

# **Smart Move Program Phase II: Homebuyer Assistance Policy**

8-1-2024



DIVISION OF  
Disaster Recovery  
& Mitigation

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## Version History and Version Policy

The version history of the policy manual is tracked in the table below, with notes for each change. The dates of each publication are also tracked in the table.

The State will publish a new version after making substantive changes that reflect a policy change. The updated policy manual will be assigned a new primary version number such as 2.0, 3.0, etc.

After making non-substantial changes, such as minor wording and editing or clarification of existing policy that do not affect the interpretation or applicability of the policy, the State will publish a version of the document with a sequential number increase behind the primary version number such as 2.1, 2.2, etc.

Amendments made to policy may go into effect on the date of the revision or may be applied retroactively, depending on the applicant pipeline and status of applicants in the program intake and recovery process. Whether a policy will be applied proactively or retroactively will be detailed in the version history below and/or within the relevant program sections.

Version Number	Date Revised	Key Revisions
1.0	8.8.2023	Smart Move Program Phase II Homebuyer Assistance Policy Manual
2.0	8.1.2024	Revised policy to account for a developer-led model.



# 1 PROGRAM OVERVIEW

## 1.1 Program Description

The State is piloting the Smart Move Program to subsidize the new development of quality, energy-efficient, resilient, and affordable housing in lower risk areas within or near disaster-impacted communities that are participating in Blue Acres or other buyout programs that are supported by different funding sources. DCA will work with developers to build new developments outside the 500-year floodplain. Once the construction of the new developments are nearing completion, Phase II of the Smart Move Program can begin. The purpose of the Smart Move Phase II Homebuyer Assistance is to provide assistance to purchase safe housing and relocate residents impacted by storm disasters so they may stay in or near their communities after selling high-risk properties through the buyout programs and provide homeownership opportunities for eligible first-time homebuyers. More information on what qualifies as a first-time homebuyer is discussed in Section 3.2.2.

While the Program will serve buyout participants and first-time homebuyers, the buyout participants will be prioritized.

In the efforts to ensure the objectives of the program are met, DCA will provide down payment assistance to homebuyers participating in buyout programs and first-time homebuyers seeking to purchase a Smart Move home. The down payment assistance provided through the Program must be used to purchase a home constructed through the Program. Homes listed for resale on the Multiple Listing Service (MLS), or housing units constructed as part of another development/program are not eligible for downpayment assistance through Smart Move.

After reading the policy in its entirety, additional questions can be directed to: [SmartMove@dca.nj.gov](mailto:SmartMove@dca.nj.gov)

## 1.2 DCA's Commitment to Fair Housing

DCA is committed to further fair housing and meet goals to ensure that all potentially eligible applicants are aware of the opportunity to participate in the Program. Therefore, DCA will engage in an outreach campaign prior to and during the application period. DCA will comply with all applicable Federal and local fair housing requirements including:

- ▶ Fair Housing Act (Title VIII of the Civil Rights Act of 1964);
- ▶ Title VI of the Civil Rights Act of 1964;
- ▶ Section 504 of the Rehabilitation Act of 1973;
- ▶ Section 109, Title 1 of the Housing and Community Development Act of 1974;
- ▶ Title II of the Americans with Disabilities Act of 1990;
- ▶ Architectural Barriers Act of 1968;
- ▶ Age Discrimination Act of 1975; and
- ▶ Title 6 of the Education Amendments Act of 1974



The multi-media outreach campaign includes special outreach to LMI (below 80% AMI) households, minority households, and others identified as “least likely to apply” for assistance. In accordance with the requirements of Section 504 of the Rehabilitation Act of 1973, DCA will make reasonable accommodations to ensure access to the Program for persons with disabilities. These accommodations may include providing alternative methods of compliance with program requirements, such as conducting home visits for individuals unable to travel and/or providing additional assistance in the completion of the application and program forms.

## 1.3 Program Administration

The Department of Community Affairs (DCA), Division of Disaster Recovery and Mitigation is responsible for implementing Phase II of the Smart Move Program.

### 1.3.1 Coordination with the Buyout Programs

Coordination of the Smart Move Program with other buyout programs must be critically managed to ensure the national objectives of each respective program are met.

The Smart Move new construction units can be utilized to meet the permanent housing requirement for the buyout program, the national objective for Smart Move will be achieved through the Low-Moderate Housing (LMH) and Urgent Need (UN).

Given the nature and timelines associated with the development of new construction, the launch of the buyout programs may significantly precede that of Smart Move. DCA, in collaboration with the developer, will formulate strategies to properly engage the buyout program participants throughout the Smart Move development process.

## 2 APPLICATION AND PRIORITIES

### 2.1 Application Process Overview

This section provides an overview of the application process. In this document, the term “homebuyer” and “applicant” will be used interchangeably when referring to homebuyer participants within the Program.

#### 2.1.1 Application Method

Applications are not open at this time, DCA will announce the application period as the projects in Phase I are nearing completion and update this section accordingly. Homebuyers may submit applications through various methodologies, including online or via phone.

The method of application does not affect the applicant’s status or likelihood of award. Electronic signatures for submitting applications are acceptable. If the applicant has a power of attorney, the original POA documents must be provided to the Program in person or via certified mail.



During the application process, applicants may select the Smart Move developments they would like to relocate to in order of their preferred locations.

Any applications that are started but not completed and not submitted by the end of the application period may be withdrawn. The Program will make attempts to contact the applicant to assist with application completion within this period and prior to the applicant being withdrawn.

All vital documents including the application will be translated into Spanish. Other languages are available for translation upon request.

### 2.1.2 Application Period

The application period will be open for 60 days. At the close of the application period, DCA will conduct an initial review of applications to verify eligibility criteria and homebuyer selections will be made based upon the order of priority established in Section 2.1.3. If the Program is oversubscribed at the time of the initial review of applications, a lottery/randomized selection process may be used based on the defined prioritization criteria. In the event the number of eligible applications received during the initial application period is inadequate to fully absorb all the available housing units, the application window may be re-opened, and applications will be processed using the established order of priority.

Selection for processing is not a determination of eligibility or a guarantee of funds. Eligible applicants not selected for the initial phase will be placed on a waiting list to be considered for funding during subsequent phases. All awards are subject to funding availability.

The Program reserves the right to reopen or extend the application period.

### 2.1.3 Application Prioritization

DCA will facilitate the application review and homebuyer selection process. The program is targeting 70% of the homes within each development to be sold to households with incomes at or below 80% of AMI. The remaining 30% can be sold to households above 80% AMI but not to exceed the Program limit of 120% AMI. Every effort will be made to keep the 70/30 ratio within each development. In addition to meeting this programmatic goal, DCA will prioritize the following households:

- ▶ **Priority #1:** Households participating in buyout programs within the jurisdiction of the Smart Move New Housing Development area. This priority approach provides opportunities for relocating residents to remain in lower risk areas within their communities.
- ▶ **Priority #2:** Ida-impacted households who are relocating through a buyout program in another jurisdiction and/or Ida-impacted qualified first-time homebuyers with incomes at or below 120% of AMI. This priority approach provides opportunities for storm-impacted homeowners and renters to relocate to lower risk areas.



DCA and its partners will make reasonable accommodations to ensure access to the Program for persons with disabilities.

### 2.1.4 Application Waitlist

In the case there are more applications than funding, applicants will be put on a waitlist according to their household income. If more funding becomes available, the State may follow a randomization process and notify those applicants by email and/or in writing. Applicants who have successfully applied will be notified of their program status.

## 2.2 Housing Counseling and Legal Services

Housing counseling and legal services are available at no cost to Ida impacted residents, vulnerable populations, and members of underserved communities to expedite their recovery. These services will provide application, documentation, and long-term housing planning wraparound and referral services that may be needed for vulnerable populations as they continue their recovery, including survivors who are not experiencing homelessness but require supportive housing (e.g., elderly, frail elderly, persons with disabilities (mental, physical, developmental), formerly incarcerated persons), victims of domestic violence, persons with alcohol or other substance-use disorder, persons with HIV/AIDS and their families, and public housing residents.

Housing counseling organizations may provide supportive services, including, but not limited to, foreclosure prevention, homebuyer financial counseling, relocation advisory services, debt management, and assistance with application intake for CDBG-DR-funded programs. The services also may provide support to navigate insurance requirements, State programs, application submittal, and any technology gaps.

Legal services will be carried out through qualified legal services providers to deliver recovery-related legal counseling such as working through insurance claims; clearing property titles; working through heirship and probate; fighting unlawful evictions and foreclosures; combating contractor scams, disputes, and fraud; assistance with school transfers; and other legal services needed for applicants to complete their recovery.

Housing and legal counseling services are required for all applicants and anyone that will be living in the home, contributing to household expenses – going on title or not. As part of the eligibility process, homebuyers must complete housing counseling education course and receive a certificate of completion.

## 2.3 Withdrawn Applications

If an applicant chooses to voluntarily withdraw or is administratively withdrawn from the Program, the applicant is required to return ALL previously disbursed grant award funds back to the Program.

### 2.3.1 Voluntary Withdrawals

Applications may be withdrawn by an applicant at any time. Applicants who wish to withdraw must clearly provide a written notice of their intent to voluntarily





withdraw and return any CDBG-DR funds. DCA will send the applicant a written notice of acknowledgment of voluntary withdrawal.

### 2.3.2 Administrative Withdrawals

Applications may be administratively withdrawn for reasons including, but not limited to the following:

- ▶ Any applicants that fail to provide required documentation or information within the deadline described in the written request. Applicants will receive a notice giving them fifteen (15) days to provide the required information.
- ▶ The program confirms that an application is a duplication of another valid application or conflicting Program.
- ▶ An applicant is determined to have provided false or misleading information.
- ▶ An applicant becomes unresponsive.
- ▶ An applicant is aggressive and/or abusive as described in the definitions section to a DCA employee or any other representative or affiliate of the Program.

### 2.3.3 Withdrawal Reinstatement Requests

Applicants who have been withdrawn from the Program may submit a written request for reinstatement, based on extenuating circumstances. The request will be reviewed and approved by DCA on a case-by-case basis. DCA will consider an applicant's responsiveness to Program correspondence or requests for documentation when making the reinstatement determination.

## 3 ELIGIBILITY

### 3.1 National Objectives

Per 87 FR 31636, HUD requires States to comply with the overall benefit requirements in the Housing and Community Development Act of 1974 (HCDA) and 24 CFR 570.484, 24 CFR 570.200(a)(3), and 24 CFR 1003.208, which require that 70 percent (70%) of funds be used for activities that benefit low- and moderate-income persons. To meet that requirement, this program will primarily use the Low-Moderate Income Persons and Households National Objective. The Program may use the Urgent Need National Objective to provide assistance to eligible disaster-impacted applicants with incomes greater than 80% of AMI.

### 3.2 Applicant Eligibility

To meet the minimum criteria, homebuyers must meet the following:

- ▶ Homeowners whose home was acquired through a buyout program, or Ida-impacted first-time homebuyers with household incomes at or below 120% of AMI
- ▶ Meet all loan requirements (i.e., income, down payment and reserve requirements, minimum credit scores, underwriting criteria, etc.) of an approved lender and mortgage insurer to secure a 30-year fixed, first mortgage loan;
- ▶ Completed the HUD Certified Housing Counseling;



- ▶ Occupy the property as principal residence and move in within sixty (60) days of closing escrow;
- ▶ Other requirements as specified by the Program.

### 3.2.1 Ida-Impacted Residents

To be prioritized for Program assistance, the applicants' impacted home must be located within one of HUD's Most Impacted and Distressed Counties (HUD-MID) for Ida CDBG-DR funding. Those counties are Bergen, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Morris, Passaic, Somerset, Union, and Warren.

As funds allow applicants who are located outside of the counties listed above may have the opportunity for Program assistance.

### 3.2.2 Definition of First-Time Homebuyers

The following criteria classifies first time homebuyers:

- ▶ Individuals who have had no ownership in a principal residence.
- ▶ Single parents who have only owned a property with a former spouse while married.
- ▶ Individuals who are displaced homemakers and have only owned with a spouse.
- ▶ Individuals who have only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations such as a mobile home.

### 3.2.3 Buyout Program Participants

DCA will prioritize qualified primary residential occupants who sold their high-risk owner-occupied homes through a buyout program. Program Representatives may request documentation certifying the applicant's home will be voluntarily bought out for current fair market value (post-storm value).

### 3.2.4 Lawful Presence

Verification of lawful presence will be mandated through the mortgage loan qualifying process.

## 3.3 Eligible Costs

Homebuyer assistance will only be provided to those who purchase a home provided by the Program. Eligible costs include:

- ▶ Funds to the developer for the construction of the affordable home
- ▶ Down Payment Assistance

## 3.4 Eligible Activities

### 3.4.1 Funds to the Developer



As per Phase I of the policy, developers are required to establish the affordable sales prices of the homes within their application. DCA will evaluate the proposed sale prices using HUD income limits to ensure the homes are affordable to LMI and UN homebuyers. The funding provided to the developer in Phase I enables the sale of homes at an affordable price, thereby providing assistance to the homebuyer through the program's investment. The funds to the developer are determined by subtracting the affordable sales price from the total development costs.

### 3.4.2 Down Payment Assistance

The Program will provide up to twenty percent (20%) of the sales price as down payment assistance for homebuyers with AMI below 80% and up to five percent (5%) for UN homebuyers with AMI between 80-120%. Up to an additional five percent (5%) may be provided as a hardship exception for households experiencing difficulty. The hardship exception will be determined on a case-by-case basis as determined by DCA.

The amount of actual assistance will be determined based on need during the underwriting and first mortgage loan approval process.

#### 3.4.2.1 Demonstrated Need

The down payment assistance shall not exceed the 5% and 20% limits, adjusted by national objective, except where the hardship provision is applied, and must be need based. The need calculation helps ensure that homebuyers are not over subsidized, but also ensures the appropriate level of assistance is provided to secure affordability.

The first mortgage lender's underwriting process and loan amount will be used to determine the level of down payment assistance needed. Many factors will be used in the calculations such as the first mortgage amount the homebuyer qualifies for, front and back-end debt-to-income ratios, savings and other resources available to the homebuyer as well as any previous assistance received by the homebuyer that may pose a risk of DOB. These and other factors may impact a homebuyer's first mortgage loan amount, the down payment assistance amount, and overall homebuyer eligibility.

## 3.5 Verification of Ownership

Whenever possible, ownership will be verified by title searches in public records. Deeds or other legal documents will be reviewed on a case-by-case basis.

## 3.6 Occupancy and Primary Residency

The homebuyer(s) must reside in the home as their primary residence for the duration of ownership during the affordability period. The homebuyer shall not rent or lease all or any part of the home. There will be annual Program monitoring to verify ownership compliance.



### 3.7 Definition of a Second Home

Per the requirements in the Consolidated Notice 87 FR 31636, properties that served as second homes at the time of the disaster, or following the disaster, are not eligible for assistance for rehabilitation, reconstruction, new construction, replacement, or incentives. 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 disaster or at the time of application for CDBG-DR assistance.

### 3.8 Duplication of Benefits

Applicants must report all assistance they have been awarded or have available from third-party sources such as flood and homeowner's insurance, Increased Cost of Compliance (ICC), Federal Emergency Management (FEMA) assistance, loans from the Small Business Administration (SBA), and any assistance from other government or private non-profit sources. For additional policy and procedures regarding the duplication of benefits under the Program, please refer to 2.10.1 Duplication of Benefits Policy. Any funds received from these sources and used for the same purpose must be considered when the amount of assistance is determined. Funds received from these sources for other purposes such as temporary housing and replacement of household contents are not considered a DOB. Personal funds or private mortgages are not considered in the DOB calculation. Applicants must agree to subrogate (commit to the State) any future payments they may receive after the award amount is determined from sources that represent a potential DOB. The subrogation agreement, included as an exhibit in the grant agreement, requires the homebuyer to notify the State if additional funds are received and to assist the State in collecting any amounts owed to the homebuyer from these sources. An example homebuyer application DOB questionnaire will be added to Appendix C along with a subrogation agreement when complete.

Duplication of Benefits will be analyzed to determine if the applicant has an unmet need which can be addressed with Down Payment Assistance.

Examples of DOB for the Smart Move Program could include but are not limited to:

- ▶ Down Payment Assistance from other programs
- ▶ SBA Assistance
- ▶ FEMA Assistance
- ▶ ICC Assistance

The following table provides an example for assistance:

$$\begin{aligned} & \text{Program Maximum Down Payment Assistance (See Section 3.4.2)} \\ & \quad \text{- } \underline{\text{DOB funds (examples listed above)}} \\ & \quad \quad \quad = \text{Down Payment Assistance} \end{aligned}$$

#### 3.8.1 Buyout Program Participants DOB

For homebuyers that are also buyout participants, there will be additional considerations when calculating DOB such as:

- ▶ Net proceeds from the sale of the property to the buyout program
- ▶ Incentives provided by the buyout program not to exceed the Smart Move Program cap.

An example calculation for buyout participants is detailed below:

$$\begin{aligned}
 &\text{Program Maximum Down Payment Assistance (See Section 3.4.2)} \\
 &\quad - \text{DOB funds (examples listed above)} \\
 &\quad \quad - \text{Buyout Net Proceeds} \\
 &\quad \quad \quad - \text{Buyout Incentives} \\
 &= \text{Down Payment Assistance}
 \end{aligned}$$

*Note: An example of the DOB Benefit Questionnaire is located in Appendix C*

### 3.9 Income Verification

Income is used to classify households as either LMI households (AMI below 80%) or non-LMI households (AMI between 80-120%) based upon the income limits published by HUD.

The income of all household members is evaluated when determining eligibility. The following persons are considered household members:

- ▶ All adult household members living in the unit except live-in aides and foster adults.
- ▶ All children living in the unit except foster children. Children who are in the process of being adopted are included. Children who occupy the unit at least fifty percent (50%) of the time under a shared custody agreement are counted. Children who are away at school but live in the household during school recesses are included.
- ▶ Guests or others staying in the unit on a temporary basis are not counted as household members.

The income definition used for the Program is the definition of annual income as defined by IRS Adjusted Gross Income. Applicants certify total household income on the application. Applicants will be asked to provide:

- ▶ Income Certification Form for your entire household an example can be found in Appendix B and;
- ▶ Most recent Federal Tax Return for each household member who files taxes.

Income limits are used to determine household eligibility for Program participation and are based upon geographic location of the Smart Move home. LMI households must not exceed 80% AMI and UN households must not exceed 120% AMI limits. The income limits for the county of the applicant's place of residence at the time of application will be used to determine eligibility. The limits are published annually by HUD and can be found here: [CDBG Income Limits – HUD Exchange](#).

Applicants whose household income exceeds 120% AMI at the time of the application are ineligible for financial assistance through the Program. Applicants will be notified in writing of their ineligibility and offered an opportunity to appeal the decision in accordance with the appeals policy.



## 4 MORTGAGE LOAN REQUIREMENTS

### 4.1 Underwriting Ratios

Applicants must meet the underwriting criteria of the first mortgage lender; however, the Program’s priority is that of affordability for the homebuyer. The ideal underwriting ratio is as follows:

- ▶ The homebuyer’s proposed monthly housing costs including principal, interest, property taxes, property insurance (PITI), known as the front-end ratio shall not exceed thirty-one percent (31%) of the homebuyer’s gross monthly income

Given the various mortgage loan products and loan types (i.e., conventional, FHA, VA, etc.). DCA will give deference to the first mortgage lender’s credit underwriting guidelines to ensure the best loan is provided to the homebuyer.

### 4.2 First Mortgage Loan

The Program participant must be able to qualify for and secure a first mortgage loan in an amount not less than the affordable home sales price further reduced by the program’s down payment assistance.

The following table provides an example for a home sold to a LMI (below 80% AMI) household:

$$\begin{aligned} & \text{Affordable Sales Price} \\ & \text{- Down Payment Assistance} && \text{(up to 20% of the Affordable Sales Price)*} \\ = & \text{Minimum First Mortgage Amount} \end{aligned}$$

\*Down Payment Assistance will be based on first mortgage loan underwriting as detailed in Section 3.4.4.

The following table provides an example for a home sold to a household with an AMI between 80%-120%:

$$\begin{aligned} & \text{Affordable Sales Price} \\ & \text{- Down Payment Assistance} && \text{(up to 5% of the Market Sales Price)*} \\ = & \text{Minimum First Mortgage Amount} \end{aligned}$$

\*Down Payment Assistance will be based on first mortgage loan underwriting as detailed in Section 4.1.

The loan must be a 30-year, fixed interest rate loan. Conventional, FHA and VA forms of financing are acceptable. Given the Program’s assistance with down payment, FHA loans are not excluded from the program. The first mortgage lenders must collect, manage, and make appropriate and timely disbursement from an escrow account established for the homebuyer for the payment of taxes, assessments, and property insurance for the full term of the loan.



## 4.3 Affordability Period

The affordability period must meet or exceed applicable HOME requirements in 24 CFR 92.254(a)(4), based upon the amount of assistance provided. Federal regulation requires DCA to impose a 15-year affordability period on every home developed through the Program.

### 4.3.1 Affordability Restrictions

To enforce the affordability restrictions, at the time of the initial sale DCA will require the homebuyer to execute the following:

- ▶ Encumbrance memorializing the recapture provisions; and,
- ▶ Homebuyer Agreement that will define the terms and conditions of the award (i.e., affordability period and restrictions, recapture provisions, principal residence requirement, etc.).

Upon fulfillment of the homebuyer agreement, expiration of the affordability period, or repayment resulting from recapture, DCA will release the affordability restrictions recorded against the property.

## 4.4 Recapture

The funds to the developer and down payment assistance are designed to encourage long-term affordability for the homebuyer and incentivize the homebuyer to remain in the property long term, thus, the total homebuyer assistance to acquire the home may be fully forgivable but may be subject to recapture under certain conditions (i.e., property is sold prior to 15 years of homeownership, homebuyer violates agreement, etc.).

At the time of the sale, the program will execute an encumbrance for the total homebuyer assistance provided to the homeowner.

## 4.5 Forgiveness Schedule

To encourage stabilization of the community, DCA will use a forgiveness schedule that incentivizes homebuyers to remain in the home for the entirety of the affordability period. The longer the homebuyer retains the home as their principal residence, the greater the forgiveness. Any assistance provided to the original homebuyer at the initial purchase of the home will be forgiven in 7% increments annually.

Forgiveness will be calculated from the recording date of the encumbrance for the initial purchase by the homebuyer to the date of the purchase and sale agreement to the new potential homebuyer.





DCA will compute the recapture amount by using the following formula:

$$\begin{aligned} & \text{Funds to the Developer} \\ & + \text{Down Payment Assistance} \\ & = \text{Total Homebuyer Assistance} \end{aligned}$$

$$\begin{aligned} & \text{Total Assistance} \\ & - (\text{Total Assistance} \times \text{Percentage of Forgiveness}) \\ & = \text{Amount of Recapture to be Paid to DCA} \end{aligned}$$

However, if fraud is detected or an applicant is determined to have provided false or misleading information to the Program, DCA reserves the right to recapture all funds.

## 5 SMART MOVE PROPERTY OWNERSHIP

### 5.1 Homebuyer Agreement

Homebuyers participating in the Smart Move Program will be required to sign a Homebuyer Agreement which will outline recapture requirements.

The Homebuyer Agreement requires the homebuyer to certify that they understand and agree to all the terms of the Agreement including the following provisions:

1. Assistance Calculation, which explains how other resources determined to be a DOB were handled and how homebuyer assistance was calculated.
2. Subrogation and/or Assignment Agreement, in which the homebuyer agrees that any additional funds the homebuyer may receive from potential DOB sources may belong to the Program and confirms their obligation to immediately notify the Program if they receive such funds.
3. Encumbrance to ensure the project meets a national objective.
4. Hold Harmless Indemnification.

### 5.2 Limit on Equity Mortgages and Refinances

During the affordability period, any refinancing is required to be at a lower interest rate and must meet all the requirements of the first mortgage. All refinances are subject to review and written approval by DCA.

### 5.3 Transfer of Ownership

#### 5.3.1 Secondary Sale of Smart Move Property

Funds may be recouped from the net proceeds from the sale of the home to pay back the remaining funds not forgiven yet as discussed in Section 4.5. Net proceeds are defined as the sales price minus first lien holder repayments and any closing costs. If there are no net proceeds or if the net proceeds are insufficient to repay the amount due, DCA will recapture an amount less than or equal to the available net





proceeds remaining. If the homebuyer sells the property, it must be sold at fair market value. Net proceeds will be calculated using the following formula (see table below for example):

$$\begin{aligned} & \text{Market Rate Sales Price at Resale} \\ & - \text{Closing Costs (estimated 8\% for commissions, title, and escrow fees)} \\ & \quad \underline{- \text{First Mortgage Balance}} \\ & \quad = \text{Net Proceeds} \end{aligned}$$

### 5.3.2 Transfer of Interest in Property

In the event a homebuyer, voluntarily or involuntarily, transfers all or part of the interest of the property during the affordability period, DCA may require repayment of funds using the forgiveness methodology detailed in Section 4.5. Upon receipt of payment the affordability restrictions will be terminated and DCA will release the encumbrance.

### 5.3.3 Death of the Homebuyer

In the event a homebuyer passes away during the affordability period and the home is sold by the heirs, DCA will recoup the net proceeds as required by the Program and outlined in section 5.3.3.

### 5.3.4 Foreclosure

The affordability restrictions may terminate upon occurrence of either foreclosure or transfer in lieu of foreclosure. In the event of foreclosure on properties that are subject to the recapture provision, DCA may require repayment up to the net proceeds amount identified in section 5.3.4. If there are no net proceeds, nothing will be owed.

## 6 RECAPTURE, NON-COMPLIANCE, AND DEFAULTS

### 6.1 Recapture of Assistance

During the course of ongoing monitoring of Smart Move, in some instances, the review may identify a situation which would require a recapture of funds. All assistance provided at the time of initial sale may be subject to recapture

All applicants who have been identified for recapture of program funding will not be able to close out of the Program until all funds have been repaid to the Program.

### 6.2 Non-Compliance

Failure to comply with the Program requirements could result in recapture of funds. The reasons for non-compliance include but are not limited to:



- ▶ The original homebuyer no longer occupies the unit as his or her principal residence (i.e., unit is rented or vacant); or
- ▶ The home was sold during the period of affordability and the applicable payment due under the recapture provisions were not met.

## 6.3 Defaults and Breaches

Defaults or breaches may result in DCA demanding repayment of any assistance provided. Losing the affordable unit may come with penalty to DCA, to prevent the loss of the restricted unit from the affordable housing stock, and the possible recapture of funds invested, DCA will require the written agreements with the homebuyer to include language that will extend cure rights and remedies. Such remedies may include purchase options, rights of first refusal, or other preemptive rights to purchase the housing before foreclosure to preserve affordability. The written agreement will clearly define what actions constitute defaults and breaches, how to remedy or cure such defaults and breaches, and actions to be taken in the event the defaults or breaches are not cured.

# 7 CLOSEOUT

## 7.1 Homebuyer Closeout

Homebuyers will be able to take a final walk through of the home five (5) days prior to closing. This allows the buyer to review the property and ensure that the house is in move-in condition.

Loans will be closed with the first lien holder's processing staff in partnership with DCA. During the closing process the homebuyer will:

- ▶ Review and sign all loan documents including:
  - Settlement statement detailing all costs and fees associated with buying a home;
  - Mortgage or security instrument that explains the responsibilities and rights as a borrower; and
  - Promissory note.
- ▶ Submit a cashier's check to pay for any costs not covered by the Smart Move Program

At this time DCA will record the encumbrance on the property detailing the affordability and ownership requirements.

## 7.2 Annual Homebuyer Compliance

Homebuyers that receive CDBG-DR assistance will be subject to annual monitoring to ensure compliance with regulations during the affordability period. Each year, homebuyers must complete an Annual Owner Occupancy Certification which certifies the following for the entirety of the preceding calendar year:

- ▶ They owned and used the property as their principal place of residence;



- ▶ They have paid all property taxes and other assessments imposed against the property;
- ▶ They have not sold or transferred any interest of the property to another party;
- ▶ They have kept the property insured against, damage, loss, fire, flood (if applicable) etc., with coverage amounts not less than the amount to replace the dwelling:
  - Annually, the homebuyer must submit a current copy of the homebuyer's insurance policy declaration page;
- ▶ They have not placed any further liens against the property since acquiring the property;
- ▶ They have paid all sums of money when due to the first mortgage holder; and,
- ▶ They have maintained the property in good condition.

DCA will develop a schedule to determine the timing of the certifications (i.e., beginning of each year, on the anniversary date of each homebuyer, etc.). The homebuyer will be subject to monitoring until the expiration of affordability period or sale of the home. Subsequent homeowners will not be subject to the annual homebuyer compliance requirement.

## 8 PROGRAM APPEALS, COMPLAINTS, AND CONFLICT OF INTEREST

### 8.1 Program Eligibility Appeals

All appeal requests related to Program activities are processed and reviewed by DCA. Initial review of the appeal will be conducted by a three (3) person panel, made up of Legal and Regulatory Affairs staff. This staff is independent from the group that originally made the decision being appealed. Each appeal will be reviewed against Program policies and requirements. The panel will make a recommendation to the Deputy Commissioner of DCA who will make the final determination.

Appeal requests to DRM must be postmarked within sixty (60) calendar days of the date of service on the original correspondence communicating the decision to be appealed. Appeals must be submitted in writing to:

Department of Community Affairs  
 Division of Disaster Recovery and Mitigation  
 P.O. Box 823  
 Trenton, NJ 08625-0800  
 Attention: Legal

The applicant's written request should contain the following information:

- ▶ Applicant's name,
- ▶ Applicant's mailing address,
- ▶ Applicant's telephone number,
- ▶ Email address (if available),
- ▶ The reason(s) the decision or action is being appealed,
- ▶ Documentation that supports the request to overturn the decision, and
- ▶ Application number.



If appropriate, Legal and Regulatory Affairs may contact the applicant to allow the applicant to provide additional documents to address any deficiency or incomplete information, or to be interviewed to determine the merits of the applicant's appeal. If the action or decision is overturned, notification will specify the corrective action to be taken. The applicant shall be notified of the final determination in writing via certified mail.

## 8.2 Complaints

The State will accept written complaints related to the Program. Written complaints should be submitted via email to [DRM.ConstituentServices@dca.nj.gov](mailto:DRM.ConstituentServices@dca.nj.gov) or be mailed to:

New Jersey Department of Community Affairs  
Division of Disaster Recovery and Mitigation  
P.O. Box 823  
Trenton, NJ 08625-0800  
Attention: Manager, Constituent Services

The State will make every effort to provide a timely written response to every citizen complaint within fifteen (15) working days of receipt of the complaint, where practicable.

## 8.3 Section 504 Coordination Complaints and Grievances

Section 504 prohibits discrimination on the basis of disability in programs conducted by federal agencies, in programs receiving federal financial assistance, in federal employment and in the employment practices of federal contractors. Complaints regarding accessibility can be reported to the State's Section 504 Coordinator. Plan publication efforts must meet the effective communications requirements of 24 Code of Federal Regulations (CFR) 8.6 and other fair housing and civil rights requirements, such as the effective communications requirements under the Americans with Disabilities Act.

State Section 504 Coordinator:  
[DisasterRecoveryandMitigation@dca.nj.gov](mailto:DisasterRecoveryandMitigation@dca.nj.gov)

## 8.4 Anti-Fraud, Waste, and Abuse

DCA describes the process for applicants to report fraud, waste, or abuse in DCA Policy No. 2.10.4 Investigation Protocol Policy (February 2023). DCA Policy No. 2.10.13 Internal Audits and Recipients Audits Policy discusses the process of the Office of Auditing to provide both programmatic and financial oversight of grantee activities. When the grantee has determined that instances of fraud, waste, and

abuse have occurred, these will be referred to the HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email: [hotline@hudoig.gov](mailto:hotline@hudoig.gov)) by the Office of Auditing.

It is the affirmative responsibility of any DCA employee and any Program staff that has reasonable suspicion that any form of fraud is occurring, to notify the appropriate State or Federal agency or department. Notification of suspected fraud can be made to the Office of the State Comptroller. The toll-free telephone number for the hotline is 1-855-OSC-TIPS (1-855-672-8477). The e-mail address is [comptrollertips@osc.nj.gov](mailto:comptrollertips@osc.nj.gov). All communications will be kept confidential. The hotline and e-mail address are maintained by the State of New Jersey, Office of the State Comptroller.

## 8.5 Conflict of Interest

In accordance with federal requirements, the Program will adhere to the following conflict of interest provisions established for the CDBG-DR Program and as fully described in the DCA Conflict of Interest Policy No. 2.10.9. For the Program, the following areas have been identified as potential areas of conflict:

- ▶ Program Staff/Homebuyer Applicant, Staff/Local Government, or Staff/Developer relationships
- ▶ Homebuyer Applicant/Developer relationships
- ▶ Evaluation and approval process



## 9 APPENDIX A: DEFINITIONS AND ACRONYMS

**AMI-** Area Median Income

**BFE-** Base Flood Elevation

**CDBG-** Community Development Block Grant

**CDBG-DR-** Community Development Block Grant – Disaster Recovery

**CFR-** Code of Federal Regulations

**CO-** Certifying Officer

**CP-** Citizen Participation

**DCA-** Department of Consumer Affairs

**DOB-** Duplication of Benefits

**DRGR-** Disaster Recovery and Grant Reporting System

**FEMA-** Federal Emergency Management Agency

**HCD Act-** Housing and Community Development Act of 1974, as amended

**HUD-** U. S. Department of Housing and Urban Development

**IA-** FEMA Individual Assistance Program

**LMI-** Low- to Moderate-Income (Person or Household) below 80% AMI

**NFIP-** National Flood Insurance Program

**NOFA-** Notice of Funding Availability

**PA-** FEMA Public Assistance Program

**RE-** Responsible Entity

**RFA-** Request for Applications

**RFP-** Request for Proposal

**SBA-** U.S. Small Business Administration

**SFHA-** Special Flood Hazard Area

**UGLG-** Unit of General Local Government

**URA-** Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended

**USACE-** U.S. Army Corps of Engineers

**Act** - means Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. Sec. 5301 et seq.)



**Affordable Housing** - In general, housing for which the occupant(s) is/are paying no more than 30 percent of his or her income for gross housing costs, including utilities. The State or Assignee will make every effort to meet this requirement, but affordability will be contemplated on a case-by-case basis. Please note that some jurisdictions may define affordable housing based on other, locally determined criteria, and that this definition is intended solely as an approximate guideline or general rule of thumb. Awarded projects shall designate a minimum of 51% of the total units in a project to be used for affordable housing for low- and moderate-income persons or households earning 80% of less of the Area Median Family Income (MFI), for the designated project affordability period.

**Affordability Period** - The period of time during which a property must comply with CDBG-DR program rules and regulations, including primary residency, income, and rent restrictions as applicable.

**Aggressive/Abusive** – Aggressive and abusive behavior refers to the use of aggressive and abusive tactics aimed at harming a Program representative, contractor, applicant, or other persons. This may include physical, emotional, sexual, or financial abuse, as well as intimidation, manipulation, the use of force or the implied use of force, and other tactics. All forms of aggressive and abusive behavior are prohibited and may result in removal from the Program.

**Appeal**- A written request from an applicant submitted for review to change an unfavorable determination made by the Program.

**Applicant**- Any individual who submits an application to the Smart Move Homebuyer Program. The applicant must be either by a recipient in the Blue Acres Program or an Ida impacted first time homebuyer.

**AMI**-The median (middle number) household income for an area adjusted for household size as published annually by HUD. Once household income is determined, it is compared to HUD's income limit for that household size. Income limits are adjusted annually by county.

**Buyout**- As referenced in the Federal Register Notice [87 FR 31636.pdf \(hud.gov\)](#), are acquisitions of properties located in a floodway, floodplain, or other Disaster Risk Reduction Area that reduce the risk from future flooding. Under Blue Acres, buyout properties will be voluntarily sold to Department of Environmental Protection (DEP) or their designee for current fair market value (post-storm value) and must be converted to and maintained per open space, recreational or wetlands management, or other disaster risk reduction practices.

**Certificate of Occupancy**- A certificate of occupancy is a document issued by a local zoning or building department stating that the home is compliant with local municipal building codes and is suitable for occupancy.

**CDBG-DR**-Community Development Block Grant – Disaster Recovery

**Current Fair Market Value**- Value of an eligible home, as determined by an appraisal conducted by the Program.

**DCA**- Department of Community Affairs of New Jersey.

**Disability**- For the purposes of the Program, “disability” is consistent with federal law under the Social Security Act, as amended, 42 U.S.C. § 423(d), The Americans with Disabilities Act of 1990,





6 as amended, 42 U.S.C. § 12102(1)-(3), and in accordance with HUD regulations at 24 CFR §§ 5.403 and 891.505

**Duplication of Benefits-** The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG Disaster Recovery funding with respect to any part of a loss resulting from a major disaster and financial assistance where other sources have been provided (insurance, any other program, etc.)

**Family** – The term family means all persons living together in the same housing unit, as further defined under 24 CFR 570.3.

**Forced Mortgage Payoff-** An involuntary forced mortgage payoff is when the mortgage company forced you to use your Insurance Funds toward your mortgage balance. The mortgage company forced a large payment toward mortgage, to pay the mortgage amount down. The mortgage company forced total payoff of your mortgage in full.

**Flood Insurance-** The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP) following the receipt of federal assistance. To be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

**Household-** All persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the low-to-moderate-income objective is based on the income of the household.

**HUD-** United States Department of Housing and Urban Development.

**IRS 1040/Adjusted Gross Income (“AGI”) Calculation Method-** Citizens of the United States and resident aliens, except those with gross incomes that fall below a certain level, are required to file an income tax return with the Department of the Treasury’s Internal Revenue Service (IRS) each year. The tax return is officially referred to as IRS Form 1040. The Adjusted Gross Income (AGI) is listed on the 1040 tax form and is the dollar figure used to determine an applicant’s income eligibility for participation in the CDBG-DR Programs.

**LMI National objective-** One of three national objectives that any CDBG activity must meet. Activities that meet the LMI objective must benefit households whose total annual gross income does not exceed 80% of area median income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance with HUD Guidance. The most current income limits, published annually by HUD, shall be used to verify the income eligibility of each household applying for assistance at the time assistance is provided.

**Low to Moderate Income (LMI) Household-** A household with income (including income derived from assets) at or below 80 percent of an area’s median income. All income is based on the Area





**NFIP-** National Flood Insurance Program. When the Program refers to NFIP in the context of eligibility or duplication of benefits, the Program is referring to private and public flood insurance programs that cover structural repairs resulting from flood damages.

**Subrogation and Assignment Agreement:** Applicants must agree to subrogate (commit to the State) any future payments they may receive after the award amount is determined from sources that represent a potential DOB. The subrogation agreement requires the entity to notify the State if additional funds are received and to assist the State in collecting any amounts owed to the entity from these sources.

**Section 504 of the [Rehabilitation Act of 1973](#)**- A national law that protects qualified individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency, including the U.S. Department of Health and Human Services (DHHS). These organizations and employers include many hospitals, nursing homes, mental health centers and human service programs.

**Urgent Need National objective-** An urgent need that exists because conditions pose serious and immediate threat to health/welfare of community, the existing conditions are recent or recently became urgent and the recipient of funds cannot finance the activities on its own because other funding sources are not available. Documentation must be maintained on how each program and/or activity funded under this category responds to a disaster-related impact.





# 11 APPENDIX C: EXAMPLE DOB QUESTIONNAIRE & SUBROGATION AGREEMENT

To be added once complete

