Breezy Point Cooperative are not eligible for the State-funded Acquisition Program.

The Program provides a separate option for the homeowners of Breezy Point that effectively replicates the Acquisition Program which is not open to Breezy Point applicants. Homeowners

may choose the Relocation Option provided that the structure is a 1-2 unit, owner-occupied home that is substantially damaged or destroyed. In general, the Relocation Incentive payment under this Option is the pre-storm value of the structure as determined by an appraisal less any other applicable disaster-related benefits received by the homeowner which have not already been spent on allowable activities.

Acceptance of the Relocation Incentive Payment requires the homeowner to agree to relocate to a new primary residence outside of Breezy Point. If the homeowner's new primary residence is located in a floodplain, the homeowner must agree to obtain and maintain flood insurance on the new primary residence.

8.5 New York State Acquisition for Redevelopment

The City, in coordination with New York State, offers an Acquisition for Redevelopment (AFR) to purchase substantially damaged or destroyed properties from eligible homeowners. Applicants that elect the AFR option after going through intake with the Program will be referred to the State.

The State will fund the acquisition and initial fencing of sites and handle customer service through the process. The State will conduct additional eligibility determinations, verifications, environmental reviews, duplication of benefits analyses, and/or reviews for compliance with URA, including sending notices and benefits to renters permanently displaced by the acquisition, as necessary.

Subsequent to the State's review, the owner's acceptance of the offer, and the closing of the acquisition, title to these sites will be transferred to an acquisition agent affiliated with the City ("City's Acquisition Agent"). The State will perform all required environmental remediation either before or after transferring the site to the City's Acquisition Agent. The City will use CDBG-DR funds to pay the subsequent carrying costs incurred, including demolition and clearing of structures as needed, as well as asbestos abatement where required. Vacant lots may be re-sold individually for redevelopment, or multiple vacant lots may be aggregated for large-scale and coordinated redevelopment efforts.

Properties referred to the State's acquisition program will be subject to the State's eligibility policies and rules. If the State determines that a property is ineligible for AFR or if the homeowner decides against participating in the AFR Program, the homeowner case will be referred back to the Program for consideration of other options.

More information may be found by visiting: <http://stormrecovery.ny.gov/ny-rising-buyout-and-acquisition-programs>

8.6 Buyout

The State offers the Buyout Program option to targeted Enhanced Buyout Areas as described in the State Action Plan. This program option is conducted in accordance with the State's policies and procedures.

More information may be found by visiting: <http://stormrecovery.ny.gov/ny-rising-buyout-and-acquisition-programs>