



Planning and Implementing Buyout Programs

2019 CDBG-DR Problem Solving Clinic

Kansas City – Overland Park | July 30 – August 1, 2019

Welcome and Speakers

- Session Objective
 - Provide an overview of implementing a CDBG-DR Buyout program
- Co-Presenters
 - Brandy Bones, ICF
 - Jen Carpenter, HUD
- Panelists
 - Jane Brogan, New York State
 - Calvin Johnson, New York City



Agenda

- Overview of a Buyout Program
- Presentation of programs by Panelists
 - New York State
 - City of New York
- Q&A



Overview of Buyout Program



What are Buyout Programs?

- Grantees can use CDBG-DR funds to buy properties (commercial and residential) with the intent to demolish the structures and create:
 - park amenities
 - open space
 - flood storage/overflow areas
- Typically part of a multi-pronged approach to community revitalization that includes relocation of residents and businesses in addition to business development activities
- Especially effective in communities that have:
 - endured multiple disasters
 - sustained severe damage, and high risk of additional disasters

Reduce the impact of future disasters while encouraging targeted revitalization efforts and public spaces



Benefits of a Buyout Program

- Move people out of harms way
- Restore natural function of floodplain
- Protect surrounding built environment
- Increase Community Rating System score – lowering National Flood Insurance Program (NFIP) premiums
- Provide additional green space

What might be the benefits to your community?



Challenges to a Buyout Program

- Lack of public or political will to support a buyout program
- Applicants may need more than buyout proceeds to acquire a new home and remain in community
- Lack of clear title to properties
- Tax base implications

What challenges face your community?



Funding for Buyout Programs

- HUD: CDBG-DR
- FEMA
 - Hazard Mitigation Grant Program (HMGP)
 - Flood Mitigation Assistance Grant Program (FMA)
- State and Local Government Programs



CDBG-DR Buyout Programs: Applicable Laws & Regulations

- ✓ Community Development Block Grant Program 24 CFR Part 570
- ✓ Public Law appropriating CDBG-DR funds
- ✓ HUD regulations specified in the Federal Register (FR) Notices applicable to the disaster
- Stafford Act - Duplication of Benefits (DOB) (42 U.S.C. 5121-5207, 84 FR 28836 and 84 FR 28848 dated June 20, 2019)
 - If pre-disaster valuation used and exceeds post-disaster FMV, the excess funds are considered assistance to the seller – making them a recipient of CDBG-DR assistance



CDBG-DR Buyout Programs: Applicable Laws & Regulations (cont.)

- Uniform Relocation Act (49 CFR Part 24 & 24 CFR 570.606) & Section 104(d) of the Housing and Community Development Act – One for One Replacement - for the demolition or conversion to another use of low moderate dwelling housing units – see disaster specific FR for any waivers
- Environmental Review 24 CFR Part 85

There are separate sessions at the clinic on DOB, URA/104(d) and environmental review



Basics of a CDBG-DR Buyout Program

- Acquisition/purchase of property including residential, commercial, agricultural or vacant – **must be "real property"**
- Voluntary purchase of property to reduce risk of further damage for properties located in a floodplain or Disaster Risk Reduction Areas as defined in Action Plan
- Acquisitions meeting the definition of “buyout” as subject to land use restrictions post-acquisition
- Grantees must define in their Action Plan what constitutes a “Disaster Risk Reduction Area” and the area must be clearly delineated so it is easy to determine which properties are included



Buyout Program Requirements

- Tie to the Storm
 - Programs must support activities with a tie to the storm
- Eligible applicants
 - Individuals or businesses
 - Owners of eligible properties
- Eligible Activity:
 - Allowable as an acquisition activity, but final end use must comply with the requirements in the notice. Federal Register Notices (FRNs) applicable to the different allocations of CDBG-DR funding may limit future use



Buyouts & National Objectives

- National Objectives:

- Low to Moderate Housing (LM Housing)

- Any assisted activity that involves acquisition &/or rehab of property to provide LM housing
 - Grantee must verify that grantee-assisted family secures new housing

- Low to Moderate Area Benefit

- If buyout area and subsequent greenspace benefit area that is 51% or more LMI
 - LMI Limited Clientele
 - Buyout only available to LM households and benefit provided by using pre-disaster valuation

- LM Buyout (LMB) NEW

- CDBG-DR funds used to buy property owned by LMI household where award amount is greater than the post-disaster value
 - Grantee not required to follow the LMI household after the buyout

- LM Housing Incentive (HMHI) NEW

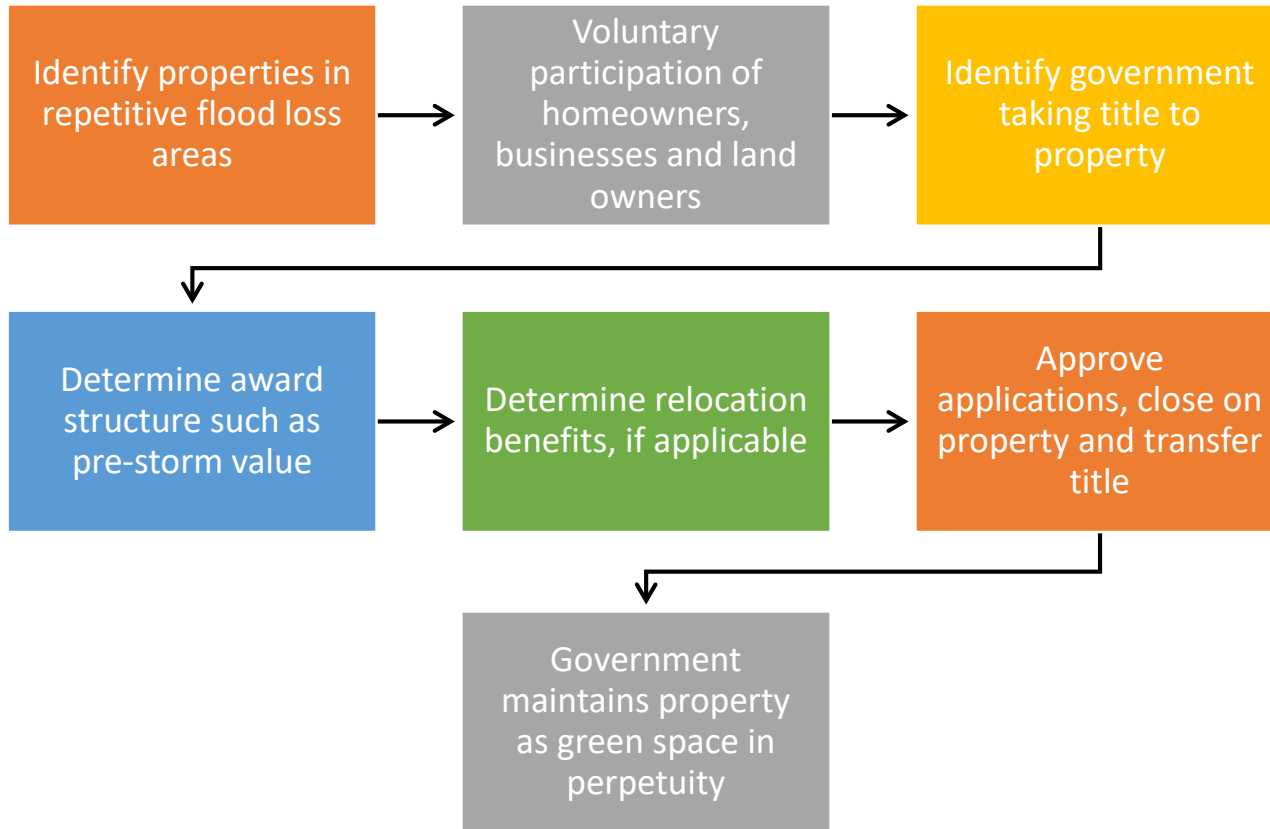
- CDBG—DR funds used for housing incentive award tied to buyout or other voluntary acquisition to allow the LMI household to move out of floodplain to lower risk area OR for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household



LMB	Property type	Tracking
LMHI – for Buyout	Real Property	No
LMHI – for Acquisition of housing	Housing	Yes
LMHI – for improvements to housing	Housing	Yes



Typical Buyout Program Process Flow





**Governor's Office of
Storm Recovery**

NY Rising Buyout Program New York State



Governor's Office of Storm Recovery (GOSR)

- Established in June 2013 to coordinate Statewide recovery efforts for Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee
- Portfolio of NY Rising programs are investing \$4.5 billion in CDBG-DR (provided by HUD) for recovery efforts and to better prepare New York for future extreme weather events
- Five primary areas: Housing, Small Business, Community Reconstruction, Infrastructure, and Rebuild by Design
 - Predominantly focused outside of NYC with the exception of Buyouts and Community Reconstruction Programs



NY Rising Buyout and Acquisition Programs

The State's voluntary Buyout and Acquisition Programs were established to purchase the properties of interested homeowners and address areas that regularly place homes, residents and emergency responders at-risk

- More than \$480 million expended to purchase 1,277 properties through NY Rising Buyout and NY Rising Acquisition Programs
 - The programs mainly operate in select neighborhoods of Staten Island and Long Island
- The Buyout Program alone has purchased over 700 properties for more than \$271 million
- Approximately 93% of all expected demolitions of Buyout properties have been completed



NY Rising Buyout Program Requirements

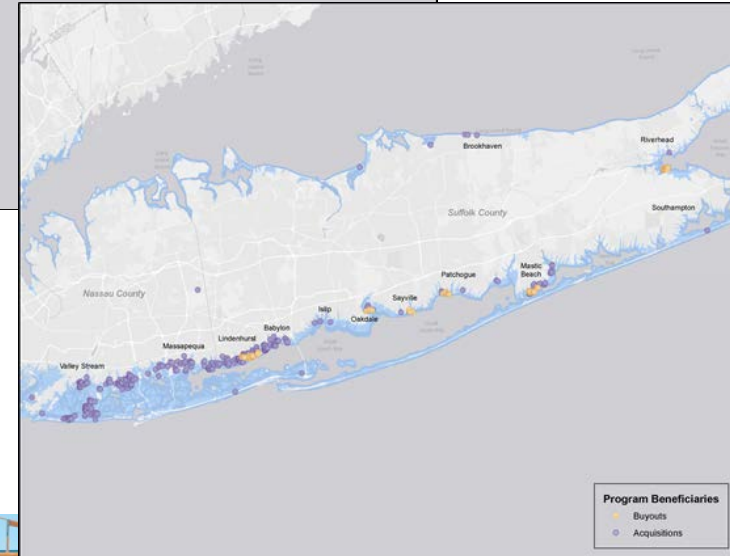
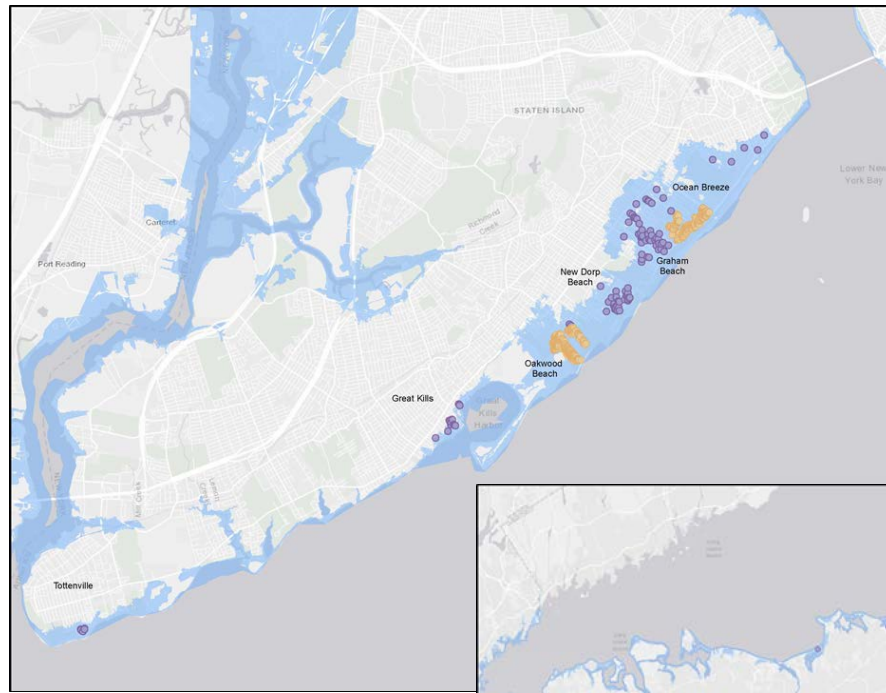
- Voluntary program
- Purchase of storm-damaged properties within Enhanced Buyout Areas or in the floodway, as well as vacant or undeveloped land in these targeted areas
- Offers start at 100% of the property's pre-storm Fair Market Value (less DOB) plus available incentives up to 15%
 - Applicants who purchased the property after the storm are eligible for the Buyout award without any added incentives or the price at which the applicant purchase the property
- Structure removed and the land must be maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices
- A restrictive covenant is recorded on the land
- No new structure or improvement will be erected except:
 - Public facility (open on all sides, functionally related open space)
 - Restroom
 - Flood control structure
 - Structure approved by local floodplain administrator



Buyout Areas

Developed based on the following criteria:

- NYSDOS Risk Assessment
- History of flooding and/or damage by extreme weather events
- Local officials understanding the benefits of permanently removing residents and creating a coastal buffer
- Multiple homeowners voiced interest



NY Rising Buyout Program



2012: Pre-storm



2014: Properties being demolished



2018: Green space

State acquires damaged property. Purchased at pre-storm FMV plus incentives.

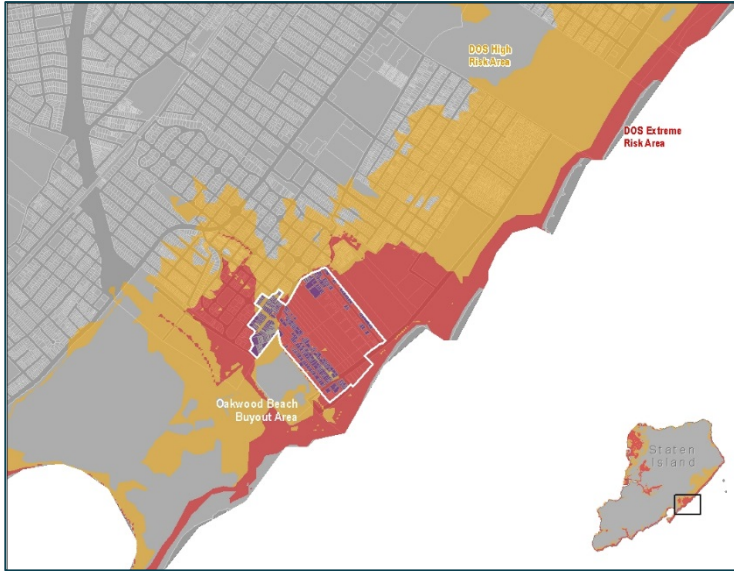
GOSR demolishes structures and land is graded and seeded with native plant species.

Land is dispositioned and a restrictive covenant is recorded to prohibit any future development.

Land becomes permanent greenspace to act as a coastal barrier.



Oakwood Beach, Staten Island



- Initially developed as a vacation community in the 1920s
- Even before Sandy, residents experienced severe flooding events and fires associated with overgrown invasive species
- The NY Rising Buyout Program purchased and demolished over 300 contiguous parcels (25.5. acres of land)



Oakwood Beach, Staten Island



Once the Oakwood Beach Buyout Area is returned to natural green space, it will be a continuation of an existing natural barrier along the shoreline



Disposition Strategies

Once all properties are purchase and demolished, long-term land stewards are charged with implementing an end use compatible with open space restrictions

New York State has partnered with local municipalities to establish a variety of strategic uses for the buyout areas

1. Graham Beach & Ocean Breeze:

Plan to transfer title to neighbors through Lot Next Door program.

2. Oakwood Beach: Transferred title of 4 properties to the Oakwood Veteran's Association. Actively seeking a land owner and steward. Land uses being considered: USACE/NYS DEC/NYC Sea Wall Project will need easements of title of properties along the eastern and southern portions.

3. Village of Lindenhurst: 39 properties have been transferred to the Village to be used to enlarge a municipal park and increase waterfront public access. Other properties will be transferred through the Lot Next Door program.

4. Town of Babylon: Transferred title of 6 properties to the Town. 13 properties have transferred through the Lot Next Door program.

5. Town of Islip: Transferred title of 9 properties to a local conservation organization. 5 properties have been transferred through the Lot Next Door program.

6. Village of Patchogue: All 10 Buyout properties have been transferred to the Village.

7. Town of Brookhaven: Transferred title of 43 properties to the Town to be incorporated into a wetland restoration project managed by The Nature Conservancy.

8. Town of South Hampton: Transferred title of 16 properties to the Town to be used for storm water drainage and waterfront access. Transferred title of 10 properties to a civic association which will be sold to adjacent neighbors as yard extensions.



Other Considerations

- National Objective
- Demolitions and workforce development
- CDBG-DR buyouts and FEMA Hazard Mitigation Grant Program (HMGP)
 - FEMA HMGP provides federal funding for buyouts
 - HMGP requires a 25% local match for each disaster (CDBG-DR funds can be used)
 - NYS and GOSR using the Staten Island and Long Island buyouts to meet HMGP match requirements
 - GOSR must work with NYS DHSES to submit applications to FEMA
 - To get HMGP approval, GOSR must meet FEMA HMGP requirements for buyouts and open space restrictions (and comply with CDBG-DR requirements)
- Acquisitions and Change of Use (24 CFR 570.505)



Challenges of Buyout Programs

- Incentivizing participation
- Other costs including long-term O&M, demolition, insurance, taxes and fees, and compliance monitoring
- Determining and finding partners for effective disposition strategies
- There is a potential municipalities' tax revenue is reduced by removing properties from the tax rolls
- Rental properties and relocation requirements
- Ensuring compliance with federal requirements

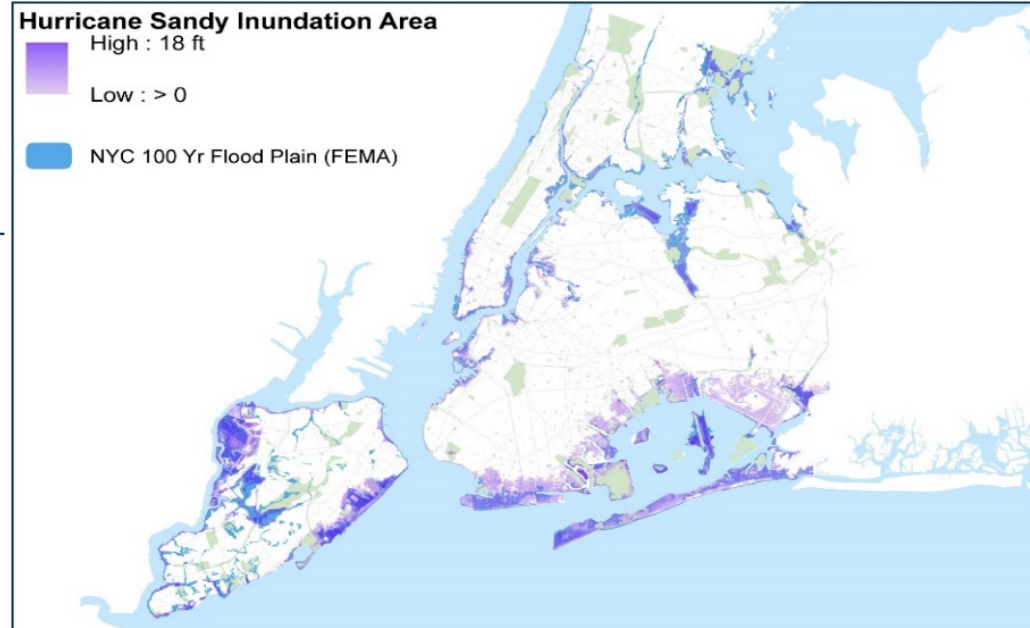


New York City Build It Back Acquisition and Buyout Program: *Lessons Learned*



Background: Hurricane Sandy in NYC

- Hurricane Sandy landfall October 29, 2012 during high tide and a full moon
- 51 square miles flooded (17% of NYC land mass)
- 88,700 buildings inundated, including 23,400 businesses
- 10.3% of NYC's population (846,056) lived in the inundation area
- ½ of the housing flooded was outside the FEMA 100-year flood plain
- ½ the housing in the 100-year flood plain had flood insurance
- \$19 billion in damages and lost economic activity
- City is direct grantee for \$4.2 billion in CDBG-DR
- Mayor's Office of Management & Budget lead agency
- Mayor's Office of Housing Recovery Operations oversight and implementation for Build It Back
- \$2.2 billion in CDBG-DR for BIB, which includes Acquisition for Redevelopment and Buyout pathways



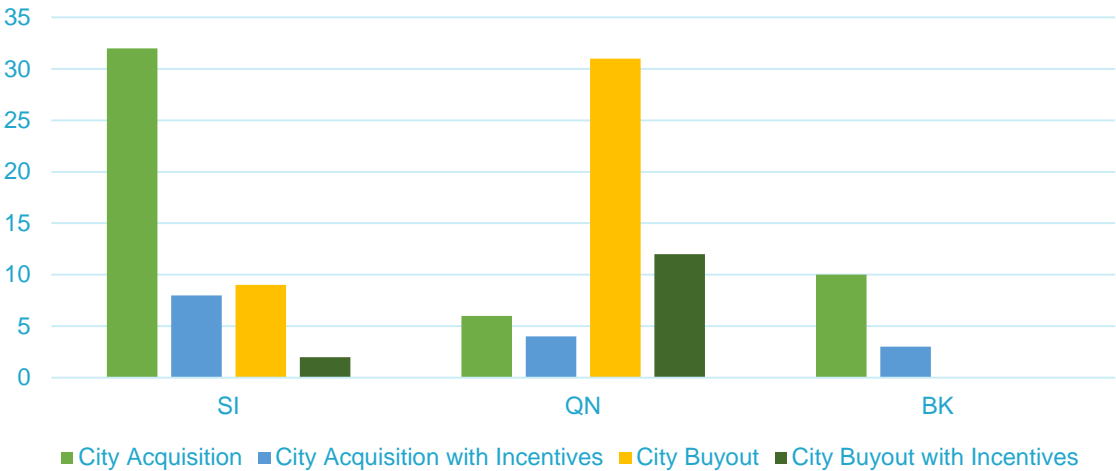
Timeline and Evolution of Program

- June to October 2013: intake and applications
 - Homeowners registered for Build It Back generally not for any one specific benefit
 - Initially NYC homeowners interested in acquisitions or buyouts were served through State's NY Rising program
- Late 2014 to Late 2016: Prep for, launch and evolution of City's own acquisition and buyout program
 - Subrecipient Project Rebuild Inc.
 - Cost reasonable alternative for severely damaged properties, especially with site conditions or limitations on construction
 - Incentives to sell storm-damaged home and relocate to move
- December 2017: approval for Resiliency Property Purchase Program



NYC BIB Acquisition & Buyout Program Overview

	Total				Closed				Expected			
Pathway	Total	SI	QN	BK	Total	SI	QN	BK	Total	SI	QN	BK
Acquisition	63	40	10	13	63	40	10	13	0	0	0	0
Buyout	57	11	46	0	54	11	43	0	3	0	3	0
Total	120	51	56	13	117	51	53	13	3	0	3	0



Buyout Challenges and Roadblocks

- Community and resident buy-in: “checkerboard” neighborhoods
- Tenants and URA
- Ownership and title issues (estates, bankruptcy, etc.)
- Liens and mortgages
- Costs associated with demolitions, maintenance and operations, and real improvements
- Uniform Land Use Review Procedure (ULURP) – pathway from private to public ownership in NYC



Buyout Successes and Benefits

- Homeowners relocated out of harms way
- Long term cost savings to municipality
- Pathway option for unbuildable homes
- Resilient Housing RFP – development of affordable housing
- Consistent with policy goals to minimize repetitive losses and provide coastal buffer



For Conversation...

- Advantages and disadvantages of targeted buyout zones
- Creation of clear guidelines and policies around appraisals
- Limitations around voluntary buyouts and structuring of incentives
- Interagency cooperation between and within Federal, State, and local levels
- The human factor – it always takes longer when driven by applicant decision
- Ability to provide for affordable housing redevelopment opportunities in urban environment with limited space without putting citizens in harm's way
- Consideration of how existing land uses and potential future land uses may not align with highest and best use



Thank you! Questions?

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- Jane Brogan, New York State, Jane.Brogan@stormrecovery.ny.gov
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