



Version 6.0 | October 6, 2023

# Strategic Buyout Program Manual

State of North Carolina

## Policies and Procedures Revision History

VERSION	DATE	DESCRIPTION
1.0	11-1-2019	Original version
2.0	8-4-2020	<p>Section 1: Added statement on voluntary nature of program (sect 1.7.1.); updated list of eligible counties and new Florence and state identified MIDs (sect 1.8); clarified Eligible Areas and added two factors for DRRR selection (sect 1.9); updated outreach process (sect 1.10); added that program complies with Section 508 requirements (sect1.12); and updated the section on Not Suitable to include CCB #43 caveats.</p> <p>Section 2: Added new section on program priorities and program being carried out in two phases with Ph I prioritizing residential property (sect 2.1); added new section defining qualifying event (sect 2.1.1); clarified information on incentives (sect 2.3); new Section on program launch date to comply with Section 414 waiver (sect 2.4); and modified and simplified 8-Step process in a new graphic depiction to coincide with evolving program processes.</p> <p>Section 3 was restructured. New section on the role of the Intake Specialist and Case Manager (sect 3.1); application requirements were modified to add in requirements for rental owners (sect 3.2); remote application process was added (sect 3.3.); new section added that defines "applicant" and "co-applicant" (sect 3.4); minor edits were made to POA section (sect 3.5); applicant eligibility was modified to provide separate eligibility requirements for primary residence owners and rental owners (sect 3.7); property eligibility criteria were modified to include two program phases and eligible property types under each phase (sect 3.8); information on MHU ownership was modified and simplified (sect 3.10); sect 3.13 on real estate issues was re-titled and all references to providing title clearance assistance was removed; added URA regulatory references and modified text (sect 3.14).</p> <p>Section 4: Minor edits. Added how disaster assistance service would be treated in DOB process; clarified non-qualifying event is Non-DOB (sect 4.3).</p> <p>Section 5: Minor edits. New Section 5.2 on asbestos survey added (verbiage modified from HRP Manual); appraisal section modified to include more regulatory language (sect 5.5).</p> <p>Section 6: program caps amount for rental added, clarified FHA limit is cap for CMV Purchase Price (sect 6.1); clarified that CMV is the purchase price and is now called CMV Purchase price (sect 6.2); defined deadlines for initial offer acceptance and closing (sect 6.3).</p>

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		Section 7: minor edits on URA. Section 8: require property to be vacant 48 hours prior to closing (sect 8.2.2.); replaced involuntary withdrawal section with HRP Manual language (sect 8.2.2.). Sections 9 and 10: minor edits. Section 11: minor edits; minor edits to exceptions panel (sect 11.4); new section on Fraud, Waste and Abuse added (sect 11.6). Section 12: minor edits to acronyms and definitions.
2.1	9-9-2020	Two policy important revisions necessitated numerous revisions to the manual. First, the program now values buyout property using current fair market value (CMV), rather than pre-storm fair market value, which necessitated revisions in several sections but especially in Sections. 5, 5.4, and 6.2. Because current FMV is now used to value properties, DOB of the offer price is not required so revisions were made to Section 4. In addition, the definition of unmet need was revised to accommodate the new valuation structure. The second major change is the revision to the incentive structure to adjust for CMV. Sections 2.3 and 6.4 describing incentives were revised as were tangential processes in other sections, such as Section 4 on DOB to state that DOB will be performed for incentives and now done is step 5, rather than step 3. Income verification was also changed from step 3 solely to being updated in step 5 and later if incentives requested in a new tax year. Program caps were adjusted to account for the new CMV valuation and incentive amounts in Section 6.1. Section 6.2 was revised to delete the calculation methodology and corresponding examples previously described as the offer is now based only on CMV. Further, the name of the offer was changed from Offer to Purchase and Total Buyout Offer to Initial Offer price. Also added, subdivision is prohibited after application (Section 3.8) and if environmental corrections are too costly or infeasible, the property will be deemed ineligible (Section 3.9). The damage inspections were removed from Section 5, as the program no longer requires them. The minimum requirement for LMI population percentage was established as a selection criterion for a DRRA in Section 1.9.
3.0	6-2-2021	Updated Table 1 to add new mitigation regulations, added Urgent Need Mitigation as a national objective as CDBG-MIT funds will be primary funding source for buyout, an Appendix for Rental Incentive Occupancy Guidelines, added more specific information on URA requirements, removed redundant information, added definition of second homes required under CDBG-MIT, clarified storm damage requirement, made minor wording revisions.
4.0	3-14-2022	Added information on housing counseling; further clarified language that restrictive covenants compatible with open space are eligible; eliminated the categorization of all rental properties as

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		businesses; removed examples of supporting document tables; removed language which prohibited the provision of incentives to owners who did not comply with maintaining flood insurance based on 10-27-21 HUD guidance; added provision that program eligibility for parcels over five acres will be done on a case-by-case basis; updated affordable rental incentives and cap for 2022 based on HUD's updated rent schedule for NC counties; removed deadlines for responding to initial offers and closing; added that encumbrances found through boundary surveys will be reviewed on a case-by-case basis.
5.0	7-22-2022	Made revisions to comply with new CDBG-MIT regulations at 87 FR 36869 that remove the requirement for properties to prove storm damage as MIT funds are provided for mitigation purposes. Added section on Citizen Advisory Committee. Extended time to request an incentive to one year. Refined application process to align with current application options. Allow legal representation to provide a Letter of Representation instead of a Communication Designee form. Included requirement that landlord applicants disclose tenant occupants. Refined involuntary withdrawal process. Added deadlines to accept Initial Offer Letter and to close. Limitation on rental properties increased to 15.
5.1	3-13-2023	Added policy on necessary and reasonable review. Increased risk reduction incentives due to inflation and increased real estate costs. Program may operate Phases I and II simultaneously. Removed requirement for owner to attend appraisal; owners have the option of attending appraisal but must provide site access. Specified timeframes for vacancy inspections. Acronyms and definitions were removed from the manual and a direction is provided to apply those found in the <b>NCORR Program Acronyms and Definitions</b> instead.
6.0	10-6-2023	Revised incentive descriptions in section 2.3 to account for operational changes in the program. Revised description of contaminated site in section 3.9. Removed Occupancy Guidelines in this manual and referred to guidelines now in URA Policy Manual. Broadened eligibility for properties in floodway and non-encroachment areas with safety concerns.



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# 1.0 Introduction and Overview to the NC Strategic Buyout Program

## 1.1 INTRODUCTION TO THE STRATEGIC BUYOUT PROGRAM

The North Carolina Office of Recovery and Resiliency (NCORR) has implemented the Strategic Buyout Program to provide effective and comprehensive mitigation measures that will protect residents and property from future storm-related damage. The *Strategic Buyout Program Manual* is intended to provide guidance for the implementation of the program, which is funded primarily by Community Development Block Grant- Mitigation (CDBG-MIT) funds allocated to the state by the U.S. Department of Housing and Urban Development (HUD). However, housing counseling activities and future program costs may be funded with federal Community Development Block Grant-Disaster Recovery (CDBG-DR) funds.

The program will be implemented in accordance with all HUD requirements including, but not limited to, the Buyout requirements as outlined in the following Federal Register Notices and corresponding Public Laws. At times, Federal Register Notices incorporate requirements published in previous notices. In these instances, NCORR also follows the applicable previous notices.

**Table 1: Federal Registers and Public Laws Governing the Administration of HUD-Allocated Disaster Recovery Funds**

Federal Register	Public Law, Requirement	Presidentially Declared Disaster(s)	Purpose	Funding
84 FR 45838, 8/30/2019 "Main CDBG-MIT Notice"	115-123	Mitigation: Matthew and Florence	Mitigation, 414 and 104(d) waivers	\$168,067,000
85 FR 60821, 9/28/2020 "2020 Omni Notice"	115-123	Mitigation	Duplication of Benefits (DOB) regs apply, substantial amendment requirements	--
86 FR 561, 1/6/2021	116-20	Mitigation: Matthew and Florence	Funding allocation	\$34,619,000
87 FR 36869, "2022 Omni Notice" 06/21/2022	115-123, 116-20	Mitigation	Clarification on one-for-one waiver for CDBG-MIT and damaged properties	--
82 FR 5591, 1/18/2017	114-254	Matthew	Funding allocation	\$198,553,000
81 FR 83254, 11/21/2016	114-223	Matthew	Program requirements	--
82 FR 36812, 8/7/2017	115-31	Matthew	Funding allocation, Action Plan requirements, new national objective for Strategic Buyout	\$37,976,000
84 FR 28836, 6/20/2019	Sect 312 Stafford Act, subpart E of 2 CFR part 200	All	DOB, new subsidized loan rules	--

Federal Register	Public Law, Requirement	Presidentially Declared Disaster(s)	Purpose	Funding
85 FR 4681, 1/27/2020	115-254 and 116-20	Florence (and Matthew for MIDs)	Funding allocations, 414 waiver	\$336,521,000 and \$206,123,000
83 FR 40314, 8/14/2018	NA	Florence	Waiver of Sect 414, conditions to mitigate risk, period of affordability, etc.	--
83 FR 5850, 2/9/2018	NA	Florence	Action Plan requirements for Florence re: planning, LMB and LMHI	--
84 FR 4842, 2/19/2019	NA	Matthew	Sect 414 waiver for 2016 storms later amended	--
85 FR 60821, 9/28/2020	114-254, 114-223, 115-31, 115-123, 116-20	Matthew, Florence, Mitigation	DOB amendments in Action Plans (AP), CDBG-MIT substantial amendments to AP do not require public hearing	--

In addition, rental tenants residing in Strategic Buyout properties will be evaluated for their eligibility as a displaced person under the *Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended* (URA) and the applicable waiver of Section 414 of the Stafford Act, Option b., as stated in 85 FR 4681 and 84 FR 45838. The waiver applies to real property acquisition and demolition activities, which are two activities being performed under the Strategic Buyout Program. Under Option b. of that notice, URA benefits become available to eligible persons based on the program's start date, which occurred more than one year after the presidentially declared disasters. Therefore, because the federal funds were unavailable and/or the program had not started for more than one year after the qualified storm events, the start date for eligibility under URA is the program launch date indicated in [Section 2.4](#). Tenant URA eligibility determinations and relocation assistance will be provided in accordance with the NCORR's ***Uniform Relocation Act (URA) Policy Manual***.

The purpose of the Strategic Buyout Program is to reduce the risk of future storm and flooding damage to life and property and to meet remaining unmet recovery needs caused by the October 8, 2016 disaster, Hurricane Matthew, and the September 14, 2018 disaster, Hurricane Florence, and, as appropriate, any future presidentially declared disasters where CDBG-DR or CDBG-MIT funds are provided to the state. (Note that for the purposes of this manual, a presidentially declared disaster refers to a disaster where CDBG-DR or CDBG-MIT funds are provided and does not include all declared disasters.) The program provides buyout as a mitigation service when community needs were not met through FEMA, private insurance, loans, or other funding sources. To adequately meet these needs and ensure consistency with approved programs, the Strategic Buyout Program will build upon other federal and state mitigation efforts and recovery investment when possible and practical.

The publication of 87 FR 36869 provided further clarification of the intended use of CDBG-MIT funds which are "to be used to address current and future risks to lessen the impact of future disasters." These regulations state that CDBG-MIT activities do not require that a property has damage from a specific disaster. Each Disaster Risk Reduction Area (DRRA, also known as a Buyout Zone) chosen by NCORR is based on its mitigative potential against future storm-related damage, and therefore the Strategic

Buyout Program does not require individual properties to prove their storm damage. In accordance with the regulations, the buyout activity is allowed as a mitigation measure under CDBG-MIT because it involves the removal of housing units for the purpose of moving people and property out of harm's way in areas already identified as distressed due the impacts of previous disasters, and the likelihood of future disasters.

## 1.2 PROGRAM ADMINISTRATION

NCORR is a division of the NC Department of Public Safety (NCDPS). NCORR is the administrator of the CDBG-DR and CDBG-MIT funds that provide funding for disaster recovery programs managed by NCORR, including the Strategic Buyout Program.

As the administrator, NCORR must ensure that its programs and expenditures comply with HUD regulations. NCORR recovery program activities may be carried out by staff or by the agency's agents, including program delivery contractors, appraisers, demolition and contractors, among others. NCORR will also enter into cooperative agreements<sup>1</sup> or similar agreement relationships with units of general local governments (UGLG) (or others) that will be the recipient of Strategic Buyout properties and be responsible for ensuring that the land is maintained and kept as open space in perpetuity.

## 1.3 MANUAL OVERVIEW

This manual is designed to outline key Strategic Buyout Program policies and high-level procedures. The policies described in this manual are the guiding principles, or tenets, of the Strategic Buyout Program. NCORR, its agents, and Buyout Property Recipients (BPR) will use these policies to direct the operation of the Strategic Buyout Program.

This manual is intended to serve as a resource for staff, affected North Carolina residents, and other parties interested in the policies that guide how the Strategic Buyout Program is operated, including basic information on eligibility for the program, the types of assistance offered, and program requirements. Specifically, this manual describes:

- Program elements required by the funding entity, HUD;
- Applicant eligibility criteria;
- Program priorities including the areas that the program will serve;
- Basic program processes;
- How properties will be valued and how the program calculates an offer price; and
- Required timeframes (Note: extensions of applicant timeframes may be provided by the program for a reasonable cause. The reasons for the extension will be included in the applicant's file.)

A summary of the Strategic Buyout Program is also available on the NCORR website to help applicants understand the benefits, eligibility criteria, and other aspects of the program at [www.rebuild.nc.gov/Buyout](http://www.rebuild.nc.gov/Buyout).

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<sup>1</sup> A Cooperative Agreement is a legal instrument between NCORR and each Buyout Property Recipient (the "BPR") used to facilitate the transfer of properties from Program Participants to the BPR and which imposes certain terms and conditions on the BPR to maintain properties in perpetuity and prevent redevelopment. Each Cooperative Agreement identifies all properties eligible for the Program which may be transferred to the BPR party to that agreement.

### 1.3.1 Program Definitions

A list of definitions and acronyms that are relevant to the Strategic Buyout Program are included in [Section 11.2](#) below.

This manual refers to the Strategic Buyout Program as “the program.”

When the manual uses the word “acquisition,” this is meant in the generic sense of purchasing property, in accordance with the associated requirements in the federal regulations. This does not refer to activities under the HUD definition of a CDBG-DR or CDBG-MIT Acquisition Program.

Program participants differ from program applicants. Program applicants are persons who have applied under the Strategic Buyout Program but have not yet gone to closing to sell their property. In contrast, program participants are defined as an eligible property owner who sold their property under the Strategic Buyout Program.

### 1.4 STRATEGIC BUYOUT WEBSITE

Many program documents can be found on the NCORR website’s Strategic Buyout page, which can be accessed at: [www.rebuild.nc.gov/Buyout](http://www.rebuild.nc.gov/Buyout). The website provides access to approved Disaster Risk Reduction Area (DRRA) maps that show areas eligible for the Strategic Buyout Program, as well as this manual (and any updates) and other relevant information.

### 1.5 PROGRAM OBJECTIVES

The overall objectives of the Strategic Buyout Program are to:

- Keep residents and property safe from harm from future storm-related events (that could reasonably be predicted based on past hurricane and flooding events).
- Ensure that Strategic Buyout Program approaches are implemented strategically to the greatest extent possible and practical.
- Allow for subsequent homeownership in areas of reduced risk through the provision of monetary incentives.
- Utilize government funding dedicated to disaster recovery effectively by implementing permanent mitigation strategies that reduce or eliminate the need for subsequent federal disaster assistance.

Property owner participation in the Strategic Buyout Program is entirely voluntary.

### 1.6 MEETING NATIONAL OBJECTIVES, REQUIREMENTS, AND PRIORITIES

All of NCORR’s federally funded Strategic Buyout activities must meet one of the national objectives as required under the authorizing statute of the CDBG-DR/CDBG-MIT programs.

The activities proposed for the Strategic Buyout Program may address the national objectives by benefitting low- and moderate-income households with an income at or below 80% of area median income (AMI), and Urgent Need for owners with incomes over 80% AMI. To ensure that the program adheres to the federal requirement that 50% of the CDBG-MIT funds benefit low-to-moderate income (LMI) persons, the Strategic Buyout Program will prioritize LMI persons through the selection of its Disaster Risk Reduction Areas (DRRAs).

The Strategic Buyout Program will provide funding for purchasing eligible properties at current Fair Market Value and will provide incentives to eligible participants. HUD regulations<sup>2</sup> state that buyout programs that provide monetary incentives may also meet the national objectives. Therefore, the Strategic Buyout Program plans to meet national objective requirements under the following activities and national objective codes:

- Low/Moderate Income (LMI) - Activities which benefit low- and moderate-income individuals, such as providing an area benefit to an LMI area, establishing benefits to limited clientele, or housing LMI individuals and households.
- Low/Mod Housing (LMH) - by providing funds for the purchase of eligible properties from LMI households that will result in a new permanent residential housing situation (see [Section 6.1](#) for a listing of potential funding that may be provided under a Strategic Buyout Program purchase).
- Low/Mod Housing Incentive (LMHI)—when a monetary incentive is provided for a home purchased from an LMI household to ensure that the household moves to a lower-risk area (see [Section 2.3](#) for more information on incentives).
- Urgent Need Mitigation (UNM) - to provide funding for the purchase of eligible properties at the current Fair Market Value from owners whose household income exceeds the 80% threshold for LMI. This code will also be used for the Matching Down Payment incentive when provided to eligible program participants with household incomes from 80% to 120%. Utilizing this national objective for the use of CDBG-MIT funds in the Strategic Buyout Program addresses current and future flood and storm risks in MID areas by allowing property owners to relocate from areas identified as being high risk. These relocations will result in a measurable and verifiable reduction in loss of life and property because property owners will have an opportunity to move to safer areas, and the vacated properties will be cleared and maintained as green space thereby reducing the burden on local lifelines during storm and flood events.

## 1.7 OVERVIEW OF STRATEGIC BUYOUT PROGRAM

The Strategic Buyout Program will focus on activities in the Most Impacted and Distressed (MID) counties as defined by HUD (see [Section 1.8](#)) and State-defined MIDs as determined by NCORR. Strategic Buyout is focused in Disaster Risk Reduction Areas (DRRA)/Buyout Zones determined to be at risk for future flood events (see [Section 1.9](#)). The program purchases properties located in DRRAs. Once purchased, these properties will be maintained by local governments as open-space that may also be used for recreational or natural floodplain purposes. The program may be expanded to additional locations or to meet additional priorities as funding allows.

### 1.7.1 Voluntary Program

Property owner participation in the Strategic Buyout Program (SBP) is entirely voluntary. If a written Initial Offer is made to a property owner, the owner will be informed in writing that they may reject the offer and NCORR will take no further action to acquire the property. A property owner who submits an application for Strategic Buyout may withdraw their application at any time prior to closing.

NCORR will not utilize the power of eminent domain to acquire properties under its Strategic Buyout Program. While NCORR has no direct authority to initiate eminent domain proceedings, it could request

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<sup>2</sup> 82 FR 36812 (August 7, 2018) for Hurricane Matthew, 83 FR 5850 (February 9, 2018) for Hurricane Florence, and 84 FR 45866 (August 30, 2019) for Mitigation funds

the Department of Administration to execute eminent domain on its behalf. However, NCORR does not intend to use the State's eminent domain authority. NCORR's Strategic Buyout Program meets the four-part criteria of a voluntary program under the federal regulations at [49 CFR § 24.101\(b\)\(1\) \(i-iv\)](#) stated below:

- No specific site or property needs to be acquired, although the agency may limit its search for alternative sites to a general geographic area. Where an agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated similarly. (See Appendix A, [49 CFR § 24.101\(b\)\(1\)\(i\)](#).)

**NCORR Response:** NCORR will be implementing its Strategic Buyout Program within DRRAs identified as being areas at risk for future storm damage. No specific sites or properties are being identified for purchase under the Strategic Buyout Program. The program will offer to acquire property in DRRAs from eligible owners based on the appraised current Fair Market Value (CMV). The Initial Offer, based on the CMV, will be offered to all eligible applicants; therefore, applicants are being treated equally.

- The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.

**NCORR Response:** Properties acquired through the Strategic Buyout Program are not part of a designated or planned development project that must be acquired within a specific time limit, as would be the case if acquisition were being done under eminent domain. Property owner participation in SBP is voluntary.

- The agency will not acquire the property if negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

**NCORR Response:** All offers to purchase Buyout participant properties will be made in writing and be based on a current Fair Market Value appraisal of the property. Because the Strategic Buyout Program is voluntary, property owners will be informed in writing that they may reject NCORR's Initial Offer to buy the property or voluntarily withdraw from the program any time prior to closing. If an owner rejects the Initial Offer or withdraws from the program, NCORR will not pursue the purchase of the property further.

- The agency will inform the owner in writing of what it believes to be the market value of the property. (See Appendix A, [49 CFR § 24.101\(b\)\(1\)\(iv\)](#) and [\(2\)\(ii\)](#).)

**NCORR Response:** NCORR will provide all participants to the Buyout Program with an appraisal indicating the current Fair Market Value of their property upon which any offer amount to buy the property will be made.

## 1.8 STRATEGIC BUYOUT-ELIGIBLE COUNTIES

Approved activities under the Strategic Buyout Program must qualify as an eligible activity under federal regulations and address the current and future risks of the most impacted and distressed (MID) areas as



identified in the Mitigation Needs Assessment of the CDBG-MIT Action Plan.<sup>3</sup> Therefore, in order to be eligible, properties to be purchased as part of the Strategic Buyout Program must be located in one of the eligible counties as shown below in Table 2. The table indicates each impacted area by FEMA disaster declaration, by qualifying disaster. Footnotes indicate if the county was designated a “Most Impacted and Distressed (MID)” area by HUD and/or the state. If no specific storm is indicated, the area is considered to be impacted by both Hurricanes Matthew and Florence. The program determines the “qualifying event” for areas that are impacted by both storms (see information in [Section 2.1.1](#)). Disaster Risk Reduction areas (DRRAs) identified by NCORR will be located within HUD or State-defined MID areas and eligible counties, in a manner that ensures that expenditure thresholds meet regulatory requirements.

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<sup>3</sup> 84 FR 45840 (8/30/2019), II. B.

**Table 2: CDBG-DR/CDBG-MIT Eligible Counties**

County	
Alamance County (Florence Only)	Lee County
Alleghany County (Florence Only)	Lenoir County†
Ashe County (Florence Only)	Madison County (Florence Only)
Anson County	Martin County (Matthew Only)
Beaufort County†	McDowell County (Florence Only)
Bertie County	Montgomery County
Bladen County***	Moore County
Brunswick County**	Nash County (Matthew Only)
Cabarrus County (Florence Only)	New Hanover County**
Camden County (Matthew Only)	Northampton County (Matthew Only)
Carteret County**	Onslow County**
Chatham County	Orange County (Florence Only)
Chowan County (Matthew Only)	Pamlico County**
Columbus County***	Pasquotank County (Matthew Only)
Craven County**	Pender County**
Cumberland County***	Perquimans County (Matthew Only)
Currituck County (Matthew Only)	Person County (Florence Only)
Dare County†	Pitt County†
Davidson County (Florence Only)	Polk County (Florence Only)
Duplin County**	Randolph County (Florence Only)
Durham County (Florence Only)	Richmond County
Edgecombe County* (Matthew Only)	Robeson County***
Franklin County (Matthew Only)	Rowan County (Florence Only)
Gates County (Matthew Only)	Sampson County†
Granville County (Florence Only)	Scotland County**
Greene County	Stanly County (Florence Only)
Guilford County (Florence Only)	Tyrrell County
Halifax County (Matthew Only)	Union County (Florence Only)
Harnett County†	Wake County (Matthew Only)
Hertford County (Matthew Only)	Warren County (Matthew Only)
Hoke County	Washington County (Matthew Only)
Hyde County	Wayne County*
Johnston County†	Wilson County
Jones County**	Yancey County (Florence Only)

\* Denotes a HUD-defined Most Impacted and Distressed County (Bladen and Columbus Counties added June 2, 2019) for Hurricane Matthew

\*\* Denotes a HUD-defined Most Impacted and Distressed County for Hurricane Florence.

\*\*\* Denotes a HUD-defined Most Impacted and Distressed County for both Hurricane Matthew and Hurricane Florence.

† Denotes a State-identified most impacted county. State-identified MID do not count toward the 50% (for CDBG-MIT) or the 80% (for CDBG-DR) expenditure requirement set in the Federal Register Notices for MID areas.

## 1.9 PRIORITY AREAS: DISASTER RISK REDUCTION AREAS AND BUYOUT ZONES

In order to be eligible for the Strategic Buyout Program, applicants must meet all eligibility criteria, including geographic eligibility. One criterion of eligibility is the requirement that the property to be purchased must be physically located in a Disaster Risk Reduction Area (DRRA) at the time of application. NCORR establishes physical location in the DRRA based on real property tax parcel data. DRRAs (also known as Buyout Zones) are established based on data that indicates that these areas are at risk for future storm-related damage. The Strategic Buyout Program will be carried out in DRRAs to mitigate against the risk of loss of life and property due to anticipated future damage. The program will also serve eligible properties if the structure is located in a floodway or non-encroachment area, and there is a safety concern (location in a floodway is determined according to FEMA's existing or preliminary Flood Insurance Rate Map (FIRM), whichever is more recent, or the most recently approved Flood Insurance Study (FIS).

In accordance with the outreach activities described under [Section 1.10](#), prior to establishing and finalizing DRRAs, NCORR staff will consult with units of general local government (UGLG) and the public to review the DRRAs. Maps indicating the location and boundaries of the finalized DRRAs will be published on the NCORR website after the UGLG executes the cooperative agreement.

**DRRA Selection Criteria.** NCORR applies the following criteria when designating a DRRA:

- **Need to Mitigate Against Future Storm-Related Damage.** The preliminary DRRAs were selected based on data that indicated that these areas are likely to experience subsequent and repeated storm damage, including flooding. An area located within a FEMA-designated floodway or in zone A, AE, AO, AH, A1 - A30, A99, AR, V, VE or V1 - V30 on an existing or preliminary FIRM and/or the existence of flood inundation data (such as satellite imagery or photography), indicates vulnerability to subsequent flooding.

HUD regulations also allow for the establishment of DRRAs in areas that are at risk of future storm damage, such as flooding, even if such areas are not located within a floodplain, as shown on a FEMA Flood Insurance Rate Map (FIRM). The current DRRAs are predominantly located within floodplain areas. The properties within the DRRAs located outside of the floodplain are included to: mitigate the risk of future storm damage; ensure neighborhood, area or block integrity; and comply with the HUD guidance to avoid circumstances in which parcels that could not be purchased through Strategic Buyout remain alongside parcels that have been purchased through the Strategic Buyout Program (i.e., to avoid "checker-boarding"). NCORR has also established DRRAs in areas outside of the 100-year floodplain where local communities have established that properties are at significant risk of future flooding;

- **LMI Prioritization.** In addition, the program prioritizes those at-risk areas populated by LMI households. Therefore, all DRRAs will have a population of no less than 40% LMI based on the census data from the American Community Survey (ACS), unless:
  - The DRRA is within a census block group that is not lower than 30% LMI, but is adjacent to a block group which is 51% LMI or greater; or
  - The DRRA is proposed by the local community, in which case it may not be lower than 30% LMI based on data by census block group OR information provided by the local community supports that it is greater than 30% LMI, contrary to census data.

The program will monitor expenditures to ensure that we are in compliance with HUD's LMI threshold requirements and will adjust policy accordingly if the threshold(s) is not being met.

- **Additional Criteria.** Additional criteria may be applied when designating a DRR including the existence of one or more of the following factors:
  - Factor 1: Location where there has been repetitive damage and where future damage from storms could reasonably be anticipated, as indicated by the presence of FEMA Severe Repetitive Loss and Repetitive Loss data.<sup>4</sup>
  - Factor 2: Locations where there is or will be other government disaster recovery investment and/or where a prevalence of data indicates the need for mitigation assistance. This includes those areas where there have been FEMA Hazard Mitigation Grant Program (HMGP) awards for acquisition and unfunded applications for acquisition, as well as awards for elevation and reconstruction.
  - Factor 3: Identification of areas by local governments based on local knowledge and data regarding flooding, calls for assistance due to flooding, and other local considerations when such areas are also generally consistent with the factors listed above, and after review and approval by NCORR.

Should additional funding become available or if there is residual program funding after serving priority areas, properties and applicants, the program may be expanded to include properties in floodways, additional DRRAs, and/or additional property types.

## 1.10 OUTREACH AND PUBLIC CONSULTATION PROCESS

As the agency administering the Strategic Buyout program, NCORR is committed to furthering fair housing through established affirmative marketing and outreach activities. As a recipient of HUD disaster recovery funds, NCORR is required to take steps based on the Fair Housing Act of 1968 to reduce disparities in housing choice, access, and opportunities based on protected class (e.g., race, color, religion, familial status, sex, national origin, or disability). Toward achieving that objective, NCORR will ensure that its outreach, communication, and public engagement efforts are comprehensive and delivered through a variety of media to reach the maximum number of potential applicants owning property within DRRAs.

### 1.10.1 Local Government/Public Consultation

HUD requires that grantees/administrators implementing a buyout program consult with units of general local government. For the Strategic Buyout Program, this may entail the following process that will be modified as needed:

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<sup>4</sup> **Severe Repetitive Loss Building.** Any building that:

1. Is covered under a Standard Flood Insurance Policy made available under this title; and
2. Has incurred flood damage for which: (a.) 4 or more separate claim payments have been made under a Standard Flood Insurance Policy issued pursuant to this title, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (b.) At least 2 separate claims payments have been made under a Standard Flood Insurance Policy, with the cumulative amount of such claim payments exceed the fair market value of the insured building on the day before each loss.

**Repetitive Loss Structure.** An NFIP-insured structure that has had at least 2 paid flood losses of more than \$1,000 each in any 10-year period since 1978.

Source : <https://www.fema.gov/flood-insurance/terminology-index>

- The program will identify preliminary DRRAs. The DRRAs will be mapped indicating clear boundaries for program participation. The maps for DRRAs will be submitted to the relevant local government body for review, discussion, and input. At least one meeting with governmental officials will be held to review the draft areas, discuss the Strategic Buyout Program, and obtain comments.
- The program will also consult with the public while designating DRRAs. The program will engage the public through its outreach efforts which may include an in-person meeting, virtual meeting, mailing campaign, or other efforts as appropriate. The objectives of outreach activities are to ensure that all potentially eligible applicants are aware of the opportunity to apply for the Strategic Buyout Program and to maximize participation in the program.
- A description of the program and its eligibility criteria, the DRRA area, program requirements and benefits, and how to contact the program will be communicated through these outreach efforts. Outreach material will clearly state to potential beneficiaries that **participation in the Strategic Buyout Program is voluntary.**
- The outreach efforts employed will be consistent with State and agency policies regarding COVID-19 restrictions as appropriate.
- After meeting with government officials and engaging in a public outreach effort(s), the program will consider the DRRA(s) finalized and begin accepting applications. Once DRRA locations are finalized, the program will post the map of each DRRA that indicates area boundaries on its website.

In general, the program will communicate information about the program and public meetings through the UGLG, community organizations, social media, mailings, and/or news media outlets. To the extent that potentially eligible property owners have moved from the area due to storm damage, efforts will be made to find and notify them of the program's availability. Program communication will include some or all of the following methods as appropriate to and needed by the area being served:

- Advertisement in local news media outlets, including newspapers and broadcast media that provides unique access for persons who are considered members of a protected class under the Fair Housing Act or have Limited English Proficiency (LEP).
- Informational flyers advertising the program.
- Distribution of informational flyers through government agencies, the faith community, schools, public and/or non-profit organizations, and other community groups, or directly to the property/owner located within a DRRA.
- Use of social media such as Facebook and Twitter, when appropriate.

Outreach activities may also include door-to-door canvassing and special efforts to communicate with hard-to-reach populations such as senior citizens, persons with disabilities, or LEP populations. If a public input event is held locally, an accessible site considered to be focal to the community will be selected for the meeting. Both the location and the building where the meeting will be held will be accessible in accordance with Section 504 and the Americans with Disabilities Act requirements. The program will provide reasonable accommodations when asked with reasonable advanced notice. Efforts will be made to ensure that citizens have equal access to program services as required by Section 504 and the Fair Housing Act. All outreach efforts will be in conformance with NCORR's **Citizen Participation Plan**.

In addition, HUD has required that 50 percent of the CDBG-MIT funds and 70 percent of the CDBG-DR funds be spent on assisting households whose incomes are at or below 80 percent of AMI. To ensure that

all NCORR programs serve these citizens, appropriate measures will be taken to identify DRRAs in at risk areas with a significant percentage of low-moderate income citizens and to ensure that low- and moderate-income citizens are aware of the Strategic Buyout Program's availability through the outreach efforts described above.

Lastly, NCORR has established a Citizen Advisory Committee in accordance with regulatory requirements. The first meeting was held in June 2022. The purpose of the committee is to solicit and respond to public comment and input regarding NCORR's mitigation activities and to serve as an ongoing public forum to inform CDBG-MIT projects and programs.

### **1.11 LIMITED ENGLISH PROFICIENCY (LEP)**

As the HUD disaster recovery funds administrator, NCORR is required to ensure meaningful access to agency services, programs, and activities for persons who have Limited English Proficiency (LEP). From intake to closeout, Strategic Buyout Program staff will identify applicants who have difficulty speaking or reading English and will ensure that the following services are available to them in accordance with the NCORR's **Language Access Plan**:

- Provision of an interpreter who translates to and from the person's primary language.
- Translation of program documents.

As necessary, program staff will utilize 833-ASK-RBNC (833-275-7262) to communicate with LEP applicants.

### **1.12 ACCESSIBILITY AND REASONABLE ACCOMMODATIONS**

The Strategic Buyout Program will be accessible to all persons with special needs and will operate in a manner that does not discriminate or limit access to program services and benefits to persons with disabilities. To ensure the Strategic Buyout Program is operating in compliance with Section 504 requirements of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA), NCORR will:

- Provide regional centers that are readily accessible and usable by persons with disabilities where they may have interaction with program staff.
- Provide written and verbal communication assistance to program applicants with a disability or limited proficiency with the English language, including sign language, braille, interpreters, etc.
- Consider home visits or other similar alternatives to assist applicants who are homebound or cannot access a regional center as needed.
- Provide accommodations as soon as practicable to any applicant or beneficiary with an apparent hearing, visibility, or mobility limitation.
- Work with an authorized designee of an applicant or household member, when needed, such as those designees with a valid power of attorney or legally authorized representative.

All services listed above will be provided upon verbal or written request from the applicant or the applicant's designated representative.

In addition, NCORR complies with Section 508 requirements regarding the accessibility to electronic and information technology for individuals with disabilities.



### 1.13 FAIR HOUSING

The federal Fair Housing Act requires that no person is excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their race, color, religion, familial status, national origin, sex (including gender identity and sexual orientation), or disability. NCORR and its contractors will treat all applicants and participants in a manner that complies with the federal Fair Housing Act, the Civil Rights requirements of Title I of the Housing and Community Development Act, the North Carolina Fair Housing Act (Chapter 41A of the North Carolina General Statutes), and other related acts. NCORR, in compliance with these laws, has enacted measures that include:

- Activities and certification that its programs will affirmatively further fair housing;
- Reviewing and remediating fair housing complaints related to NCORR programs, and direct those complaints to HUD or another appropriate agency if requested by the aggrieved individual; and
- Administering NCORR programs in accordance with the agency's Fair Housing Policy.

### 1.14 NOT SUITABLE FOR REHABILITATION, SECTION 104(D) WAIVER OF ONE-FOR-ONE REPLACEMENT REQUIREMENTS

HUD regulations generally require one-for-one replacement of affordable lower-income dwelling units when these units are removed from the area's inventory by a CDBG-DR/CDBG-MIT funded activity such as demolition. However, this replacement requirement has been waived for CDBG-MIT and CDBG-DR funded activities if the dwelling units were considered not suitable for rehabilitation (see [Section 11.2](#) for NCORR's complete definition of properties "not suitable for rehabilitation").

Effective April 2020, the NCORR programs generally no longer provide for the rehabilitation and elevation of properties and will instead provide reconstruction including elevation. This form of reconstruction has been determined to be more cost effective than the rehabilitation and elevation of damaged structures and is also more effective as a mitigation measure.

Accordingly, NCORR programs will not rehabilitate property in DRRAs that require elevation but will, however, perform reconstruction, which includes elevation if the applicant participates in the ReBuild NC Homeowner Recovery Program and is determined eligible.<sup>5</sup> Because properties in DRRAs would require elevation to reduce the risk of future storm damage, properties in DRRAs are not suitable for rehabilitation, although the property may be purchased under the Strategic Buyout Program or reconstructed and elevated in the Homeowner Recovery Program.

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<sup>5</sup> Change Control Board policy #43 states an exception to the stated policy: "Applicants who completed construction prior to the effective date of the DRRRA, or applicants who are undergoing CDBG-DR funded construction (i.e., the contractor has been issued a notice to proceed) for rehabilitation, reconstruction, or MHU replacement prior to the date of DRRRA adoption are not retroactively affected by the DRRRA adoption."

## 2.0 The Strategic Buyout Program

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The Strategic Buyout Program involves the purchase of eligible properties located in areas impacted by a presidentially declared disaster that have been identified as at-risk of future storm and flooding damage. The program will provide HUD-allocated federal funds so that eligible properties may be purchased according to the offer structure described in [Section 6.0](#).

Program participants may also be eligible for up to two program incentives in addition to the purchase price. Once purchased, the property will be owned by the local municipality or county and the program will demolish the purchased structure and clear the debris. Land will be held in perpetuity for passive space such as a park, flood storage or overflow area and may not be redeveloped. A restrictive covenant referenced in the deed shall ensure that the properties purchased under the Strategic Buyout Program will never be redeveloped and will be maintained as greenspace in perpetuity. As part of the closing process, the deed with restrictive covenants will be recorded in the Register of Deed's office in the county where the property is located.

### 2.1 STRATEGIC BUYOUT PROGRAM PRIORITIES

The applicants prioritized for Strategic Buyout are eligible property owners located in DRRAs. Owners will not need to occupy property to be eligible for participation in the buyout program; rental properties are eligible structure types for participation. This program may operate Phases I and II simultaneously in order to increase operational efficiency. Current owner occupancy is not required for program participation in Phase I or Phase II.

**Phase I:** Phase I of the Strategic Buyout Program prioritizes the purchase of residential properties and vacant land/lots located within DRRAs. **Vacant land/lots** are defined as land that had no or minimal improvements as of the date of either qualifying storm event (see Section 2.1.1 for information on qualifying events, and also see *previously standing residence* in eligible property types in [Section 3.8](#)).

**Residential Properties** are defined as any property where the use is primarily for residential purposes for permanent living, which is not excluded by program policy (such as public housing and government-subsidized affordable housing, etc. See [Section 3.9](#) for more on ineligible property types). For the purposes of this program, there are three types of residential ownership categories:

- **Primary Residence Owners** – Applicants who owned a property as of the date of the storm/qualifying event that served as their personal primary residence, and who still own the property.
- **Second Homes** – A second home is defined as a home that is not the primary residence of the owner, a tenant, or any occupant at the time of the storm [or either storm, if impacted by both Hurricane Matthew and Florence] or at the time of application for assistance (84 CFR 45867, August 30, 2019, V.B.6.). *Owners of second homes are not eligible for Strategic Buyout Program incentives.*
- **Rental Owners** – Applicants who owned one or more rental properties or units within the DRRA as of the date of the storm/qualifying event, and who still own the property(ies), where the property was the primary residence of a tenant at the time of the storm or at application. A rental property is a property in which the owner had/has a formal lease arrangement and/or received/s payment from the occupant(s), known as tenants, in return for occupying or using the property full time for residential living purposes.

**Phase II:** This Phase of the Strategic Buyout Program will be initiated if and when one or more of the following circumstances occur: substantial progress has been made in Phase I activities, funding is available, the program can handle the increased workload of additional applications, a DRRA is relatively small, there is an urgent need to implement Phase II activities, etc. For Phase II, the following property types will be eligible: **eligible property purchased after the qualifying event and non-residential properties.** Non-residential properties may be considered on a case-by-case basis but are a lower priority than other Phase II properties. Factors that will be considered during this case-by-case review include but are not limited to the cost of acquisition and relocation (if applicable), availability of funding, environmental concerns, availability of other suitable programs and resources, etc. **Non-residential properties** are those that are or were used for non-profit activities, commercial/industrial purposes, or where the property is used or was used to generate income from activities that are not primarily for providing permanent residential housing.

**Property Size.** Note that eligibility for properties larger than five acres will be considered on a case-by-case basis (see [Section 3.8](#)).

**Strategic Locational Buyouts.** Property owner participation in the Strategic Buyout Program is voluntary. Within the confines of this voluntary program, the program may offer to buy specific properties that do not meet all eligibility criteria when government ownership of such properties is needed to benefit overall local recovery efforts. The objectives of such buyout efforts are to: assist the subsequent governmental owner entity with its long-term land maintenance and plans for allowable re-use by purchasing contiguous properties when possible; respond to an urgent situation where life and property are jeopardized; and/or foster and implement responsible mitigation planning in a manner that serves the broader community. The program may offer to buy property under a Strategic Locational Buyout when a property(ies) is at least one of the following:

1. Contiguous to a property participating in the Strategic Buyout Program, the State-funded Disaster Recovery Act Program, or the FEMA Hazard Mitigation Grant Program (HMGP) Acquisition Program;
2. Contiguous to several parcels of existing vacant land under local government ownership;
3. Used for local access by area residents;
4. Property in a floodway located in an area where the unit of government (i.e., county, city, etc.) has a Cooperative Agreement to participate in the Strategic Buyout Program;
5. Deemed important for land use and management but are property types that are not currently a program priority;
6. Critical to site assemblage for public land use or community planning purposes;
7. Critical to area or site security and control;
8. The sole, or few remaining, properties with standing residential structures;
9. The sole, or few remaining, properties not yet in public ownership; and/or
10. Desirable for other strategic purposes.

**Severe Hardship Exceptions.** The program understands that recent hurricanes and other disasters caused, and their aftermath is still causing, untenable situations for many North Carolinians. Therefore, impacted persons whose property is located within a HUD or State MID but whose application might otherwise be considered ineligible due to program priorities, could warrant potential Strategic Buyout Program assistance if they are experiencing hardship conditions, including but not limited to:

- Severe financial hardship as a result of the storm and its aftermath, or the consequences to COVID-19 job loss or other financial impacts;
- Subsequent ownership by a family member undertaken to provide necessary assistance to the homeowner who owned the property at the time of the qualifying event, coupled with financial hardship; and/or
- Residing in unsafe and unsanitary living conditions as a result of the storm and its aftermath.

The Exceptions Panel will examine such situations on a case-by-case basis through an exceptions review.

### 2.1.1 Qualifying Event Program Priorities

The **Qualifying Event** refers to which presidentially declared disaster impacted the applicant's property. For example, when only Hurricane Florence damaged an eligible applicant's property and the property is purchased under the Strategic Buyout Program, the program will consider Hurricane Florence, rather than Hurricane Matthew, to be the qualifying event.

For properties in Phase I, property ownership is required *as of the date of the qualifying event*. The program will determine the qualifying event for each DRRA. If the applicant's property was impacted by Hurricanes Matthew and Florence, the qualifying event is the latter event.

If an applicant's property was impacted by Hurricanes Matthew and Florence, the primary residence requirement for an incentive can be met by proving that the property was the applicant's primary residence for either storm event. The DOB analysis performed as part of the incentive eligibility process will be based on the qualifying event. For example, if Florence is the qualifying event, then only the disaster recovery assistance provided to the applicant for Florence will be considered DOB. Any funding received for a previous storm, such as Matthew in this example, will be considered Non-DOB and will be subtracted from DOB.

## 2.2 PROGRAM OVERVIEW

Under the Strategic Buyout Program, NCORR will offer to buy eligible properties at risk of future storm and flooding damage from eligible applicants. In addition, up to two incentive amounts may be available to eligible program participants.

In order to be eligible for the Strategic Buyout Program, the applicant and the property must meet eligibility criteria (see [Sections 3.7](#) and [3.8 – 3.13](#)). The purchase price to be offered will be based on the current Fair Market Value (CMV) explained in [Sections 6.0 – 6.3](#). The maximum program assistance in [Section 6.1](#) indicates the maximum Strategic Buyout CMV Price and the maximum incentives.

## 2.3 PROGRAM INCENTIVES

**General Eligibility Requirements for Incentives.** In addition to the Initial Offer Price amount (equal to the appraised current Fair Market Value) to buy an eligible applicant's eligible property, applicants may be eligible for up to two incentives, which are additional amounts to assist the applicant in obtaining a new, safer, affordable housing situation.

- All incentives will be available only to eligible primary residence property owners who owned and occupied eligible property as their primary residence as of the date of storm and still own the

property (however the property is not required to be their primary residence now). In the case where the applicant's property was impacted by both storms, supporting documentation must prove that the property served as the applicant's primary residence as of the date of either storm.

- Applicants are required to provide the supporting documentation to meet the primary residence and other incentive eligibility criteria (see [Section 3.7](#) on applicant eligibility) at application intake. Applicants requesting an incentive must also provide proof of primary residency for the new dwelling when requesting the incentive.
- Only applicants, not non-applicant co-owners, are eligible for incentives and incentive payment(s).
- In order to be eligible for all incentives, the property that the applicant moves to as their replacement property must meet these criteria:
  - Be located in an area of reduced risk in the same county as the buyout property, and
  - An **area of reduced risk** is defined as an area where the residential structure is **not located** within a FEMA-designated floodway or zone A, AE, AO, AH, A1 - A30, A99, AR, V, VE, V1 - V30, AR/AO, AR/A1-30, or AR/A on a current or preliminary Flood Insurance Rate Maps (FIRMs), or in a DRRRA.

**Strategic Buyout Program Incentives.** Eligible applicants may receive up to two incentives: **a Risk Reduction and one Affordable Housing Incentive (either an Affordable Rental, Affordable Homeownership, or Matching Down Payment Incentive)**. An applicant who receives an Affordable Rental Incentive, for example, may not come back later and be eligible for either the Affordable Homeownership or the Matching Down Payment Incentives. General information about these incentives is as follows:

- The **Risk Reduction Incentive** is an incentive to move to an area of reduced risk for future storm damage (see table below for more information on the amounts and requirements). This incentive is available to eligible applicants regardless of income, whether they decide to become a tenant or a homeowner after the buyout of their eligible property. The Risk Reduction payment will be made directly to the owner(s) when determined eligible, no earlier than the buyout closing. Supporting documentation showing primary residence occupancy in an area of reduced risk including such documentation as a one-year lease or deed will be required. Household income is not an eligibility criterion for the risk reduction incentive.

Eligible participants who qualify for the risk reduction incentive and move to an area of reduced risk will receive one of the following (amounts shown are as of February 2023):

- \$20,000, if the participant moves to an area that is an area of reduced risk (as defined above) as long as the move is to a *residence within the same County* as the eligible property; or
- \$10,000 if the participant moves to an area that is in an area of reduced risk (as defined above) outside of the county where the eligible property is located, as long as the move is to a residence within North Carolina.
- There are three **Affordable Housing Incentives**. Eligible applicants may receive one of the following to establish a new primary residence after buyout (see Table 3 for an overview of the incentives). NCORR offers a Fast Track Affordable Housing Incentive of \$50,000 (which may be adjusted occasionally based on market conditions and other factors) to assist eligible LMI homeowners in achieving housing stability quickly.

- The **Affordable Rental Incentive** is available to eligible households with annual incomes at or below 80% of AMI who choose to rent after the buyout of the eligible property and who did not request and receive a *Fast Track Affordable Housing Incentive*. The incentive is based on a percentage of the average Fair Market Rents by county (as determined by HUD<sup>6</sup>) and the size of the rental unit (the incentive amount is based on the lesser of the actual size of the unit rented, or the number of bedrooms needed according to the Occupancy Guidelines in the *Uniform Relocation Act Policy Manual*). Supporting documentation indicating primary residence occupancy of the rental unit, including an executed one-year lease or rental summary, is required. The unit must be in a risk reduction area and be within the same county as the eligible property. This incentive is paid directly to the applicant once determined eligible for the incentive (at or after the buyout closing). Applicants who receive a Fast Track Affordable Housing Incentive are not eligible for the Affordable Rental Incentive.
- The **Affordable Homeownership Incentive** is available to eligible households with annual incomes at or below 80% of AMI for the purpose of buying a primary residence home in an area of reduced risk that is within the same county as the eligible property. The incentive cap varies by county group and is based on average county real estate values. In order to ensure housing affordability and determine the incentive amount, an analysis of the household's financial situation will be performed. The program or its partners will perform an assessment of the applicant's need for the incentive. The incentive amount will be generally based on the difference between the cost of the home; the household's financial resources, income, and condition; the amount of a mortgage; and will align with the affordability assessment to ensure long-term affordability and tenure. If an applicant has received a Fast Track Affordable Housing incentive, it may be considered a DOB and subtracted from the affordable homeownership incentive amount. The maximum incentive available by county is provided on the Strategic Buyout Program website at [www.rebuild.nc.gov/Buyout](http://www.rebuild.nc.gov/Buyout).
- The **Matching Down Payment Incentive** is available to eligible households with an annual income of up to or at 120% of AMI for the purpose of buying a primary residence home in an area of reduced risk within the same county as the storm-damaged property. The program will match the down payment that a buyer contributes. Upon a determination of eligibility, the Matching Down Payment Incentive will be made no earlier than the buyout closing. The cap for this incentive is \$50,000.
- All eligible applicants will have one year from the date their eligible property is purchased under the program to request the incentive (using the required forms) and provide supporting documentation.
  - The program may consider extensions of up to three months for good cause if requested by the applicant, or if a housing counselor assisting the applicant substantiates an extension request.
- Eligible applicants may qualify for incentives retroactively (i.e., if the move and re-housing occurred after the qualifying event but prior to the buyout closing). All incentive eligibility criteria must be met.

<sup>6</sup> At <https://www.huduser.gov/portal/datasets/fmr.html>



- Supporting documentation will be required in order to establish eligibility for all incentives. Information and additional eligibility and supporting documentation requirements on these incentives can be found online at [www.rebuild.nc.gov/Buyout](http://www.rebuild.nc.gov/Buyout).
- These incentive amounts may be revised in the future and will be posted on [www.rebuild.nc.gov/Buyout](http://www.rebuild.nc.gov/Buyout)

**Incentives, Duplication of Benefits, and Necessary and Reasonable Review.** The program is required to review all recovery assistance provided to any applicant receiving assistance to determine if a duplication of benefits (DOB) exist. The incentive(s) provided under the Strategic Buyout Program will be subject to the program’s DOB analysis and if determined to be a DOB, may result in a reduction of the incentive amount(s) (see [Section 4.1](#) for an overview of the DOB process). In addition, the program will perform a necessary and reasonable review for all applicants requesting an incentive who have a total in disaster recovery assistance that exceeds a threshold amount (see section 6.1 for threshold amount). This threshold will be reviewed from time to time and adjusted for inflation, updated data, or other relevant factors. If the applicant’s total assistance funds were not used for disaster recovery purposes, the incentive amount will be reduced by the amount not used for disaster recovery. If an applicant is impacted by both Hurricanes Matthew and Florence, only those disaster recovery funds allocated for Florence will be reviewed when determining if the threshold is met for a necessary and reasonable review.

**Table 3: Overview of Strategic Buyout Program Incentives**

Incentive Type	Maximum Amount**	Available to Income Level***	Purpose	General Stipulations*
<b>Risk Reduction</b>	\$10,000 or \$20,000	All	To relocate from DRRAs and flood zones, to safer areas	<ul style="list-style-type: none"> <li>• \$10,000 for in-state move to areas less at risk, or</li> <li>• ***\$20,000 for in-county moves to areas less at risk</li> </ul>
<b>Fast Track Affordable Housing**</b>	\$50,000	LMI, 0-80% AMI	To help applicants find safe, stable housing situations more quickly, by being able to be responsive in a robust real estate market	<ul style="list-style-type: none"> <li>• Incentive for in-county, primary residence (rental or purchase)</li> </ul>
<b>Affordable Rental**</b>	Up to \$ Maximum on website	LMI, 0-80% AMI	To provide approximately 1-yr affordability to primary residence owners who chose to become tenants	<ul style="list-style-type: none"> <li>• Varies by county and unit size</li> </ul>
<b>Affordable Homeownership**</b>	Up to caps listed on website depending on median and average costs in the county group**	LMI, 0-80% AMI	To increase opportunity for subsequent homeownership and ensure affordability for low-income households	<ul style="list-style-type: none"> <li>• Incentives for in-county primary residence purchase</li> <li>• Are based on individual need, up to sales price or mortgage amount (whichever is less)</li> <li>• Must meet with housing counselor</li> </ul>
<b>Matching Down Payment</b>	Up to \$50,000, based on a 1:1 match of the down payment amount	Up to 120% AMI	To increase opportunity for subsequent homeownership	<ul style="list-style-type: none"> <li>• Provided based on sales price or mortgage amount, whichever is less</li> </ul>

\* May be available retroactively for applicants meeting eligibility criteria. Full eligibility criteria on website: <https://www.rebuild.nc.gov/homeowners-and-landlords/strategic-buyout-program>\*\* Caps are reviewed and updated as needed.

\*\*\* Based on annual gross household income

**Incentive payments** will only be provided to qualifying eligible applicants:

- At or after purchase of the eligible property through the Strategic Buyout Program.
- After supporting documentation is provided to verify eligibility for the incentive.
- One time per household, for each incentive (for up to two incentives). Therefore, if the applicant qualifies for the risk reduction incentive and then later the affordable homeownership incentive, the program shall make two separate payments to the applicant. However, the applicant may not request additional incentive monies after each payment is made.

## 2.4 STRATEGIC BUYOUT PROGRAM LAUNCH DATE

The program officially began on January 27, 2020, when the Strategic Buyout Program began taking applications in Whiteville, NC. This date establishes the period when URA benefits under the Section 414 waiver, option b, are available to eligible tenants residing in Strategic Buyout properties on that date or later.

## 2.5 STRATEGIC BUYOUT PROCESS OVERVIEW

At a high level, the Strategic Buyout process consists of the following key activities listed below. Program activities in the Strategic Buyout Program may occur concurrently or occur in a different order to expedite the program's tasks.

- Submission of application and required documents.
- Determination of applicant and property eligibility.
- Verification of property ownership and title report (properties must have clean title in order to close).
- Opportunity for applicants and their tenants to take housing counseling classes and have individual housing counseling.
- Completion of DOB review and verification.
- Completion of an acceptable environmental review report.
- Completion of and asbestos survey, lead based paint survey (if applicable), boundary survey and appraisal.
- Tenants are provided with URA advisory services and notices.
- If application is eligible, the program will provide an initial offer letter, offering to purchase the property at current fair market value.
- If all owners except the offer, closing will be scheduled, and property is bought with CDBG-MIT funds.
- Eligible applicants request incentives. Completion of DOB review, and necessary and reasonable review, as applicable.
- After sale, property is demolished and cleared. Property is owned and maintained by the unit of local government.
- Property is maintained as open green space in perpetuity.
- Closeout for applicant.
- Closeout of program.

## 3.0 Application and Eligibility

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Following the outreach activities described in [Section 1.10](#), the program will begin taking applications for Strategic Buyout Program assistance. Applicants to the Strategic Buyout Program must complete a program application and provide supporting documentation. Once the application, supporting documentation, and all required forms have been submitted, and determined to be complete, the application proceeds in the process.

### 3.1 ROLE OF THE BUYOUT SPECIALIST

Program staff will be available to assist applicants with the completion of the Strategic Buyout Program application. Applicants will also be assigned to a Buyout Specialist (BOS) who will be available to work with them throughout the Strategic Buyout process. The BOS will be available to explain program benefits and requirements, the application and eligibility determination process, the status of the application, applicant's right to appeal, initial offer amount, etc. Other program representatives such as inspectors, surveyors, appraisers will also work with the applicant through the Strategic Buyout Process. A closing specialist and other program representatives will work with the applicant through the purchase process. However, the BOS will serve as the applicant's primary point of contact within the program.

***Applicants to the Strategic Buyout Program will be provided with clear guidance about whom they may contact for information throughout the application process.***

### 3.2 APPLICATION REQUIREMENTS

Strategic Buyout applicants must complete the Strategic Buyout Program application. To be eligible for the program, the storm-impacted property must be located in a Disaster Risk Reduction Area and be an eligible property type. Eligible property types are listed in [Section 3.8](#). Residential property owners will have different eligibility criteria and supporting documentation requirements depending on the type of ownership (see [Sections 3.7](#) and [3.8](#) for eligibility criteria).

### 3.3 APPLICATION PROCESS

Strategic Buyout applicants must complete the program application, all required forms, and submit it along with supporting documentation. Program staff will work with applicants to obtain their completed application and inform applicants of all needed supporting documentation. Program staff will follow NCORR's ***Personally Identifiable Information Policy*** to reduce and protect all applicant's Personally Identifiable Information (PII). As required by the PII policy, applicant documents will be scanned into the system of record, and original documents will be given back to the applicant. No paper documents will be retained by the program.

**Application Process.** Property owners whose property is located in a DRRA may call 833-ASK-RBNC (833-275-7262) to receive an application. Copies of the application can be sent out through email, mail, and are also available online. Applicants must confirm their property's location in a DRRA before receiving a copy of the application. Program staff are available to assist applicants in filling out their application.

In order to accommodate non-local applicants and applicants limited during the COVID-19 restrictions, the program has developed an additional alternative remote application process. Applicants who desire more information on the remote application process may call 833-ASK-RBNC.

### 3.4 APPLICANTS AND CO-APPLICANTS

If there is an applicant and co-applicant, both will be considered as equal partners for purposes of their participation in the Strategic Buyout Program application. Each will be referred to as the “applicant” in this manual unless there is a specific reason to specify applicant or co-applicant. In situations where program documents refer to “applicant(s)”, the documents are referring to both applicants and co-applicants. Applicants and co-applicants to the Strategic Buyout Program must be current owners of the eligible property. Therefore, the ownership documentation provided to the program must list the co-applicant as a current owner. In addition, when there is a co-applicant, ownership documentation must prove that either the applicant or co-applicant owned the property at the time of the qualifying event.

### 3.5 MULTIPLE OWNERS, POWER OF ATTORNEY (POA) COMMUNICATION DESIGNEES, AND ALTERNATE CONTACTS

**Multiple Owners.** In order for a property to be purchased under the program, all owners must voluntarily agree to sell the property for the Initial Offer Price (also see [Section 6.3](#)). If a property has multiple owners, the program will inform all owners listed on the Title Report that an application has been submitted for the property. If the application is deemed eligible, the applicant (and co-applicant and additional owners, as applicable), will be provided with an Initial Offer package. The Consent to Release Form, executed by the applicant, allows the results of the appraisal, inspections, title report, boundary survey, and other factors that affect the Initial Offer Letter and package to be shared with all owners. The Initial Offer must be accepted and executed by all owners of the damaged property in order for a closing to be scheduled.

**Power of Attorney (POA).** The program shall verify with the applicant whether the applicant has executed a POA or Communication Designee prior to communicating with third parties or before allowing the alleged POA to make decisions on the applicant’s behalf. The purpose of this verification is to minimize fraud and to ensure of the validity of these forms.

- **POA.** If an applicant has designated someone as their legal representative, as indicated by an executed, notarized Power of Attorney (POA), a copy of the POA document must be provided before the designee may make any decisions or complete an application on the owner’s behalf. A POA holder may also submit an application to the program on behalf of the applicant if that authority has been granted through the POA document.

**Communication Designee.** Applicants can also request to have a “Communication Designee” for general communication. Persons designated as a “Communication Designee” may relay information between an applicant and program representatives, but they cannot make any decisions or sign any program forms in place of the applicant. The only exception to this rule is an applicant’s legal counsel, who may utilize the Communication Designee Form during the appeal process. In addition, a Letter of Representation can be provided for applicants represented by Legal Aid or other legal constituent advocacy groups/private lawyers, rather than a Communication Designee form.

**Alternate Contact.** Applicants will be asked to provide information for an Alternate Contact in case the program has difficulty contacting the applicant. If the program cannot reach the applicant, the program will get in touch with the Alternate Contact and inform them that the program is trying to reach the applicant and request that the applicant to contact their Buyout Specialist. No information on the applicant's status or other information will be provided to the Alternate Contact unless that person is also a Communication Designee.

### 3.6 ELIGIBILITY DETERMINATION

After the application is completed, the program will conduct an eligibility review for each application completed for the Strategic Buyout Program. The program will review the documentation that the applicant submitted and ensure that all eligibility criteria are met. In order to be eligible, the applicant must meet both the **Applicant** and **Property Eligibility Criteria** (see [Sections 3.7](#) and [3.8](#) respectively). During submission of the application, a DRRR review will be made that verifies the identity of the applicant and ensures, again, that the applicant's damaged property is located within an approved DRRR. If the program determines that an applicant does not meet eligibility criteria, the applicant will be notified in writing of their ineligibility and will have the opportunity to appeal this decision (see [Section 3.16](#)).

***The eligibility criteria include having clean, merchantable, insurable title on the subject property.***

Clean title means that the ownership claim to the property is free of all encumbrances (i.e., claims, liens, court attachments and pending judgements) and therefore, is able to be sold (in other words, is *merchantable*). The program may be able to offer some assistance to applicants having title issues. However, if clean, merchantable, insurable title cannot be achieved, the applicant will be considered ineligible and will be so notified by the program (applicants may appeal this determination. See [Section 3.16](#)). In addition, until clean title is attained, the applicant's application may not be able to move forward to closing in the Strategic Buyout Program.

Once an applicant has met all eligibility criteria, the program will proceed to obtain a site-specific Environmental Review (see [Section 5.1](#)), an Asbestos Building Survey and Lead-Based Paint assessment, as needed, (see [Section 5.2](#)), a boundary survey (see [Section 5.3](#)), and appraisal (see [Section 5.4](#)). Then, assuming that the environmental review and all inspections are acceptable, and all eligibility criteria are met, the program will perform a DOB analysis and a written Initial Offer Letter (see [Section 6.3](#)) may be issued by the program. If an applicant is found to be ineligible, the applicant will be notified in writing by the program. The program will provide a letter that states the reason for the ineligibility determination and the applicant's right to appeal within 30 days of the date of the notification letter (see [Section 3.16](#) on appeals).<sup>7</sup>

### 3.7 APPLICANT ELIGIBILITY CRITERIA

Applicant eligibility criteria depends on the type of ownership entity that owns the property. During the application intake appointment, applicants will be given a Strategic Buyout Program Required Document Checklist which indicates the specific documents that must be provided in order to complete the application (this form is also available online at [www.rebuild.nc.gov/Buyout](http://www.rebuild.nc.gov/Buyout)).

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<sup>7</sup> Tenants who want to appeal eligibility for or the amount of URA benefits have 60 days from the date of the receipt of the determination letter to appeal. See the URA Policy Manual for further information on URA appeals.

Supporting documentation must be in the applicant's or co-applicant's name, must be dated to coincide with the applicable qualifying event/storm, and if applicable, must list the property address of property submitted for buyout. In addition, documentation such as identification and citizenship documentation must be valid and current (i.e., unexpired).

The property must also meet eligibility requirements as well (see [Section 3.8](#)).

**Homeowner Recovery Program Applicants.** Eligible applicants<sup>8</sup> in the ReBuild NC Homeowner Recovery Program (HRP) whose damaged property is located in a DRRA and who have not yet signed the Homeowner Grant Agreement (HOGA) will be given an opportunity to apply for the Strategic Buyout Program. However, if the HRP HOGA has been executed by the applicant but requires redevelopment due to programmatic policy changes, the original HOGA will be determined null and void and the applicant may choose to apply to the buyout program or continue to participate in the buyout program as long as the new, valid HOGA is not executed.

Eligible applicants who have applied to both the HRP and the Strategic Buyout Program may participate in only one of these two programs. The applicant may review both the HRP Award Letter and the Strategic Buyout Initial Offer Letter (IOL) before making a program selection. The deadline for program selection will be 30 calendar days from the date the applicant has received the HRP Award Letter or a Strategic Buyout Initial Offer Letter, whichever is the latter. Applicants must submit a signed, written request to withdraw (i.e., on the Voluntary withdrawal form) in order to proceed. Alternatively, if the applicant chooses to execute either the HOGA or IOL before formally withdrawing, then they will be administratively withdrawn from the other program.

It is important to note that a storm-damaged property located in a DRRA is generally not suitable for rehabilitation. Therefore, if an eligible HRP applicant whose property is located within the DRRA decides that they do not want to become a Strategic Buyout participant and wants to remain in the HRP, that applicant may do so, but their property will be subject to reconstruction and elevation. This reconstruction/elevation treatment is needed to decrease the risk of future storm damage to persons and properties located within DRRAs. However, this reconstruction treatment will not be required for those HRP applicants whose construction was completed or is/was underway (including MHU replacement) at the effective time of DRRA adoption.<sup>9</sup>

**Current FEMA HMGP Applicants.** If an applicant has already applied for and/or been approved by the FEMA Hazard Mitigation Grant Program (HMGP) at the time that the Strategic Buyout Program is open for application for the buyout zone, the applicant may apply to the program. Applicants who are slated for HMGP participation must resolve their relationship with HMGP before participating in the Strategic Buyout Program.

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<sup>8</sup> 83 FR 5844, February 9, 2019, pg. 5865, VI.40.b. (2), which covers funds for Hurricane Florence recovery efforts, prohibits the provision of CDBG-DR funded rehabilitation or reconstruction for households with annual incomes over 120% AMI or the national median, whose property was located in a flood plain at the time of the storm, and who failed to maintain flood insurance.

<sup>9</sup> Change Control Board policy #43 states that "Applicants who completed construction prior to the effective date of DRRA, or applicants who are undergoing CDBG-DR funded construction (i.e., the contractor has been issued a notice to proceed) for rehabilitation, reconstruction, or MHU replacement prior to the date of DRRA adoption are not retroactively affected by the DRRA adoption."



**Previous Ownership.** Former property owners who owned the property during Hurricane Matthew or Hurricane Florence (or other presidentially declared disaster as applicable), but have since lost ownership, will not be eligible as they no longer own the property.

**Property Mortgages.** Program participants with existing mortgages will be required to satisfy their mortgage (by paying the mortgage off, entering into a workout plan if delinquent, or other similar arrangement) with their mortgage provider prior to or at the purchase (closing) of the property under the Strategic Buyout Program (see [Section 3.13.2](#) for information on assistance with short sale negotiations and [Section 7.0](#) about closing requirements). The funds provided to buy the applicant's property under the program may be used to satisfy the mortgage and/or other liens if sufficient to cover the amount of the liens.

**Stop Work.** At program application, applicants will be required to sign a Stop Work form that requires them to stop all repair work on the storm-damaged property. Failure to comply with the "stop-work requirement" may result in an applicant's ineligibility to the program. Emergency repairs approved by NCORR before they are undertaken, in compliance with 24 CFR § 58.34(a)(10), will not jeopardize eligibility. Applicants will be required to submit requests to undertake emergency repairs to the program; the program will review and approve such emergency repair requests on a case-by-case basis. General maintenance of a home is not considered a repair and does not violate the stop-work order.

### 3.8 PROPERTY ELIGIBILITY CRITERIA

To be eligible for the Strategic Buyout Program, all properties must meet the following criteria:

- Geographic eligibility;
- Be located in an area at risk for future disaster damage that is covered by the president's declaration of a disaster and that has resulted in the allocation of CDBG-DR or CDBG-MIT funds;
- Be an eligible structure/property type; and
- Meet environmental review requirements (see [Section 5.1](#)).

**Geographic Eligibility:** For the property to be eligible for the Strategic Buyout Program, the structure must be located in a DRRA/Buyout Zone area (see [Section 1.9](#)).

**Area at Risk of Future Damage:** For a property to be eligible for the Strategic Buyout Program, the property must be part of a mitigation effort such as being located in an area identified as being at risk for future disaster damage (such as a DRRA). While applicant properties may have existing damage from past declared storms, applicants are not required to prove such damage to be eligible as the intent of the program is to lessen the future risk to persons and property by moving households out of harm's way.

**Property Size:** Regardless of the type of property, properties that exceed five acres may apply and will be considered on a case-by-case basis for eligibility in the program. All other program eligibility criteria will apply but additional factors may be considered, including but not limited to the following: ease and cost of land management, impact on farming or conservation efforts, budget impact, and availability of funds.

**Eligible Structure/Property Type:** The residential property or vacant land/lot submitted for buyout must also be an eligible property type as indicated below:

**Phase I Vacant Land/Lots** – land that has minimal or no improvements or residential property on it as of the time of the qualifying event.

**Phase I Eligible Structures - Residential Properties:**

- **Owner-Occupied, Primary Residence Property:** Examples of eligible structures include a detached single-family home; owner-occupied duplex or tri-plex unit; or eligible mobile home/ manufactured home. Property must have been occupied as primary residence as of date of the qualifying event. If an applicant was impacted by both Hurricane Matthew and Hurricane Florence, the property must have been primary residence as of the date of either storm.
- **Rental Property:** Any type of residential rental structure located within the DRRAs (also includes owner occupied rental properties, where part of the property is owner occupied and part of the property is rented).
- **Previously Standing Residence (now Vacant Land):** Property that had a Phase I-eligible residential residence on it and was occupied in part as a primary residence as of October 8, 2016, for Hurricane Matthew or September 14, 2018, for Hurricane Florence, and is located in a DRRA, but is now cleared or contains part or all of the original deteriorated structure, will be eligible. Applicants will be required to provide the program supporting documentation that a structure previously existed on the land.
- **Vacant Property:** Residential properties that have been vacant for a significant period of time and do not meet the occupancy timeframe to qualify as a rental property, will be considered a vacant property as the property type. Applicants of vacant properties are not eligible for incentives.

**Limitation on Rental Properties.** There is a limit on the number of rental properties that may participate in Phase I of the Strategic Buyout Program. The parameters of the limitation are as follows:

- Phase I program participation will be limited to fifteen (15) rental properties (e.g., one (1) triplex = one (1) property) across all DRRAs, that are owned by the same person. The limit includes any owner-occupied structure/unit that is a primary residence as well.
  - This limit applies to any person who owns rental property regardless of whether that person owns the properties as the sole owner of record and/or has an ownership interest in an entity, such as a LLC, that owns the property. For example, if an owner owns three rental properties as the individual owner of record and also owns two rental properties as one of the owner members of an LLC, then that owner has reached the property limitation for program participation.
- This limit on fifteen properties applies to Phase I participation only.
- Rental owners are permitted to submit applications for more than fifteen properties. If eligible applications from the same owner exceed the limit, the program will decide which applications/properties will be made an offer to participate in the program.
- The program may exceed the limit for Strategic Locational Buyout purposes such as acquiring contiguous properties, local land management, etc.
- All of the Phase I eligibility criteria still apply to all rental property applications including that the owner must have owned property as of the date of the qualifying event and still owns the property.

**Change in Property Type/Use:** In order to be eligible for Phase I participation, the property must have been an eligible property type as of the date of the qualifying event and must still be an eligible Phase I property type. If an owner-occupied primary residence converted to a commercial establishment since the

qualifying event, it would not be considered for Phase I participation unless it were considered as a Strategic Locational Buyout. In addition:

- The property must have been owned at time of qualifying event and still be owned by the owner at time of application to the program;
- The property’s current use will be the basis for the appraised current Fair Market Value amount; and
- Potential eligibility for incentives will be based on whether the owner can provide supporting documentation that proves that the property serves or once served as their primary residence as of the date of the storm (subsequent property purchased must also be a primary residence for an incentive).

**Sub-Division Prohibited:** At application, applicants shall agree not to divide, separate, or subdivide the property being reviewed for buyout assistance without notification and permission by the program. Failure to comply with this requirement may result in a determination of ineligibility.

**Phase II Eligible Property:**

- **Non-Residential Properties:** Properties which are or were used for non-profit activities, commercial/industrial purposes, or where the property is used or was used to generate income from activities that are not primarily for providing permanent residential housing; and
- **Properties of any Eligible Type Purchased after the Qualifying Event.** Eligible property types purchased after the qualifying event located within the DRRA.

All applications must meet the property eligibility criteria. Applicants will be required to provide supporting documentation to show the property was storm-damaged, the applicant owned the property, the property was their primary residence, if applicable, and additional documentation as requested by the program to determine eligibility for the applicant.

**Table 4: Property Eligibility Criteria for All Applicant Property Owners**

Eligibility Criteria	Examples of Required Supporting Documentation and Additional Program Documentation
Located within DRRA	Certified by program
Eligible property type	Applicant identified and confirmed during process. However, owners of rental properties must provide supporting documentation to document that property is a rental.
Meet environ. review requirements	ERR report completed.

**3.9 INELIGIBILITY FOR THE STRATEGIC BUYOUT PROGRAM**

**Ineligible Property Types** - The following property and structure types are ineligible for the Strategic Buyout Program:

- **Contaminated Sites:** Sites known or suspected to be contaminated by toxic chemicals or radioactive materials include but are not limited to sites: (i) listed on an EPA Superfund National Priorities or CERCLA List, or equivalent State list; (ii) located within 3,000 feet of a toxic or solid waste landfill site; or (iii) with an underground storage tank. HUD policy, as described in [24 CFR Part 50.3\(i\)](#) and [24 CFR 58.5\(i\)\(2\)](#), does not allow for CDBG-DR or CDBG-MIT funding for the purchase or use of contaminated sites.

- **Environmental Review Findings and Requirements.** Properties and/or structures for which an Environmental Review Record states findings and/or requires substantial mitigation<sup>10</sup> that cannot be completed feasibly or requires fiscally prohibitive measures. This may include properties/structures that have failed to secure clearance from the North Carolina State Historic Preservation Office (SHPO) during the SHPO’s period of right to comment due to historic significance.
- **Public and Affordable Housing:** Affordable housing that is government-owned or financed is ineligible for the program. Special needs housing and institutional housing is also ineligible for SBP.
- **Recreational vehicles.**
- Cooperatives, condominiums and other residential properties governed by a homeowners’ association and/or subject to Restrictive Covenants if such covenants or bylaws prevent future use of properties consistent with open-space, recreational, natural floodplain or other permissible development standards, unless the owner can obtain a release from restrictive covenants, bylaws, or other restrictions, the property is divisible (potentially such as an end unit in a townhouse development), or an entire property/building participates in the program.
- **Properties that have received or are in the process of receiving other disaster recovery or mitigation funding for elevation, reconstruction, or acquisition since 2016:** Such properties will be ineligible for the Strategic Buyout Program. However, if the federal funding has been offered to elevate, reconstruct, or acquire the property due to damage sustained during a qualified storm event, but the applicant chose to withdraw from the grant as evidenced by a voluntary withdrawal letter that has been received by the UGLG and elevated to the relevant state office, the property may be eligible for the program if all other program eligibility criteria are met.

**Ineligible Applicants** – In general, applicants who have signed a valid Homeowner Grant Agreement in the ReBuild NC Homeowner Recovery Program are ineligible. See [Section 3.7](#) for more information on Homeowner Recovery Program applicants. In addition, those SBP applicants who are unable to meet all eligibility requirements will not be eligible for the Strategic Buyout Program.

### 3.10 EVIDENCE OF PROPERTY OWNERSHIP

Evidence of ownership at the date of the storm must be supplied by the applicant. The Title Report obtained will be used to verify ownership and whether the title is clean, insurable, and merchantable.

**Ownership of Stick-built or Modular Property:** Ownership is defined as holding a fee simple title as evidenced by a warranty deed, non-warranty deed or bargain for sale deed, gift deed or a quit claim deed to the property, evidence of a current mortgage on the property, or other documentation of ownership. A copy of the recorded deed for the damaged property or other proof of ownership must be submitted along with the application for the program to make an eligibility determination.

<sup>10</sup> Substantial mitigation is defined as measures that are required to remediate potential contaminants identified through the site review and/or if NEPAAssist shows active contamination at the site using federal and state contamination GIS layers. Department of Environment and Natural Resource (DENR) monitoring identified using NEPAAssist will **not** result in substantial mitigation resulting in the property/structure’s ineligibility for the program unless additional violations are found during monitoring.

**Manufactured Housing Units (MHU):** In order to be eligible for the Strategic Buyout Program, MHU owners must supply evidence that they own both the land and the structure. See the ***Strategic Buyout Program Required Document Checklist*** for a list of documentation needed to illustrate applicant ownership of property for the MHU.

### 3.10.1 Additional Ownership Requirements

**Storm and Current Ownership.** The property owner must show documentation that they owned the storm-damaged property as of the date of the qualifying event and are still a current owner in good standing by providing:

- A tax record/bill or County Assessor's records in one of the applicant's name, listing the damaged address at the time of the qualifying event (covering year and month of the disaster); and
- Proof that they are current in property tax payments (by providing the current property tax statement and receipt, or similar) or have entered into a valid repayment agreement and are current with the payment agreement or be able to retire the debt at closing.

The title report obtained by the program will validate current ownership.

### 3.10.2 Special Circumstances Related to Occupancy

Potentially eligible applicants with the following special circumstances will be considered eligible for the program and for incentives if all other program and incentive eligibility criteria are met:

- Active-duty military personnel who own a storm-damaged property in the DRRA that would have been their primary residence but were deployed away from their home at of the date of the storm.
- Applicants with storm-damaged property in a DRRA that would have been their primary residence who were incarcerated as of the date of the storm. If the applicant is incarcerated at the time of application, the applicant must give someone with power of attorney on his or her behalf.
- Applicants who own storm-damaged property in a DRRA that was their primary residence as of the date of the storm but were in a nursing home or other health facility at the date of the qualifying event.

## 3.11 OTHER ELIGIBLE TYPES OF OWNERSHIP

**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 applicants is a trustee of the trust, and all other previously mentioned eligibility criteria are met. 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 the deceased must join in the sale of the property to the Strategic Buyout Property Recipient.

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 deceased. If a beneficiary of the estate has taken title to the property, that beneficiary is required to meet all eligibility requirements.

If a property owner passed away after the storm, the documentation of the deceased person must meet all eligibility requirements. However, disaster recovery funds awarded to the deceased will not be included in DOB as the funds would be unavailable to the current owner unless the current owner is a co-recipient of those funds.

**Gift of Property.** When an applicant has inherited the property from the owner of the property at the time of the qualifying event, they must provide documentation to indicate their ownership, inheritance or claim in order to be eligible. Eligibility in such situations will be decided on a case-by-case basis.

**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 qualifying event are eligible forms of ownership so long as program eligibility criteria are met as listed in [Sections 3.7](#) and [3.8](#).

### 3.12 TITLE SEARCH

The program will perform a full title search to determine the legal owners of the property and if there are any active liens or a mortgage on the property. If there are multiple owners, all property owners must voluntarily agree to sell the property to the Buyout Property Recipient (BPR) as applicable.

If title to the subject property is not vested in the applicant to the program or there is an obstacle that prevents clean, merchantable, and insurable title to be transferred to the BPR, curative actions will be needed to fix the identified defects or inconsistencies/discrepancies on title. The program may aid applicants in obtaining clean title when possible.

A full title search of the appropriate land records and assessor records of the county in which the subject property is located will be performed for each property in accordance with NC real estate law and associated timeframes. The title report will indicate all current owners of, or other parties with an interest in, the subject property, and all opened and un-cancelled liens, mortgages, deed of trust, judgments, easements, adverse inscriptions, or other encumbrances, and property tax history, and amount and current status.

After completion of the full title search, the chain of title and all matters revealed by the full title search shall be examined by an attorney licensed to practice law in the State of North Carolina (the "Title Examination"). After completing the Title Examination, the attorney will provide the program with a written report setting forth:

- The names of all owners of record;
- The date and recordation information of each purchase deed;
- A full legal description of the target property;



- The amount and identification of any liens (including a mortgage);
- Amount of property taxes due, if any, along with the amount of the most current property tax assessment made against the target property;
- Any matters of record that should be excluded for coverage provided by any Owner's title insurance policy to be issued in favor of the BPR as the acquiring entity;
- All open and uncanceled adverse inscriptions or liens against the target property; and
- Requirements that must be met in order to properly vest title in the property and in the BPR, and any other matters that may affect the merchantability and insurability of the title to the target property (the "Title Opinion").

In the SBP process, if title to the target property is vested in an applicant and is otherwise clean, merchantable, and insurable, a commitment to insure the title to the property will be prepared in the name of the BPR upon satisfaction of all requirements identified in the title report (the "Title Commitment"). The Title Commitment will present a firm commitment to insure title to the property in the name of BPR after closing and upon payment of the title insurance premium approved and scheduled by the North Carolina Department of Insurance, if required.

### **3.13 REAL ESTATE ISSUES**

Merchantable, clean, insurable title and the ability to satisfy a mortgage (if applicable) is needed to obtain full program eligibility and proceed to real estate closing under the Strategic Buyout Program.

#### **3.13.1 Title Issues**

Based on the results of the Title Report, the program will inform the applicant of any title issues that would impede the transfer of the applicant's property. The program will discuss the results of the report with the applicants. Applicants may want to engage a personal attorney to resolve complicated ownership and title issues.

#### **3.13.2 Short Sale Negotiation**

A short sale is the sale of real estate for less than the amount of the liens/debts against the property, such as a mortgage. If the lien holder(s) agrees to the sale, the property may be sold. The program will have technical assistance available for applicants who would like help with negotiating a short sale to rectify a negative equity situation or other mortgage issues that would interfere with mortgage satisfaction. Satisfaction of the mortgage is ultimately the applicant's responsibility.

### **3.14 URA REQUIREMENTS**

Persons permanently and involuntarily displaced by the activities of a federally funded program are eligible for relocation advisory services and benefits under the Uniform Relocation Act (URA). Owner applicants are not eligible for URA benefits as they are participating in the program voluntarily and are not considered displaced persons. Eligible tenants occupying rental properties that are ultimately sold under the Strategic Buyout Program are entitled to URA relocation advisory services and benefits because such tenants will be permanently displaced. Landlord applicants are required to disclose the presence of tenants at application and later if a move-in is planned for a vacant unit after application. The program may find a landlord applicant ineligible if they do not: 1. Disclose existing tenants at the time of

application; or 2. Comply with the move-in requirements outlined in the Uniform Relocation Act Policy Manual.

The program will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 – 4655) and the corresponding regulations outlined under [49 CFR 24](#), applicable HUD policies and waivers, and NCORR **Uniform Relocation Act (URA) Policy Manual**. The program will perform the following tasks to provide the required URA relocation services and benefits to displaced tenants:

- Coordinate with the landlord applicant to collect contact information of tenants, if applicable, and to identify tenants who may be eligible for URA benefits;
- **As soon as feasible, provide tenant(s) with a General Information Notice (GIN), and other information;**
- Complete URA interview forms with tenants that includes information on housing preferences and needs, household income, lease or rental agreements, lawful presence status, etc. and obtain applicable documentation to complete the relocation assistance review and intake; and
- Issue remaining URA required notices to eligible tenants at appropriate points during the program. Provide relocation advisory services. Perform necessary recordkeeping.

### 3.15 INCOME DETERMINATION AND VERIFICATION PROCEDURES

Note: The verification of income only applies to Primary Residence Owners. This requirement does not apply to Rental Property Owners unless the rental property owner is an owner occupant and is able to prove primary residence for the rental unit as of the date of the qualifying event. Owner occupants of rental units will need to provide income information as is required for the other Primary Residence Owners in order to be considered eligible for incentives.

To verify income eligibility for applicable applicants, all adult household members must provide the program with income documentation. Adult household members will be required to provide updated income information at certain times throughout the buyout process, including if incentives are requested in a new tax year.

The most recent HUD income limits published at the time of application will be used to determine whether an applicant qualifies under HUD's low- and moderate-income categories, which is defined as annual adjusted gross household income being at or below 80% of the Area Median Income (AMI). While household income is not an eligibility criterion for the actual buyout (or purchase) of a property, a household's income level will affect eligibility for certain program incentives.

#### 3.15.1 Verifying Income

The program will utilize the most current tax return forms (IRA Forms 1040, or 1040 SR) or other independent verification resource for each adult household member to determine the adjusted gross income of the household. Applicants are required to report change of life events (such as start of a job or loss of a job, birth of a child, etc.) and their impact on household income when those events occur.

If no 1040 or other tax form is available for one or all household members and all efforts are exhausted to obtain the tax return, the program will use alternative methods to calculate and certify income. These alternative methods will only be used when the applicant is not required to file, has filed an extension, has zero income and/or in those rare occasions where the applicant is unable to file a tax return.

When the applicant has filed taxes but does not have proof, the program will request that the applicant obtain a copy of their 1040 transcript.

For those who did not file an IRS Form 1040, the following documentation will be required from all persons living in the household who are 18 or older, as applicable:

- Current and consecutive check stubs for three (3) months
  - For persons paid weekly, this equals 12 consecutive paychecks.
  - For persons paid bi-weekly or bi-monthly, this equals 6 consecutive paychecks.
  - For persons paid monthly, this equals 3 consecutive paychecks.
- Pension statement showing current monthly or yearly gross amount
- Social security statements
- Form 1099
- Unemployment statement
- Income Disclosure Form indicating zero income

If an applicant is still in the process of providing documentation for an income determination but documentation is not complete, or if an eligible applicant has not yet closed on the property or requested incentive(s), then the applicant will be qualified under the HUD income guidelines/limits in effect at that time.

### 3.15.2 Household Size

Household size is used to determine whether the applicant household's income falls under HUD's low- and moderate-income categories and to determine the appropriate national objective that may be applied. In determining the size of a household for the purposes of reporting income as part of this program, HUD considers all persons who live in the same house to be household members. Household members may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share the same house. To determine income eligibility, income must be provided for each person in the household who is 18 years of age or older.

**Non-household Members:** Some households may include persons who are not considered as members of the household for the purposes of determining household size. The following persons should not be counted as household members when determining household size and should not be included when reporting annual household income:

- Foster children
- Foster aides
- Live-in aides and children of live-in aides
- Unborn children (not considered in household size for income eligibility calculation but considered for bedroom count)
- Children being pursued for legal custody or adoption who are not currently living in the household

A child who lives in the house at least 50 percent of the time and is named in a shared-custody agreement can be counted in the household. Applicants have the option to include permanently absent family members who can be classified as household dependents, such as children attending college or a family member in a nursing home. The head of household has the choice of either counting that person

as a member of the household and including their income or determining that the person is no longer a member of the household.

**Adjusted Gross Household Income Eligibility Calculation Method:** In all cases where the applicant provides or can produce a 1040 tax return, an equivalent to the HUD Income Eligibility Calculator method is used. The program uses an income calculator in its system of record to calculate income, which mirrors HUD's income determination method. Information on HUD's method is available on HUD's website at [www.hudexchange.info/incomecalculator](http://www.hudexchange.info/incomecalculator).

If after making every effort to work with the applicant to obtain a 1040, it is determined that the 1040 cannot be obtained without undue hardship to the applicant, the program will use the alternate income calculator to determine the household income.

### 3.16 APPLICANT APPEALS

The Strategic Buyout Program will operate in accordance with NCORR's **Appeals Policy**. An appeal is defined as a written request by an applicant asking for a reversal of a determination that affects their eligibility and/or amount of assistance they may receive from a NCORR program. Only SBP applicants may appeal a determination.

Applicants have the right to appeal any determination made by the program concerning applicant eligibility or the amount of assistance that may be received within 30 calendar days of the date of the determination letter (applicants appealing any determination regarding relocation have 60 days from the date of the receipt of a determination letter). Applicants may appeal determinations or denials that are contingent on program policies. However, it should be noted that NCORR does not have the authority to grant an appeal of statutory or HUD-specified regulations or requirements. In addition, the Strategic Buyout Program will not consider appeals of the:

- Initial Offer Price or any component of the offer amount paid after the purchase of the buyout property by the Strategic Buyout Property Recipient, and/or
- Incentive amount(s) after the issuance of funds and the acceptance of incentive funds by the program participant.

Applicants who want to file an appeal should follow the directions in the **NCORR Appeal Procedures**. The Appeal Procedures outline the appeal process. Once an appeal request is received, the program will provide the applicant with written acknowledgement of the appeal within fifteen (15) working days of receipt.

#### 3.16.1 Program Complaints

The Strategic Buyout Program will adhere to the NCORR Complaints and Inquiries Standard Operating Procedure (SOP). The program will be responsible for logging the complaint in the system of record and assigning the appropriate person(s) to provide a response. In addition, the program will be responsible for tracking each complaint and ensuring that a response is made within the required 15 working day timeframe in accordance with 81 FR 83254 (November 21, 2016), 83 FR 2854 (February 9, 2018) and 84 FR 45838 (August 30, 2019).

### 3.17 PROGRAM WITHDRAWAL

Applicants may withdraw from the program up until closing. Applicants must submit their request to withdraw in writing, and may use the program's Voluntary Withdrawal Form, which can be found on the NCORR website at: [www.rebuild.nc.gov/Buyout](http://www.rebuild.nc.gov/Buyout)

If the program is unable to reach an applicant for an extended period, the program will follow the NCORR Involuntary Withdrawal process described in [Section 7.3.1](#) below.

Applicants who voluntarily withdraw may re-enter the program if funds remain and the program is still accepting applications.

#### 3.17.1 Non-Responsiveness and Involuntary Program Withdrawal

Applicants applying to the program for assistance have the responsibility to keep the program informed of current contact information and to update their records if their income situation changes, as applicable. In addition, applicants are responsible for actively participating in the process and providing access to their property for lead-based paint and asbestos testing, boundary survey, appraisal and any surveys or inspections deemed necessary by the program.

The program will make every attempt to remain in contact and advise each applicant of any additional information that may be required to complete the program. However, if applicants show a demonstrated pattern of disengagement, the program will institute a communication due-diligence procedure, after which applicants will be notified that their continued participation in the program may be in jeopardy. Should an applicant be non-responsive or fail to provide the program with necessary documentation, the program will institute a due diligence period to establish contact with the non-responsive applicant. If these attempts fail, the applicant is Involuntarily Withdrawn from the program. Also, in the case where there are multiple property owners, if one or more owners does not accept and return the Initial Offer Letter, the due diligence and involuntary withdrawal process will be implemented even if the applicant has accepted the offer and returned the required paperwork. The specific timeframes and steps for due diligence and involuntary withdrawal are located on the program website (see [Section 1.4](#)). The applicant may appeal the involuntary withdrawal determination by following the appeals process.

## 4.0 Duplication/Verification of Benefits (VOB) Review

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### 4.1 DUPLICATION OF BENEFITS (DOB) PROCESS OVERVIEW

The Robert T. Stafford Act aims to prevent the duplication of disaster recovery benefits and ensure that federal assistance serves only to supplement insurance and other forms of disaster assistance. “A duplication of benefits (DOB) occurs when a person, household, business, or other entity received disaster assistance from multiple sources for the same recovery purpose, and the total assistance received for that purpose is more than the total need. The amount of the DOB is the amount received in excess of the total need for the same purpose.” [84 FR 28837, June 20, 2019]. Further, the “necessary and reasonable” cost principles in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards in Subpart E of [2 CFR part 200](#) also prohibit CDBG-DR and CDBG-MIT grantees from charging to these funds a cost paid by another source.

In order to determine if there is a DOB, 84 FR 28836, June 20, 2019, requires NCORR, as the recipient of federal disaster recovery funds to identify “total assistance” to an applicant of its programs (the program). **Total assistance** includes all reasonably identifiable financial assistance available to an applicant. Therefore, program applicants are required to disclose all financial disaster assistance that is received, committed to, or anticipated by the applicant. Total assistance includes “available assistance.” **Available assistance** includes assistance that would have been received by an applicant “acting in a reasonable manner,” or if the applicant “has received the assistance and has legal control over it.”

An individual analysis of each applicant’s DOB will be performed. Total assistance to the applicant will be reviewed and verified. Assistance considered a non-DOB, including assistance provided for a different purpose or the same purpose but a different, allowable use, will not be counted in the final calculation of DOB. The remaining DOB will be subtracted from the incentive amount(s). Note that the incentive amount minus DOB cannot be below zero.

**Unmet Need.** The unmet need for the Strategic Buyout Program is defined in two parts. First, there is a need to remove the property from the inventory as a mitigation measure so that it cannot be damaged again. This is accomplished through the buyout (or purchase) of the property at current fair market value and the subsequent demolition and clearance of the property. Second, there is a need to ensure that suitable replacement housing is found in areas not prone to flooding and related storm damage for the buyout participants and this is accomplished by the provision of incentives.

The program will examine DOB before an offer is made, when an incentive is requested (if applicable), and at closeout if an incentive was provided.

**Multiple Storm Policy.** If the property owner was impacted by both Hurricanes Matthew and Florence, the applicant must provide documentation on assistance received for both storms. As stated previously, an assessment will be performed to determine if any of the assistance meets the criteria of non-DOB. Non-DOB in the instance of multiple storms will be treated as previously explained. [Section 4.3](#) provides more information on Non-DOB.



## 4.2 DUPLICATION OF BENEFITS (DOB) ANALYSIS: TOTAL ASSISTANCE

In order to determine **Total Assistance**, the program will collect disaster assistance information from those applicants eligible for incentives. When requesting an incentive, such applicants must disclose **all** financial disaster assistance awarded and/or received in response to their storm-related damage, including the following sources:

- Federal Emergency Management Agency (FEMA)
- National Flood Insurance Program (NFIP) and Increased Cost of Compliance (ICC)
- Small Business Administration (SBA) and other subsidized loans
- CDBG-DR or CDBG-MIT-funded NCORR program(s) such as the ReBuild NC Homeowner Recovery Program
- Private insurance
- Private or nonprofit organizations or donations
- Disaster Recovery Act (DRA) funding
- Other state, local, or federal programs

The following sources of funding assistance are described further below and will be verified.

### 4.2.1 FEMA Individual Assistance (IA)

FEMA Individual Assistance (IA) assistance amount and purpose will be determined and verified by the program through the FEMA NEMIS database.

If the program is unable to verify the FEMA IA amount through the FEMA NEMIS database, it will use the payment amount disclosed by the applicant at the time of application, supported by FEMA award documentation. If an applicant can provide FEMA award documentation demonstrating that the FEMA IA amount and/or purpose provided by the FEMA NEMIS database differs from the amount and/or purpose in their FEMA award documentation, the program will accept the applicant's copy of the FEMA award documentation when completing its DOB analysis.

### 4.2.2 FEMA National Flood Insurance Program (NFIP) and Increased Cost of Compliance (ICC)

The program will collect NFIP flood insurance and Increased Cost of Compliance (ICC) payment information from the applicant through the application process. In addition, the program will work directly with NFIP to verify the information provided by the applicant.

Exception: Insurance proceeds taken by a mortgage company as a forced mortgage payoff will not be counted as a duplication of benefits, as long as documentation from the mortgage company shows that the payoff was involuntary. The applicant will need to provide supporting documentation demonstrating that the mortgage payment was involuntary, and the program will attempt to verify this information with the applicant's mortgage company.

### 4.2.3 Small Business Administration (SBA) and Other Subsidized Loans

Applicants may have a loan from the Small Business Administration (SBA) or other entity that is guaranteed and subsidized by the government. Subsidized home, personal property, relocation, and business loans may be obtained by those persons or businesses recovering from a disaster. The program will review the status of subsidized loans obtained by the applicant during the DOB analysis process.

On June 20, 2019, HUD published two Federal Register (FR) notices on the calculation of Duplication of Benefits (DOB): 84 FR 28836 (here after referred to as the “DOB Notice”) and 84 FR 28848 (here after referred to as the “DOB Implementation Notice”). V.B Subsidized Loans of 84 FR 28836 – June 20, 2019, provided guidance on the treatment of subsidized loans in the Duplication of Benefits analysis as follows: *“The full amount of a subsidized loan available to the applicant for the same purpose as the CDBG-DR [or CDBG-Mitigation] assistance is assistance that must be included in the DOB calculation unless one of the exceptions in Section V.B.2 applies including the exception in V.b.2 (iii) authorized in the DRRRA amendments to Section 312 of the Stafford Act (which applies to disasters occurring between January 1, 2016 and December 31, 2021, until the amendment sunsets October 5, 2023). A subsidized loan is available when it is accepted, meaning that the borrower has signed a note or other loan document that allows the lender to advance loan proceeds.”*

The program will continue to collect subsidized loan information, including SBA information, provided by the applicant. In addition, the program will obtain a data feed provided by SBA to verify all approved amounts for SBA loans. The program will collect specific information from SBA that breaks out the approved SBA loan amounts into the different categories of assistance (e.g., real property, personal property, vehicles, etc.).

The program will not count the amount of an applicant’s declined or cancelled subsidized loan as DOB in accordance with 84 FR 28836 (6/20/2019) if the requirements in [Sections 4.2.3.1 – 4.2.3.4](#) below allow.

#### **4.2.3.1 Declined Subsidized Loans**

Declined SBA loans are loan amounts that were offered by the lender in response to a loan application, but were turned down by the applicant, meaning the applicant never signed loan documents to receive the loan proceeds. **The program will not treat declined loans as DOB.**

The program will request documentation for the declined loan only if the information received from the third party (SBA, etc.) indicates that the applicant received an offer for the subsidized loan and the program is unable to determine from that available information that the applicant declined the loan. The applicant will complete the ***Subsidized Loan Affidavit***. The program will submit the *Subsidized Loan Affidavit* to the SBA (or another lender) and will re-verify DOB at project completion.

#### **4.2.3.2 Cancelled Loans**

Cancelled loans are loans (or portions of loans) that were initially accepted, but for a variety of reasons, were cancelled (such reasons may include the loan commitment terms have expired, the loan has been withdrawn, all or a portion of the loan was not disbursed and is no longer available to the applicant or cancelation was requested by the borrower). The following documentation will be required to demonstrate that any undisbursed portion of an accepted subsidized loan is cancelled and no longer available to the applicant:

- A legally binding agreement between the program and the applicant, the *Subsidized Loan Affidavit*, must be executed and notarized. The Affidavit indicates either that:
  - The period of availability of the loan has passed and the applicant agrees not to take actions to reinstate the loan or draw any amounts in the future; or
  - The period of availability has not passed however the applicant certifies that they will not take action to reinstate the loan or draw more funds; and that they understand that they

are subject to a DOB analysis once the period of availability has passed which could affect their incentive award amount. Further, the affidavit will contain the following warning language: “*Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18. U.S. C. 287, 1001 and 31 U.S.C. 3729.*”

Without a completed, notarized Subsidized Loan Affidavit (or a written communication from the lender confirming that the loan has been cancelled and undisbursed amounts are no longer available to the applicant), any approved but undisbursed portion of a subsidized loan shall be included in the DOB calculation of the total assistance unless another exception applies.

For all cancelled SBA loans, the NCORR program will send the *Subsidized Loan Affidavit* to SBA (or other lender) as notification that the applicant has agreed to not take any actions to reinstate the cancelled loan or draw down any additional undisbursed loan amounts. In cases of cancelled loans where partial disbursements were made prior to the cancellation of the loan, the disbursed funds will be treated as funds disbursed for active loans below. As with declined loans, incentive awards made to applicants with cancelled subsidized loans will have DOB re-verified at project closeout.

#### **4.2.3.3 Active Loans with Disbursed and Undisbursed Funds**

All NCORR programs will consider an active subsidized loan during the DOB analysis. **However, accepted but undisbursed loan amounts will not be considered a DOB. In addition, disbursed loan amounts will be considered as non-duplicative provided the funds were:**

- Used properly for the same purpose;
- Provided for a different purpose; or
- Provided for the same purpose as the program’s activities, but used for a different, allowable use as described in [Section 4.1](#).

Applicants with open, subsidized loans will not be required to cancel the loan but will be required to sign a notarized *Subsidized Loan Affidavit Form*. Completion of this notarized affidavit requires the applicant to certify that they will not draw down more funds without the prior approval of the NCORR program, and that they understand that funds drawn will be subject to a DOB analysis that may affect the incentive award amount. Further, the *Subsidized Loan Affidavit* will be submitted to the SBA or other lender which states that the applicant has agreed to request permission to draw more funds from the NCORR program before proceeding.

#### **4.2.3.4 Property Owners who Declined or Cancelled a Subsidized or SBA Loan**

84 FR 28836 (June 20, 2019) states that households who have declined or cancelled subsidized loans such as SBA loans, may be served (if eligible) **as the amount of declined or cancelled loans will not be counted as a DOB.**

#### **4.2.4 Private Insurance**

All property or casualty insurance, including flood and settlement amounts for loss to dwellings must be disclosed. Private insurance payments for contents or other expenses will not be deducted from the applicant’s incentive award as this would generally be considered a Non-DOB. Insurance proceeds are initially determined by the program through applicant-provided information. Applicants must also authorize

the program to contact third-party private insurance providers to verify information provided by the applicants. All homeowner's policies and any assistance provided under the policy in response to storm damage will be verified by third party. If the purpose, connection to storm and/or amount of assistance provided by an insurance company cannot be verified, the amount will be counted as a DOB.

#### 4.2.5 Other Assistance

Those applicants eligible for incentives are required to disclose all other disaster assistance received, such as funding provided by a non-profit entity to assist applicants with rebuilding their home, State Disaster Recovery Act (DRA) or State Acquisition and Relocation Funds (SARF), or other. All assistance must be accounted for and verified by the program. In addition, supporting documentation related to other duplicative funding sources must be provided by the applicant and verified and applied in the duplication of benefits analysis by the program.

### 4.3 NON-DUPLICATIVE ASSISTANCE (NON-DOB)

Funds that were received from other sources may not always be determined to be a duplication of benefit. Non-DOB amounts will be subtracted from total assistance to determine the DOB amount. Non-DOB will be assessed for those impacted applicants individually on a case-by-case basis.

Examples of non-duplicative assistance are as follows:

- Funds provided for a different purpose. *Potential* examples of non-DOB could include the following:
  - Insurance proceeds for loss of contents. As this cost will not be covered under the Strategic Buyout Program, it is a non-DOB.
  - Temporary rental assistance. Even though the Strategic Buyout risk reduction incentive may provide an incentive to move to a safer area, the risk reduction incentive differs from temporary rental assistance as it is for permanent relocation to an area of reduced risk only. Therefore, the incentive is for a different purpose than temporary rental assistance or assistance that does not require relocating out of the DRRA or at-risk areas.
  - In the case of incentives, any other assistance received that was not for the purpose of the incentive (such as permanent relocation or housing affordability).
- Funds provided for the same purpose but used for a different allowable use.
- Funds received for a different disaster declaration than the qualifying event. The qualifying event is the storm to which the applicant is tied back to (Hurricane Matthew or Hurricane Florence).
- Funds not available to the applicant.
  - For example, when insurance funds received must be used for a forced mortgage payoff based on the terms of the mortgage.
  - Funds of the deceased owner unless the current owner was also a co-recipient of the disaster assistance funds
- Funds received from a private loan and not guaranteed by SBA. Note: if such funds are related to the repair of the property, the lending institution may require that the loans are satisfied at the property "closing."
- A forced mortgage payoff will not be counted as a duplication of benefits, as long as the applicant provides adequate documentation.
- Funds lost to contractor fraud are not considered DOB.
- Assets or line of credit available to the applicant.
  - For example, checking or savings accounts and stocks are not duplicative.

#### 4.4 DOB EXAMPLES

**Example 1:** Assume an applicant requests an Affordable Homeownership incentive from the Strategic Buyout Program and after an analysis by the housing counselor, it was determined that a program incentive of \$45,000 is needed for the purchase of the applicant's next home. However, the applicant has already received \$5,000 in closing cost assistance under a different program. In this example, the DOB to be subtracted from the Affordable Homeownership incentive of \$45,000 would be \$5,000 as the \$5,000 for closing cost assistance would be a duplication of benefit of the SBP incentive. Therefore, the applicant would receive a \$40,000 Affordable Homeownership incentive from the program.

**Example 2:** Assume an applicant received \$52,000 in insurance funds to repair their storm-damaged home. Then the applicant participating in buyout requests a Matching Down Payment incentive when they want to purchase their next home. The applicant requests a \$20,000 incentive, which will be matched by the \$20,000 that the applicant will also make as a down payment. Before the \$20,000 incentive can be provided, the program performs a DOB analysis. In this case, the \$52,000 received by the applicant will not reduce the amount of the incentive, as it is a non-DOB as it was for a different purpose than the incentive. Therefore, the program will match the applicant's down payment of \$20,000 with another \$20,000.

#### 4.5 VERIFICATION OF BENEFITS (VOB)

To meet HUD requirements and verify all potentially duplicative funding, the program will attempt to obtain the best and most recent available DOB information before providing federal funds to an applicant. Applicants eligible for incentives will be required to disclose all disaster assistance received and provide all documentation related to that assistance. Applicants will sign a **Consent to Release Form** as part of their application packet submission that will allow the program to conduct third-party verification of applicant-provided information and documentation.

Once applicant-provided information is collected, all duplication of benefits will be verified and uploaded into the program's system of record. Verification of benefits (VOB) from all sources will be used in determining any incentive amount, which will be based on unmet need.

The first goal of the VOB process is to compare the property owner's reporting of the amounts and purposes of benefits received with the benefit amounts and purposes reported by third party verified sources. The second goal is to detect DOB errors and make corrections prior determining an incentive amount for an applicant.

To comply with the federal prohibition against the duplication of disaster benefits, the program will verify all disaster assistance received or anticipated by an applicant as follows:

- Verify all sources of disaster assistance received by the applicant by conducting third-party verification, as applicable. Data feeds from SBA, FEMA NEMIS and NFIP will be used to verify those sources of assistance.
- Obtain documentation indicating the source of award/funds and purpose of assistance funds/monies. The program will want to view original copies of letters, claim awards, checks, receipts, etc. if possible but copies of original documents may also be accepted to verify those forms of assistance unavailable from a formal data feed such as insurance claims, and other assistance.

- If there are questions about the amount or type of funding provided, DOB staff will perform **due diligence** to verify the amount and the purpose of the assistance provided. Staff will send the funding entity a request for information along with the applicant's Consent to Release Form. If the entity does not respond after multiple attempts made by program staff within thirty (30) calendar days, the program will accept an applicant's certification as long as available insurance documentation indicates the connection to the qualifying event, the address of the storm-damaged property, purpose, and amount of the funds, and is in the applicant/owner's name.

Once applicant-provided information is collected, the duplication of benefits will be verified as outlined in the program's SOPs. All DOB documentation will be uploaded into the system of record. Verified duplication-of-benefits amounts will then be used in the applicant's incentive calculation(s).

## 5.0 Inspections, Appraisal, Environmental Review, and Housing Counseling

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### 5.1 ENVIRONMENTAL REVIEW

The environmental review process is required for all HUD-assisted projects to ensure that the proposed undertaking does not negatively impact the property or surrounding social, cultural, and physical environment and possible historic fabric. The specific purpose of the environmental review process for the Strategic Buyout Program is to ensure that there are no environmental hazards present on the property which will be cleared through demolition and ultimately transferred to the local government or a designated land trust, does not affect the community social and cultural fabric adversely, or that the property does not have potential historic value.

Every project must be in compliance with the National Environmental Policy Act (NEPA) and other related Federal and state environmental laws. For more information, refer to [www.epa.gov/nepa](http://www.epa.gov/nepa).

An environmental review must be completed for all project activities prior to obligating CDBG-DR/CDBG-MIT funds.

- The HUD rules and regulations that govern the environmental review process can be found at [24 CFR Part 58](#).
- The provisions of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations in [40 CFR Parts 1500 through 1508](#) also apply. Other federal and state laws and regulations (some of which are enforced by State agencies) also apply depending upon the type of project and the level of review required.

#### 5.1.1 Two Stages of Review

Environmental reviews for scattered site Strategic Buyout projects that do not have specific properties identified prior to release of funding will be completed in two tiers of review as follows:

##### Tier I review:

- Identify and evaluate the issues that can be fully addressed and resolved, notwithstanding possible limited knowledge of the project.



- Also, establish the standards, constraints, and processes to be followed in the site-specific reviews.

**Tier II site-specific review:**

- Evaluate the remaining issues based on the policies established in the broad-level review as individual sites are selected for review.

The Tier II review will be initiated once it has been determined that the subject property and applicant are found eligible. Both phases of review must be completed with an authorization to use grant funds prior to NCORR issuing a written *Initial Offer* for a property.

**5.2 ASBESTOS SURVEY AND TESTING, LEAD-BASED PAINT TESTING**

In order to comply with North Carolina requirements, an asbestos survey is performed for all structures that are safe to enter by a certified asbestos inspector. A copy of the asbestos inspector’s certification must be attached to the asbestos survey and must have been current at the time of inspection.

In accordance with federal and state laws and regulations, when demolition (as defined in NESHAP, [40 CFR § 61.141](#)) is required, a qualified asbestos inspector must perform a comprehensive building asbestos survey that is based on a thorough inspection to identify the location and condition of asbestos-containing materials which may be disturbed during the demolition of all or part of the structure. If the asbestos survey indicates that there is asbestos containing material (ACM) that requires removal and disposal, this scope of work will be provided to the general contractor performing the demolition. All asbestos surveys, licenses, and certifications will be uploaded to the applicant’s file.

The program will be responsible for ensuring the procurement of a North Carolina state certified asbestos supervisor(s) and providing notification to the State Health Hazards Control Unit (HHCU) before all demolition (as defined in NESHAP [40 CFR § 61.141](#)) work is commenced. This notification is in addition to any other demolition permits that may be issued by other local municipal or county offices. The notification must be postmarked or received by the HHCU at least ten (10) working days prior to the commencement of the demolition activity. A demolition notification is required, even if no asbestos was identified by the facility/building inspection.

In addition, a lead-based paint assessment will be performed on all properties that don’t meet the exemption criteria outlined in 24 CFR 35.155. All buyout properties built prior to 1978 will be demolished using lead-safe practices, as required by regulations.

**5.3 BOUNDARY SURVEYS**

The program will perform a boundary survey to ascertain the legal boundaries of the prospective Strategic Buyout property. The purpose of the survey is to verify the legal boundaries of the subject property to be purchased through the program and to ensure that there are no conflicts within the legal records. If the survey identifies an encumbrance on the subject property of a nature that is not compatible with open space, recreational, or floodplain and wetland management practices, the encumbrance may result in an ineligible determination. The program will assess the nature of each encumbrance on a case-by-case basis to determine if the encumbrance must be cured before proceeding with the activity. This survey is performed so that an accurate appraisal may be performed, which will be the basis of the property

valuation. After the boundary survey is completed, the program will conduct appraisals for all properties participating in the Strategic Buyout Program.

## 5.4 APPRAISALS

The appraisal will establish a current Fair Market Value (CMV) of a property identified for Strategic Buyout. The Strategic Buyout Program does not use the pre-storm value method of valuation.

### 5.4.1 Appraisal Notice to Owner

The program will perform an appraisal on the applicant's property. The program will notify the applicant and other owners that an appraisal of the property is being scheduled. The applicants and other owners, or their designated representatives, have an option to be present at the appraisal. Either the applicant or their representative, or tenant (if applicable), must provide access to the property so that the appraiser can enter any safe building on site.

### 5.4.2 Appraiser Qualifications

The program will order an appraisal from a Residential Appraiser licensed to perform appraisals in the State of North Carolina by the NC Appraisal Board. The appraiser's qualifications will be consistent with the scope of work called for in the assignment. Before approving an appraiser to perform any appraisals for the program, the program will review the experience, education, training, certification, licensing, designation(s) and other qualifications of the appraiser, and any review appraiser, and be satisfied with his or her ability to perform the services in the appraisal scope of work.

Neither the appraiser nor the review appraiser shall have any interest, direct or indirect, in the target property being valued by the appraisal being performed.

### 5.4.3 Form and Scope of Appraisal

The term "appraisal" shall have the same meaning ascribed to that term at [49 CFR 24.2\(a\)\(3\)](#) and shall meet all of the requirements and standards set forth at [49 CFR 24.103](#). The appraisal scope of work will define the general parameters of the appraisal. Each appraisal must identify the present market fair market value of the target property (called the *current FMV*), indicating land and structure value separately where possible. Appraisers may not include any non-conforming, unpermitted space/property in the valuation.

### 5.4.4 Appraisal Review and Purchase Price Determination

The NCORR review appraiser shall review all appraisals and prepare a written report that identifies the appraisals and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the review appraiser's report. The review appraiser shall also prepare a signed certification that states the parameters of the review to include current Fair Market Value. The certification shall state the approved value, and, if the review appraiser is authorized to do so, the amount believed to be just compensation for the acquisition.

The NCORR review appraiser (RA) will also examine the presentation and analysis of market information in all appraisals to assure that appraisals meet the definition of appraisal per [49 CFR 24.2\(a\)\(3\)](#), and ensure that the appraisals meet the requirements found in 49 CFR 24.103 and state requirements, and

are performed in a manner consistent with the Uniform Standards of Professional Appraisal Practice (USPAP). The NCORR review appraiser shall indicate whether each appraisal is **recommended** (as the basis for the establishment of the amount believed to be just compensation), **accepted** (meets all requirements, but not selected as recommended or approved), or **not accepted**. Appraisals will be considered to be current fair market value for one year from the date of the Review Appraiser's approval of the appraisal and will not require updating unless the conditions in section 5.4.6 below are met.

If the NCORR review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined by NCORR that it is not practical to obtain an additional appraisal, the NCORR review appraiser may, as part of the review, present and analyze market information in conformance with 49 CFR 24.103 to support a recommended (or approved) value.

#### 5.4.5 Appraisal Appeals

If the applicant appeals the appraised CMV included in the Initial Offer Package, the applicant must obtain a second appraisal at his or her own expense. The program requires that such applicants engage a different licensed appraiser from the original appraiser to perform the second appraisal. NCORR's review appraiser will review the second appraisal, determine its sufficiency in accordance with the requirements of 49 CFR 24.103, and make a recommendation whether to approve the second appraisal indicating the basis for this recommendation. If the applicant is low- to moderate-income or elderly (62 years or older) and can prove a financial hardship that would preclude obtaining a second appraisal, the program will consider covering the cost of the second appraisal on a case-by-case basis. The program will obtain the second appraisal from a different licensed appraiser through its vendors however the cost of the appraisal will be deducted from the sales price at closing. If NCORR approves the second appraisal, the purchase price will be the average of the two appraisal amounts.

#### 5.4.6 Appraisal Updates

If any applicant presents any material information, there is a significant change in the condition or character of the target property, or if more than one year has elapsed since the date of the approval by the Review Appraiser and acceptance of the final initial offer by the applicant, the program will have the original appraisal updated.

### 5.5. HOUSING COUNSELING: CLASSES AND INDIVIDUAL SESSIONS

After a certain point in the buyout process, applicants to the program may take advantage of housing counseling classes and individual counseling sessions. Classes will be offered to applicants in accordance with an agreement with a subrecipient. Individual counseling is also being offered to assist individuals in achieving their housing goals. Participation in all housing counseling activities is voluntary. Applicants requesting an affordable homeownership or matching down payment incentive will be required to have an assessment of need performed by the program; housing counselors may assist with this task. The assessment will result in a recommendation about the amount of an incentive needed by the applicant to purchase a primary residence.

Eligible applicants may access housing counseling services for up to one year from the date of sale of the SBP property. Eligible tenants may access housing counseling services for up to one year from the date of the Notice of Eligibility (NOE) for URA services. If the housing counseling program is not yet

operational when an applicant sells their property or a tenant receives a NOE, the time to access housing counseling will be extended to up to one year from when housing counseling becomes operational.

## 6.0 Written Initial Offer Price and Contract Execution

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Once all the previous program activities are completed, an Initial Offer may be made to the applicant to purchase his/her property at the appraised current Fair Market Value (CMV). While the Initial Offer price will equal the appraised CMV amount, the amount of funding the applicant receives at closing may be less if the applicant chooses to use some or all of the buyout funds to retire liens at closing. Eligible applicants with liens, including back property taxes, mortgages, or other liens may retire the liens at closing, up to the CMV amount.

### 6.1 STRATEGIC BUYOUT PROGRAM THRESHOLD AMOUNTS (MAXIMUM ASSISTANCE)

Strategic Buyout award amounts, including incentives, have been determined by the program to be necessary and reasonable in accordance with federal regulations. For property being considered for purchase under the Strategic Buyout Program, the program will obtain an appraisal that establishes the current Fair Market Value (CMV) of the property. Offers made to buy eligible Strategic Buyout properties will be based on the appraised CMV. In accordance with 42 USC 4651(3), the program will not provide an Initial Offer Price amount for a property for less than CMV, however the actual payment amount to the applicant may be less than CMV if reduced by lien amounts at closing, as approved by the applicant.

The threshold for triggering an additional necessary and reasonable review of disaster recovery assistance received will be when an applicant requests an incentive, and the amount of the disaster recovery assistance is more than \$75,000 (see section 2.2 for a description of this review).

The Initial Offer Price may not exceed the current year's Federal Housing Administration (FHA) lending limits for the applicable county, which represents the maximum program assistance, or cap for properties up to and including four units. The program cap for properties larger than four units will be based on the appraised value and reviewed on a case-by-case basis. This cap only applies to the Initial Offer Price and does not include:

- Incentives;
- All customary costs associated with the purchase of private property, including initial appraisal, program legal costs, survey, and title reports and preparation, and title insurance;
- Eligible closing costs for the purchase of the buyout property (the program will not provide closing costs for the subsequent property unless an incentive is requested and approved);
- Costs associated with securing the property, demolition, site work, lead based paint and asbestos mitigation/remediation, and clearance and disposition; and
- Other costs deemed necessary.

The Strategic Buyout Program has established the following incentive cap amounts and allowances as indicated below:

- The Risk Reduction Incentive is capped at \$20,000.
- The Rental Affordability Incentive cap amount will be adjusted annually in accordance with HUD's published Section 8/Housing Choice Voucher rents.
- The Affordable Homeownership Incentive is based on an individual assessment of need up to a county cap. This county cap amount will be revisited annually and updated if necessary, based on average real estate values across the county.

- The Matching Down Payment Incentive is capped at \$50,000 as of March 2022 but may be revised.

Upon review of relevant factors such as inflation, current costs or values and other factors, the caps, threshold, and incentive amounts included here may be revised and will be posted on [www.rebuild.nc.gov/Buyout](http://www.rebuild.nc.gov/Buyout).

## 6.2 INITIAL OFFER PRICE

Once the environmental review, asbestos survey, boundary survey and all other tasks are completed, and the current appraised value of the property is available, the Initial Offer Price can be developed. The Initial Offer Price amount made by the Strategic Buyout Program will equal the appraised current Fair Market Value.

## 6.3 WRITTEN OFFER

After determining the Initial Offer Price amount, the Strategic Buyout Program will provide all property owners with a written Initial Offer Letter (that provides a purchase price offer, outlines existing liens and requests applicant approval of the initial offer to buy the property) and Initial Offer package (that includes those additional documents, such as the appraisal and the survey upon which the offer was made, as well as forms and procedures for submitting an appeal based on the Initial Offer Price amount).

The written Initial Offer Letter shall include:

- An Initial Offer Price to purchase the eligible property. It will include the appraisal indicating the amount of the CMV, including a summary of the appraisal or “Statement of the Basis of the Determination of Just Compensation” upon which the Initial Offer Price amount was based. This will include a description and location of the property and the interest to be purchased including a legal identification of the buildings, structures and other improvements which are included in the purchase;
- A summary of the liens encumbering the property, according to a recent title search, with a statement that all liens must be retired at closing in order to participate in the program, and that the Initial Offer Price may be used to satisfy these liens. If the program identifies that the owner(s) may benefit from a short sale negotiation based on this information, the Initial Offer Letter will include information about the short sale negotiation process and its benefits and will allow the owner(s) to indicate whether they would like to participate in a program-facilitated short sale negotiation.
- A statement that the actual amount the applicant receives at closing may be reduced by any liens and other related costs. Applicants will be informed that they may choose to utilize buyout funds to retire existing liens at closing up to the Initial Offer Price amount.
- The letter shall also include the following:
  - Information regarding whether the applicant’s property was found to have lead-based paint (LBP) and/or asbestos containing materials (ABS). Applicants will be informed that they may receive a copy of the full report(s) upon request. If the applicant’s property has evidence of either LBP or ABS and if the Initial Offer is accepted, all necessary demolition precautions and standards will be taken. If the offer is not accepted and the closing does not take place, the program will take no further steps to remediate the presence of LBP/ABS.



- A statement that requests that the applicant accept, appeal, or reject the offer. It will include a statement indicating that the applicant may reject the Initial Offer, that participation is voluntary and if rejected, the program will take no further action to purchase the property.
- A statement that non-applicant owners may not appeal the offer or related documents.
- The letter will be sent to each of the owner(s) identified and will include a place for the owner(s) to sign as an indication of their acceptance, refusal, or request to appeal the written Initial Offer.

In addition to the Initial Offer Letter, the Initial Offer Package will include the following document at a minimum:

- A copy of the boundary survey;
- A copy of the appraisal;
- A copy of the Title Report; and
- Appeal Procedures.

After sending the written Initial Offer to all owners by certified mail, the program will make reasonable efforts to contact the owner(s) to explain the written Initial Offer and the closing process if the offer is accepted. This task may be accomplished by scheduling a phone call or in-person meeting with the owner(s). The written Initial Offer Price is not negotiable however, components that impact the offer price may be appealed, such as the appraisal.

Owners will have thirty (30) calendar days from the date of the letter to accept, appeal or reject the Initial Offer. The program will begin the involuntary withdrawal process after forty-five (45) calendar days if there is no response to an Initial Offer Letter or if all owners have not responded. If an Initial Offer is rejected by the owner(s), the program will make no further attempts to purchase the property. If ALL property owners accept the Initial Offer, closing will be scheduled. Rental tenants eligible for URA benefits have 90 days to vacate the property and relocate once advised in writing with a 90-Day Notice to Vacate.

If there are multiple owners, the Initial Offer Letter will indicate the Initial Offer amount for the property (which will be reduced by any liens and related costs if approved by the applicant) however, the actual amount paid to each owner will depend on the owner's percentage of ownership. If the percentage of ownership is unspecified in the title report or legal documents, the program will assume equal ownership and will divide the payment and deductions equally.

If the applicant is dissatisfied with their written Initial Offer, they may appeal the decision by following the **NCORR Appeals Procedures** or withdraw from the program. If the applicant disputes the appraisal amount or any other information gathered by the program, the applicant will have thirty (30) calendar days from the date of the Initial Offer package to submit an appeal. If the applicant is disputing the CMV of the property, the applicant may appeal by providing written justification and a valid second appraisal paid for and authorized by the applicant.

In accordance with [Section 5.4.5](#) above, if an applicant successfully appeals the appraisal amount provided by the program, the program will revise its Initial Offer amount. In such cases a revised Initial Offer package will be provided to the applicant for all owners of the property to accept and sign.

## 6.4 INCENTIVE AWARDS

Program participants eligible for the incentive(s) described in [Section 2.3](#) may request and be eligible for the payment of the incentives from the date of the purchase of the Strategic Buyout property up to one year after closing. Whenever a program participant becomes eligible for an incentive at or after closing, the participant may provide a request for the incentive using program forms. The program will require the participant to provide:

- Updated income information (also required again if an incentive is requested in a new tax year);
- Updated household composition information whenever there has been a change;
- DOB documentation; and
- Supporting documentation to prove eligibility for the incentive(s). The applicant's buyout specialist will inform the applicant of the supporting documentation requirements which differ depending on the type of incentive being requested.

The program will review the supporting documentation to confirm eligibility for an incentive, perform a DOB analysis, and determine the amount of the incentive to be provided. Housing counselors are available to work with interested applicants to review housing options and assist applicants in knowing what level of housing payments are affordable for their household. Applicants who request a Matching Down Payment or an Affordable Homeownership incentive are required to meet with a housing counselor at least once so that the counselor can make a recommendation to the program about the amount of incentive needed. Once the amount of the incentive is determined by the program, the program will inform the applicant in writing of the incentive amount and how it was calculated.

## 7.0 Property Closing

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### 7.1 PRE-CLOSING

Upon acceptance of the written Initial Offer, and any subsequent modification(s) as applicable, the program will begin processing the file for closing. Property owners who have rental tenants eligible for URA, must meet the 90 Notice to Vacate requirement for tenants before closing (see Section 3.14). The term “closing” shall mean the act of execution of all program documents necessary to transfer title of the participating property to the designated *Buyout Property Recipient (BPR)*. In most instances, the UGLG will be the BPR.

### 7.2 CLOSING PREPARATION

The program will perform the following steps to prepare for closing:

- Contact all owners to obtain all information necessary to fully prepare any program documents (as defined below) and necessary to obtain the pay-off or release of any open liens or encumbrances out of owner’s sales proceeds.
- Contact all owners to schedule an in-person or remote closing (if available) in the presence of an actively registered North Carolina notary public.
- Obtain an updated Title Report.
- Review the Title Commitment to ensure all identified title defects are cured and all open liens and encumbrances will be cancelled prior to or in connection with closing.
- Have a North Carolina practicing attorney at law prepare all closing documents.
- Review all special closing instructions and inform owner of final seller proceeds after taking into account any reductions to funds due owner resulting from satisfaction of open liens or encumbrances and tax pro-rations, as shown on a settlement statement.
- Once a closing is scheduled, a drawdown request will be prepared and submitted to NCORR for the amount of the purchase price plus any incidental closing costs the owner is otherwise entitled to, minus lien amount(s) the seller has agreed to have deducted from the sales price in order to retire the debt(s).

Closing will be scheduled with enough lead-time to allow for all drawdown requests to be processed by NCORR so that such funds may be placed in escrow in a timely fashion prior to the closing date. Dated and time stamped notes shall be kept by program staff documenting each unsuccessful and successful scheduling contact done by phone or email, and the disposition of each contact. Once scheduled, the date, time and location of the scheduled closing will be documented by program staff.

#### 7.2.1 Vacating Property, Vacancy Inspection, and Securing Property

Once closing has been scheduled, the property owner(s) and any tenants must remove their belongings and vacate by a date specified by the program prior to the scheduled closing date and time as follows:

- If the property is vacant (or is vacant land), the vacancy inspection will occur no more than five (5) business days before closing.
- If the property is occupied, the vacancy inspection will occur approximately two (2) business days prior to date of closing.
- If the property is occupied by a tenant entitled to URA benefits, the 90-Day Notice to Vacate must have expired before the vacancy inspection occurs. The vacancy inspection shall be performed

two business days after the expiration of the 90-Day Notice to Vacate to ensure that the property has been vacated and is ready for transfer upon closing.

- The vacancy inspection may occur outside of these timeframes upon coordination between the owners and/or occupants, and NCORR staff when required. In any event, tenants entitled to URA benefits shall be provided with 90 days to vacate and at least two business days before the vacancy inspection occurs.

The program will secure the property within five (5) business days after closing.

### 7.2.2 Tenant Relocation Prior to Closing under URA

Prior to closing, the URA Relocation Specialist must ensure that property closings are carefully coordinated with any tenant and should review the tenant relocation file to confirm that eligible tenants have been provided with all required URA notices and relocation advisory services in accordance with the NCORR *Uniform Relocation Act (URA) Policy Manual*. URA-eligible tenants displaced by the owner's voluntary participation in the Strategic Buyout Program will be given a minimum of 90 days' notice before they must relocate.

### 7.2.3 Draw Requests

Program staff shall ensure that an owner's file is complete and accurate including all documentation, program forms, and notes for close out, future program monitoring and archiving. The program will submit the drawdown request to NCORR for the requisite funds. Drawn down funds must be in a designated escrow prior to the closing date. The drawdown request shall include an aggregated amount necessary for the closing. Each file shall contain the detail of the aggregated drawdown request.

## 7.3 CLOSING DOCUMENTS, CLOSING, AND POST-CLOSING

In advance of the scheduled closing date, the program will prepare all closing documents. The closing documents shall include the following at a minimum:

- Offer to Purchase and Contract (NC Form 2-T)
- Transfer deed
- Restrictive covenant
- Evidence of clean title
- Settlement statement
- Seller's/owner's affidavit (approved by title insurer)

If additional documents, acknowledgments, or notices are required by the program on a file-by-file basis, program staff will be notified *via* special closing instruction included with initial transmission of a file.

All documents that need to be recorded will be executed in the presence of an actively registered North Carolina notary public and two competent witnesses. Once all signatures are obtained and the closing is completed, the program shall transmit all fully executed documents as needed to be recorded at the respective county's clerk's office. The transmittal of all recording documents shall include the appropriate fees necessary to record the documents, along with a request that the respective county return a stamped copy of the recorded instrument to the program for its record and for upload into the system of record for archiving.

Upon receipt of the recorded closing documents from the respective county, program staff will upload a copy of all executed closing documents, along with a copy of the stamped recorded instrument and the title insurance policy into the system of record. In addition, the original copy of the owner's title insurance policy will be delivered directly to the program or the Strategic Buyout Property Recipient.

**Incentives and Closing on a Replacement Property.** If the applicant has requested and is eligible to receive an incentive, they may close on their replacement property at the time as they sell their buyout property through the program, or they may do so later, after they have sold their property through the buyout program. To receive an incentive payment based on a replacement property, the program must receive documents that include a copy of fully executed Deed for the replacement property or other documentation that the program deems acceptable as supporting documentation of an impending home purchase, etc. After payment, the recipient is required to sign and return an Incentive Acknowledgement Form to the program to confirm receipt and acceptance of the incentive payment. In the absence of such executed form, the program will consider payment accepted after one- and one-half years after the buyout of the property.

#### **7.4 ESCROW AND DISBURSEMENT**

All funds received in connection with any drawdown request will be received in a program non-interest-bearing escrow account and disbursed in accordance with the settlement statement prepared and executed at the closing. All funds, although received in the aggregate, shall be accounted for in an escrow sub-account for each file closed. Detailed disbursement journals shall be maintained for each participant homeowner escrow sub account.

#### **7.5 DEED RESTRICTIONS**

For properties purchased and conveyed through the Strategic Buyout Program, a Declaration of Covenants and Restrictions will be incorporated with the deed for each parcel and recorded in their the register of deed's office in the county where the property is located. In addition, copies of all executed property deeds and covenants must be maintained by the program and Buyout Property Recipient, as applicable, in NCORR project files.

#### **7.6 APPLICANT COMPLETION**

Except for record-keeping requirements, an applicant's responsibilities to the Strategic Buyout Program end after the applicant's acceptance of the last payment made to the applicant by the program. Applicants participating in the Strategic Buyout Program will be considered to have completed program activities once one of the following instances has occurred:

- The acceptance of a final incentive payment;
- Completion of the buyout closing on the eligible property when it is determined that the applicant is not eligible for any incentive; or
- One- and one-half years after the buyout of the property.

Upon the occurrence of any of the above listed events, the program is deemed completed for the applicant at that time. However, applicants to the program are required to provide information or documentation as needed for program reviews and audits even if these reviews and audits occur after applicant completion.

SBP however continues to have program responsibilities until closeout of the applicant's file, program closeout and record retention requirements are met. The Strategic Buyout Program will be considered completed once NCORR performs all required closeout activities.



## 8.0 Post-Closing Responsibilities

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The Buyout Property Recipient (BPR) will assume all post-closing responsibilities related to property maintenance. To the greatest extent possible, the program will coordinate with local communities to ensure that properties are disposed of in accordance with local requirements and recovery needs.

### 8.1 PROPERTY DISPOSITION (MAINTENANCE) COSTS

All properties purchased under the Strategic Buyout Program will be maintained by the BPR when the transfer of title is finalized. The program will work closely with the BPR to secure the property after it is purchased and before it is demolished. All acquired properties will be maintained in accordance with local codes and regulations. The BPR is responsible for all maintenance activities for the property.

### 8.2 DEMOLITION

All properties purchased under the Strategic Buyout component will be demolished to minimize future losses and maintain the properties as open greenspace. The Strategic Buyout Program will be responsible for identifying contractors that have been procured that will conduct the demolition and clearance activities on the BPR-owned property. Properties that are prone to natural hazards or structurally unsound will be prioritized for demolition due to safety precautions. During this process, the program will comply with all local, state, federal and environmental regulations and demolition permitting requirements. Inspection, demolition, and clearance activities will be planned and coordinated with the BPR.

The program's procured construction contractors will perform demolition and be required to comply with all relevant HUD regulations and reporting requirements, including those related to achieving Minority and Women-Owned Business Entity (M/WBE) goals. The contractor will ensure that utilities are properly disconnected prior to the demolition, oversee an air quality management plan and site-specific health and safety plans, and manage the disposal process of all debris associated with the demolished structures including the handling and disposal of identified asbestos and lead-based paint containing material or hazardous material. After demolition, the properties shall be graded and appropriately seeded with a grass seed that is appropriate to North Carolina soils and climate.

## 9.0 Property Disposition

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### 9.1 DISPOSITION OF “STRATEGIC BUYOUT” PROPERTIES

NCORR will enter into a cooperative agreement with the Buyout Property Recipient (BPR) (either the UGLG, land trust or similar entity). The program will cover the costs of the purchase of the Strategic Buyout property that will be directly deeded from the Strategic Buyout Program participant owner to the BPR. Strategic Buyout property will be deeded to local jurisdictions or land trusts in order to create additional open space, space for recreational opportunities or activities that enhance environmental quality and maintain, and if appropriate, cultural, and historic asset preservation. Existing structures will be demolished after the property is in BPR ownership. Properties purchased through the Strategic Buyout Program are 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. No permanent structures shall be permitted to be constructed upon the subject property in perpetuity. Once the property is transferred to the BPR, the receiving owner will not be able to make application for additional or future disaster recovery assistance to any federal entity or program in in perpetuity.

The intent is for these conveyances to increase flood protection, improve drainage, or otherwise enhance environmental quality through floodwater 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 Strategic Buyout Program will remain undeveloped in perpetuity, clearance, demolition, and seeding are the end activity for program purposes.

The BPR will coordinate disposition activities with local non-profits organizations, nonprofit land trusts, and/or local, county, or state government agencies to identify capable entities to maintain the properties over time, if needed.

## 10.0 Administrative Requirements and Program Management

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### 10.1 RECORDS RETENTION AND ACCESS TO RECORDS

The Strategic Buyout Program will operate in accordance with NCORR's Record Retention and Access Policy. As the administrator and recipient of CDBG-DR/CDBG-MIT funds, NCORR will follow the records retention rules as stated in [2 CFR § 200.333–200.337](#) as well as those required by state law.

NCORR, program applicants and/or the BPR, as applicable, are required to maintain all CDBG-required Strategic Buyout Program documentation, title commitments, transfer instruments, covenants, and other evidence pertaining to all purchase and disposition 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. In addition, property disposition costs must be tracked by discrete property address. Records must be maintained for a minimum of five (5) years beyond program close out.

### 10.2 STRATEGIC BUYOUT PROGRAM RECORD KEEPING REQUIREMENTS

#### 10.2.1 Records Management: NCORR

In accordance with HUD regulations, as the administrator and recipient of CDBG-DR/CDBG-MIT funds, NCORR will follow the records retention rules as stated in [2 CFR § 200.333–200.337](#), which require financial records, supporting documents, statistical records and all other pertinent records be maintained for five (5) years after closeout of the grant between HUD and NCORR. NCORR will ensure that its established requirements are included in all of its cooperative agreements and contractor agreements for compliance with all HUD cross-cutting requirements outlined in [Appendix II to Part 200, Title 2 -- Contract Provisions for Non-Federal Entity Contracts Under Federal Awards](#), including record keeping requirements.

#### 10.2.2 Records Management: Strategic Buyout Applicants

Applicants/participants will be advised that additional information may be required for the program to analyze DOB, properly calculate an applicant's incentive amounts and to determine eligibility. Therefore, applicants should maintain all information relevant to their participation in the Strategic Buyout Program, including applications, forms, records, receipts, and other documentation related to the Strategic Buyout, for a period of at least five (5) years from the date of closeout of their application.

### 10.3 PROGRAM POLICY CHANGES

All revisions to this document will be tracked in the Policy and Procedures Revision Table and will include notes, and dates of the revisions. Policy changes will be made in accordance with NCORR guidelines.

### 10.4 EXCEPTIONS PANEL

The NCORR Exceptions Panel is responsible for the following:

- Making case-by-case determinations as needed when program policies allow for analysis and do not clearly prescribe how to proceed given the specific circumstances.
- Developing program clarifications and/or guidelines as implementation issues arise.

- Making determinations regarding issues or situations that would exceed program thresholds/caps or that do not conform to current program policies.

Files or situations requiring Exceptions Panel review are identified by program representatives or through the appeals process. Once referred to the Exceptions Panel for review, the exception requests are reviewed in accordance with the Exceptions Panel SOP.

## 10.5 PROGRAM QUALITY CONTROL AND COMPLIANCE

The program has quality assurance/quality control (QA/QC) teams that provide monitoring oversight of the Strategic Buyout Program to ensure compliance with federal regulations and program requirements. QA/QC staff perform quality assurance reviews at various junctures in the Strategic Buyout processes including but not limited to eligibility criteria and determinations, DOB/VOB analysis, incentive calculation, and Initial Offer Package review. In addition, the program implementation team is responsible for ensuring front-line quality assurance and quality control through compliance with its QA/QC SOP.

## 10.6 FRAUD, WASTE, AND ABUSE

The Strategic Buyout Program will be held to the principles, monitoring and internal control policies and procedures as provided in NCORR's ***Fraud, Waste and Abuse Policy (FWA)***. Many NCORR SBP staff participated in the three-day HUD Office of the Inspector General training provided in November 2021 to increase their knowledge of fraud prevention and detection methods. Additionally, if there are instances of non-compliance with program requirements, steps will be taken in accordance with NCORR's ***Recapture and Subrogation Policy***.

For the Strategic Buyout Program, the FWA policy to prevent or identify fraud, waste and abuse is implemented through the following programmatic checks and tasks:

- Applicant Identification check – Using required government issued photo identity documentation to determine the identity of the applicant following the Standard Operating Procedures. Program staff will confirm applicant identity by reviewing state- or federal-issued picture identifications such as valid drivers' licenses, passports, etc. and the identities will be compared to other documentation provided to ensure consistency.
- Applicant Eligibility check – In order to be eligible, the applicant must provide supporting documentation to determine whether the applicant meets all eligibility criteria for the program. Applicants are required to submit documentation that proves annual household income, household composition, property ownership, etc. Based on past program management experience, program staff know that certain areas may be more vulnerable to fraudulent activity, including property ownership. For example, in such cases where potential property ownership fraud is suspected, program staff will require additional documentation from several sources to confirm ownership.
- Citizenship requirements – Program staff review required documentation supplied by applicant to determine that the citizenship status eligibility criterion is met. The applicant, co-applicant or child/ward of applicant or co-applicant, where the child or ward resides in the household, must be a U.S. citizen, U.S. National, or Qualified Alien in order to be eligible for the program. If documentation or information on citizenship status is inconclusive, it will be verified through the use of the SAVE database. In addition, if the entity is a business entity, it must be a US owned and based business.

- DOB and VOB analyses – Program staff will examine all the disaster assistance received by each applicant eligible to receive an incentive to ensure compliance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (42 U.S.C. §§ 5121 - 5207) so that no unnecessary, excess federal assistance is provided to an applicant (unnecessary, duplicative funding for the same purpose is called a duplication of benefit (DOB)). Applicants eligible for incentives are required to submit evidence of all disaster assistance received, which is then verified through a third-party verification process. Any DOB is then deducted from any incentive amount (not to go below zero).
- Business in good standing – The program will determine whether business owners and/or principals are on the NC or federal debarred lists. In addition, these applicants will be required to certify that they are in “good standing” including certification that the business is not in default or engaged in bankruptcy proceedings.
- Internal Quality Control and Compliance Monitoring – A quality control check will be performed at critical steps in the Buyout process according to program SOPs. These quality control checks are designed to ensure that: eligibility criteria are met; the duplication of benefits analysis is performed properly for incentives; initial offers are made according to the Review Appraiser approved appraisal of the current Fair Market Value; deed restrictions are recorded, etc. In addition, internal compliance monitoring will be performed to ensure that the program conforms to HUD regulatory requirements including programmatic requirements such as meeting the LMI benefit requirement, national objectives, DOB analyses, etc. Internal compliance reviews are performed in accordance with NCORR’s **Compliance and Monitoring Manual**.
- A deed restriction will be placed on all Buyout properties. The deed restriction will be recorded to ensure that property is held as open space in perpetuity in accordance with the regulations under CDBG-MIT and any other federal funding source.
- Subrogation and Assignment Agreement – This document is between the applicant requesting an incentive and the program and must be executed before CDBG-MIT or other HUD-allocated disaster recovery funds are provided as an incentive to an applicant.
- Further, at application, the applicant certifies that he or she will provide any information on disaster assistance received since application signing and is notified that they may be required to assign such funds to the program, or it may impact their initial offer amount.
  - The subrogation agreement will include the following language:
    - “Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18. U.S. C. 287, 1001 and 31 U.S.C. 3729.”

## 11.0 Acronyms and Definitions

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The acronyms and definitions used in this manual are in accordance with the ***NCORR Program Acronyms and Definitions***.