



POLICY MANUAL

Bureau of Environmental Review and Assessment (BERA)

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The policies stated in this manual are current as of March, 2015. This manual represents the current version of the Governor's Office of Storm Recovery's policy which shall provide general guidance for the operation of the GOSR program. All policy manuals will be reviewed periodically and will be updated. GOSR will use its best efforts to keep all of its Policy Manuals current. Therefore, you are strongly urged to visit our website www.stormrecovery.ny.gov or to contact the info@stormrecovery.ny.gov to ensure that you have the latest version of GOSR's policies. There may be times, however, when a policy will change before the manual can be revised.

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1.0 Introduction and Purpose

Every project undertaken with Community Development Block Grant -Disaster Recovery (CDBG-DR) funds, and all activities related to that project, are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as implemented through the U.S. Department of Housing and Urban Development's (HUD's) environmental review regulations at 24 CFR Part 58. In addition, the Governor's Office of Storm Recovery (GOSR) is subject to the provisions of the New York State Environmental Quality Review Act (SEQRA) (6 NYCRR Part 619). The primary purpose of these laws is to inform governmental decision-making so as to weigh potential adverse impacts to the environment against the purpose and need of the proposed action and where practicable, to take measures to avoid or mitigate any adverse impacts.

Under GOSR, the Bureau of Environmental Review and Assessment (BERA) oversees the Environmental Review process on all activities and projects utilizing CDBG-DR funds to ensure that requirements under NEPA and SEQRA are met. BERA also advises GOSR staff on other applicable State and federal environmental laws, including, but not limited to floodplain requirements, hazardous materials handling, and historic preservation requirements.

1.1 Use of Manual

The purpose of this manual is to provide guidance necessary to prepare the Environmental Review Record (ERR) as required by NEPA and related laws. The ERR serves as a tool to measure the environmental consequences of all CDBG-DR funded projects and activities prior to funding them. This manual contains legal and policy background information, specific requirements, checklists, and references; it attempts to assist GOSR staff in understanding and applying NEPA and SEQRA requirements to specific proposed activities, programs, or projects.

Note: This procedure manual applies following its effective date. For environmental reviews or projects commenced prior to this effective date, this manual serves as a guide, to the extent feasible, to enable standardization of recordkeeping or provide guidance on the sequence of environmental review determinations.

1.2 Mission of BERA

The mission of BERA is threefold:

1. To provide technical assistance to GOSR program staff in assessing environmental impacts of all funded activities;
2. To inform all GOSR program staff of HUD requirements for Environmental Review and conformity with related environmental laws.
3. To create and manage the standalone ERR database for all GOSR projects and programs.

1.3 Organizational Structure of BERA

BERA falls within the Office of the General Counsel. The Bureau is comprised of a Director (a Certifying Officer), a Deputy Director (a Certifying Officer), Planning Staff, an Environmental Records Manager, and a Project Coordinator responsible for vendor relationships. BERA also coordinates with a designated environmental staff member in the Housing Program to control review of the extensive number of housing applicants. Additionally BERA works directly with environmental contractors.

1.3.1 Responsibility of the Certifying Officer(s)

The Certifying Officers are responsible for all the requirements of [Section 102](#) of NEPA and the related provisions in [40 CFR parts 1500 through 1508](#), and [24 CFR Part 58](#); including the related Federal authorities listed in [Section 58.5](#). The Certifying Officers are authorized to execute the Request for Release of Funds and Certification for actions funded by CDBG-DR to HUD. Certifying Officers can, but do not need to sign, reviews for exempt activities, Tier II reviews, and “Categorically Excluded Not Subject To” Activities. The Certifying Officers are GOSR’s “responsible federal official[s]” under Section 102 of NEPA that represent GOSR as responsible entity and are subject to the jurisdiction of the federal courts. The Certifying Officer also must ensure that GOSR reviews and comments on all EISs prepared for federal projects that may have an impact on a GOSR program.

2.0 Background on NEPA and SEQRA

2.1 National Environmental Policy Act (NEPA)

NEPA articulates the federal policy that favors protecting the quality of the human environment, and requires federal agencies to consider the impacts of their proposed activities, programs, and projects on the quality of that environment. The human environment is defined as the natural and physical environment, and the relationship of people to that environment. The purpose of considering impacts (NEPA review) is to help the agency decide whether to undertake a proposed action, considering all reasonable alternatives, including the alternative of taking no action, and if so, where, when and how to undertake it. NEPA review also affords interested agencies and the public the opportunity to learn about and influence an agency's decision-making. Various kinds of specific analyses and documentation are required, but these vary depending on the nature of the proposed action and its expected environmental impacts.

NEPA also requires that, to the fullest extent possible, analyses and consultations required by other environmental laws be coordinated with those required under NEPA, to reduce redundancy, paperwork, time, and cost. The NEPA statute be found at <http://www.epw.senate.gov/nepa69.pdf>; NEPA guidance can be found at <http://www.epa.gov/compliance/basics/nepa.html>.

2.2 State Environmental Quality Review Act (SEQRA)

SEQRA articulates the New York State policy that favors protecting the quality of the human environment, and requires State agencies to consider the impacts of their proposed activities, programs, and projects on the quality of that environment. SEQRA establishes a process to systematically consider environmental factors early in the planning stages of actions that are directly undertaken, funded or approved by local, regional, and State agencies. By incorporating environmental review early in the planning stages, projects can be modified as needed to avoid adverse impacts on the environment.

SEQRA is both a procedural and a substantive law. In addition to establishing environmental review procedures, the law mandates that agencies act on the substantive information produced by the environmental review. This often results in project modifications and can lead to project denial if the adverse environmental impacts are overriding and adequate mitigation or alternatives are not available. SEQRA regulations can be found at <http://www.dec.ny.gov/regs/4490.html>; SEQRA guidance can be found at <http://www.dec.ny.gov/permits/357.html>.

2.3 Coordinated Processes of NEPA and SEQRA at GOSR

To the greatest extent possible, BERA coordinates State and federal environmental reviews. This is desirable to reduce duplication and potential conflict between the two levels of required reviews. Specifically, a coordinated SEQRA/NEPA review process may include joint components/procedures to satisfy both State and federal requirements, such as:

- Environmental assessments;
- Scoping and the preparation of Environmental Impact Statements (EISs);
- Conducting public hearings; and/or
- Preparation and publication of public notices.

2.4 GOSR Program Specific Environmental Review Procedures

There is no standard set of environmental review procedures for all programs under GOSR because each program varies in applicant type, scope of program activity, and geography. Therefore, GOSR program, policy, and/or procedure manuals contain an Environmental Review section tailored to the individual programs' scope and objectives. BERA reviews each program's policies and procedures to ensure the manuals comply with 24 CFR 58 and other relevant laws. Further program specific considerations are outlined in Section 8.0 of this document. BERA is also responsible for maintaining GOSR's official standalone database containing Environmental Review Records (ERRs) for all GOSR programs. The standalone ERR shall be used in HUD monitoring visits and shall be consistently updated and maintained by GOSR's environmental records manager.

2.5 Project Specific or Tiered Review

Contingent on the type of activity subject to environmental review, 24 CFR Part 58 allows for either *project specific* or *tiered* reviews. Typically, BERA conducts a project specific review the project site or sites are known. In its discretion, BERA will conduct a tiered review when site-specific analysis or mitigation is not currently feasible and a narrower or focused analysis is better done at a later date. Tier I project specific reviews identify environmental factors that may affect one or more of potential project sites, and develops procedures to review sites once they are identified. In a Project Description meeting (Section 4.1.1), staff consult with BERA to determine whether a tiered review or project specific review is appropriate.

If a tiered review is selected, BERA staff is responsible for overseeing and approving the programmatic Tier I ER document, as well as site specific review following issuance of the Tier I document, referred to as Tier II reviews. Any and all checklists or materials used in Tier II reviews must be reviewed and approved by BERA.

2.6 Adoption of FEMA Environmental Reviews

Under the [Disaster Relief Appropriations Act, 2013 \(P.L. 113-2\)](#), also known and referred to herein as the Hurricane Sandy Supplemental Appropriation (H.R. 152), HUD grantees are *permitted to adopt environmental reviews* performed by other Federal agencies when the HUD grantee is providing supplemental assistance to actions performed under sections 402, 403, 404, 406, 407, or 502 of the [Robert T. Stafford Disaster Relief and Emergency Assistance Act](#). The Hurricane Sandy Supplemental Appropriation also allows the Secretary to immediately approve funds that are subject to this adoption provision or are Categorically Excluded under the National Environmental Policy Act (NEPA). Adoptions are processed in accordance with Danielle Schopp's March 4, 2013 memorandum titled "Adoption of FEMA and Other Federal Environmental Reviews and Processing Hurricane Sandy Supplemental Appropriation (H.R. 152) Activities." This [Memorandum](#) provides guidance related to these provisions, contains frequently asked questions to explain the use of the adoption provision, discusses the immediate approval provision, and features charts explaining the comment periods applicable to different types of assistance.

3.0 Timing

3.1 Applying NEPA early in the process

Every effort is made to integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, and to avoid delays later in the process.

The Environmental Review Process must be completed before CDBG-DR funds can be accessed for:

1. The development of program activities;
2. The procurement of any goods or services;
3. The purchase of any land or buildings; or,
4. The start of any work on a proposed project which would result in a “choice-limiting action,” even with non-HUD funds.

It is critical that neither a recipient nor any participant in the development process—including public or private nonprofit or for-profit entities, or any of their contractors—may commit HUD assistance on an activity and/or project until HUD has approved the GOSR's RROF and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

3.2 Length of Review depending on level of analysis

NEPA activities can take time and therefore BERA encourages program staff to integrate environmental review considerations early into the planning process. This will enable BERA to estimate the length of review dependent upon the type of proposed activity. For instance, completion of an exemption memo or categorical exclusion not subject to (CatEx(b)) checklist (see Exhibit A) may take only a few hours, but completion of a review for a “categorically excluded subject to” activity (CatEx(a)) or an activity requiring an environmental assessment may take several weeks or months. Preparation of an Environmental Impact Statement (EIS; see Section 6.0) for a complex projects may take several years. BERA will consult with program staff on the length of review estimated for proposed activities so that the review time period can be integrated into the project timeline.

4.0 Step-by-Step Guide to Programmatic Environmental Review

The following step by step guide is intended to be illustrative of the environmental review process. While BERA adheres to the steps set forth in this process, steps may be consolidated or bypassed based on project needs. This is intended as a guide, and not a mandatory protocol.

4.1 Step 1: BERA Determines Purpose and Need

The first step BERA takes in determining how much environmental analysis an action needs is to determine the purpose and need for the action. That is, the review begins by clearly specifying what GOSR is trying to accomplish, and why. This is accomplished through developing a succinct Project Description in close consultation with the specific program staff requesting the environmental review. This can be achieved at weekly meetings with program staff, or through project specific consultations with program staff.

4.1.1 Project Description Meeting/Consultations

1. Program staff initiates the environmental review process after developing a detailed description of the nature of activities contemplated by the project or program, including the location of the activities.
2. Program staff schedules a Project Description meeting/consultation with BERA's Certifying Officer(s). Program staff generally initiates this meeting/consultation by sending an email to the Certifying Officer(s) or by inviting GOSR environmental staff to pre-application panel meetings. The Project Description meeting/consultations, may, as needed, discuss similar or identical projects or programs proposed by the program to avoid duplicative meetings on similar projects or programs.
 - a. The purpose of the meeting is to discuss the facts and circumstances of the intended activities that the program plans to engage in to determine the appropriate level of action by BERA. BERA staff provides initial feedback to aid program staff in shaping the project description.
 - b. BERA staff also advises, if feasible, whether to conduct a site specific or programmatic review.
3. Following the project description meeting, the written project description should have a designated point of contact at the specific GOSR program, as well as any consultants involved in preparation of environmental review documents. The Written Project Description utilizes the form annexed in Exhibit A.
4. For Site-Specific Reviews, the written description, at minimum and as applicable, includes the following information:
 - Full name and address of applicant;
 - Type and amount of funding;
 - Name and role of any local, state, or federal agencies involved in the project;

- Full scope of activities intended for the project, including any activities funded through non-CDBG-DR funding;
 - The location of the proposed activity;
 - Names and roles of any contractors working on the project; and,
 - General Project Schedule.
5. For Tiered or Programmatic Reviews, the written description, at a minimum contains:
- The names of counties or other political sub-divisions subject to the proposed program;
 - The name and role of any local, state, or federal agencies involved in the program;
 - The expected type and amount of funding to be used in the program; and,
 - The full scope of activities intended for the program, including any components of the program expected to be funded through non-CDBG-DR sources.
6. Following submissions of the Written Project Description, BERA and Program staff confer, as necessary, concerning revisions or additional information needed for the Project Description.
7. Following any additions or revisions, BERA and program staff shall agree on a final Project Description to use for the purposes of the Environmental Review.
8. The Written Project Description is typically iterative and will be revised during the course of the environmental review.

4.2 Step 2: BERA Determine the NEPA/SEQRA Classifications and Notifies Program on Decision

After defining the written project description, BERA then determines the level of environmental review needed for the activity. GOSR programs are subject to different levels of environmental review, depending on the type of proposed activity, purpose, and need. See NEPA and SEQRA classifications below:

NEPA Classifications:

- **Exempt (24 CFR 58.34):** Except for the applicable requirements of Section 58.6, GOSR does not have to comply with the requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law. Exempt activities still require written determination from BERA staff prior to the disbursement of any CDBG-DR funds. Exempt activities shall be referred to herein as “Minimal Review Activities.” Typical exempt activities include planning studies or other pre-construction activities. See Exhibit B for more detail on Exempt Activities.

- **CatEx(b) Activities (24 CFR 58.35(b)):** Except for the applicable requirements of Section 58.6, CatEx(b) Activities do not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in Section 58.5. When CatEx(b) Activities are undertaken, GOSR does not have to publish a NOI/RROF or execute a certification and the recipient does not have to submit a RROF to HUD except in extraordinary circumstances requiring a NEPA review. Typical examples of CatEx(b) activities include equipment purchase and working capital to small businesses. See Exhibit B for more detail on Categorically Excluded (b) Activities.
- **CatEx (a) Activities (24 CFR 58.35(a)):** CatEx(a) Activities require an analysis, using a checklist (24 CFR 58.5), to ensure that no “extraordinary circumstances” exist that would require a higher level of environmental analysis. The CatEx(a) examines how the laws cited in Section 58.5 apply to the project under review. CatEx(a) reviews also requires an assessment of whether the activities are in compliance with the laws set forth in Section 58.6. Typically CatEx(a) activities include building or structure rehabilitation and/or replacement in kind not increasing the footprint or capacity of the existing structure. See Exhibit B. for more detail on Categorically Excluded (a) Activities and Checklist.
- **Environmental Assessment (24 CFR 58.36):** If a project is not exempt or categorically excluded under Sections 58.34 and 58.35, BERA must prepare an Environmental Assessment. If the EA determines that the project will not result in any impacts, BERA publishes a Finding of No Significant Impact (“FONSI). If it is evident without preparing an EA that an EIS is required under Sec. 58.37, BERA proceeds directly to an EIS. Typical examples of EAs include funding for affordable housing projects and small infrastructure projects. See Section 5.0 and Exhibit B for more detail on the Environmental Review Process.
- **Environmental Impact Statement (24 CFR 58.37):** An Environmental Impact Statement (EIS) analyzes the environmental impacts of a proposed action and its alternatives, and displays them in a report for consideration in deciding which alternative (if any) to implement. The EIS also reveals the impacts to the public before the decision is made and provides an opportunity for the public to understand the impacts and influence the decision. An EIS is usually a more complex and lengthy document than an EA. An EIS is typically warranted for the construction of new infrastructure projects. See Section 6.0 and Exhibit B for more detail on preparing an EIS.

SEQRA Classifications:

- **Type I (6 NYCRR 617.4):** A Type I action means an action or class of actions that is more likely to have a significant adverse impact on the environment than other

actions or classes of actions. Type I actions are listed in the statewide SEQRA regulations (at 6 NYCRR 617.4), or listed in any involved agency's SEQRA procedures. The Type I list in 617.4 contains numeric thresholds; any actions that will equal or exceed one or more of the thresholds would be classified as Type I. Unlisted actions may become Type I actions if they are undertaken in, or adjacent to, particular locations specified on the statewide Type I list such as sites on, or eligible for listing on, the NYS or National Registers of Historic Places; publicly owned or operated parkland, recreation area or designated open space; or National Natural Landmarks. In addition, any non-agricultural use that exceeds 25 percent of any Type I threshold in 617.4 also becomes a Type I action.

- **Type II (6 NYCRR 617.5):** Type II actions are those actions which by operation of law do not have significant adverse impacts on the environment. Type II actions are listed at 6 NYCRR 617.5 and do not require preparation of an EAF, a negative or positive declaration, or an EIS. Any action or class of actions listed as Type II in 617.5 requires no further processing under SEQR. There is no documentation requirement for these actions, although it is recommended that a note be added to the project file indicating that the project was considered under SEQR and met the requirements for a Type II action. The agency classifying the action must make sure that all aspects of the whole action are included when determining that an action is Type II. Additionally, the applicant or agency working with the action must keep in mind that, although an action is classified as Type II under SEQR, it must still comply with all relevant local laws and ordinances and meet all the criteria or standards for approvals.
- **Unlisted:** An Unlisted action is one that is not included in statewide or individual agency list of Type I or Type II actions.
- **Environmental Impact Statement (24 CFR 58.37):** An Environmental Impact Statement (EIS) analyzes the environmental impacts of a proposed action and its alternatives, and displays them in a report for consideration in deciding which alternative (if any) to implement. The EIS also reveals the impacts to the public before the decision is made and provides an opportunity for the public to understand the impacts and influence the decision. An EIS is usually a more complex and lengthy document than an EA. An EIS is typically warranted for construction of new infrastructure projects. See Section 6.0 and Exhibit B for more detail on preparing an EIS.

4.3 Step 3: BERA Fills Out Statutory Checklist According to Requirements Set Forth in 24 CFR 58.6

In addition to complying with NEPA requirements, GOSR must also comply with other Federal requirements cited at 24 CFR 58.6. Compliance outcomes must be documented and included as part of the ERR for each project subject to these requirements.

All programs or projects must demonstrate compliance with related laws and regulations cited in 24 CFR 58.6, which include the Flood Disaster Protection Act of 1973, the Coastal Barrier Resources Act, and Runway Clear Zones (Notification). A copy of this statutory checklist is attached to this document in Exhibit A.

Note: This is required for all classifications of actions, including Minimal Review Activities.

The statutory checklist serves as a gatekeeper for activities that are limited or, in some cases, categorically barred for federal funding. Many GOSR programs or projects are not affected by the limitations or categorical funding exclusions expressed in the statutory checklist. However, programs providing funding in floodplains, floodways, or in certain coastal barrier resource areas may be restricted by the laws set forth in this checklist.

4.3.1 BERA Responsibilities in complying with 24 CFR 58.6

- Based on the Final Project Description, BERA is responsible for determining the applicability and/or compliance with the statutory checklist.
- If one or more of the regulations of 24 CFR 58.6 is found to be applicable to the program or project, BERA shall describe in writing which of the statutory checklist items apply to the project or program, and the effect that applicability has on the project or program. BERA notifies program staff as expeditiously as possible, that the applicability of the statutory checklist may severely limit or prohibit the activities described in the Final Project Description.

4.4 Step 4: BERA Oversees Environmental Consultants in Conducting Review According to 24 CFR 58.5

Programs or projects classified as CatEx (a), requiring an EA or an EIS must demonstrate compliance with related laws and regulations cited in 24 CFR 58.5, which include:

- Historic Properties
- Floodplain Management
- Wetlands Protection
- Coastal Zone Management
- Sole-Source Aquifers
- Endangered Species
- Wild and Scenic Rivers
- Air Quality
- Farmlands Protection
- Noise
- Thermal/Explosive Hazards
- Runway Clear Zones (development)

- Hazardous Materials and HUD Environmental Standards
- Environmental Justice
- Lead-Based Paint and Asbestos-Containing Materials

This review usually requires involvement of an environmental consulting firm and may require consultation with several State and/or federal agencies to determine the applicability of various laws to individual projects or programs. For instance, historic review generally requires consultation with the NYS Historic Preservation Officer, or “SHPO.”

BERA oversees environmental consultants in conducting reviews according to the laws set forth in 24 CFR 58.5.

- For **project specific reviews**, BERA oversees the analysis of the applicability and, as necessary, procedures to comply with the laws set forth in 24 CFR 58.5 and documents necessary to demonstrate compliance, which is placed in the ERR.
- For **tiered reviews**, BERA oversees the preparation of the Tier I document analyzing the applicability or potential applicability of the laws set forth in 24 CFR 58.5. If specific laws are deemed applicable or potentially applicable, BERA describes the Tier II procedures to review specific sites for compliance with any applicable requirements. If a particular criteria is inapplicable (i.e. there are no coastal zones in the program area), the Tier I document states “no Tier II review required” and describes why the criteria is inapplicable on the Statutory Checklist. If a particular criteria is applicable (i.e. there are coastal zones in the program area) the Tier I document states “Tier II review required” and describe review instructions on the Statutory Checklist.

4.5 Step 5: When applicable, BERA Supervises Preparation of the Environmental Assessment Checklist and the Environmental Assessment Narrative Sections

Programs or projects classified as requiring an EA pursuant to 24 CFR 58.36 must complete the EA Checklist as well as the Statutory Checklist because of their potential for significant impact to the environment. See Section 5.0 for more details on completing an Environmental Assessment.

If environmental impacts are likely, the project or program can forego preparation of the EA and proceed directly to preparation of an environmental impact section. See Section 6.0 for more details on preparing an EIS.

4.6 BERA Reviews or Prepares Environmental Assessment Form under SEQRA

A Full Environmental Assessment Form (FEAF) must be submitted to or prepared by the lead agency for all Type I actions. The lead agency must always coordinate the SEQRA review process with other involved agencies for all Type I Actions. A Type I Negative Declaration or Positive Declaration must be filed with the chief executive officer of the political subdivision where the action is located, the lead agency, all involved agencies and persons or parties who have requested a copy; it must also be published in the Environmental Notice Bulletin (ENB). Notice of a negative declaration must be incorporated once into any other subsequent notice required by law. This requirement can be satisfied by indicating the SEQR classification of the action and the agency's determination of significance.

A short Environmental Assessment Form (EAF) may be used as the basis for a determination of significance for Unlisted actions. Coordinated review is not required for an Unlisted action. Unlisted negative declarations are not required to be published or noticed

Type II actions are listed at 6 NYCRR 617.5 and do not require preparation of an EAF, a negative or positive declaration, or an EIS. Any action or class of actions listed as Type II under 6 NYCRR 617.5 requires no further processing under SEQRA. There is no documentation requirement for these actions, although BERA typically prepares Type II memorandum to be placed into the ERR when appropriate. BERA must ensure that all aspects of the action are included when determining that an action is Type II. Additionally, although an action is classified as Type II under SEQRA, it must still comply with NEPA, federal and state permitting requirements, all relevant local laws and ordinances and meet all the criteria or standards for approval.

Negative and Positive Declarations, as well as EIS notices and findings, must be reported to the Housing Trust Fund Corporation or Housing Finance Agency Board of Directors upon execution.

4.7 BERA Makes an Requisite Environmental Finding

Following completion of the applicable level of environmental review, GOSR complies with the procedural requirements for issuing the environmental determinations.

For activities that require minimal review (i.e., exempt activities) BERA staff provides program staff with a signed written environmental clearance demonstrating compliance with Section 58.6. The document also provides a detailed description of the nature of the activities in order to document that they fall within Section 58.34. Exemptions can be signed by the Certifying Officer(s), the Planner(s), or the Environmental Records

Manager. The Environmental Records Manager then places the determination in the standalone environmental ERR.

For CatEx(b) activities, BERA staff provides program staff with a signed document demonstrating compliance with Section 58.6. If the project implicates one of the provisions set forth in Section 58.6, BERA notifies the program that the activities cannot be cleared or must be modified. The document also provides a detailed description of the nature of the activities in order to document that they fall within Section 58.35(b). CatEx(b) determinations can be signed by the Certifying Officer(s), the Planner(s), or the Environmental Records Manager. For CatEx(b) activities, GOSR does not have to publish a NOI/RROF or execute a Certification or submit a RROF to HUD. For flow chart on the Environmental Review Process see Exhibit C.

For CatEx(a) activities, BERA staff provides program staff with a signed document demonstrating compliance with Sections 58.5 and 58.6. If the project implicates one of the provisions set forth in Sections 58.5 or 58.6, BERA notifies the program that the activities cannot be cleared or must be modified. The document also provides a detailed description of the nature of the activities in order to document that they fall within Section 58.35(a). CatEx(a) determinations must be signed by the Certifying Officer(s). For CatEx(a) activities, must publish a NOI/RROF and submit a RROF and Certification to HUD. For flow chart on the Environmental Review Process see Exhibit C.

5.0 Environmental Review Process: Environmental Assessments

5.1 Preparing the Environmental Assessment

If an EA is required, BERA prepares the EA using the HUD recommended format. BERA also will make best efforts to share draft EAs with HUD's Regional Environmental Office or other agencies with jurisdiction based on specific project issues and concerns. BERA will make best efforts to circulate draft EAs to these stakeholders prior to the publication of the FONSI. In preparing an EA for a particular project, BERA does the following:

- a. In close consultation with program staff, drafts a detailed project description and provides a statement of the project's purpose and need.
- b. Determines existing conditions and describe the character, features and resources of the project area and its surroundings; identifies the trends that are likely to continue in the absence of the project.
- c. Identifies all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.
- d. Identifies, analyzes and evaluates all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance under related laws and authorities cited in Sec. 58.5 and Sec. 58.6.
- e. Examines and recommends feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.
- f. Examines alternatives to the project itself, if appropriate, including the alternative of no action.
- g. Completes all environmental review requirements necessary for the project's compliance with applicable authorities cited in Section 58.5 and 58.6.

Based on steps set forth in paragraph (a) through (g) of this section, BERA makes one of the following findings:

1. A Finding of No Significant Impact (FONSI), in which BERA determines that the project is not an action that will result in a significant impact on the quality of the human environment. The responsible entity may then proceed to Sec. 58.43, which specifies applicable public notice and comment requirements.
2. A finding of significant impact, in which the project is deemed to be an action which may significantly affect the quality of the human environment. The responsible entity must then proceed with its environmental impact statement.

5.2 Dissemination and/or publication of the FONSI

If BERA makes a Finding of No Significant Impact, it must prepare a FONSI notice, using the current HUD-recommended format or an equivalent format. This notice must be distributed via publication/posting and mailing. At a minimum, BERA must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies, to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office. BERA must also publish the FONSI notice in a newspaper of general circulation in the affected community. If the notice is not published, it must also be prominently displayed in public buildings, such as the local Post Office and within the project area or in accordance with procedures established as part of the citizen participation process. To evidence the dissemination of the FONSI or FONSI/NOI/RROF, BERA typically collects affidavits of publication and mailing.

BERA will likely disseminate or publish a FONSI notice at the same time it disseminates or publishes the NOI/RROF required by 24 CFR 58.70. If the notices are released as a combined notice, the combined notice shall:

1. Clearly indicate that it is intended to meet two separate procedural requirements; and,
2. Advise the public to specify in their comments which “notice” their comments address.

BERA must consider the comments and make modifications, if appropriate, in response to the comments, before it completes its environmental certification and before the recipient submits its RROF. Modifications resulting from public comment, if appropriate, must be made before proceeding with the expenditure of funds.

5.3 Public Comment

Required notices must afford the public the following minimum comment periods, counted in accordance with Sec. 58.21:

- a. **Notice of Finding of No Significant Impact (FONSI):** 15 days when published or, if no publication, 18 days when mailing and posting
- b. **Notice of Intent to Request Release of Funds (NOI-RROF):** 7 days when published or, if no publication, 10 days when mailing and posting
- c. **Concurrent or combined notices:** 15 days when published or, if no publication, 18 days when mailing and posting.

5.4 Time Delays for Exceptional Circumstances

BERA must make the FONSI available for public comments for 30 days before the recipient files the RROF when:

- a. There is a considerable interest or controversy concerning the project;
- b. The proposed project is similar to other projects that normally require the preparation of an EIS; or
- c. The project is unique and without precedent lays for exceptional circumstances.

6.0 Environmental Review Process: Preparing an Environmental Impact Statement (EIS)

The procedures for preparing an EIS are set forth in 24 CFR Subpart G. For projects requiring an EIS, BERA shall follow the substantive and procedural obligations set forth in that section and shall abide by the following principals:

- When preparing an EIS, BERA shall ensure that the document meets the substantive and procedural requirements of both NEPA and SEQRA so that the reviews can be conducted concurrently;
- BERA shall engage in early consultation with federal and state agencies to inform the scope of the EIS, particularly in technical or specialized areas within the expertise of the respective resource agencies. For infrastructure projects, BERA will utilize the Sandy Regional Infrastructure Resiliency Coordination committees and technical teams to facilitate this early consultation; and,
- BERA shall consider using the public scoping and other avenues of public input to enhance the EIS.

7.0 Additional Considerations for Step by Step Process for Tiered Review

In most cases HUD Disaster Recovery funded activities begin with a clearly defined scope of work in a very specific location. For these activities, the environmental review consists of a straight forward and focused evaluation of conditions at the project site. Certain programs, however, such as the GOSR Homeowner Program, can involve the execution of activities at scattered sites within a targeted geographic area. Often, Disaster Recovery grantees cannot immediately identify specific project sites at the beginning of a grant period. A tiered environmental review (**24 CFR 58.15**) allows GOSR to streamline the environmental review process for these programs that include repetitive activities at scattered locations around the state of New York.

Tiering as defined in (24 CFR §58.15) is a means to environmentally assess a project in the early stages of development or when site-specific analysis is not currently feasible, resulting in a more focused evaluation once additional information and/or sites are known. Tiering is commonly used for demolition only projects in which some structures proposed for demolition may be known at the time of the Tier I Review with additional structures being considered later in the project. A tiered environmental review consists of two distinct steps:

- A **programmatic Tier I** review and
- A **site-specific Tier II** review

7.1 Tier I Considerations

The Tier I environmental review involves a broad analysis of relevant, general environmental conditions in a program target area. The Tier I review also provides structure for the Tier II review by establishing procedures for site-specific environmental compliance. The Tier II review focuses on site-specific environmental conditions that cannot be adequately evaluated at the Tier I level.

The Tier I Review is completed to obtain environmental approval for the project as a whole, with the understanding that additional activities and/or sites will be added later in the project. The Tier I establishes a plan for the site-specific or subsequent reviews and addresses impacts that may occur on a typical site. The Tier II also provides a geographic designation of the area or region of potential Tier II sites. For large-scale county-wide or multi-county projects, the Tier I may designate specific priority areas within the counties and explain why they are areas of interest. Additionally, the Tier I addresses all laws and authorities for known sites and activities via the *Environmental Assessment* or *Statutory Checklist*, whichever is applicable to the level of review required, and is used to publish the applicable public notice(s) (NOI or Combined Notice and floodplain notices, if applicable). Public notices must clearly state the utilization of a tiered review approach.

For each compliance area in the Statutory and Environmental Assessment Checklists in a Tier I environmental review, grantees must provide either:

- A description of general conditions in the target area and a procedure for site-specific compliance; or
- A narrative explanation that describes why a compliance area is not relevant to the eligible activities included in the program design.

To determine the relevance of the various compliance areas, BERA considers the scope of eligible activities and their potential relationship with different environmental conditions. No further coordination is required for a compliance area if a program's eligible activities have no potential to affect it. For example, programs restricted exclusively to structural rehabilitation is not likely to affect Endangered Species or Wild and Scenic Rivers.

The size of the target area will often determine the level of detail possible in a Tier I review. For example, it is appropriate and worthwhile to include floodplain maps for a neighborhood or city target area; whereas this type of information is not particularly useful in a county-wide analysis. If sufficient detail is not attainable in the Tier I review, the Tier I simply describes a process for Tier II compliance. The description should include a summary of any applicable technical research, and a procedure for coordination with regulatory agencies.

Following completion of the public comment period, BERA submits the RROF to HUD on the basis of the Tier I programmatic review. If acceptable, HUD then issues an ATUGF for the entire program, and thus individual RROFs are not needed for each site specific Tier II review.

7.2 Tier II: Site-Specific Environmental Review

When specific sites are selected for the program (e.g., a specific eligible home in the Housing program) the Tier II review is conducted.

Using the Site-Specific Tier II form, BERA completes a review specific to each additional site identified through the course of the project. As long as Tier II Reviews address sites and activities established in the Tier I Review, and there are no significant and/or unanticipated impacts at each tiered site, then public notices and the RROF and Certification process are not required and site-specific activities may commence. An example of the current Tier II checklist for the Housing and Buyout/Acquisition programs is annexed as Appendix A.

The Tier II review will specify closeout items needed for each individual applicant. For instance, if an applicant was required to elevate, the applicant cannot be closed out of the program until the applicant submits an elevation certificate specifying that the elevation meets the one foot above base flood elevation standard. Closeout documentation is also required to satisfy other environmental requirements, such as lead paint and asbestos regulations, and flood insurance requirements. BERA's protocol for collecting and

7.2.1 Tier II Closeout for the Housing Program

The largest programmatic Tier I/Tier II review conducted by BERA is for the single family housing program. GOSR conducted over 10,000 Tier II site specific reviews for specific homes enrolled in the program. Before homeowners can be closed out of the program (i.e, receive final payment), GOSR environmental staff must review the Tier II closeout items. If the closeout items are properly submitted, GOSR completes the environmental closeout checklist and submits it to program. If documents are missing, BERA notified program that the file is not ready for closeout until certain environmental issues are addressed. All documents necessary for closeout are incorporated into the standalone ERR for each individual home. A copy of the Tier II closeout form is annexed in Exhibit A. For applicants falling within the "Reimbursement Only" category, a similar process is followed, except that all documents must be submitted to BERA before the Tier II can be signed. If documentation is not submitted, the home remains on the "Waiting for Documents" list.

BERA will develop similar closeout processes for each of its environmental reviews where a closeout is required, including the collection of all permits needed for

construction projects. If work consists of reimbursement, all permitting documents must be submitted before the review can be signed.

7.2.2 Tier II Re-Review

GOSR has created an optional elevation program to increase resiliency within the 100-year floodplain. Thus, eligible applicants who have homes within the 100-year floodplain may request funding for home elevation even if the applicant was not substantially damaged or did not substantially improve their home. The elevation project may be applied for and approved after the signing of the revised Tier II.

GOSR therefore has initiated a rigorous Tier II re-review policy to ensure that conditions set forth in the Tier II are adhered to as part of the home elevation project, or, if necessary, are modified. This Tier II re-review focuses on four central review categories in the Tier II that are potentially implicated by the elevation project: historic review under Section 106 of the National Historic Preservation Act; assessment for hazards posed by lead based paint; assessment for hazards posed by asbestos containing materials; and impacts on wetland buffer areas. Until any and all issues in these four categories are resolved to the satisfaction of BERA, the homeowner will not receive construction funding to proceed with the elevation. BERA has established a checklist to conduct this assessment, and internal controls in the IntelliGrants system to serve as a control mechanism. A copy of the Tier II Re-Review checklist is annexed as Exhibit A.

8.0 Program Specific Considerations

8.1 Buyout and Acquisition Program

8.1.1 Program Overview

The NY Rising Buyout Program

The GOSR facilitates the identification and purchase of eligible substantially damaged properties (>50% of the pre-storm value of the property) inside the floodplain in storm-impacted areas defined as “enhanced buyout areas.” These areas are at highest risk in the floodplains determined to be among the most susceptible to future disasters, therefore presenting a greater risk to people and property. The State will conduct purchases inside of the enhanced buyout areas as “buyouts”, as defined by HUD, whereby they will be eligible for purchase starting at 100% of the property’s pre-storm fair market value (FMV), plus available incentive(s). In accordance with the Notice governing the use of these funds, properties purchased as a “buyout” will be maintained in perpetuity as coastal buffer zones or other non-residential/commercial uses, and may also include acquisition of vacant or undeveloped land in these targeted areas.

The NY Rising Acquisition Program

The GOSR conducts purchases outside of the enhanced buyout areas as “acquisitions”, as defined by HUD, whereby purchase offers must begin with the post-storm fair market value of the property. In these instances, however, the State proposes to supplement this post-storm FMV with an added homeowner resettlement incentive equal to a maximum of the difference between the post-storm and pre-storm values of the property. Properties purchased as “acquisitions” are eligible for redevelopment in the future in a resilient manner to protect future occupants of this property. The post-purchase uses of acquired properties are determined by the State in consultation with local officials to ensure that the properties best serve the future goals of the community. In some cases, the properties remain undeveloped and are transformed into parks or other non-residential uses, while in most cases they are redeveloped in a resilient manner.

8.1.2 Environmental Review Process

The following section provides a brief overview concerning the framework of environmental review for the BOA program, and the coordination between BERA and program staff.

General Review Framework: The environmental review for the BOA program was conducted as a Tier I Programmatic, with Tier II site specific reviews for individual BOA sites. The Tier II reviews are conducted prior to purchasing the BOA site. Program has been advised that no site can be purchased until the completion of environmental review.

Coordination with Program Staff: BERA staff meets with program staff at a minimum of once each week to discuss the environmental review for the program. BERA also consults with program staff as necessary.

Tier II Compliance: BERA staff advises program staff on Tier II requirements, particularly concerning the demolition of purchased homes. BERA advises program staff and program contractors on requirements such as historic review, asbestos surveys/abatement, and wetland/storm water permitting requirements. BERA will collect compliance documentation from program and include it with the standalone ECR.

8.2 Community Reconstruction Program

8.2.1 Program Overview

The NY Rising Community Reconstruction Program (NYRCR) is a planning and implementation process established to provide rebuilding and resiliency assistance to communities severely damaged by Hurricane Irene, Tropical Storm Lee, Superstorm Sandy, and the summer floods of 2013.

The NYRCR Program is a combination of bottom-up community participation and State provided technical expertise to 45 communities. This approach recognizes community members as being best positioned to assess the needs and opportunities of the places where they live and work, and provides them with informed rigorous analysis and the latest innovative solutions so they can make knowledgeable decisions. The goal is to empower the State's most impacted communities with the technical expertise needed to develop thorough and implementable reconstruction plans to build physically, socially, and economically resilient and sustainable communities so as to rebuild New York's communities in a way that mitigates against future risks and builds increased resilience. An overview of each program in more detail can be found in the Community Reconstruction Manual.

8.2.2 Environmental Review Process

General Review Framework: CR projects vary in type and geography and thus are subject to individualized, project specific reviews. In general, the review for the project will be conducted by BERA, with GOSR as the responsible entity. On occasion, BERA may, in specific circumstances (e.g., large projects only partly funded by CDBG-DR). BERA may request or allow the subrecipient to perform the environmental review. In such circumstances, BERA will work closely with the entity performing the review. The subrecipient agreement mandates that no choice limiting action (including acquisition or construction activities) can be taken until the completion of environmental review.

Coordination with Program Staff: BERA meets with Program staff, at minimum, on a weekly basis, to discuss ongoing or upcoming reviews. BERA staff closely consults with program staff on the level of project design needed to perform the environmental review.

Ongoing Compliance: The subrecipient agreement requires that the subrecipient retain an environmental monitor for construction projects. This monitor shall document compliance with any conditions of the environmental review and provide reports to BERA, which shall review them and if sufficient, place them in the ERR. If the compliance documents are not sufficient, BERA will direct program to require the subrecipient to take any necessary corrective action to resolve the deficiency.

8.3 Housing Recovery Program

8.3.1 Housing Recovery Program Overview

New York State has created a number of individual programs under the NY Rising Housing Recovery Programs. These programs will provide assistance for repairing damaged property, reconstructing damaged homes, mitigating damaged properties for future resilience, reimbursing Applicants who have already begun repairing their homes, and special provisions for two-unit owner-occupied homes. An overview of each program can be found in the Housing Recovery Program Policy Manual. Many Applicants will participate in more than one of these activities.

8.3.2 Environmental Review Process

General Review Framework for Single Family, Rental Properties, 5+ Residential Properties, and Bulkhead Program: The environmental review for the Housing Recovery programs were conducted as a Tier I Programmatic reviews, with Tier II site specific reviews for individual sites. The Tier II reviews are conducted prior to awarding funding to program applicants. The single family housing program also provides funding for optional elevation for eligible applicants located within the 100-year flood plain. As described in Section 7.2.2 above, BERA re-reviews the Tier IIs for applicants prior to the award of construction funding to evaluate compliance with Section 106 historic review, asbestos and lead abatement requirements, and wetlands permitting requirements.

With one exception, all housing programs have issued written directive instructing applicants to refrain from construction work pending completion of environmental review. With respect to the single family housing program, GOSR, based on exigent facts and circumstances, exercised its discretion as Grantee and Responsible Entity took other “appropriate action” as documented in the letter to HUD annexed in Exhibit A.

Coordination with Program Staff: BERA meets with program staff a minimum of four days per week. The Housing Program also has a position for a designated staff member specifically dedicated to environmental review and compliance issues.

Ongoing Compliance: As discussed in Section 7.2.1 above, BERA collects all documentation regarding Tier II compliance before homeowners are closed out of the program. BERA has developed a procedure with the Housing Program to ensure that Tier II compliance is integrated into the closeout process. Additionally, as explained in

Section 7.2.2, BERA re-reviews Tier IIs prior to homeowners receiving construction funding for optional elevation. Any necessary compliance actions must then be addressed before or as part of the elevation project.

If any deficiencies are identified in environmental review documentation for the Housing Program, BERA staff initiate corrective actions, including additional consultation and if necessary additional mitigation, to resolve such deficiencies. Documentation of corrective actions will be set forth in the ERR.

General Review for CDBG-DR Standalone Affordable Housing Projects: In addition to the repair and rehabilitation programs, BERA also oversees environmental review for CDBG-DR funded new affordable housing projects. These reviews are conducted as standalone, project specific reviews. As these projects may also receive other HUD funding, BERA makes best efforts to coordinate its reviews with HUD reviews applicable to other funding mechanisms.

Coordination with Program Staff: See above. Coordination on these ongoing reviews will be conducted during the weekly scheduled meetings with Housing Program.

Ongoing Compliance: BERA will require grant recipients to provide all permits and other documentation of compliance with conditions set forth in the environmental review. This information will be required prior to project closeout. BERA will also coordinate with GOSR monitoring and compliance to conduct onsite environmental monitoring of specific projects, particularly if the projects must address complex environmental issues., such as endangered species, wetland permitting, or historic mitigation.

8.4 Small Business Recovery Program

8.4.1 Overview of the Small Business Recovery Program

NY Rising Small Business Recovery Program has two types of assistance: small business grants and small business loans. Both assistance programs can be used for the repair or replacement of needed equipment, replacement of lost inventory, renovation of facilities that were damaged or destroyed, and mitigation of damaged properties for future resilience. Working capital requests are limited to grant assistance only. For more information please read the Small Business Recovery Program Policy Manual.

8.4.2 Environmental Review Process

General Review Framework: Each small business project is subject to an individual environmental review. Generally, program activities either qualify as CatEx(b) (equipment purchase and working capital grants) or CatEx(a). For projects that do not meet these categories, BERA performs EAs for individual projects. The small business program has directed its applicants to refrain from choice limiting actions pending clearance of environmental review.

Many applicants have applied for funding for both CatEx(b) activities and construction activities (requiring either an EA or CatEx(a)). The Program is permitted to “split” CatEx(b) activities and construction activities for environmental review purposes. Thus, businesses may have two environmental clearance (one for CatEx(b) activities and one for construction activities) within the ERR.

Coordination with Program Staff: Generally, BERA meets a minimum of two days per week with program staff. BERA also regularly advised Program staff on project information needed to conduct the environmental review. BERA also offers technical assistance on permitting requirements.

Ongoing Compliance: For reimbursement awards, BERA requires that any necessary permitting documents be included in the environmental review prior to issuance of the awards. For future work, BERA works closely with program staff to advise applicants of the permitting requirements, which are a condition of receiving funding assistance.

8.5 Infrastructure

8.5.1 Non-Federal Share Match Program

Federal programs require that States and localities pay a portion of the grant award as a condition of receiving funds. Following a disaster, the size of the matching funds can exceed a locality’s available budget for this activity. In most cases, federal funds cannot be used to provide a source of local matching funds. However, the U.S. Congress has allowed U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant Disaster Recovery (CDBG-DR) funds to be used as a local community’s share of the required non-federal match.

The Non-Federal Match Payment Program provides the non-federal share to public entities (applicants) that have received disaster recovery funds from various federal agencies to address impacts from Hurricane Irene (4020), Tropical Storm Lee (4031), or Superstorm Sandy (4085) to repair, rebuild, replace and/or mitigate damage sustained from these events.

The program assists public entities with match obligations primarily from three federal agencies: Federal Emergency Management Agency (FEMA), Department of Transportation (DOT) and Environmental Protection Agency (EPA). The State may add additional federal disaster recovery programs to this list.

8.5.2 Environmental Review Process

General Review Framework: Standalone CDBG-DR Infrastructure Projects (including “Rebuild by Design”): For standalone infrastructure projects (projects predominantly or fully funded through CDBG-DR and/or projects where GOSR is serving as the project lead), BERA conducts standalone environmental reviews for each project. BERA conducts a preliminary review of infrastructure projects and, in its discretion, may

determine to proceed directly to performing an EIS. BERA will closely engage with local, state, and federal agencies early in the review process to identify permit and consultation needs. BERA will utilize the Sandy Regional Infrastructure Resilience process to facilitate consultation with key governmental stakeholders.

FEMA Match Program: Public Law 113-2 permits BERA to adopt environmental reviews prepared by other agencies concerning projects funded under specific provisions of the Stafford Act. BERA utilizes this provision when providing match payments for the FEMA Public Assistance Program or the FEMA Hazard Mitigation Program. BERA makes best efforts to coordinate with FEMA prior to its completion of the environmental review to ensure that all CDBG-DR funded components are captured within the scope of the FEMA review. Under certain circumstances, BERA may take the lead for Hazard Mitigation Program reviews and, in such instances, while make best efforts to coordinate the environmental reviews with FEMA.

BERA ensures that subrecipients and/or vendors for infrastructure projects do not start work until the completion of environmental review. This is extensively communicated to subrecipients by the program's grant consultants.

Coordination with Program Staff: BERA meetings with the Infrastructure Program at least once per week, with separate meetings concerning the Rebuild by Design projects.

Ongoing Environmental Compliance: Infrastructure projects may require extensive federal and state permitting. BERA will require all subrecipients to properly obtain all necessary permits prior to commencing work. GOSR shall collect documentation of permitting and permit compliance and include this information in the standalone ERR. Should GOSR directly undertake any infrastructure projects, BERA will ensure that such projects obtain proper permits and that an environmental monitor is retained to evaluate permit compliance during construction activities.

9.0 BERA Re-Evaluation of Environmental Assessments and Other Environmental Findings

The recipient or GOSR program may make changes to the activities in a project, change the project area, or receive additional funds for a project activity that has previously received environmental clearance (**Release of Funds**). Changes to a project may require BERA to conduct a re-evaluation of the completed EA or EIS. The purpose of a re-evaluation is to determine if the findings in the original EA remain valid or if a new EA or EIS need to be conducted. Memorandums documenting Re-Evaluations shall be retained in the ERR.

9.1 Conditions requiring re-evaluation of environmental findings

BERA must re-evaluate its environmental findings using form “GOSR Checklist for Re-Evaluating Environmental Findings” to determine if the original findings are still valid, when:

1. The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;
2. There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or
3. The recipient proposes the selection of an alternative not in the original finding.

If the original findings are still valid but the data or conditions upon which they were based have changed, the responsible entity must affirm the original findings and update its ERR by including this re-evaluation and its determination based on its findings. Under these circumstances, if a FONSI notice has already been published, no further publication of a FONSI notice is required.

If the responsible entity determines that the original findings are no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts.

10.0 Vendor Procedure

In general, BERA utilizes pools of pre-qualified vendors to perform environmental services. BERA assigns work to these pre-qualified members by (1) direct negotiation on a particular scope of work with one or more pre-qualified vendor or, (2) use of a mini-bid process amongst the pre-qualified pool of qualified vendors. BERA consults with the GOSR Procurement and GOSR Vendor Management departments to ensure its practices conforms to current GOSR policies and procedures. BERA's assignment of contractors to specific tasks must be vetted through the GOSR task order procedures before the contractor can begin work on a particular task order.

BERA maintains a full record of its direct assignment and mini-bid assignments. This record is updated and maintained by the BERA Project Coordinator.

10.1 Direct Assignment and Mini-Bid Assignment Protocol

When a new task or new scope of work is identified, the Director and the Deputy Director consult on whether or not to enter into a direct negotiation with a pre-qualified vendor, or to mini-bid amongst a pool of pre-qualified vendors. A number of factors are considered in awarding task orders:

1. Technical difficulty of the scope of work;
2. Familiarity and experience the firm has with a similar project or scope of work;
3. Ability to establish cost reasonableness based on prior mini-bids;
4. Assessment of cost reasonableness based on a comparison of similar projects located in a particular geographic region;
5. Ability to utilize Minority- or Women- Owned Business Enterprises (M/WBE) firms; and,
6. Any other factors relevant to establishing cost reasonableness and technical proficiency for performing a particular task.

BERA documents all factors considered in establishing suitability and cost reasonableness in the Task Order/Word Order Memo, described below. If direct assignment does not result in a cost reasonable budget BERA will utilize the mini-bid assignment process.

To assign task orders by mini-bid, BERA issues a mini-bid proposal to a pre-qualified pool of vendors. The mini-bid must be within the scope of services offered by the pre-qualified vendor. BERA confers with GOSR Procurement when issuing its mini-bids, and makes available any and all responses to GOSR Procurement, GOSR Vendor Management, and GOSR Monitoring and Compliance, as necessary. At the same time, the vendors have 7-10 business days (dates are specified on the mini bid) to either respond with a proposal or to submit any questions needed for further clarification. In response to the questions, the Director and/or the Deputy Director will issue both the

questions and answers to ALL vendors or convene a conference call with all vendors to ensure a fair and balanced process. This will also take place within the designated time frame with the expectations all submissions are due by the last specified date.

Within the Task Order/Work Order Memo, BERA will provide justification on its award of a mini-bid to a particular firm or firm(s). BERA will retain a copy of all mini-bids and mini-bid responses in its files. BERA also has discretion to conduct further negotiation with particular pre-qualified vendors following the mini-bids to achieve cost reasonableness for a particular scope of work.

10.2 Task Order/Work Order Memo

After a vendor has been tentatively assigned through the direct assignment or mini-bid assignment process, an internal Task Order/Work Order Memo (“Memo”) and associated Task Order must be prepared and circulated for approval. This section shall provide the protocol for BERA’s implementation of this process. Both the GOSR Task Order /Work Order Memo and Task Order templates can be found on the GOSR SharePoint page, along with instructions on how to complete the forms.

The Task/Work Order Memos can be prepared by the Director, the Deputy Director, or Project Coordinator. All Task Orders must be prepared by either the Director or Deputy Director. All Task Order/Work Order Memos must be signed off by the Director, Director of Vendor Management and the Director of Finance. If the Director is not available, the Task Order Memos may be signed by the Deputy Director. All Task Order/Work Order Memos must be accompanied by the negotiated Task Order.

Both the draft Memo and Task Order should be provided to the Project Coordinator. The Coordinator will:

1. Send a copy of the draft Memo and Task Order to Vendor Management for review and approval. The Project Coordinator will facilitate responses to any inquiries or revisions requested by Vendor Management or GOSR Finance. The Project Coordinator will consult with the Director/Deputy Director as necessary to respond to such inquiries.
2. Once finalized, Vendor Management will coordinate the internal approvals of the Memo by the GOSR Program Director, Vendor Management, and GOSR Finance. Final signed copy should be emailed to the Project Coordinator for tracking and record keeping on H: drive and Smartsheet.
3. Once approved, Vendor Management will issue the Task Order to the vendor for approval. The vendor should execute the Task Order by scanning one signed copy to Vendor Management and mailing three signed original copies to GOSR.
4. Once received, Vendor Management will coordinate final approval by the Executive Director of GOSR.

5. Once finalized, Vendor Management provides a PDF copy of the final Task Order to the Project Coordinator who in turn maintains all Task Orders on the H: Drive and Smartsheet.
6. Once approved, a copy and notification is sent to the Environmental Program Coordinator who in turn notifies the Director and Deputy Director.

The Project Coordinator is responsible to track the status of above-described process and make efforts to ensure the process follows the appropriate steps and moves efficiently through the process.

10.3 Vendor Management and Invoicing

The Project Coordinator is responsible for obtaining the Monthly Vendor Report from each vendor at the end of each month. The Project Coordinator reviews each report for its sufficiency, requests additional information as necessary, and prepares a final version of each monthly report for the review and approval of the Director. In reviewing the report, the Project Coordinator should review each task order and each task order budget to ensure that the vendor remains within the scope and budget set forth in the task order.

The Project Coordinator also facilitates review, payment, and recordkeeping of vendor invoices. All invoices must be signed and approved by the Director. Once the Project Coordinator receives an invoice, the Project Coordinator takes the following actions.

1. The Project Coordinator reviews the invoices to ensure that it identifies the appropriate task order, provides sufficiently detailed records of each vendor's staff members' time and tasks, correlates with the applicable monthly report covering the period of the invoice, and within the scope and budget of the applicable task order.
2. The Project Coordinator concurrently forwards the invoice to GOSR Construction Management. GOSR Construction Management shall conduct a second-tier review of the invoice and prepare a cover sheet noting any questions or deficiencies with the invoice.
3. The Project Coordinator will also concurrently consult with the Director and/or Deputy Director concerning the invoice to ensure that it is reasonable in light of the tasks performed.
4. Project Coordinator shall complete this process within 5 days from receiving an invoice. If an invoice is deemed unacceptable during or following the five day period, the Project Coordinator will send a correspondence to the Vendor regarding the deficiencies of the invoice and informing the Vendor that the invoice will not be paid until the deficiencies are addressed.
5. Following this consultation and review process, the Project Coordinator will present the invoice to the Director for final review and approval. If acceptable, the Director will sign the invoice.

6. The Project Coordinator keeps a record of the approved final invoices and documentation of the review and consultation process in the H: Drive.
7. The Project Coordinator will submit the signed off version to the Senior Financial Analyst.

11.0 Definitions

Affected Environment - A description of the existing environment to be affected by the proposed action (40 CFR 1502.15).

Alternative - A reasonable way to fix the identified problem or satisfy the stated need (40 CFR 1502.4).

Categorical Exclusion (CX)- A category of actions that do not individually or cumulatively have a significant effect on the human environment and have been found to have no such effect in procedures adopted by a Federal agency pursuant to NEPA (40 CFR 1508.4).

Council on Environmental Quality (CEQ) - Established under Title II of NEPA to develop Federal agency-wide policy and regulations for implementing the procedural provisions of NEPA, resolve interagency disagreements concerning proposed major Federal actions, and to ensure that Federal agency programs and procedures are in compliance with NEPA.

Cumulative Effect - The incremental environmental impact or effect of the proposed action, together with impacts of past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7).

Environmental Consequences - Environmental effects of project alternatives, including the proposed action, any adverse environmental effects which cannot be avoided, the relationship between short-term uses of the human environment, and any irreversible or irretrievable commitments of resources which would be involved if the proposal should be implemented (40 CFR 1502.16).

Environmental Action Statement (EAS) - A Service-required document prepared to improve the Service's administrative record for categorically excluded actions that may be controversial, emergency actions under CEQ's NEPA regulations (40 CFR 1506.1 1), decisions based on EAs to prepare an EIS, and any decision where improved documentation of the administrative record is desirable, and to facilitate internal program review and final approval when a FONSI is to be signed at the FWS-WO and FWS-RO level (550 FW ')).

Environmental Impact Statement (EIS) - A detailed written statement required by section 102(2)(C) of NEPA, analyzing the environmental impacts of a proposed action, adverse effects of the project that cannot be avoided, alternative courses of action, short-term uses of the environment versus the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitment of resources (40 CFR 1508.11).

Environmental Assessment (EA) - A concise public document, prepared in compliance with NEPA, that briefly discusses the purpose and need for an action, alternatives to such action, and provides sufficient evidence and analysis of impacts to determine whether to prepare an environmental impact statement or finding of no significant impact (40 CFR 1508.9).

Finding of No Significant Impact (FONSI) - A document prepared in compliance with NEPA, supported by an environmental assessment, that analyzes whether a Federal action will have no significant effect on the human environment and for which an environmental impact statement, therefore, will not be prepared (40 CFR 1508.13).

Human Environment - Includes the natural and physical environment and the relationship of people with the environment (40 CFR 1508.14).

Impact (Effect) - A direct result of an action which occurs at the same time and place; or an indirect result of an action which occurs later in time or in a different place and is reasonably foreseeable; or the cumulative results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions (40 CFR 1508.8).

Lead Agency - The agency or agencies responsible for preparing the environmental impact statement (40 CFR 1508.16).

Major Federal Action - Actions with effects that may be major and which are potentially subject to Federal control and responsibility (40 CFR 1508.18).

Mitigation - Planning actions taken to avoid an impact altogether to minimize the degree or magnitude of the impact, reduce the impact over time, rectify the impact, or compensate for the impact (40 CFR 1508.20)

National Environmental Policy Act of 1969 (NEPA) -Requires all agencies, including the Service, to examine the environmental impacts of their actions, incorporate environmental information, and utilize public participation in the planning and implementation of all actions. Federal agencies must integrate NEPA with other planning requirements and prepare appropriate NEPA documents to facilitate better environmental decision making. NEPA requires Federal agencies to review and comment on Federal agency environmental plans/documents when the agency has jurisdiction by law or special expertise with respect to any environmental impacts involved. (42 U.S.C. 4321-4327) (40 CFR 1500-1508).

Notice of Intent (NOI) - A notice that an environmental impact statement will be prepared and considered (40 CFR 1508.22).

No Action Alternative - The alternative where current conditions and trends are projected into the future without another proposed action (40 CFR 1502.14(d)).

Proposed Action - A plan that contains sufficient details about the intended actions to be taken, or that will result, to allow alternatives to be developed and its environmental impacts analyzed (40 CFR 1508.23).

Record of Decision (ROD) - A concise public record of decision prepared by the Federal agency, pursuant to NEPA, that contains a statement of the decision, identification of all alternatives considered, identification of the environmentally preferable alternative, a statement as to whether all practical means to avoid or minimize environmental harm from the alternative selected have been adopted (and if not, why they were not), and a summary of monitoring and enforcement where applicable for any mitigation (40 CFR 1505.2).

Scope - The range of actions, alternatives, and impacts to be considered in an environmental impact statement (40 CFR 1508.25).

Scoping - An early and open process for determining the extent and variety of issues to be addressed and for identifying the significant issues related to a proposed action (40 CFR 1501.7).

Significant - Use in NEPA requires consideration of both context and intensity (40 CFR 1508.27):

Context - significance of an action must be analyzed in its current and proposed short-and long-term effects on the whole of a given resource (e.g.-affected region)

Intensity – Refers to the severity of the effect.

Tiering - The coverage of general matters in broader environmental impact statements with subsequent narrower statements of environmental analysis, incorporating by reference, the general discussions and concentrating on specific issues (40 CFR 1508.28).

Unavoidable Adverse Effects - Effects that cannot be avoided due to constraints in alternatives. These effects do not have to be avoided by the planning agency, but they must be disclosed, discussed, and mitigated, if possible (40 CFR 1500.2(e)).

12.0 Acronyms

Acronym	Name
BERA	Bureau of Environmental Review and Assessment
CATEX	Categorical Exclusion
CDBG	Community Development Block Grant
CDBG-DR	Community Development Block Grant - Disaster Recovery
CEQ	Council on Environmental Quality
EA	Environmental Assessment
EIS	Environmental Impact Statement
ENB	Environmental Notice Bulletin
ERB	Environmental Review Board
ERR	Environmental Review Record
FHWA-ER	Federal Highway Administration - Emergency Relief Program
FMV	Fair Market Value
FONSI	Finding of No Significant Impact
GOSR	Governor's Office for Storm Recovery
HCR	New York State Homes and Community Renewal
HFA	New York State Housing Finance Agency
HMPG	FEMA Hazard Mitigation Grant Program
HUD	U.S. Department of Housing and Urban Development
NEPA	National Environmental Policy Act
NOI	Notice of Intent
NYRCR	New York Rising Community Reconstruction
PA	FEMA Public Assistance
RE	Responsible Entity
RROF	Request for Release of Funds
SEQRA	State Environmental Quality Review Act
SHPO	New York State Historic Preservation Officer
SRF	State Revolving Fund

Exhibits

1. Exhibit A: BERA Forms and Checklists

Content:

1. Housing 1-4 Tier II Checklist
2. Housing 1-4 Tier II Close-Out Review Form
3. Housing Buyout and Acquisition – Tier II Checklist
4. Small Business – Exempt or CatEx Forms
 - a. Project Description Form
 - b. Site Specific Checklist Certification of NEPA Classification
 - c. Site Specific Checklist Certification of SEQRA Classification
 - d. “Other Requirements” Checklist
5. EA Template
6. Record of Environmental Consideration Template
7. Environmental Review Follow-up Letter
8. RROF Template
9. Integrated Project Plan Template

2. Exhibit B: Levels of NEPA Analysis

3. Exhibit C: Environmental Review Process