

**New York City Department of Small Business Services  
Business PREP Risk Assessment and Grant Program  
Notice of Public Hearing and Opportunity to Comment on Proposed Rule**

**What are we proposing?**

The New York City Department of Small Business Services (“DSBS”) is proposing to expand the Business Preparedness and Resiliency Risk Assessment and Grant Program (“BPREP Grant Program”) by increasing the maximum grant amount and expanding eligibility. This Program will provide on-site resiliency assessments and grants to fund the purchase of resiliency equipment for small businesses or commercial property owners located in geographical areas of the City that are vulnerable to flooding.

**When and where is the hearing?**

DSBS will hold a public hearing on the proposed rule. The public hearing will take place on January 24, 2023, at 11:00am. The hearing will be conducted by Webex video conference and is accessible by:

- **Internet Video and Audio.** For access, use the following link and/or meeting information:  
<https://nycsbs.webex.com/nycsbs/j.php?MTID=mab0e68a6a56324fbcec0deb09f3b319b>

Meeting Number: 2340 128 7584

Password: tQcGhnx3s38

- **Video System.**  
Dial 23401287584@webex.com  
You can also dial 173.243.2.68 and enter your meeting number.
- **Phone.** For access, dial: +1-646-992-2010 or +1-408-418-9388

**How do I comment on the proposed rule?** Anyone can comment on the proposed rule by:

- **Website.** You can submit comments to DSBS through the NYC Rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to [nycrules@sbs.nyc.gov](mailto:nycrules@sbs.nyc.gov).
- **Mail.** You can mail written comments to Zen Baraki, New York City Department of Small Business Services, 1 Liberty Plaza, 11<sup>th</sup> Floor, New York, NY 10006.
- **Fax.** You can fax written comments to DSBS at 212-618-8865.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing may speak for up to three minutes. Please access the public hearing by internet video and audio or by telephone using the instructions above. It is recommended,

but not required, that commenters sign up prior to the hearing by contacting DSBS by phone at (212) 513 6352 or by email at [zbaraki@sbs.nyc.gov](mailto:zbaraki@sbs.nyc.gov).

**Is there a deadline to submit written comments?** The deadline for submitting written comments is January 24<sup>th</sup>, 2023, at 5:00pm.

**What if I need assistance to participate in the hearing?** You must contact DSBS's Office of Legal Affairs if you need a reasonable accommodation at the hearing because of a disability. You must tell us if you need a sign language interpreter. You can tell us by email at [zbaraki@sbs.nyc.gov](mailto:zbaraki@sbs.nyc.gov). You may also tell us by telephone at (212) 513-9237. Advance notice is requested to allow sufficient time to arrange the accommodation. You must tell us of an accommodation request by January 17<sup>th</sup>, 2023.

**Can I review the comments made on the proposed rule?** You can review comments submitted online by visiting <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public upon request by email at [zbaraki@sbs.nyc.gov](mailto:zbaraki@sbs.nyc.gov).

**What authorizes DSBS to make this rule?** Sections 1301 and 1043(a) of the New York City Charter authorize DSBS to make this proposed rule. This proposed rule was included in DSBS's regulatory agenda for this Fiscal Year.

**Where can I find DSBS's rules?** DSBS's rules are in Title 66 of the Rules of the City of New York.

**What rules govern the rulemaking process?** DSBS must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

### **Statement of Basis and Purpose**

On September 1, 2021, Hurricane Ida made landfall in New York City, flooding streets, subways, and homes and shattering the record for the most rainfall in a single hour in the City's history. As a result of this and other extreme weather events impacting the City in recent years, on September 3, 2021, an Extreme Weather Response Task Force was convened to study the City's response to extreme weather events. In a report titled "The New Normal: Combatting Storm-Related Extreme Weather in New York City," the task force recommended expanding the Department of Small Business Services' ("DSBS") Business Preparedness and Resiliency Risk Assessment and Grant Program ("BPREP Grant Program") by expanding eligibility to a larger geographical area and increasing the number of businesses served citywide.<sup>1</sup>

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<sup>1</sup> See [The New Normal: Combatting Storm-Related Extreme Weather in New York City, page 41](#).

The BPREP Grant Program was established in 2015 to help small businesses better prepare for emergencies resulting from severe weather and to enhance the resiliency of their operations, assets, and physical space. The Program accomplished this by providing resources and information on business continuity best practices, conducting on-site resiliency assessments, providing grants to implement specific recommendations resulting from such assessments, and creating online resiliency resources. Only businesses impacted by Hurricane Sandy were eligible to participate in the BPREP Grant Program, and the maximum grant amount a business could receive was \$3,000. Eligible uses for such grants were limited to the purchase of movable equipment for which no installation was required.

DSBS is proposing to expand the BPREP Grant Program by: (1) extending eligibility to businesses and property owners in a larger geographical area, including areas at risk of flooding, as identified in the NYC Flood and Stormwater Resiliency Maps, and (2) increasing the maximum grant amount available to grantees. The reimbursement-based grants will help participating businesses and property owners fund the purchase of resiliency equipment, such as flood barriers and backup generators, recommended by professional consultants following on-site risk assessments of the properties. Grants may only be used to fund items that have been recommended to a participating business or property owner in its individualized risk assessment report, as approved by DSBS.

The grants will be available to small businesses and property owners whose business or property is located within an eligible geographical area and who satisfy all other requirements set forth in the rule, including that annual revenue from the business or property is limited to \$30 million. Award determinations will be made in two rounds, with the first round limited to applicants with annual revenue totaling no more than \$17 million who submit an application on or before an application deadline. The purpose of this grant is to ensure that businesses and properties located in areas at risk of flooding are prepared to withstand future extreme weather events and to resume operations as quickly as possible after a disruption caused by such an event.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Title 66 of the Rules of the City of New York is amended by adding a new chapter 18 to read as follows:

CHAPTER 18  
BUSINESS PREP RISK ASSESSMENT AND GRANT PROGRAM

§ 18-01 Purpose.

The objective of the Business Preparedness and Resiliency Risk Assessment and Grant Program (“BPREP Grant Program”) is to address the weather-related resiliency needs of small businesses and commercial property owners by assessing their operations, assets, and physical space to determine risks and vulnerabilities to flooding and to provide financial assistance for the purchase

of equipment and other items to increase such businesses' and owners' overall preparedness for extreme weather events.

#### § 18-02 Definitions.

As used in this chapter, the following terms have the following meanings:

**Adjacent.** "Adjacent" means sharing a border with, abutting, or contiguous to an area with exposure to flooding.

**Applicant.** "Applicant" means an owner or tenant of a commercial property that is applying for this grant.

**Application.** "Application" means a written request in a form satisfactory to DSBS, supplemented by all requested supporting documents, made by an applicant to DSBS to determine the eligibility of the applicant for a grant.

**Application deadline.** "Application deadline" means a date posted on DSBS' website by which an applicant must submit an application in order to be eligible to be determined to be an awardee in round one pursuant to subdivision c of section 18-04.

**Awardee.** "Awardee" means an applicant determined to receive a risk assessment pursuant to this section.

**Business.** "Business" means a sole proprietorship, partnership, corporation, or other legal entity involved in the sale of goods or services and operating from a non-movable physical location in the City.

**City.** "City" means the City of New York.

**Commercial property.** "Commercial property" means a building or a portion of a building that is used exclusively for business-related purposes.

**DSBS.** "DSBS" means the Department of Small Business Services or its successor.

**Exposure.** "Exposure" means being at risk for coastal flooding from a 1% annual chance storm as shown on the [NYC Flood Hazard Mapper](#) (Figure 1 in the Appendix), or being at risk from stormwater flooding during a "moderate stormwater" scenario as shown on the [New York City Stormwater Flood Maps](#) (Figure 2 in the Appendix).

**Geographically vulnerable area.** "Geographically vulnerable area" means an area of the City that is at risk of or with exposure to flooding according to the [NYC Flood Hazard Mapper](#) or the [NYC Stormwater Resiliency Maps](#) included in the Appendix, as determined by DSBS.

**Grant.** "Grant" means a reimbursement provided to an applicant pursuant to this chapter.

**Owner.** “Owner” means any person or entity with an ownership interest in a commercial property.

**Resiliency equipment.** “Resiliency equipment” means tangible assets, including but not limited to equipment, machinery, supplies, and furniture, and non-tangible assets, including but not limited to software, that support a business’s ability to mitigate risks posed by extreme weather and ensure continuity of operations in the event of disruptions, and that do not require any permit for installation, provided that resiliency equipment does not include any inventory of a business. Examples of resiliency equipment include, but are not limited to, point of sale tools, scanners and database systems, flood barriers, flood pumps, and moveable backup generators.

**Risk assessment.** "Risk assessment" means an on-site assessment of a small business or commercial property, including operations and assets, of potential exposure to damage from extreme weather events, conducted by a person or entity contracted by DSBS.

**Risk assessment report.** “Risk assessment report” means a report that documents the results of a risk assessment and that provides recommendations to improve operational and physical resiliency and to mitigate risk.

**Small business.** “Small business” means a business concern or other organization that has no more than the greater of: (i) 100 employees; or (ii) the size standard, in number of employees, established by the federal Administrator of the Small Business Administration for the industry in which the business concern or organization operates, if applicable.

**Tenant.** “Tenant” means the owner or operator of a small business that occupies a commercial property pursuant to a lease or other agreement.

#### § 18-03 Eligibility Requirements.

a. To be eligible for a risk assessment and grant pursuant to this chapter, an applicant must satisfy all of the following criteria:

1. Applicant must be an owner or a tenant of a commercial property that is located in a geographically vulnerable area.
2. Commercial property must be occupied by a small business that has been in operation for at least one (1) year at the time of application.
3. Applicant’s annual revenue for the prior calendar year, or the most recent calendar year for which the applicant submitted a federal income tax return, from the commercial property in the case of an applicant who is an owner, or from the small business in the case of an applicant who is a tenant, is no more than \$30 million.
4. Applicant must not owe any outstanding federal, state, or city taxes, and must not be delinquent in payments owed to resolve judgments or liens.

5. Applicant must be in substantial compliance with applicable federal, state, and local laws, rules and other legal requirements.

6. Applicant must not have previously received any grant or other benefit, including an assessment relating to resiliency, from DSBS' BPREP Grant Program or the RISE: NYC program.

7. All required licenses and permits relating to the commercial property or the small business occupying the commercial property must be current.

8. Applicant must complete an application. Applications will be available online at [www.nyc.gov/sbs](http://www.nyc.gov/sbs) or may be obtained by directly contacting DSBS.

b. Grants may only be used to fund the purchase of resiliency equipment that has been recommended in the risk assessment report and approved by DSBS. An applicant determined to be an awardee pursuant to this chapter must provide documentation evidencing the purchase of approved resiliency equipment in order to receive a grant.

c. Within 90 days following the date this section takes effect, DSBS will post the application deadline on its website. Such application deadline must be posted no later than 90 days before the date of such application deadline. In order to be eligible to be determined to be an awardee in round one pursuant to subdivision c of section 18-04 of this chapter, an applicant must submit an application on or before the application deadline. Applicants may continue to submit applications after the application deadline to be considered to be determined an awardee in round two pursuant to subdivision c of section 18-04.

§ 18-04 Selection Criteria.

a. Eligibility will be determined based on an applicant's ability to satisfy the requirements set forth in subdivision a of section 18-03 as demonstrated by the documentation specified in the table in subdivision b of this section. Applicants that do not meet such requirements will be eliminated from further consideration.

b. DSBS may use any of the resources or document types set forth in the table below to determine whether an applicant meets the eligibility criteria in subdivision a of section 18-03 of this chapter. DSBS may request, and an applicant must provide, any other documentation as necessary to determine an applicant's eligibility to receive a risk assessment and grant pursuant to this chapter.

<u>ELIGIBILITY REQUIREMENT</u>	<u>DOCUMENTATION TYPE</u>
<u>Applicant is an owner or a tenant of a commercial property</u>	<u>If the applicant is a tenant: Infogroup's RefGovUSA database (<a href="http://www.referenceusagov.com/">http://www.referenceusagov.com/</a>), NYS Department of State records, or the most recent federal income tax return filed by the applicant (Form 1120 - Line 1(a) - Gross receipts or sales).</u>

	<u>If the applicant is an owner: Automated City Register Information System (ACRIS) database (<a href="http://acrisweb.csc.nycnet/cp">acrisweb.csc.nycnet/cp</a>), a copy of the deed or title to the commercial property, or the most recent federal income tax return filed by the applicant (Form 1120 - Line 1(a) - Gross receipts or sales).</u>
<u>The commercial property is occupied by a small business that has been in operation for at least one (1) year</u>	<u>If the applicant is a tenant, a copy of the lease for the commercial property.</u>  <u>If the applicant is an owner, a signed certification letter.</u>
<u>The commercial property is located in a geographically vulnerable area.</u>	<u><a href="#">NYC Flood Hazard Mapper</a> and <a href="#">NYC Stormwater Resiliency Maps</a></u>
<u>Applicant's annual revenue does not exceed \$30 million dollars</u>	<u>The most recent federal income tax return filed by the applicant (Form 1120 - Line 1(a) - Gross receipts or sales), or, in the case of an applicant who is a tenant, Infogroup's RefGovUSA database (<a href="http://www.referenceusagov.com/">http://www.referenceusagov.com/</a>)</u>
<u>Applicant is in substantial compliance with applicable federal, state, and local laws, rules and other legal requirements.</u>	<u>Signed certification letter</u>
<u>Applicant is current or in repayment on all federal, state or city taxes, and is not delinquent in payments owed to resolve judgments or liens.</u>	<u>Signed certification letter</u>
<u>Applicant did not previously receive any grant or other benefit, including an assessment relating to resiliency, from DSBS' BPREP Grant Program or the RISE: NYC program.</u>	<u>Signed certification letter</u>
<u>All required licenses and permits relating to the commercial property or the small business occupying the commercial property are current.</u>	<u>Signed certification letter</u>

c. Awardee determination. Awardees will be determined in two rounds in accordance with this subdivision.

1. If there is insufficient funding available for all applicants determined to be eligible pursuant to subdivision a of this section in a given round, awardees will be determined on a first-come, first-served basis, based on the order in which applicants have submitted a complete application. If available funding is exhausted prior to the completion of round one, round two may be canceled by DSBS.

2. Round one. In accordance with paragraph 1 of this subdivision, an applicant determined to be eligible pursuant to subdivision a of this section shall be determined to be a awardee provided: (i) the applicant submitted an application on or before the application deadline; and (ii) annual revenue of the applicant for the prior calendar year, or for the most recent calendar year for which the applicant submitted a federal income tax return, from the commercial property in the case of an applicant who is an owner, or from the small business in the case of an applicant who is a tenant, is no more than \$17 million.

3. Round two. Following completion of all determinations of awardees in round one, any other applicant determined to be eligible pursuant to subdivision a of this section shall be determined to be an awardee in accordance with paragraph 1 of this subdivision.

#### § 18-05 Award.

An applicant determined to be an awardee pursuant to section 18-04 will receive a risk assessment of the commercial property. If the risk assessment includes a recommendation to purchase resiliency equipment, the awardee will receive a grant, in a total amount of up to \$5,000. Such grant may not be disbursed until execution by the awardee of a signed and notarized grant agreement, in a form specified by DSBS, and submission by the awardee of proof of payment of the resiliency equipment pursuant to subdivision b of section 18-03 of this chapter. The amount of such grant is limited to the cost incurred to purchase such resiliency equipment, as documented by such proof of payment.

#### § 18-06 Compliance.

An awardee must comply with the terms and conditions set forth in the application and grant agreement. DSBS reserves the right to recover the full grant amount in the event an awardee fails to comply with any such term or condition.



## Appendix

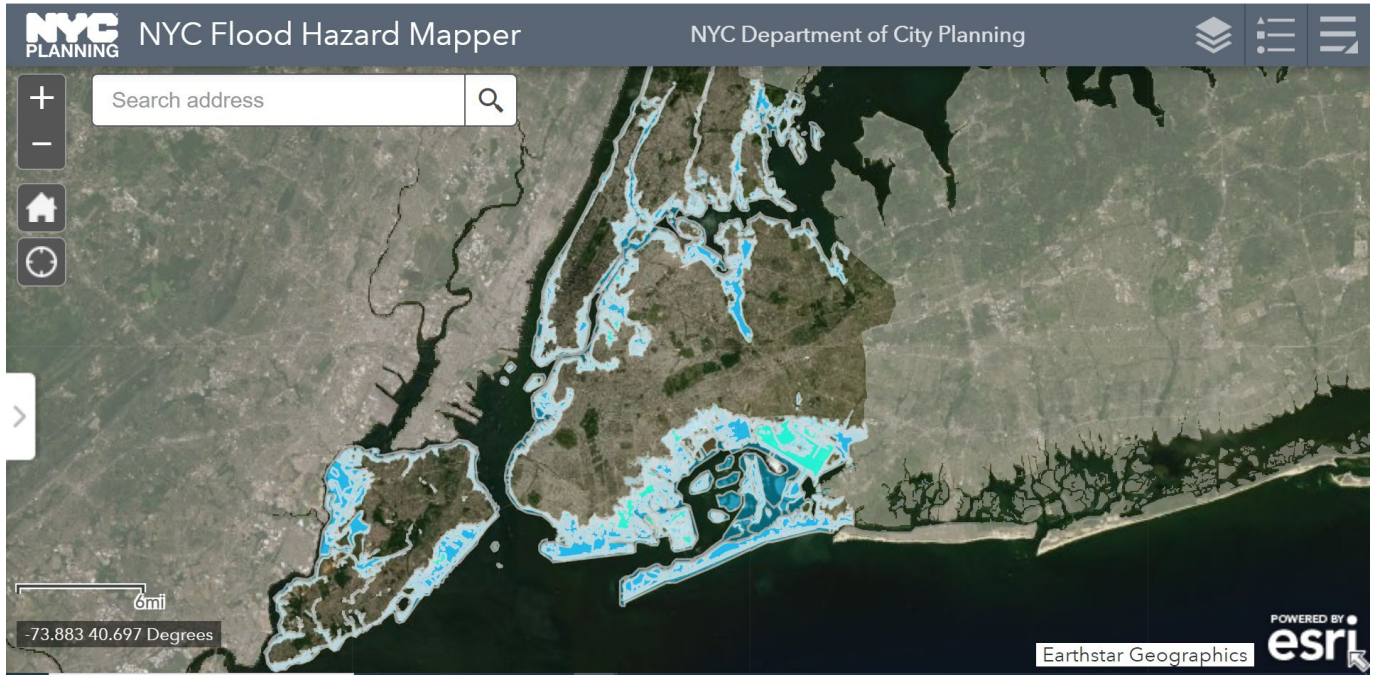


Figure 1: NYC Department of City Planning [Flood Hazard Mapper](#)

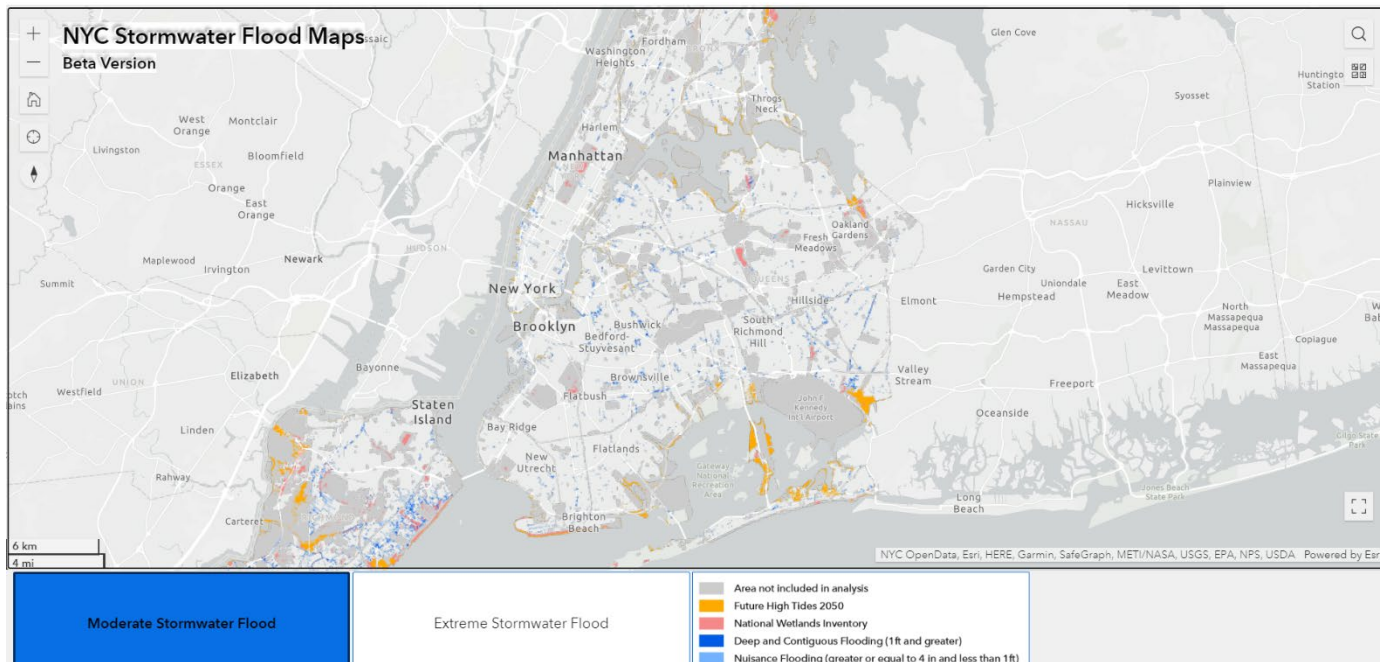


Figure 2: NYC Department of Environmental Protection NYC [Stormwater Flood Maps](#). Public maps can be accessed at [nyc.gov/resiliency](http://nyc.gov/resiliency).

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Amendment of Resiliency and Risk Assessment Program for Small Businesses

**REFERENCE NUMBER:** 2022 RG 064

**RULEMAKING AGENCY:** Department of Small Business Services

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: December 8, 2022

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of Resiliency and Risk Assessment Program for Small  
Businesses**

**REFERENCE NUMBER: SBS-17**

**RULEMAKING AGENCY: Department of Small Business Services**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro  
Mayor's Office of Operations

December 9, 2022  
Date