



AFFORDABLE HOUSING
POLICY MANUAL
**NY Rising Rental Buildings Recovery
Program**

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The policies stated in this manual are current as of August 2016. This manual represents the current version of the Governor's Office of Storm Recovery's (GOSR) 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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Table of Contents

New York Rising Program Goals	8
Introduction	8
Oversight of Storm Recovery.....	8
Program Manual Overview	9
Meeting the CDBG-DR Program Goals	9
Fulfilling the Principles Established by New York State’s Action Plan.....	9
Outreach and Citizen Participation Plan	10
Citizen Participation Plan.....	11
1.0 Summary of NY Rising Affordable Housing Programs	12
1.1 Multi-Family/Affordable Housing Fund	12
1.2 Small Project Affordable Rental Construction Program (SPARC).....	12
2.0 Multi-Family/Affordable Housing Fund	13
2.1 Eligibility Criteria.....	14
2.2 CDBG National Objectives	14
2.3 Eligible Activities	15
2.3.1 New Construction and Rehabilitation of Affordable Rental Housing	15
3.0 Multi-Family/Affordable Housing Fund Program Management.....	17
3.1 Roles and Responsibilities.....	17
3.1.1 HCR Role	17
3.1.2 GOSR Role.....	17
3.2 Program Marketing.....	17
3.2.1 Solicitation of Funding Proposals	17
3.2.2 Initial Technical Assistance Meeting	18
3.2.3 NYS Housing Finance Agency (HFA) Tax-Exempt Bond Notice	18
3.2.4 HCR Unified Funding Application (UFA) RFP	18
3.3 Project Selection	19
3.3.1 Program Priorities	19
3.3.2 Competitive Criteria.....	20
3.4 Award Calculation.....	22
3.4.1 Prevention of Duplication of Benefits (DOB).....	22
3.4.2 Duplicative Assistance	22
3.5 Project Funding and Disbursement.....	24
3.5.1 Grant / Loan Agreements	24
3.5.2 Subrogation.....	25
3.5.3 Assignment Relating to Funds Received under CDBG-DR Program	25
3.5.4 Authorization for Program to Contact Third Parties	26
3.6 Disbursement of Funds	26
3.7 Procurement and Conflict of Interest.....	26
3.8 Construction Monitoring	26
3.9 Approval of Conversion to Permanent Financing	26
3.10 Lease-up Monitoring	27
3.10.1 Determining Tenant Income	27
3.11 Monitoring and Compliance Oversight.....	27

3.12 Cross-Cutting Federal Requirements.....	28
3.12.1 Fair Housing.....	29
3.12.1.1 504 / ADA.....	29
3.12.2 Davis-Bacon.....	29
3.12.3 Minority-and Women-Owned Businesses (MWBES).....	30
3.12.4 Section 3 Goals.....	30
3.12.5 Environmental Review	30
3.12.6 Green Building Standards	30
3.13 Floodplain, Floodway and Coastal High Hazard Area Policy.....	30
3.14 Flood Insurance Policy	31
4.0 Small Project Affordable Rental Construction (SPARC) Program	32
4.1 Roles and Responsibilities	32
4.1.1 HCR Role	32
4.1.2 GOSR Role	32
4.2 Program Marketing	32
4.2.1 Solicitation of Funding Proposals	33
4.2.2 Project Selection.....	33
4.3 Prevention of Duplication of Benefits (DOB).....	33
4.3.1 Duplicative Assistance	33
4.5 Project Funding and Disbursement.....	34
4.5.1 Grant / Loan Agreements	35
4.5.2 Subrogation	36
4.5.3 Assignment Relating to Funds Received under CDBG-DR Program.....	36
4.5.4 Authorization for Program to Contact Third Parties.....	36
4.6 Disbursement of Funds	37
4.7 Procurement, Project Selection, and Conflict of Interest.....	37
4.8 Construction Monitoring.....	37
4.9 Approval of Conversion to Permanent Financing	37
4.9.1 Lease-up Monitoring – Determining Tenant Income.....	37
4.9.2 Monitoring and Compliance	38
4.9.3 Cross-Cutting Federal Requirements	38
5.0 Acronyms and Definitions	39
5.1 Acronyms.....	39
5.2 Definitions	40
Exhibit 1 – Program Administrative Requirements & Cross-Cutting Federal Regulation.....	44
Exhibit 2 – Citizen Participation Plan.....	57

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New York Rising Program Goals

Introduction

In response to the damage caused by Superstorm Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, the U.S. Congress appropriated \$16 billion in Federal Fiscal Year 2013 funds for the Community Development Block Grant - Disaster Recovery (CDBG-DR) program through Public Law 113-2. Enacted on January 29, 2013, this law stipulates that these funds be used for the following recovery efforts:

“...necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013, for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.): Provided, that funds shall be awarded directly to the State or unit of general local government as a grantee at the discretion of the Secretary of Housing and Urban Development...”

Following Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee, (Covered Storms) the State of New York developed the NY Rising Housing Recovery Programs (the Program), along with several other disaster recovery initiatives as outlined in the [State of New York Action Plan for Community Development Block Grant Program Disaster Recovery](#) (Action Plan). The NY Rising Housing Recovery Programs are designed to help New Yorkers who were impacted by Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee to recover and rebuild. Just as importantly, the Program will help stimulate economic growth in storm affected communities.

Oversight of Storm Recovery

Governor Cuomo established the Governor’s Office of Storm Recovery (GOSR), a division of the Housing Trust Fund Corporation in June 2013 to maximize the coordination of recovery and rebuilding efforts in storm-affected municipalities throughout New York State. The Governor’s Office of Storm Recovery (GOSR) operates within the New York State Housing Trust Fund Corporation (HTFC). HTFC is a component of New York State Homes and Community Renewal (HCR), a unified leadership platform, encompassing a variety of New York State agencies and public benefit corporations involved in the provision of housing and community renewal. GOSR was formed to direct the administration of the Federal Community Development Block Grant-Disaster Recovery Funds.

GOSR works in close collaboration with local and community leaders to respond to communities’ most urgent rebuilding needs while also identifying long-term and innovative solutions to strengthen the State’s infrastructure and critical systems. GOSR also administers a variety of programs related to housing recovery, economic development, and community reconstruction following the devastating impact of Superstorm Sandy, Hurricane Irene and Tropical Storm Lee.

Program Manual Overview

This manual is designed to outline the major program policies that the State and its agents will use to direct the operation of the Multi-Family/Affordable Housing Program which includes the Affordable Housing Fund (AHF) and Small Project Affordable Rental Construction (SPARC) programs and the Public Housing Assistance Relief Program (PHARP) (collectively referred to as “Affordable Housing Programs”) initiatives. It is intended to serve as a resource for New York State residents and other parties interested in details of how the program will be operated, including eligibility requirements, the types of assistance offered, and program recipient obligations. It serves as a general reference guide for administrative staff and other interested parties, including Project Sponsors, Contractors, units of general local government (city and county governments) that are engaged as “sub-grantees” to deliver assistance through the program, and any non-profit organizations that are involved as “subrecipients” or consultants.

This manual is not intended to be a full compilation of all internal program procedures that the State and its agents follow to ensure effective implementation of the policies contained in this manual. This Affordable Housing Policy Manual and manuals for other programs will be made available for public review and use at <http://www.stormrecovery.ny.gov>.

Meeting the CDBG-DR Program Goals

In support of the U.S. Department of Housing and Urban Development’s (HUD) recovery objectives, New York State has specifically designed its programs to help impacted residents and communities to recover from the damage inflicted by the storms of 2011 and 2012. As expressed in the Federal Housing and Community Development Act, the primary objective of the general CDBG program is “the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income (LMI).” CDBG funding appropriated in response to disasters must meet those general goals of the CDBG program.

All CDBG-DR funded housing activities must meet one of the three national objectives required under the authorizing statute of the CDBG program:

- Benefit Low and Moderate Income (LMI) persons
- Aid in the prevention or elimination of slums or blight (Slum and Blight)
- Meet a need having a particular urgency (Urgent Need)

As described in the GOSR’s policies, the activities funded through the NY Rising Housing Recovery Programs will be required to meet either LMI or Urgent Need National Objectives.

Fulfilling the Principles Established by New York State’s Action Plan

The NY Rising Housing Recovery Programs are expected to encourage investment in communities by ensuring that properties are not just rebuilt but also become safer—especially for those areas where there is a high risk of future flooding—revitalizing the vibrancy of New York State’s disaster-impacted communities and enhancing the quality of life as well as the production of new affordable housing developments in storm impacted areas; and helping

communities develop and implement strategies that facilitate the coordination of the NY Rising Housing Recovery Programs funding with other federal, state, and local community development resources.

The NY Rising Housing Recovery Programs and the other activities outlined in the Action Plan are based on the foundation of six key principles:

1. ***Building back better and smarter*** – As New Yorkers work to repair the severe damage caused by Superstorm Sandy, the state will use the opportunity to ensure that damaged buildings are not simply restored to their pre-storm condition or replaced with the same kind of structures. Instead, New York State will invest in additional mitigation measures to prevent similar damage from occurring in the future.
2. ***State-led, community-driven recovery*** – New York State is collaborating closely with local governments and other organizations to ensure a coordinated and holistic response, while looking to individual communities to develop forward-looking local recovery plans that meet their specific needs.
3. ***Recovery from Irene and Lee*** – The recovery efforts will also extend to those communities still recovering from Hurricane Irene and Tropical Storm Lee.
4. ***Leveraging private dollars*** – New York State will undertake programs that will help unlock capital markets and increase the amount of low-interest financing of key projects by reducing the risk for private sector lenders.
5. ***Spending accountability and transparency*** – New York State will implement rigorous controls and checks to ensure funds are spent responsibly and in compliance with federal and state guidelines.
6. ***Urgency in action*** – The recovery is a long-term endeavor, but people need immediate help. The projects and programs presented in the Action Plan have been shaped to achieve the fastest delivery and best support possible, while working within the parameters of the HUD guidelines.

Outreach and Citizen Participation Plan

Outreach efforts will be guided by the State and accomplished through a variety of resources and activities, including the following:

Online: Promotion of recovery resources and the State Action Plan are available on the Governor’s Office of Storm and a links to the HCR standard notice of funding availability known as the Unified Funding Application and Notice of Funds Availability/Request for Proposal are available at <http://www.stormrecovery.ny.gov>

In Person: GOSR and/or Homes and Community Renewal (HCR) staff present information on available AHF funds and CDBG-DR requirements at outreach events held to publicize

funding available through HCR's Unified Funding Application and Notice of Funds Availability/Request for Proposal. The RFP process affords opportunities for technical assistance prior to application submission.

GOSR and/or Homes and Community Renewal (HCR) staff present information on available SPARC funds and CDBG-DR requirements at outreach events held to publicize funding available a Request for Proposal process. The RFP process affords opportunities for technical assistance prior to application submission.

GOSR conducted outreach to public housing authorities (PHA) in the aftermath of Superstorm Sandy. GOSR identified damage at PHAs is identified in the State's Action Plan.

Citizen Participation Plan

The New York State Citizen Participation Plan provides New York citizens with an opportunity to participate in the planning, implementation, and assessment of the State's CDBG-DR Sandy, Irene, and Lee recovery program(s). The Plan sets forth policies and procedures for citizen participation, in accordance to federal regulations, which are designed to maximize the opportunity for citizen involvement in the community development process. The State has attempted to provide all citizens with the opportunity to participate, with emphasis on low and moderate income individuals, individuals with limited English proficiency, individuals requiring special accommodations due to disabilities, and individuals in CDBG-DR targeted communities.

The State's Citizen Participation Plan ensures that there is reasonable and timely access for public notice, appraisal, examination, and comment on the activities proposed for the use of CDBG-DR grant funds. In following HUD's guidance in the November 2013 Federal Register, substantial Action Plan Amendments will now include a thirty-day (30) public comment process with at least one (1) public hearing. The State has and will continue to coordinate outreach meetings with state entities, local governments, non-profits, private sector and involved associations. The State will also invite public comments to the Action Plan and Substantial Amendments for the duration required by HUD. They will be posted prominently and accessed on the Governor's Office of Storm Recovery official website. The State will use means such as press releases, posting notices on the New York State Governor's website and/or GOSR's website, to maximize access of program information to the impacted citizens and businesses.

The New York Citizen Participation Plan for CDBG-DR Sandy, Irene, and Lee Recovery is attached in Exhibit 2.

1.0 Summary of NY Rising Affordable Housing Programs

The NY Rising Rental Buildings Recovery Programs and Public Housing Assistance Relief Program operate the Multifamily Affordable Housing Fund (AHF), Small Project Affordable Rental Construction program (SPARC), and the Public Housing Assistance Relief Program (PHARP). The programs serve a range of needs including new housing construction in storm-damaged areas and repair of storm-damaged rental properties. The three programs are described below.

1.1 Multi-Family/Affordable Housing Fund

The Multifamily/Affordable Housing Fund (AHF) is a housing development program that provides financing assistance for acquisition, capital costs and related soft costs associated with the new construction or rehabilitation of affordable housing developments of eight or more units (projects involving eight or more small buildings on a single property are eligible). The purpose is to address unmet housing need in area damaged by one or more Covered Storms.

The AHF Program supports both the preservation of governmentally-assisted affordable housing developments, as well as the development of new affordable housing to address the rental housing shortage and help revitalize hard hit communities. Assistance will be limited to projects located in storm damaged counties outside of New York City.

Projects selected for assistance will primarily serve Low- and Moderate-Income (LMI) residents, including special needs and other vulnerable populations. AHF may also assist mixed-income projects where a majority of units are reserved for occupancy by persons of LMI.

AHF provides project financing in partnership with HCR requests for proposals utilizing federal tax-exempt bonds issued by New York State Housing Finance Agency (HFA) and/or projects receiving federal or state Low-Income Housing Tax Credits (“LIHTC”) allocated or approved by HCR. GOSR may also provide funds to public housing and other eligible projects outside of the HCR RFP process.

1.2 Small Project Affordable Rental Construction Program (SPARC)

The Small Project Affordable Rental Construction (SPARC) Program supports the substantial rehabilitation and new construction of small rental properties. Funding is provided to a Community Development Finance Institution to make loans and grants to residential property developers. The Program provides financing assistance for acquisition, capital costs, and related soft costs associated with the new construction or rehabilitation of small rental properties with fewer than 20 units.

2.0 Multi-Family/Affordable Housing Fund

The AHF supports substantial rehabilitation and new construction of larger affordable rental housing projects. AHF seeks to leverage other public and private sources of affordable housing financing, including tax-exempt bonds, conventional private debt, federal and State Low-Income Housing Tax Credits, Historic Tax Credits, State housing capital funds, and other sources.

This Program supports the preservation (i.e. reconstruction/repair/mitigation) of governmentally assisted, including HUD-assisted affordable housing and other rental housing developments damaged by Hurricane Irene, Tropical Storm Lee, and/or Superstorm Sandy, as well as the production of new affordable housing developments designed to help replace the rental units lost through the storms.

The Program also supports the new construction of affordable rental housing that helps to alleviate a shortage of affordable housing created or exacerbated by the loss of rental units through one of the three named storms, and to support the overall recovery in areas that were impacted by the storms. However, mixed income developments will be eligible for assistance if developers are able to leverage other funding to support the non-LMI units.

AHF provides “gap financing” for the repair or construction of affordable rental housing with eight or more units in which at least 51% of the units will be occupied by Low- and Moderate-Income persons. Gap financing refers to the provision of capital subsidies to make up the difference between allowable project costs and capital available from mortgage debt, private equity, and other public or private financing, including grants. Mixed-income projects including “LMI” and “market rate” units are permitted. GOSR provides gap financing based on project underwriting performed by HCR.

Assistance is provided to developers of affordable housing. 24 CFR 570.202(b)(1) allows grantees to provide assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties, for use or resale for residential purposes. As the March 5, 2013 Notice allows grantees to undertake new construction of housing is allowable per the CDBG regulations, developers receiving AHF assistance may engage in new construction. Developers obtain site control, plan the development, obtain necessary permits and manage the project. GOSR may designate for-profit and private non-profits as developers.

Developers are treated as end users of assistance. These private entities are direct program beneficiaries and are distinct from developers, subrecipients, grantee employees, and contractors. The Program used the Developer definition identified in “NSP Policy Alert! Guidance on the Procurement of Developers and Subrecipients – June 1, 2012, U. S. HUD CPD, Office of Block Grant Assistance, 2012-06.

Assistance is provided for unmet needs for repair, reconstruction, and new construction of housing after accounting for all federal, state, local and/or private sources of disaster-related assistance, including, but not limited to, property owners’ and/or flood insurance proceeds.

All projects must meet eligibility requirements, including a tie-back to one or more of the Covered Storms.

2.1 Eligibility Criteria

Qualified for-profit and not-for-profit housing developers apply for CDBG-DR funds to repair, reconstruct, or develop new rental housing. Developer entities must be incorporated within the United States of America. Developers listed on State or federal debarment lists are ineligible for assistance.

To be eligible for assistance, projects must:

- Be located in a disaster-declared county outside of New York City (see Table 1 below).
- Demonstrate a tangible connection to addressing a recovery need arising from the disaster. Each project must respond (directly or indirectly) to the impacts of the declared disaster. Evidence such as FEMA reports on damage to housing stock in the project’s market area, indications that the storm exacerbated a shortage of housing in the area served by the project, local government statements that the project meets a housing or economic recovery need arising from the storm(s), and similar documentation demonstrate tie-back to the storm(s).
- Provide housing primarily for Low- and Moderate-Income persons.
- Demonstrate capacity to undertake the project as verified through underwriting.

Table 1: Disaster-declared counties outside of New York City

Eligible Counties				
Albany	Dutchess	Montgomery	Rockland	Tompkins
Broome	Essex	Nassau	Saratoga	Ulster
Chemung	Franklin	Oneida	Schenectady	Warren
Chenango	Fulton	Orange	Schoharie	Washington
Clinton	Greene	Otsego	Suffolk	Westchester
Columbia	Hamilton	Putnam	Sullivan	
Delaware	Herkimer	Rensselaer	Tioga	

2.2 CDBG National Objectives

All AHF projects must primarily serve LMI persons, and therefore the majority of the CDBG-DR funding provided to the project will qualify under the LMI National Objective. GOSR obtains a written commitment from the Project Sponsor that 51% or more of units will be made available for rent to Low- and Moderate-Income tenants in accordance with the project proposal. Partner agencies providing project financing in the form of tax-exempt bonds, Low Income Housing Tax Credits (LIHTC), and New York State capital sources typically impose long-term affordability restrictions ranging from thirty to fifty years, enforced by Regulatory Agreement or

similar binding agreement. HCR retains responsibility for monitoring compliance with occupancy requirement throughout the regulatory period.

2.3 Eligible Activities

Eligible activities include repair and new construction of affordable housing. All developments financed in whole or in part by the AHF must meet the New York State Building Code or the New York State Residential Code and all locally adopted and approved building codes, standards and ordinances.

All reconstruction and new construction of residential buildings must incorporate Energy Conservation Construction Code of New York State (ECCCNYS current edition) into construction and achieve certification. Repair of buildings must follow guidelines in the HUD CPD Green Building Retrofit Checklist. GOSR may accept a green building standard that it deems substantially equivalent to or in excess of the ECCCNYS or the HUD CPD Green Building Retrofit Checklist. Sponsors may exceed program minimum property standards as long as project costs funded by AHF meet cost reasonableness standards. Additional upgrades may be paid for with private funds.

2.3.1 New Construction and Rehabilitation of Affordable Rental Housing

AHF funds may be used for:

- Acquisition, site preparation, construction and related soft costs (including environmental health hazard mitigation costs), required for the new construction or rehabilitation of affordable housing developments. Site work may be an allowable construction cost to the extent it is necessary to render the residential units decent, safe, and sanitary. Site work includes grading and excavation, as well as installation of the septic and infiltration systems, utilities, and other ancillary residential structures and improvements.
- In projects combining residential and non-residential uses, AHF funds may only be used for eligible costs attributable to the residential component of the project.
- Funding is capped at \$9,000,000 for projects in Nassau, Suffolk, and Westchester Counties, and \$7,000,000 for projects in the remaining eligible counties. To direct sufficient levels of assistance to those most in need, especially low to moderate income and minority households, a higher overall dollar cap amount may be applied to those properties that provide a significant number of units designated for Very Low Income(VLI) households, special needs, and other vulnerable populations.
- Reimbursement of eligible repair/replacement costs, acquisition, capital costs and related soft costs (including environmental health hazard mitigation costs), associated with the new construction or rehabilitation of affordable housing developments related to the repair of disaster-impacted property.
- When practical and warranted, reimbursement for cost of mitigating future damage (including elevation when practicable and cost effective) for properties located within a 100-year floodplain.

- Assistance for cost-effective mitigation activities including but not limited to:
 - The replacement of disaster-impacted non-luxury residential appliances
 - Elevation of substantially damaged properties located within the 100-year floodplain.
 - If elevating, the structure must be elevated to at least 2 feet above the Base Flood Elevation or to a level dictated by the local building authority.
 - Elevation of electrical systems and components
 - Securing of fuel tanks
 - Use of flood resistant building materials below base flood elevation
 - Installation of flood vents
 - Installation of backflow valves (only if structure is elevated)
 - Installation of roof strapping (only if structure is elevated)
- In projects combining residential and non-residential uses, AHF funds may only be used for eligible costs attributable to the residential component.
- Funding made available in the July 2014 joint GOSR / HCR RFP is capped at \$9,000,000 for projects in Nassau, Suffolk, and Westchester Counties, and \$7,000,000 for projects in the remaining eligible counties. To direct sufficient levels of assistance to those most in need, especially low to moderate income and minority households, a higher overall dollar cap amount may be applied to those properties that provide a significant number of units designated for Very Low Income (VLI) households, special needs, and other vulnerable populations. Funding caps may be changed for future funding rounds depending on recovery need and circumstances.

3.0 Multi-Family/Affordable Housing Fund Program Management

3.1 Roles and Responsibilities

3.1.1 HCR Role

HCR manages preparation and publication of notices of funding availability and of awarded projects through its Private Activity Bond “open round” and its United Funding Activity (UFA) NOFAs process, provide technical assistance to applicants, receive applications, conduct initial eligibility and feasibility reviews, conduct project underwriting, and refers applications to GOSR for consideration. HCR is responsible for carrying out activities in coordination with GOSR.

3.1.2 GOSR Role

GOSR retains day-to-day administrative management and oversight of CDBG-DR activities. GOSR is responsible for establishing and maintaining financial accountability for CDBG-DR funds, compliance with CDBG-DR regulations, and establishing and maintaining project files and records.

GOSR is responsible for ensuring compliance with CDBG-DR statutory, regulatory, and programmatic requirements including, but not limited to, the following:

- Compliance with National Objectives and eligible activities
- Duplication of Benefits (DOB) review
- Davis-Bacon compliance and monitoring
- National Environmental Protection Act (NEPA) compliance
- HUD Section 3 compliance
- Uniform Relocation Act Compliance
- Federal Fair Housing/EEO
- Americans with Disabilities (ADA) compliance, as applicable, and Section 504 compliance

3.2 Program Marketing

GOSR conducts AHF program outreach in partnership with HCR. AHF funds are made available through joint Requests for Proposals and open solicitations. GOSR joins information sessions held at locations around the State to advertise the availability of funds from a variety of State programs under the Division of Housing and Community Renewal, Housing Trust Fund Corporation, Housing Finance Agency, and other agencies and public benefit corporations operating under the Homes and Community Renewal umbrella. Notices of funding availability are published in the State Register and distributed to affordable housing industry groups.

3.2.1 Solicitation of Funding Proposals

Project Sponsors may request CDBG-DR assistance by responding to a Notice of Funds Availability or Request for Proposals released by HCR and GOSR. Notices and RFPs prescribe information to be submitted for review and competitive scoring. Projects are reviewed for

development team capacity, project feasibility, project readiness, and alignment with stated Priorities and Competitive Criteria.

HCR releases RFPs and publicizes Notice of Funds Availability in the State Register and on its website, www.nyshcr.org. HCR and GOSR present funding opportunities, priorities, and selection criteria at public information sessions at various locations around the State.

3.2.2 Initial Technical Assistance Meeting

Project Sponsors are required to attend Technical Assistance sessions with HCR and GOSR staff before submitting an application. Technical Assistance sessions include:

- Review of the project description, recovery rationale, budget including source and use of funds and operating budget for review.
- Discussion of HCR and GOSR staff review project readiness and alignment with program policies and priorities.
- CDBG-DR program eligibility requirements, including “tie-back” to the storm and green building requirements
- Cross-cutting federal requirements for compliance with Davis-Bacon, Uniform Relocation Act (URA), Section 3, Fair Housing. These requirements are described in further detail later in this policy manual.

3.2.3 NYS Housing Finance Agency (HFA) Tax-Exempt Bond Notice

HCR maintains an open, rolling application process to allocate private activity tax-exempt bonds which may be combined with Low-Income Housing Tax Credits (LIHTC). Together with HCR, GOSR makes AHF funds available through a separate NOFA, to be combined with applications proposed under the open round. More than 50% of the project costs must be financed by Private Activity Bonds (PABs) issued by HFA and allocated from the State’s Private Activity Bond volume cap. The bond financing provided by HFA qualifies the project for an allowance of 4% Low-Income Housing Credits (often termed “as-of-right” tax credits).

AHF financing may only be utilized to finance the development of residential properties where the majority of units are affordable to households with incomes up to 80% of area median income (AMI), as adjusted for family size. Up to 30% of the Project’s units may be affordable to tenants with incomes above 60% of AMI. Projects must also be compliant with relevant income thresholds under HFA tax exempt bond financing program and LIHTC requirements.

Applicants may request AHF financing as either a construction loan or a permanent loan. All projects will be subject to a minimum regulatory period of 30 years.

3.2.4 HCR Unified Funding Application (UFA) RFP

GOSR makes AHF funds available through HCR’s RFP process for allocation of “9%” Low-Income Housing Tax Credits, State Low-Income Housing Tax Credits and various state capital funding programs. Applicants seeking multi-family programs funding under the UF 2014 Request for Proposals should follow the instructions outlined in the Unified Funding 2014 Multi-Family Programs Online Applications Instructions.

The UF 2014 Multi-Family Programs Online Application Instructions can be found at:

<http://www.nyshcr.org/Funding/UnifiedFundingMaterials/2014/UF-2014-MultiFamily-ApplicationInstructions.pdf>

Information on CDBG-DR for AHF applicants is included in “Special Instructions for Applicants Requesting CDBG-DR” be found at:

<http://www.nyshcr.org/Funding/UnifiedFundingMaterials/2014/CDBG-DR-AHF-SpecialInstructions.pdf>

Applicants with a high degree of readiness to proceed may request funding under the Early Award procedure. Eligible Early Award applicants demonstrate ability to close within 120 days of application, and address one or more of the New York State priorities identified in the RFP, such as advancing revitalization and economic development (including disaster recovery), supportive housing, workforce housing, affordable housing preservation, and veterans housing. Such projects must include discussion of ability to meet deadlines for starting construction and lease-up. AHF Projects seeking Early Award status must also qualify as Priority 1, 2, or 3 in Section 3.3 of this document, below. For AHF applicants, the status of required NEPA and SEQR reviews is assessed in determining readiness to close within 120 days. No funds are committed to a project before NEPA and SEQR review is complete.

3.3 Project Selection

GOSR establishes Program priorities and competitive criteria for each funding competition. Eligible and feasible projects submitted through the RFP process are scored and ranked separately by HCR and GOSR. For RFP’s issued in 2014, GOSR scored projects according to the Program Priorities and Competitive Criteria outlined in Sections 3.3.1 and 3.3.2. All eligible and feasible projects in the highest Priority group will be funded before projects in a lower Priority group. In instances where GOSR identifies more projects than the Program has funding available to award, the Program will deploy a ranking system by priority and competitive criteria to select which projects to fund.

3.3.1 Program Priorities

Project proposals are grouped and reviewed according to the Program Priorities listed in Table 2.

Table 2: Program Priorities

Priority 1	Repair of existing buildings that have documented damage from one of the Covered Storms and capital needs
Priority 2	New Construction of replacement rental housing for units placed out of service by one of the Covered Storms
Priority 3	Sites located in Community Reconstruction Program areas;

3a	New construction in one of the NY Rising Community Reconstruction Program Areas that is specifically named in a NY Rising Community Reconstruction (NYRCR) Plan
3b	New construction in one of the NYRCR areas where affordable housing of the type proposed is identified as a need in the community plan;
3c	New construction in one of the NYRCR areas where affordable rental housing in general is identified as a need in the community plan;
3d	New construction in one of the NYRCR areas, where affordable rental housing may not have been mentioned as a priority in the community plan.
Priority 4	New construction in communities proximate to NYRCR areas, within the eligible counties
Priority 5	New construction within the eligible counties
Priority 6	Replacement of storm damaged units at offsite locations, as a remedy of substantial damage
Priority 7	Repair or renovation of existing properties at risk of loss to the affordable or market-rate housing stock, by incorporating a range of resiliency measures

3.3.2 Competitive Criteria

Within each Priority group, projects are ranked according to following competitive criteria. The highest ranking projects with each Priority group will be funded first.

1. Admissions preference for rental households who were displaced by one of the Covered Storms.
2. Resiliency measures that exceed New York State Building Code.
3. Proximity to other planned or in-process CDBG-DR infrastructure improvements and/or integration with storm recovery-related economic development activity. Integration with storm-related recovery activity includes hiring vendors assisted by GOSR small business initiatives and renting retail/community facility space to businesses receiving assistance from GOSR.
4. Commitment to green building standard more stringent than HFA required standard. The following standards are deemed to exceed HFA requirements: Enterprise Green Communities, US GBC LEED, Energy Star (Certified Homes of Multifamily High Rise, ICC 700 National Green Building Standard, EPA Indoor Air Plus (Energy Star a prerequisite), NYSERDA Multifamily, or any other equivalent comprehensive green building standard. Only recognized standards are awarded points
5. Alignment with other state housing priorities, including:
 - Regional Economic Development Council Projects: Project advances the State’s housing goals and objectives, including any goals set forth by the Regional Economic Development Council strategic plan applicable to the area in which the projects are located

- **Housing Opportunity Projects:** Project includes workforce housing for families in areas experiencing economic and population growth and served by high performing schools:
 - “High Performing School” is one that attains rating better than 75% of all US school districts per Location Inc., School District Rating.
 - Applications proposing housing located outside of a HUD-designated Qualified Census Tract (confirm QCT status at: <http://www.huduser.org/QCT2013/qctmap.html>).
 - Applications proposing projects located in a community with a low incidence of crime (neighborhood is safer than 75% of neighborhoods in the USA, per the Location, Inc. Total Crime Index data);
- **Mixed Income/Mixed Use Revitalization Projects:** Application proposes to create or rehabilitate mixed-use buildings with mixed-income housing and that is part of a strategic plan for the economic stabilization and revitalization of infrastructure-rich downtown areas or neighborhoods;
- **Transit Oriented Development (TOD):** Application proposes workforce housing for families in close proximity to MTA rail stations outside NYC or which are in communities that have completed and are implementing TOD plans;
- **Mitchell-Lama Preservation:** Applications proposes preservation of HCR-supervised Mitchell-Lama housing by extending its useful life and/or by averting conversion to market rate housing.

Resiliency Measures

1. Coordinated Resiliency Plan/Program

- Comprehensive assessment of measures to promote resiliency, life safety, and security in order to provide the most safe and secure living environmental quality, including hazard analysis / risk assessment, mapping of facility site with hazards identified by location, pedestrian security, parking and landscape breaks, fencing, well planned "walking" community.

2. Envelope Protection

- Using materials on the building envelope that are more resistant to storm damage and resilient by their nature and foresight for building placement, including high quality roofing systems, exterior veneers, safe rooms or basements, landscaping away from buildings, well designed and barricaded parking lots

3. Utilities Protection

- Protection of electric, sewer, gas, etc. utilities from natural hazards through underground electrical service, backflow prevention, backup power generation, full facility mechanical plants with redundancy

4. Site Selection

- Site not in floodplain, site not near or impacted by hazardous materials facilities, pipelines, hazmat railroad transportation, other industrial or heavy commercial sites, site is naturally elevated/resilient

Illustrative measures that exceed basic standards include, but are not limited to, a Coordinated Resiliency Plan/Program, building envelope protection, utilities protection, site selection.

3.4 Award Calculation

In order to maximize effectiveness of limited resources, HCR and GOSR expect Applicants to combine AHF funds with funding from other sources. HCR and GOSR consider AHF funding as “gap-filler” financing, and loans are awarded for Projects requiring a final amount of financing for viability. This process assures that CDBG-DR funds are only used to fund the projects unmet need after all other sources of financing are accounted for. HCR and GOSR’s overall priority is to encourage the submission of AHF applications that leverage a significant number of other sources of capital subsidy and will support and promote high quality, construction ready projects that may advance one of the specific housing priorities of the State.

Therefore, GOSR will provide assistance up to the Unmet Need amount for selected projects, subject to a maximum award of \$9 million for projects in Nassau, Suffolk, and Westchester Counties and \$7 million for projects in other eligible counties. The Unmet Need is the financing gap identified by HCR through its underwriting project, less any assistance classified as duplicative in the Duplication of Benefits review.

3.4.1 Prevention of Duplication of Benefits (DOB)

Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. §5155) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster for which he has received financial assistance under any other program or from insurance or any other source. In accordance with the Stafford Act, Disaster Recovery funds issued through the Department of Housing and Urban Development’s CDBG-DR program may not be used for any costs for which other disaster recovery assistance was previously provided for the same purpose.

Generally, financial assistance received from another source that is provided **for the same purpose** as the CBDG-DR funds is considered a Duplication of Benefit (DOB). The State’s policy is in accordance with HUD’s guidance on duplication of benefits found in Federal Register Notice 5582-N-01 published in the *Federal Register/ Vol. 76, No. 221, page 71060/Wednesday, November 16, 2011*.

3.4.2 Duplicative Assistance

As mandated by law, all GOSR Affordable Housing Fund (AHF) projects receiving CDBG-DR funding must evidence an analysis of duplication of benefits, funds received for the same purpose as the intended CDBG-DR grant. The Affordable Housing Fund (AHF) provides “gap financing” to qualified affordable housing developers to construction new affordable housing in storm-impacted communities. All developers must submit all funding sources to be analyzed by

a qualified underwriters. Underwriting review project sources and uses. Where there is a gap of funding between the existing funds available and the funds needed to complete the project, the AHF provides the additional funds necessary to ensure the viability of the project.

3.4.2.1 New Construction - Analysis

With the exception of certain Federal Emergency Management Agency grants, FEMA, National Flood Insurance Program (NFIP) and Private Flood Insurance proceeds, and Small Business Administration (SBA) Loans are generally not consider to be intended to the purpose of new construction of affordable housing. However as mentioned, the Affordable Housing Fund requests that all developer disclose all sources of funding for project finance in accordance with the listing in 3.4.2.3.

3.4.2.2 Rehabilitation - Analysis

In instances where the Affordable Housing Fund identifies a home rehabilitation project, the AHF and / or the underwriter requests information for the project partners to confirm that no duplication of benefits may occur.

3.4.2.3 Potential list of Duplicative benefits

The Developers must consider the total assistance available to them. This includes all benefits, including cash, insurance proceeds, grants from FEMA, SBA loans, as well as any other assistance received by the applicant from other local, State or federal programs, or private or nonprofit charities. Project Sponsors should pay special attention to the following potential sources of benefits:

- **National Flood Insurance Program (NFIP):** Insurance proceeds received must be disclosed by the Program Sponsor.
- **Private Insurance:** All insurance proceeds received must be disclosed by the Developer. Where necessary, the Program will look for “undeclared” insurance benefits as well as confirming those disclosed by the Sponsor.
- **FEMA:** FEMA proceeds received must be disclosed by the Project Sponsor.
- **Other:** Funds received from other sources must be disclosed by the Project Sponsor and verified by the Program. Examples include nonprofits, other governmental agencies, and social groups.

Project Developers are required to report all assistance reasonably anticipated. Reasonably anticipated funds include assistance that has been awarded, but has not yet been received, but do not include a situation where the funding source and/or the amount is in question.

GOSR may not duplicate any assistance received for the same project and the award amount will take into account any DOB.

3.5 Project Funding and Disbursement

CDBG-DR funds may be available at a Construction Loan closing, in which not only CDBG-DR, but all funds needed to complete the project will be confirmed as available. Closing may not take place until title clearance has been obtained, to the satisfaction of GOSR counsel. Prior to closing, all Vendor Responsibility clearance must have been obtained for all applicable entities in the ownership chain as well as the general contractor. Any required flood and other applicable insurance will be confirmed at the closing.

3.5.1 Grant / Loan Agreements

Loan documents, grant agreements, and other forms of agreement as applicable will include the following federal requirements including, but not limited to those listed below:

- Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold);
- Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000);
- Compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees);
- Compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair);
- Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a–7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2,000 awarded by grantees and subgrantees when required by Federal grant program legislation);
- Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers);
- Compliance with Sections 503 and 504 of The Rehabilitation Act of 1973 (29 U.S.C 794) as supplemented by Department of Labor regulations (41 CFR Part 60-741 and 24 CFR 8);
- Notice of awarding agency requirements and regulations pertaining to reporting;
- Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract;

- Awarding agency requirements and regulations pertaining to copyrights and rights in data;
- Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions;
- Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed;
- Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000); and
- Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (U.S.C. 6201).

3.5.2 Subrogation

Subrogation is the process by which duplicative assistance paid to the Project Sponsor after receiving an award is remitted to the Program in order to avoid a duplication of benefit, whereby the Project Sponsor would be reimbursed twice for the same loss. By signing the grant agreement, the Project Sponsor warrants that he/she will remit any excess funds to the Program, whenever received.

3.5.3 Assignment Relating to Funds Received under CDBG-DR Program

Per Program agreements, the Project Sponsor(s) will agree that they will assign to the Program all of their future rights to reimbursement and all payments received for named storm under any insurance policy held by the Project Sponsor(s) which provides coverage for physical damage to the property including, but not limited to, any type of casualty or property damage, including flood (the “Policies”) or under any reimbursement or relief program related to or administered by FEMA or SBA for physical damage to the property (not including proceeds received to cover contents), or any other assistance from non-profit organizations, faith-based organizations, other disaster relief entities, and other governmental entities.

The rights the Project Sponsor(s) assigns to the Program are specific to the Property with respect to which the grant proceeds were paid. If the amount of the grant exceeds the amount received from other sources, the Project Sponsor(s) will be entitled to receive the excess amount.

Once the Program has recovered an amount equal to the award proceeds, the NY Rising Housing Recovery Programs will reassign to the Project Sponsor(s) any rights pursuant to this Agreement.

3.5.4 Authorization for Program to Contact Third Parties

Per Program agreements, the Project Sponsor will explicitly allow HTFC to request of any company with which the Project Sponsor held insurance policies or FEMA or the SBA any non-public or confidential information needed by the program to monitor/enforce its interest in the rights assigned to it and the Project Sponsor will give consent to such company to release information to the NY Rising Housing Recovery Programs.

3.6 Disbursement of Funds

All CDBG-DR funds will be distributed on a reimbursement basis only. Each development will be registered as a separate activity in DRGR and CDBG-DR funds will be drawn down accordingly. The developer shall provide all documentation of the expenses for which reimbursement is sought. Acceptable documentation may include invoices, checks, receipts.

3.7 Procurement and Conflict of Interest

Developers receiving assistance through this program are selected through a competitive Request for Proposals process and are considered “developers” under CDBG regulations. Developers are not required to use a competitive process for selecting general contractors, subcontractor, and professional services providers. Developers are permitted to have an identity of interest between the owner, developer, and/or builder. Project underwriting and cost containment practices assure cost reasonableness.

3.8 Construction Monitoring

HCR, the project’s construction lender, or its designee retains primary responsibility for monitoring construction, approving progress payments to contractors, and approving change orders.

3.9 Approval of Conversion to Permanent Financing

GOSR requires the submission of all required documents prior to approving the project’s conversion to permanent financing.

Required Documents:

- All required Program Eligibility Documents
- Certificate of Occupancy – or other acceptable document from the local building authority.
- Certificate of Completion
- Elevation Certificate (if elevated)
 - Proof that project was completed according to the applicable Green Building Standard selected in the application and/or commitment letter; which may consist of documentation from construction monitor or project architect
- Current title
- Satisfactory indication that all compliance obligations including Fair Housing, Davis Bacon, Section 3, Section 504 and M/WBE are up to date
- Copies of all Program approved change orders

- Permits as required and applicable

3.10 Lease-up Monitoring

3.10.1 Determining Tenant Income

The Program will confirm that each project is leased to the number of LMI units identified in the executed commitment letter. The Program will rely on verification provided by the Developer or project partner as verified by HTFC or HFA staff.

In submissions to HCR to determine tenant income, the program requires the developer or a subsequent owner must report the most recent signed federal income tax returns (e.g., IRS Forms, 1040, 1040A or 1040EZ).

If one or all household members do not have an IRS tax return, or the income situation has changed since the tax return(s) was filed, any of the following applicable documents may be presented for every household member that is 18 or older:

- Minimum of three current and consecutive months of check stubs (if the household member is paid monthly)
- Minimum of four current and consecutive check stubs (if the household member is paid weekly, bi-weekly or bi-monthly)
- Pension statement showing current monthly or yearly gross amount
- Social Security statement or IRS Form 1099
- Unemployment statement
- Certification of Zero Income Form
- Completed Household Income Worksheet and Certification, verified by information received from the New York State Department of Tax and Finance.

3.11 Monitoring and Compliance Oversight

GOSR must ensure compliance with applicable regulations, which include but are not limited to: record keeping, administrative and financial management, environmental compliance, citizen participation, conflict of interest, procurement, Davis-Bacon Labor Standards, diversity and civil rights regulations (Minority and Women's Business Enterprise, Section 3, Fair Housing, Limited English Proficiency, and American with Disabilities Act), property acquisition and management, displacement, relocation, and replacement.

GOSR has established a Monitoring Plan administered by the Monitoring and Compliance Department (MCD) to ensure that all programs and projects comply with applicable federal, State, and local regulations and effectively fulfills the goals set forth in the Action Plan and the Action Plan Amendments.

The Monitoring Plan serves to identify risks, deficiencies, and remedies relating to GOSR directly administered programs, administrative and financial management, and programs

administered via GOSR subrecipients. The Monitoring Plan seeks to accomplish the following objectives:

- Determine if a grantee/subrecipient is carrying out its obligations, and its activities as described in the Action Plan for CDBG-DR assistance and its related grant or subrecipient agreement.
- Determine if a grantee/subrecipient is carrying out its activities in a timely manner, in accordance with the schedule included in the subrecipient agreement.
- Determine if a grantee/subrecipient is charging costs to the project that are eligible under applicable laws and CDBG-DR regulations, and reasonable in light of the services or products delivered.
- Determine if a grantee/subrecipient is conducting its activities with adequate control over program and financial performance, and in a way that minimizes opportunities for waste, mismanagement, fraud, and abuse.
- Assess if the grantee/subrecipient has a continuing capacity to carry out the approved project, as well as future grants for which it may apply.
- Identify potential problem areas and to assist the grantee/subrecipients in complying with applicable laws and regulations.
- Assist grantee/subrecipients in resolving compliance problems through discussion, negotiation, and technical assistance (TA) and training.
- Provide adequate follow-up measures to ensure that performance and compliance deficiencies are corrected by grantee/subrecipients, and not repeated.
- Comply with the federal monitoring requirements of 24 CFR 570.501(b) and with 2 CFR 200, as applicable.
- Determine if any conflicts of interest exist in the operation of the CDBG-DR program per 24 CFR 570.611.
- Ensure that required records are maintained to demonstrate compliance with applicable regulations.

3.12 Cross-Cutting Federal Requirements

Project Sponsors are subject to the Cross-Cutting Federal Requirements described in Exhibit 1. These include compliance with the Uniform Relocation Act, Davis Bacon and Related Acts, Minority- and Women-Owned Business Enterprises contracting provisions, Section 3, Fair Housing, Equal Employment Opportunity, and environmental requirements of the National Environmental Protection Act.

3.12.1 Fair Housing

All Project Sponsors are subject to HCR's Affirmative Fair Marketing requirements and will be required to provide a marketing plan and report on compliance in accordance with the forms on HCR's [website](#). The Affirmative Marketing Plan must be in compliance with applicable Fair Housing laws and demonstrate how the applicant will affirmatively further fair housing.

3.12.1.1 504 / ADA

For any alterations of multifamily (5+ units) rental projects, a minimum of 5 percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments. An additional 2 percent of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments (i.e., hearing or vision impairments).

In buildings with 5 or more dwelling units and at least one elevator, all dwelling units and all public/common use areas are subject to Section 504 requirements. In buildings with 5 or more dwelling units and no elevator, all ground floor units and public and common use areas are subject to Section 504 requirements.

For new construction, Section 504 applies only to Projects that include 5 or more units. Projects with 5+ units must be designed and constructed to be readily "accessible" to and usable by persons with disabilities (including the common areas). "Accessible," when used with respect to the design, construction, or alteration of an individual dwelling unit, means that the unit is located on an accessible route and when designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical handicaps.

A 15+ unit Project, with rehabilitation costs that are 75% or more of the replacement cost of the completed facility, is considered substantial rehabilitation. In this case, a minimum of 5 percent of the dwelling units in the Project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2 percent, at a minimum (but not less than one unit), must be accessible to individuals with sensory impairments.

New York State Uniform Code and Energy Code, Chapter 11, "Accessibility," states "Buildings and facilities shall be designed and constructed to be accessible in accordance with this code and ICC/ANSI A117.1."

Municipalities will only award Certificates of Occupancy to those structures that meet the minimum accessibility requirements of the New York State Uniform Code and Energy Code and ICC/ANSI A117.1.

In this instance, it will be presumed that the issuance of a valid Certificate of Occupancy from a municipality demonstrates compliance with Section 504's minimum standards. Therefore, an award of a Certificate of Occupancy will be considered compliant.

3.12.2 Davis-Bacon

Prevailing wage rates and compliance requirements will apply to all developments with 8 or more units where more than \$2,000 CDBG-DR funds are expended on construction. DBRA

requires the payment of locally prevailing wages and fringe benefits to laborers and mechanics for on-site construction, alteration, or repair (including painting and decorating) of public buildings or public works on federally funded or assisted contracts in excess of \$2,000. See Federal Requirements, which includes [Federal Labor Standards Provisions](#). All Project Sponsors must account for prevailing wage in their Project Proposal. Locally prevailing wages are determined for specific employee classifications by the US Department of Labor (DOL) and made available to the public as “wage decisions”.

3.12.3 Minority-and Women-Owned Businesses (MWBEs)

All Project Sponsors are required to comply with Article 15-A of the Executive Law, which promotes the participation of minority- and women-owned businesses (MWBEs) in contracting opportunities. Therefore, HCR encourages contracting with certified minority- and/or woman-owned firms on Projects. Empire State Development Corporation’s MWBE Directory should be used as a resource to identify certified MWBE firms and can be found [here](#). All projects financed under the AHF program must comply with HCR’s MWBE participation requirements applicable at the time of application submitted to the RFP.

3.12.4 Section 3 Goals

Awardee shall comply with 12 U.S.C. 1701u and its regulations (“Section 3”).

3.12.5 Environmental Review

CDBG disaster grant funding from HUD is contingent on compliance with the National Environmental Policy Act (NEPA) and related environmental and historic preservation legislation and executive orders. AHF Project Sponsors are also subject to State Environmental Quality Review (SEQR).

All projects which involve new construction, change of use (as in adaptive reuse projects), or increase the floor area of an existing residential structure by 20% or more must successfully complete an Environmental Assessment (EA) prior to entering into a funding commitment for AHF-financed projects. For projects which involve substantial rehabilitation of existing residential structures, an abbreviated environmental review may be required. As mentioned in [Section 3.3](#), pre-application technical assistance is available to discuss these matters further. All awards will be considered conditional until the environmental review is complete.

3.12.6 Green Building Standards

All reconstruction and new construction of residential buildings and substantially damaged homes must incorporate Energy Conservation Construction Code of New York State (ECCCNYS current edition) into construction and achieve certification. Repair of buildings must follow guidelines in the HUD CPD Green Building Retrofit Checklist. GOSR may accept a green building standard that it deems substantially equivalent to or in excess of the ECCCNYS or the HUD CPD Green Building Retrofit Checklist.

3.13 Floodplain, Floodway and Coastal High Hazard Area Policy

[Executive Order 11988 – Floodplain Management](#) requires Federal activities to avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable. All Project Sponsors must comply with these federal regulations. For more information refer to [HUD Guidance](#). Definitions and regulations regarding the 100 Year Floodplain, Floodway, and the Coastal High Hazard Area can be found in Section 4.0 of this manual.

3.14 Flood Insurance Policy

If a Project Sponsor receives any assistance from AHF and the property is located within the “100-year” floodplain then the owner is required by federal regulation to maintain flood insurance in perpetuity and, in the event of a transfer of property, the owner is required, on or before the date of transfer, to notify the transferee in writing in the documents evidencing the transfer of ownership of the property, of the requirements to obtain and maintain flood insurance in perpetuity. If a transferor fails to provide notice as described above, the transferor shall be held liable. The requirement to obtain and maintain flood insurance is included the Loan Agreement and Mortgage documents executed at closing.

As per Federal regulations, if an owner previously received Federal Assistance for the subject property – personal, commercial, or residential – and failed to obtain and maintain flood insurance then the owner is ineligible to receive assistance from CDBG-DR. For more information, refer to [Section 582 of the National Flood Insurance Reform Act of 1994 \(42 U.S.C. 5154a\)](#).

4.0 Small Project Affordable Rental Construction (SPARC) Program

4.1 Roles and Responsibilities

4.1.1 HCR Role

Acting through HTFC, HCR manages preparation and publication of requests for proposals, provide technical assistance to applicants, receive applications, conduct initial eligibility and feasibility reviews, conduct project underwriting, and refers applications to GOSR for consideration. HCR is responsible for carrying out activities in coordination with GOSR.

4.1.2 GOSR Role

GOSR retains day-to-day administrative management and oversight of CDBG-DR activities. GOSR is responsible for establishing and maintaining financial accountability for CDBG-DR funds, compliance with CDBG-DR regulations, and establishing and maintaining project files and records.

GOSR is responsible for ensuring compliance with CDBG-DR statutory, regulatory, and programmatic requirements including, but not limited to, the following:

- Compliance with National Objectives and eligible activities
- Duplication of Benefits (DOB) review
- Davis-Bacon compliance and monitoring
- National Environmental Protection Act (NEPA) compliance
- HUD Section 3 compliance
- Uniform Relocation Act Compliance
- Federal Fair Housing/EEO
- Americans with Disabilities (ADA) compliance, as applicable, and Section 504 compliance

4.2 Program Marketing

GOSR conducts program outreach in partnership with HCR. To reach the greatest number of interested firms, the RFP was posted on HCR's website and a notice of the RFP was also advertised in the New York State Contract Reporter. In addition, notices of the RFP were e-mailed to 71 entities (the "Bidder List"). In an effort to increase subcontracting participation by minority-owned business enterprises and women-owned business enterprises (collectively, "MWBs") and meet the Corporation's 30% MWBE participation goal, the RFP was posted on the on-line Statewide Contracting System by HCR's Office of Economic Opportunity & Partnership Development ("OEOPD"). A pre-bid conference ("Conference") was held on February 2 2015 at 25 Beaver Street, New York.

Pre-Bid Materials can be found at the following link:
<http://www.nyshcr.org/AboutUs/Procurement/SPARC-RFP-PreBidConferencePresentation.pdf>

4.2.1 Solicitation of Funding Proposals

HTFC issued a request for proposal (“RFP”) on January 16, 2015 in connection with its administration of CDBG-DR funds appropriated by the Pub.L.113-2. HTFC issued the RFP seeking proposals from certified CDFIs qualified to develop and administer the SPARC program for Small Projects. The Covered Storms highlighted the need in many communities around the State for new rental housing opportunities in markets where Small Projects best meet both demand and neighborhood context. The SPARC program will create an opportunity for storm-affected communities in the State to address affordable housing needs where large scale development is not feasible or practical.

HCR releases RFPs on its website, www.nyshcr.org. HCR and GOSR present funding opportunities, priorities, and selection criteria at public information sessions at various locations around the State.

4.2.2 Project Selection

HTFC selects the most qualified RFP respondent based on demonstrated capacity to achieve the project goal, project concept, and cost-reasonableness. This may be done through by weighting the merit of RFP responses or by assessing the merit of a single-response. Project goals may include by not be limited to:

- Capacity to meet the CDBG-DR National Objective
- Capacity to comply with Davis-Bacon, Section 504, MWBE, NEPA, and Fair Housing Requirements
- Capacity to monitor project partners and affordable housing developers
- Capacity to originate and service a construction loan.

4.3 Prevention of Duplication of Benefits (DOB)

Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. §5155) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster for which he has received financial assistance under any other program or from insurance or any other source. In accordance with the Stafford Act, Disaster Recovery funds issued through the Department of Housing and Urban Development’s CDBG-DR program may not be used for any costs for which other disaster recovery assistance was previously provided for the same purpose.

Generally, financial assistance received from another source that is provided **for the same purpose** as the CBDG-DR funds is considered a Duplication of Benefit (DOB). The State’s policy is in accordance with HUD’s guidance on duplication of benefits found in Federal Register Notice 5582-N-01 published in the *Federal Register/ Vol. 76, No. 221, page 71060/Wednesday, November 16, 2011*.

4.3.1 Duplicative Assistance

HTFC awards funds to qualified Community Development Financial Institution(s) (CDFI(s)) to administer the SPARC program. While funds to administer the SPARC program are not

duplicative with other benefits, grants made to project sponsors and developers may duplicate other funds. It is incumbent on the selected CDFI to perform DOB analysis as part of the Construction loan underwriting process. In its analysis, the CDFI should pay special attention to the following potential sources of benefits and request the following from the affordable housing developer:

- **National Flood Insurance Program (NFIP):** Insurance proceeds received must be disclosed by the Program Sponsor.
- **Private Insurance:** All insurance proceeds received must be disclosed by the Developer. Where necessary, the Program will look for “undeclared” insurance benefits as well as confirming those disclosed by the Sponsor.
- **FEMA:** FEMA proceeds received must be disclosed by the Project Sponsor.
- **Other:** Funds received from other sources must be disclosed by the Project Sponsor and verified by the Program. Examples include nonprofits, other governmental agencies, and social groups.

The CDFI and affordable housing developers are required to report all assistance reasonably anticipated funds. Reasonably anticipated funds include assistance that has been awarded, but has not yet been received, but do not include a situation where the funding source and/or the amount is in question.

GOSR may not duplicate any assistance received for the same project and the award amount will take into account any DOB.

4.5 Project Funding and Disbursement

CDBG-DR intends to make funds available at conversion to permanent financing. Conversion will include, but may not be limited to CDBG-DR funding. Conversion may not take place until title clearance has been obtained, to the satisfaction of GOSR counsel. Prior to closing, the following must be provided to the program:

Conversion Documents:

- All required Program Eligibility Documents
- Certificate of Occupancy – or other acceptable document from the local building authority.
- Certificate of Completion
- Elevation Certificate (if elevated)
 - Proof that project was completed according to the applicable Green Building Standard selected in the application and/or commitment letter; which may consist of documentation from construction monitor or project architect
- Current title
- Satisfactory indication that all compliance obligations including Fair Housing, Davis Bacon, Section 3, Section 504 and M/WBE are up to date

- Copies of all approved change orders
- Permits as required and applicable
- Evidence that the development will meet the national objective.

4.5.1 Grant / Loan Agreements

Loan documents, grant agreements, and other forms of agreement as applicable will include the following federal requirements including, but not limited to those listed below:

- Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold);
- Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000);
- Compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees);
- Compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair);
- Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2,000 awarded by grantees and subgrantees when required by Federal grant program legislation);
- Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers);
- Compliance with Sections 503 and 504 of The Rehabilitation Act of 1973 (29 U.S.C 794) as supplemented by Department of Labor regulations (41 CFR Part 60-741 and 24 CFR 8);
- Notice of awarding agency requirements and regulations pertaining to reporting;
- Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract;
- Awarding agency requirements and regulations pertaining to copyrights and rights in data;
- Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books,

documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions;

- Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed;
- Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000); and
- Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (U.S.C. 6201).

4.5.2 Subrogation

Subrogation is the process by which duplicative assistance paid to the Project Sponsor after receiving an award is remitted to the Program in order to avoid a duplication of benefit, whereby the Project Sponsor would be reimbursed twice for the same loss. By signing the grant agreement, the Project Sponsor warrants that he/she will remit any excess funds to the Program, whenever received.

4.5.3 Assignment Relating to Funds Received under CDBG-DR Program

Per Program agreements, the CDFI and Project Sponsor(s) will agree that they will assign to the Program all of their future rights to reimbursement and all payments received for named storm under any insurance policy held by the Project Sponsor(s) which provides coverage for physical damage to the property including, but not limited to, any type of casualty or property damage, including flood (the “Policies”) or under any reimbursement or relief program related to or administered by FEMA or SBA for physical damage to the property (not including proceeds received to cover contents), or any other assistance from non-profit organizations, faith-based organizations, other disaster relief entities, and other governmental entities.

The rights the CDFI and the Project Sponsor(s) assigns to the Program are specific to the Property with respect to which the grant proceeds were paid. If the amount of the grant exceeds the amount received from other sources, the CDFI and Project Sponsor(s) will be entitled to receive the excess amount.

Once the Program has recovered an amount equal to the award proceeds, the NY Rising Housing Recovery Programs will reassign to the Project Sponsor(s) any rights pursuant to this Agreement.

4.5.4 Authorization for Program to Contact Third Parties

The CDFI, and the Project Sponsor will explicitly allow HTFC to request of any company with which the Project Sponsor held insurance policies or FEMA or the SBA any non-public or confidential information needed by the program to monitor/enforce its interest in the rights assigned to it and the Project Sponsor will give consent to such company to release information to the NY Rising Housing Recovery Programs.

4.6 Disbursement of Funds

All CDBG-DR funds will be distributed on a reimbursement basis only at conversion to permanent financing. Each development will be registered as a separate activity in DRGR and CDBG-DR funds will be drawn down accordingly. The affordable housing developer shall provide all documentation of the expenses for which reimbursement is sought to the CDFI. Acceptable documentation may include invoices, checks, receipts, or in the instance of uses that are due and payable at the same time as the payment, then options to purchase or contracts which articulate the timing of payments may be accepted.

4.7 Procurement, Project Selection, and Conflict of Interest

The selected CDFI must issue an RFP in accordance with established procurement standards. The Request for proposals for Qualified Affordable Housing Developers must outline scope and the deliverable. The CDFI is responsible for vetting responses.

In detail, Qualified Affordable Housing Developers receiving assistance through this program are selected through a competitive Request for Proposals process and are considered “developers” under CDBG regulations. Developers are not required to use a competitive process for selecting general contractors, subcontractor, and professional services providers. Developers are permitted to have an identity of interest between the owner, developer, and/or builder. Project underwriting and cost containment practices assure cost reasonableness. It is incumbent upon the CDFI to determine that the costs of reasonable through the underwriting process. HTFC in its role as grant maker must finalize which project may proceed to a construction loan closing. It is incumbent upon GOSR to advise HTFC in the project selection and confirm tieback to a Covered Storm.

4.8 Construction Monitoring

HTFC, the CDFI, the project’s construction lender, or its designee retains primary responsibility for monitoring construction, approving progress payments to contractors, and approving change orders. All monitoring must be provided to GOSR upon request.

4.9 Approval of Conversion to Permanent Financing

GOSR requires the submission of all required documents prior to approving the project’s conversion to permanent financing. Conversion will be based on receipt of the aforementioned conversion documents and evidence that the project has met the national objective through lease up.

4.9.1 Lease-up Monitoring – Determining Tenant Income

The Program will confirm that each project is leased to the number of LMI units identified in the executed commitment letter. The Program will rely on verification provided by the Developer or project partner as verified by HTFC or HFA staff.

In submissions to HCR to determine tenant income, the program requires the developer or a subsequent owner must report the most recent signed federal income tax returns (e.g., IRS Forms, 1040, 1040A or 1040EZ).

If one or all household members do not have an IRS tax return, or the income situation has changed since the tax return(s) was filed, any of the following applicable documents may be presented for every household member that is 18 or older:

- Minimum of three current and consecutive months of check stubs (if the household member is paid monthly)
- Minimum of four current and consecutive check stubs (if the household member is paid weekly, bi-weekly or bi-monthly)
- Pension statement showing current monthly or yearly gross amount
- Social Security statement or IRS Form 1099
- Unemployment statement
- Certification of Zero Income Form
- Completed Household Income Worksheet and Certification, verified by information received from the New York State Department of Tax and Finance.

4.9.2 Monitoring and Compliance

The State of New York is required by HUD to monitor all entities receiving CDBG-DR funding. The Monitoring and Compliance function is described above in Section 3.11. and in Exhibit 1.

4.9.3 Cross-Cutting Federal Requirements

Project Sponsors are subject to the Cross-Cutting Federal Requirements described in Exhibit 1. These include compliance with the Uniform Relocation Act, Davis Bacon and Related Acts, Minority- and Women-Owned Business Enterprises contracting provisions, Section 3, Fair Housing, Equal Employment Opportunity, and environmental requirements of the National Environmental Protection Act. Cross-cutting federal requirements, floodplain restrictions and flood insurance requirements are described above in Sections 3.12, 3.12, 3.14 and Exhibit 1.

5.0 Acronyms and Definitions

5.1 Acronyms

Acronym	Name
AHF	Multi-family Affordable Housing Fund
AMI	Area Median Income
BERA	Bureau of Environmental Review and Assessment
BFE	Base Flood Elevation
CBDG-DR	Community Development Block Grant-Disaster Recovery
CDOL	Community Development Online (system)
DOB	Duplication of Benefits
EA	Environmental Assessment
EPA	Environmental Protection Agency
ERR	Environmental Review Records
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
GOSR	Governor's Office of Storm Recovery
HCR	New York State Homes and Community Renewal
HFA	New York State Housing Finance Agency
HTFC	Housing Trust Fund Corporation
HUD	U.S. Department of Housing and Urban Development
LIHC	Low-Income Housing Tax Credit Program
LMI	Low- and Moderate-Income
MWBE	Minority and Women Owned Businesses
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
NYS	New York State
NYSERDA	New York State Energy and Research Development Authority
PAB	Private Activity Bond
QAP	Qualified Allocation Plan
RFP	Request for Proposals
SAM	System for Award Management
SBA	Small Business Administration
SEQR	State Environmental Quality Review
SFHA	Special Flood Hazard Area
TOD	Transit Oriented Development
UFA	Unified Funding Application
URA	Uniform Relocation Act
USGBC LEED	United States Green Building Council Leadership in Energy and Environmental Design

5.2 Definitions

Multi-family Affordable Housing Fund (AHF): AHF is a housing development program that provides financing assistance for acquisition, capital costs and related soft costs associated with the new construction or rehabilitation of affordable housing developments to address unmet housing need in area damaged by one or more Covered Storms.

Area Median Income: Average household income, before taxes, adjusted for family size. For NYS AMI's refer to [this chart](#). Income guidelines are calculated annually and therefore subject to change on a yearly basis.

Base Flood Elevation (BFE): The BFE is the regulatory requirement for the elevation or flood-proofing of structures. It is the computed elevation to which floodwater is anticipated to rise during the base flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles.

Change Orders: Modifications to the Scope of Work required due to unforeseen circumstances.

Coastal High Hazard Areas: are the areas subject to high velocity waters, including but not limited to hurricane wave wash or tsunami as designated by the Flood Insurance Rate Map (FIRM) under FEMA regulations as Zone V 1-30, VE or V (V Zones).

Community Development Block Grant (CDBG): A federal program administered by the US Department of Housing & Urban Development (HUD) which provides grant funds to local and state governments. The CDBG program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses.

Covered Storm: Hurricane Irene, Tropical Storm Lee, and/or Superstorm Sandy.

Developer: Developer is defined by the HUD Neighborhood Stabilization Program as “[a] for-profit or private nonprofit individual or entity that the grantee provides NSP assistance to for the purpose of (1) acquiring homes and residential properties to rehabilitate for use or resale for residential purposes and (2) constructing new housing in connection with the redevelopment of demolished or vacant properties.”. Developers are distinct from subrecipients, grantee employees, and contractors. Developers are consider to be end-user beneficiaries.

Duplication of Benefit (DOB): Financial assistance received from another source that is provided for the same purpose as the CDBG-DR funds.

Environmental Review Record (ERR): A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents

Floodplain: (also known as the “Base Flood”): is the low, flat, periodically flooded lands adjacent to rivers, lakes and oceans and subject to geomorphic (land-shaping) and hydrologic (water flow) processes.

The 100-year Floodplain is the land that is predicted to flood during a 100-year storm, which has a 1% chance of occurring in any given year. Areas within the 100-year floodplain may flood in much smaller storms as well. The 100-year Floodplain is used by FEMA to administer the National Flood Insurance Program. (NFIP)

Floodway: (also known as the “Regulatory Floodway”) is the portion of the Floodplain effective in carrying flow where flood hazard is generally the greatest, and water velocity is the highest. In the Floodway, fill or other development is likely to divert flow and contribute to increased water depths during a flood. Ideally, Floodways should be undeveloped areas that can accommodate flood flows with minimal risk.

Grantee: The term “grantee” refers to any jurisdiction receiving a direct award from HUD under Notice FR-5696-N-01.

Housing Trust Fund Corporation (HTFC): New York State agency through which Program funds are administered to applicants and other subrecipients.

Department of Housing and Urban Development (HUD): Federal department through which the Program funds are distributed to grantees.

Limited English Proficiency (LEP): A designation for person that are unable to communicate effectively in English because their primary language is not English and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. An LEP person will benefit from an interpreter who will translate to and from the person’s primary language. An LEP person may also need documents written in English translated into his or her primary language so that person can understand important documents related to health and human services.

Low-to-Moderate Income (LMI): Low to moderate income people are those having incomes not more than the “moderate-income” level (80% Area Median Family Income) set by the federal government for the HUD assisted Housing Programs. This income standard changes from year to year and varies by household size, county and the metropolitan statistical area.

Low Income Housing Tax Credits (LIHTC): The LIHTC Program is an indirect Federal subsidy used to finance the development of affordable rental housing for low-income households.

National Environmental Policy Act (NEPA): Establishes a broad national framework for protecting the environment. NEPA’s basic policy is to assure that all branches of government give proper consideration to the environment prior to undertaking any major federal action that could significantly affect the environment.

National Flood Insurance Program (NFIP): Created by Congress in 1968 to reduce future flood damage through floodplain management and to provide people with flood insurance through individual agents and insurance companies. FEMA manages the NFIP.

Person with Disabilities: [24 CFR 5.403]. A person with disabilities for purposes of program eligibility:

(1) Means a person who:

- (A) Has a disability, as defined in 42 U.S.C. 423; Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
- (B) In the case of an individual who has attained the age of 55 and is blind, inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time. For the purposes of this definition, the term blindness means central vision acuity of 20/200 or less in the better eye with use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purposes of this paragraph as having a central visual acuity of 20/200 or less.
- (ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - (A) Is expected to be of long-continued and indefinite duration,
 - (B) Substantially impedes his or her ability to live independently, and
 - (C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- (iii) Has a developmental disability, as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8))

Private Activity Bond (PAB): In general, a private activity bond is a bond issued by or on behalf of local or state government for the purpose of financing the project of a private user.

Project Sponsor: Project applicant, or if an application is completed on the sponsor's behalf, the sponsor as identified in the application

Repair: The labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs.

Request for Proposal (RFP): A procurement document designed to solicit proposal services where cost is considered as a factor.

Site Specific Checklist (SSC): The environmental compliance checklist that is required to document environmental clearance before Federal funds are permitted to be awarded.

Slum and Blight: "Blighted area" and "slum" mean an area in which at least seventy per cent of the parcels are blighted parcels and those blighted parcels substantially impair or arrest the sound growth of the state or a political subdivision of the state, retard the provision of housing

accommodations, constitute an economic or social liability, or are a menace to the public health, safety, morals, or welfare in their present condition and use

Small Business Administration (SBA): SBA's Office of Disaster Assistance (ODA) provides affordable, timely and accessible financial assistance to homeowners, renters, and businesses. The SBA low-interest, long-term loans are the primary form of federal assistance for the repair and rebuilding of non-farm, private sector disaster losses.

Subrogation: The process by which duplicative assistance paid to the Project Sponsor after receiving an award are remitted to the Program in order to rectify a duplication of benefit.

Substantial Damage: Occurs when a property sustains damages that equal or exceed 50 percent of its Fair Market Value (FMV) prior to the event, as determined by a local authorized official (e.g., a code officer) and is sent a Substantial Damage Letter, or if the ECR/AA value (minus elevation and bulkheads costs) meets or exceeds 50 percent of the Program cap.

Systematic Alien Verification for Entitlements (SAVE): Is a web-based service that helps federal, state and local benefit-issuing agencies, institutions, and licensing agencies determine the immigration status of benefit homeowners so only those entitled to benefits receive them.

Uniform Relocation Act (URA): A federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms.

Urgent Need Objective: Under the disaster recovery federal regulations, HUD has determined that an urgent need exists within the Presidentially Declared counties. An urgent need exists because existing conditions pose serious and immediate threat to health/welfare of community, the existing conditions are recent or recently became urgent (typically within 18 months), and the sub-grantee or state cannot finance the activities on its own because other funding sources are not available.

Exhibit 1 – Program Administrative Requirements and Cross-Cutting Federal Regulations

Cross-Cutting Federal Regulations

GOSR and its developers / subrecipients must adhere to all applicable State and federal laws, rules, and regulations. This section provides a summary of the significant and applicable federal regulations.

Americans with Disabilities Act (ADA) and Section 504

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of TDD/telephone relay services.¹ GOSR takes affirmative steps to ensure that people with disabilities have equal access to the programs offered by GOSR, and that any services are delivered in the most integrated manner possible. Qualified persons with disabilities are informed of the availability of program services and activities, and GOSR's programs or services are readily accessible to, and usable by, individuals with disabilities. GOSR also ensures that reasonable modifications or changes to policies, practices, or procedures are made in order to guarantee people with disabilities equal access to services and programs. Additionally, all programs and activities are accessible, both structurally and administratively, to people with disabilities. GOSR's mandate to conform the requirements of ADA flows down to all of its stakeholders, including subrecipients, vendors and developers.²

Section 504 of the Rehabilitation Act of 1973 requires that, for all new construction, any alterations of multifamily (5+ units) rental projects, a minimum of 5 percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments. An additional 2 percent of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments (i.e., hearing or vision impairments).

In buildings with 5 or more dwelling units and at least one elevator, all dwelling units and all public/common use areas are subject to Section 504 requirements. In buildings with 5 or more dwelling units and no elevator, all ground floor units and public and common use areas are subject to Section 504 requirements.

¹ http://www.ada.gov/2010_regs.htm

² <http://www.disabilityrightswi.org/wp-content/uploads/2008/09/ada-title-2.PDF>

Davis-Bacon Act and Related Acts (DBRA)

The Davis-Bacon Act and Related Acts (DBRA) applies to subrecipients and subrecipients' contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public buildings or public works. Subrecipients and contractors must pay their laborers and mechanics employed under contract no less than the "locally prevailing wages" and fringe benefits for corresponding work on similar projects in the area. Davis-Bacon "labor standards clauses" must be included in covered contracts.

As part of the pre-construction phase, subrecipients must work with GOSR to obtain for both federal and New York State prevailing wage decisions for each project. After the bids are received, GOSR will verify the eligibility of the contractor to participate in the program. Requirements for regular submission of certified payrolls are described in Section 3.10.3. The timing of these wage decisions is an important part of the process. Both state and federal wage decisions are necessary because the higher of the state or federal wage is required to be paid.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week. Additionally, GOSR must follow the reporting requirements per HUD and Department of Labor (DOL) regulations. This requirement also extends to GOSR subrecipients and contractors.

GOSR will conduct periodic construction site visits to verify that the wage decisions and other required posters are displayed on the site. GOSR will also conduct periodic employee interviews using form HUD-11 to verify that employees are being correctly classified on the certified payrolls and are being paid the correct wage rate for the classification. In addition to conducting employee interviews using form HUD-11, GOSR may also elect to conduct employee interviews via the US mails using HUD form 4730. GOSR will contact the general contractor to clarify and resolve discrepancies related to underpaid workers, apprentices, improper deductions, fringe benefits and other inconsistent information between payrolls and employee interviews.

In cases where restitution is required GOSR will send formal notice to the general contractor listing affected workers and the total dollar amount of required restitution. The general contractor will be required to provide evidence of restitution to each worker. If the general contractor is unwilling or unable to make restitution GOSR may withhold funds equal to the restitution amount.

Equal Employment Opportunity (EEO)

[Executive Order 11246](#), Equal Employment Opportunity, as Amended, prohibits federal contractors and federally-assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that

equal opportunity is provided in all aspects of their employment.³ This regulation is adhered to within GOSR programs.

Fair Housing

The [Fair Housing Act](#) requires all grantees, subrecipients, and/or developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability or marital status. GOSR enforces the Fair Housing Act by ensuring that all grantees, subrecipients, and/or developers meet the applicable Fair Housing and Affirmative Marketing requirements and provide a marketing plan and report on compliance in accordance with the Fair Housing Act and the associated [forms](#) on HCR's website, where applicable. The Affirmative Marketing Plan must be in compliance with applicable Fair Housing Laws and demonstrate how the Applicant will affirmatively further fair housing throughout applicable GOSR disaster recovery programs.

Fair Labor Standards Act of 1938, as Amended (FLSA)

The [FLSA](#)⁴ establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week.⁵ These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project. Excluding the exceptions listed below, all workers employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under the GOSR CDBG-DR Program must be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

In some cases, New York State Prevailing Wages and Davis-Bacon Prevailing Wages both apply. In such instances, the higher of the two prevails.

Exceptions to Fair Labor Standards Act of 1938, as Amended (FLSA) include:

- Construction contracts of \$2,000 or less;
- Real property acquisition;
- Architectural and engineering fees;
- Other services (such as legal, accounting, construction management);
- Other non-construction items (such as furniture, business licenses, real estate taxes);
- Rehabilitation of residential property designed for fewer than eight families; and,

³ 41 CFR Part 60.

⁴ 29 U.S.C. 201.

⁵ *Id.*

- Demolition, and/or clearance activities, unless related to construction (demolition and clearance as independent functions are not considered construction). Contact a GOSR CDBG-DR Labor Specialist for assistance.

Limited English Proficiency (LEP)

[Federal Executive Order 131661](#) and [State Executive Order #26](#) require GOSR and all satellite offices, programs, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with LEP and/or who are Hearing Impaired. GOSR ensures fair access through the implementation of a Language Assistance Plan (LAP) which includes non-English based outreach, translation services of vital documents, free language assistance services, and staff training. GOSR's LEP Coordinator is responsible for coordinating all activities associated with the LAP, and GOSR monitors its implementation.

Minority- and/or Women-Owned Business Enterprises (MWBE)

The federal [Executive Order 12432](#) guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned Business Enterprises (MBEs). 2 CFR 200.321 requires the non-federal entity to take all necessary steps to ensure that all subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance ensure that contracts and other economic opportunities are directed to small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms when possible.

New York State is a national leader in requiring that public entities utilize MBE and WBE firms. Per State goals identified by the administration, for projects and agreements awarded prior to January 30, 2015, GOSR ensures compliance by requiring, as applicable, subrecipients and contractors to make best efforts to achieve an overall M/WBE participation goal of 20% of the entire contract value consisting of 10% for MBE and 10% for WBE.

For all projects and agreements executed after January 30, 2015, GOSR will be required to make best efforts to achieve an overall M/WBE participation goal of 30% of the entire contract, consisting of 15% for MBE and 15% for WBE, per the increase in utilization targets put in place by New York State. DCR verifies M/WBE certification and the MCD monitors to ensure compliance with all reporting requirements through Elation.

For all applicable projects, DCR works with applicants and subrecipients to provide TA, guidance, and one-on-one support required to implement good faith efforts and meet applicable M/WBE thresholds.

Section 3

Section 3 of the Housing and Urban Development Act of 1968 requires grantees, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part by the CDBG-DR funding, to the greatest extent feasible, to extend hiring opportunities and contracts to Section 3 eligible residents and businesses. Section 3 eligible residents are low- and very low-income persons, particularly those who live or reside in public or government-assisted housing.

For those entities that receive more than \$200,000 in HUD CDBG-DR assistance and contractors that are awarded covered contracts that exceed \$100,000, GOSR requires that an approved Section 3 plan be in place before the project is awarded and approved. GOSR monitors contracts with, subrecipients, contractors, subcontractors, and/or developers.

For Section 3, DCR provides training, TA, and one-on-one support for all projects, especially in terms of developing and reviewing Section 3 plans as well as implementing best efforts to meet Section 3 goals. GOSR also monitors the level Section 3 goal attainment and provides additional on the ground support where required.

Relocation Assistance and Real Property Acquisition

CDBG-DR federal funds, administered by GOSR and disbursed to subrecipients and direct contractors and/or beneficiaries, are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 CFR Part 24 (URA), 24 CFR Part 42 (Section 104(d)), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

Section 104(d) requires relocation assistance for lower-income individuals displaced as a result of the demolition or conversion of a lower-income dwelling and requires one-for-one replacement of lower-income units demolished or converted to other uses.

Subrecipients or contractors must provide the following benefits to households that they displace:

- Relocation advisory services;
- A minimum of 90 day notice to vacate;
- Reimbursement for moving expenses; and
- Payments for added cost of renting or purchasing comparable replacement housing.

GOSR programs subject to the Uniform Act and Section 104(d) include the CDBG-DR programs. GOSR policies and procedures, Notices of Funding Availability (NOFAs), applicant certifications, and/or written agreements for funds subject to the Uniform Act and Section 104(d) shall refer to federal and State rules, as appropriate.

A purchase option agreement on a proposed site or property prior to the completion of the environmental review is allowed if the option agreement is subject to a determination by the subrecipient, direct contractor and/or beneficiary on the desirability of the property for the project after the environmental review is completed and the cost of the option is a nominal portion of the purchase price.

Real Property

If CDBG-DR funds are used to acquire real property, where applicable, GOSR ensures that the property continues to be used for its intended (and approved) purpose, proper records are

maintained to keep track of it, steps are taken to protect and maintain it, and that if the property is sold, GOSR is reimbursed for the CDBG-DR share of the property's value. GOSR, as the grantee, along with its subrecipients and contractors, must tag and log all property valued greater than \$1,000 and update inventory records annually.

This fairly straightforward proposition about the ownership, use, management, and disposition of property is complicated by two facts. First, the rules about property management and disposition differ slightly depending on whether a grantee is a public-sector grantee. (The rules are generally more explicit for governmental grantees). Second, the rules depend on the nature of the property. Real property (e.g., land, buildings) is treated differently than personal property (e.g., equipment, supplies, intangible property like copyrights). (Property Management and Disposition Regulations 24 CFR 570.503; all subrecipients (subs) 24 CFR 85.32; 85.34, govt. subs 24 CFR 84.32; 84.34, nonprofit subs).

The federal requirements relating to property are organized according to title (ownership), use, and disposition. In general, the property management system must provide for accurate records, the performance of regular inventories, adequate maintenance and control, and proper sales procedures. Grantees must follow sales procedures that provide for competition, to the extent practicable, and that result in the highest possible return.

Financial Management

Pursuant to Public Law 113-2, GOSR maintains and has in place proficient financial controls. The GOSR Internal Audit Department exists to examine and evaluate the adequacy and effectiveness of the organization's governance and risk management. IAD plans and considers controls necessary to mitigate risks associated with program and administrative Operations, internal and external Reporting, and Regulatory Compliance. Risks of Fraud, Waste, and Abuse are additionally considered throughout assignments.

MCD and GOSR's Internal Audit Department (IAD) ensure that GOSR, as the grantee, as well as those administering CDBG-DR funds continuously demonstrate conformity to financial management requirements as required by FR-5696-N-01. These requirements include, but are not limited to, areas covering: Financial Management; Advances; Internal Controls; Accuracy of Report Information; Program Income; Salaries and Wages; Indirect Costs; Lump Sum Drawdowns; and OMB Circular A-133. GOSR's financial management system will be consistent with and in compliance with 24 CFR Parts 84, 85, and 570 (as applicable, and as amended by 2 CFR 200), which ensures that GOSR funds are managed with high levels of accountability and transparency.

GOSR's Financial Management practices adhere to the following:

1. Internal controls are in place and adequate;
2. Documentation is available to support accounting record entries;
3. Financial reports and statements are complete, current and reviewed periodically; and
4. Audits are conducted in a timely manner and in accordance with applicable standards.

Procurement Policy

GOSR has established and adopted a procurement policy that meets State and federal requirements. The MCD and IAD ensure that GOSR adheres to its established policies.

Record Keeping, Retention, and File Management

In accordance with HUD regulations, GOSR as a grantee and recipient of CDBG-DR funds follow the records retention as cited in 24 CFR 84.53 (as amended by 2 CFR 200.333), which includes financial records, supporting documents, statistical records, and all other pertinent records are maintained for five years. GOSR established record keeping and retention requirements in its subrecipient and contractor agreements in accordance with the guidelines established in 24 CFR 570.503(b)(2). For all subrecipients, their retention of records shall be kept in accordance with 24 CFR 85.42, as modified by 24 CFR 570.502(a)(16), which requires for records to be maintained at least for a period of five years following the closeout of all activities associated with each particular program.

GOSR maintains records in accordance with recordkeeping requirements cited in 24 CFR 570.490(a)(1) (as amended by 2 CFR 200), in order to facilitate a review or audit by HUD. Additionally, every subrecipient and contractor is required to establish and maintain at least three major categories of records: Administrative, Financial, and Project Case files.

Administrative records: These are files and records that apply to the overall administration of the subrecipient's CDBG-DR activities. They include the following:

- Personnel files;
- Property management files;
- General program files: Files relating to the subgrantee, subrecipient's, or contractor's application to the grantee, the subrecipient agreement, program policies and guidelines, correspondence with grantee and reports, etc.; and,
- Legal files: Articles of incorporation, bylaws of the organization, tax status, board minutes, contracts and other agreements.

Financial records: These include the chart of accounts, a manual on accounting procedures, accounting journals and ledgers, source documentation (purchase orders, invoices, canceled checks, etc.), procurement files, bank account records, financial reports, audit files, etc.

Project/case files: These files document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.

Reporting

As a recipient of CDBG-DR funds, GOSR established reporting requirements for all subrecipients and contractors in their respective subrecipient and contractor agreements and contracts in accordance with 24 CFR 570.503(b)(2). GOSR established its own reporting requirements in accordance with the provisions as found in 24 CFR 85.40(a) and (e) and 85.41(c) and (d) for Units of General Local Government (UGLGs) or 24 CFR 84.51(a) for non-profit subrecipients reporting requirements.

Generally speaking, GOSR monitors reporting requirements at five different program intervals:

1. At execution of agreements;
2. Monthly;
3. Quarterly;
4. Annually; and
5. As required.

Subrecipients, contractors and developers submit the documents and reports to the State at the times indicated in the subrecipient and grant agreement, loan agreement and/or contract agreement, and in the format prescribed by GOSR staff. Deviations from this requirement must be approved by GOSR staff.

Record Retention

Record retention is a requirement of the Program. Records are maintained to document compliance with Program requirements and federal, State, and local regulations and to facilitate an audit review by HUD. Records are maintained in accordance with 24 CFR 570.490 (as amended by 2 CFR 200.333), which states they must be maintained for a period of five years following the closeout of the award to the State. GOSR seeks to ensure that:

- Compliance with all requirements concerning records and records management practices under federal and State regulations;
- That the organization has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements and community expectations;
- These records are managed efficiently and can be easily accessed and used for as long as they are required; and
- These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner based on HUD Handbook 2225.6, Records Disposition Schedules and HUD Handbook 2228.2.

Access to Records

24 CFR 570.490 (as amended by 2 CFR 200.336) Recordkeeping requirements:

“(c) Access to records.

(1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.

(2) The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable

access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.”

The availability of records is subject to the exemptions to public disclosure set forth in section 87(2) of the New York State Public Officers Law. All Freedom of Information Law (FOIL) requests under the Public Officers Law must be made in writing to the Records Access Officer and will be processed in accordance with the procedures set forth therein.

Audit Trail

All records defined by the organization as important are captured into GOSR’s recordkeeping systems (e.g., SharePoint, Intelligrants, Tribuo, Elation, Imarc, GSP, etc.) so they can be appropriately managed.

Within the NY Rising Housing Recovery Program, Intelligrants serves as GOSR’s management information system. Intelligrants provides immediate tracking and imaging of all Program documentation, including but not limited to, applicant notification, eligibility verification documentation, financial funds disbursement documentation to ensure data security, and Program oversight to create a clear audit trail of the Program. Additional financial funds disbursement documentation is available from the Tribuo database.

Within the NY Rising Community Reconstruction Program and the NY Rising Infrastructure Program, GOSR Subrecipient Portal (GSP) will serve as GOSR’s management information and model file system. GSP contains both grantee and project level files, providing immediate tracking and imaging of Program documentation, including but not limited to, project selection, development and implementation activities, subrecipient agreements and other agreements, financial management and citizen participation data. Ensuring data security and oversight to creating a clear audit trail of the Programs.

All applicant data is secured in GOSR’s management information system for a specified period of time in accordance with the current Record Retention and Disposition Schedule.

Recordkeeping, including scanning, uploading to GOSR’s management information system, and filing of pertinent Program documentation retention policies are to provide both a physical and an electronic record of activities so that documentation is accessible for audit purposes.

In order to protect non-public personal information, data security measures are in place. For example, hardware and software data security protocols such as the requirement for signed non-disclosure agreements prior to receipt of access credentials for Intelligrants. GOSR also requires that hard copy files containing non-public personal information are kept in locked file cabinets to ensure their physical security.

Conflicts of Interest and Confidentiality

Conflicts of interest between applicants, subrecipients, program administrator, contractors, program staff and other parties are strictly prohibited by federal law.

A “covered person” is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or any designated public agencies,

or subrecipients that are receiving CDBG-DR funds. Generally, no person who is a covered person, and who exercises or has exercised any functions or responsibilities with respect to CDBG-DR activities and who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

Conflicts of Interest

The Program requires all Program staff to disclose any relationship with an applicant or contractor. State program staff, sub-grantees, program administrators, and contractors who disclose such relationships are placed in roles where there is no opportunity for them to display favoritism or collude in order to financially or otherwise benefit themselves, the Applicant, or the contractor. For example, a Customer Representative may not perform work on the application of family. For purposes of this regulation, “family” is defined to include spouse, parents, mother-in-law, father-in-law, grandparents, siblings, brother-in-law, sister-in-law, and children of an official covered under the CDBG conflict of interest regulations at 24 CFR 570.489(h) (as amended by 2 CFR 200).

GOSR may consider granting an exception to the conflict of interest provisions per 24 CFR 570.489(h)(4) (as amended by 2 CFR 200) if GOSR has determined that the subrecipient has adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974, as amended and the subrecipient has complied with the requirements listed in 24 CFR 570.489(h)(4)(i) and (ii) (as amended by 2 CFR 200). GOSR considers whether the exception provides a significant cost benefit or essential degree of expertise; whether the opportunity was provided for under open competitive bidding or negotiation; whether the person affected is a LMI person; whether the affected person has withdrawn from his or her functions or responsibilities; whether the interest or benefit was present before the affected person was in a position to benefit from the conflict of interest; or whether undue hardship results from failure grant the exception.

Confidentiality/Privacy

The New York State Housing Recovery Program is committed to protecting the privacy of all of our individual stakeholders, including the public and those individuals working on the Program. The Program’s policies describe how information is to be handled and protected. The purpose of this privacy policy is to establish when and under what conditions certain information relating to individuals may be disclosed.

The data collected from Applicants to GOSR programs contain personal information on individuals that is covered by the Federal Privacy Act of 1974, the Personal Privacy Protection Act (NYS POL §95, et. seq.) and the State’s Public Housing Law (see, PHL §159), among others. These laws provide for confidentiality, and restrict the disclosure of confidential and personal information. Unauthorized disclosure of such personal information may result in

personal liability with civil and criminal penalties. The information collected may only be used for limited official purposes, including:

1. NY CDBG-DR Grant program may use personal information throughout the award process to ensure compliance with program requirements, reduce errors and mitigate fraud and abuse.
2. Independent Auditors, when hired by the program to perform a financial or programmatic audit of the program, for use in determining program compliance with all applicable HUD and federal regulations, including the Stafford Act, CDBG-DR requirements and State and Local law.
3. NY CDBG-DR Program may disclose personal information on an Applicant to those with official Power of Attorney for the Applicant or for whom the Applicant has provided written consent to do so.
4. Organizations assisting the State in executing the CDBG-DR Program must comply with all Federal and State Law Enforcement and Auditing requests. This includes, but is not limited to, HUD, FEMA, FBI, NYS Office of the Comptroller, and the Office of the Inspector General.

Detecting and Preventing Duplication of Benefits

Generally, financial assistance received from another source that is provided for the same purpose as the CDBG-DR funds is considered Duplication of Benefit (DOB). To prevent the payment of DOB to Applicants, Program controls include, but are not limited to:

- Certification that Applicants have notified the State of all potential DOB;
- Verification of specific DOB through various available sources; and,
- Enforcement of certification to the fullest extent of the law.

Recapture Policy

The New York State Housing Trust Fund Corporation (HTFC) under the Division of Homes and Community Renewal (HCR) through GOSR is responsible for ensuring that CDBG-DR funds awarded by HUD through New York Rising comply with all federal, state and local requirements.

In order to ensure that New York State is able to fulfill its contractual obligations to HUD, and that the Applicants receiving CDBG-DR assistance are using the funds for their intended purpose, GOSR requires all Applicants to sign grant agreements stipulating each party's responsibilities and the potential penalties if the Applicant is found not to have fulfilled their obligations. Specifically, if the funds are not used for eligible activities, the money can be recaptured.

To monitor operations and to guard against fraud or unintentional violations of program requirements, GOSR has established quality control procedures. If a program violation is identified, the State recaptures funds in accordance with its recapture procedure. GOSR

understands that the Applicants receiving CDBG-DR assistance have suffered significant losses and the contractual responsibilities are NOT intended to be an imposition on them or to require difficult pre-requisites for benefits. However, because the purpose of the grant is to restore and revitalize communities affected by the storms, CDBG-DR funds must be used in accordance with HUD guidelines to help repair or replace damaged homes and businesses or reduce the risk of future damage through resilient rebuilding, elevation or other mitigation measures.

Anti-Fraud, Waste and Abuse Checks (AFWA)

The Anti-Fraud, Waste and Abuse (AFWA) check is designed to identify discrepancies and risk-relevant issues in Applicant-provided information that may be indicative of fraud, waste, and/or abuse risk. This check is run the Applicant and may consist of up to seven components:

1. Social Security Number check (for relevant applicant types);
2. Business status check (for relevant application types);
3. Confirmation of association with damaged property address;
4. Check of relevant watch lists and debarment lists;
5. Searches for New York State tax warrants;
6. Searches for federal tax liens filed in New York State; and/or
7. Searches for New York State child support warrants (for relevant application types).

Review of AFWA Check Findings

After AFWA checks are completed, findings are delivered to Customer Representatives who receive reports notifying them of any flags that were identified. In their review of AFWA check findings, Customer Representatives examine application information and Applicant-provided documentation to seek to determine if this information is consistent with flags identified through AFWA checks and to identify potential typographical/data input errors.

Adjudication and Escalation of AFWA Findings

Using relevant federal and State policy and procedure guidelines, the Customer Representative/Business Advisor determines:

- a. If flagged issues affect the Applicant's eligibility and
- b. If further action is necessary in order to adjudicate the application.

Examples of options that may be available to the Customer Representative/Business Advisor could include but are not limited to the following:

- If the flagged issue does not affect the Applicant's eligibility per State policy, the Customer Representative/Business Advisor can recommend that the application be permitted to progress through the application process.
- If the flagged issue is a result of a typographical error (e.g., transposition of last and first names, hyphenation, misspelling, missed letter, missed numerical digit,

incorrect ZIP codes), the Customer Representative/Business Advisor can query the underlying documentation submitted by the Applicant for an extra layer of verification and recommend that the application be permitted to progress through the application process, pursuant to satisfactory confirmation of underlying documentation.

- If there is insufficient information to adjudicate the flagged issue and research of publicly available information is not able to provide the information necessary to make a determination, the Customer Representative/Business Advisor can recommend that follow up be conducted with the Applicant or that the application be escalated for further scrutiny.

Exhibit 2 – Citizen Participation Plan

Citizen Participation Plan

Community Development Block Grant Disaster Recovery

Hurricane Irene, Tropical Storm Lee, & Superstorm Sandy

January 5, 2015

The primary goal of the New York Citizen Participation Plan is to provide all New York citizens with an opportunity to participate in the planning, implementation, and assessment of the State’s CDBG-DR Sandy recovery program(s). The Plan sets forth policies and procedures for citizen participation, which are designed to maximize the opportunity for citizen involvement in the community redevelopment process. New York State developed the Citizen Participation Plan to meet the requirements of the CDBG Disaster Recovery (CDBG-DR) funding for Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. The Plan reflects the alternative requirements as specified by the U.S. Department of Housing and Urban Development (HUD) in the Federal Register (FR-5696-N-01), Federal Register (FR-5696-N-06), Federal Register (FR-5696-N-11), and notice of specific waivers.

The State will ensure that any Units of General Local Government (UGLG) or subrecipients who receive funds will have a Citizen Participation Plan that meets the CDBG-DR regulations and takes into consideration the waivers and alternatives made available under CDBG-DR funding.

In order to facilitate citizen participation requirements and to maximize citizen interaction in the development of the New York Disaster Recovery Action Plan, substantial amendments to the Action Plan, and the Quarterly Performance Reports (QPR), the State has laid out targeted actions to encourage participation and allow equal access to information about programs by all citizens, including those of low and moderate income, persons with disabilities, the elderly population, persons receiving Disaster Housing Assistance Program (DHAP) funding, and persons with limited English proficiency.

Public Outreach

GOSR is committed to ensuring that all populations impacted by the storms are aware of the programs available to assist in the recovery from Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy. Through in person meetings, outreach events, online and traditional media, GOSR has publicized programs and conducted outreach efforts throughout the storm impacted areas. In addition, the Governor initiated the NYRCR Program, a grass-roots community driven process that engages the public as a key stakeholder in the planning and rebuilding process. Through 61 cross-jurisdictional Planning Committees representing 119 communities, the NYRCR stakeholders helped to inform their communities about the available recovery programs as they came online.

Programmatic Outreach

Through the NYRCR Program, there have been over 650 Planning Committee meetings to construct a vision statement; to conduct an inventory of critical assets and an assessment of risks; and then ultimately to craft the strategies, and proposed projects or actions to address these risks. All meetings were open to the public and were publicized by media advisories, flyers, and posters hung in public buildings; radio announcements; and through social media. Where necessary, meetings were advertised in various languages to ensure the immigrant population was informed. Translators were also present at meetings so that information was clearly understood. For the hearing impaired, sign language interpreters were also available.

More than 240 Public Engagement Events attracted thousands of community members, who provided feedback on the NYRCR planning process and proposals and made additional suggestions. Planning Committees members were instrumental in representing communities that are traditionally underrepresented in disaster recovery, from engaging immigrant populations to working with high school students. Committee members made presentations at senior housing complexes, religious gatherings, schools, and at Chambers of Commerce.

For the Small Business program, GOSR worked in coordination with the Empire State Development Corporation (ESD) as well as its subrecipient, the Small Business Development Center (SBDC) to create a multi-pronged approach to reach out to more than 3,000 businesses in the impacted communities has included paid advertising, door-to-door visits, press releases and other public relations efforts, and collaboration with various constituents and community organizations.

For the NY Rising Homeowner Program, early on the State partnered with the Long Island Housing Partners to target community outreach including but not limited to, persons with disabilities and other special needs, and senior households, with a focus on low- and moderate-income minority communities; outreach to and coordination with civic associations, religious and advocacy groups (racial equity), social service agencies, emergency aid not-for profits, educational institutions, and outreach to residences impacted by the disaster.

The State's vendors on the project also held numerous meetings to inform the public about the availability of grants for home repairs. This outreach consisted of a variety of methods: media announcements, online updates on the Storm Recovery website and through Storm Recovery profiles on social media platforms including Facebook, Twitter, and Instagram, community meetings, and partnerships with subrecipients. Additionally, staff frequently made presentations to community groups, specifically in Long Island, to provide updated program information. A similar effort has been conducted in counties in upstate New York to make sure that all impacted homeowners have the most up to date information about the program. In addition, frequent technical assistance meetings were held with applicants to assist homeowners in better understanding the program and completing the rebuilding process successfully.

Further the State also engaged the Welfare Council of Long Island/Long Island Long-Term Recovery Group (LTRG) to conduct targeted outreach to low and moderate income individuals that were affected by the Superstorm Sandy, in order to encourage these individuals to apply to the NY Rising Housing Recovery Assistance Program before the April 11, 2014 deadline.

For its rental programs, the State will continue to conduct outreach to potential landlords throughout the impacted areas that may be eligible for the program. As part of its implementation, the State will also conduct outreach to previous tenants of the damaged rental units to make them aware of potential repaired and newly built units as they are completed.

Outreach to Vulnerable Populations

The State has also conducted outreach to residents with more acute needs, particularly low and moderate income household and households headed by non-English speaking persons. As noted above, within the NYRCR program, where necessary, meetings were advertised in various languages to ensure the immigrant population was informed. Translators were also present at meetings so that information was clearly understood. For the hearing impaired, sign language interpreters were also available.

As the State continues to implement programs and work with communities to recover from Hurricane Irene, Tropical Storm Lee and Superstorm Sandy, GOSR is committed to continued outreach and program accessibility to vulnerable populations and ensuring that program information is accessible to populations with language barriers. For example, the APA is translated into Spanish, Russian and Chinese, which are the three languages most needed for persons with language barriers in impacted counties (based on the 2008-2012 ACS 5-Year Estimates, Table B16001, Populations 5 Years and Over Who Speak English less than “very well”).

Currently documents are translated into the three above-mentioned languages. The State will continue to translate programmatic materials within its programs. The State will also continue to provide translation services as needed in case management and public meetings.

The State is in the process of upgrading its entire website. In the interim, prior to deployment of the revised website, the State continues to update its current website to enable language access capabilities. In addition, as it rolls out the revised website, the State will prioritize language translation functionality as one of the first phases of the development process. The State will also provide translation of any document into additional languages, braille, or any other formats for persons with visual impairments upon request.

The State continues to further these efforts to reach out to all populations and ensure that the community is educated and aware of all of the recovery programs. As programs adjust and move into new phases, the State will continue to adjust their public outreach to ensure comprehensive outreach to all populations.

Public Notices, Public Hearings, and Comment Period

The State Citizen Participation Plan will ensure that there is reasonable and timely access for public notice and comment on the activities proposed for the use of CDBG-DR grant funds. In the Notices for the Second and Third Allocation HUD revised the requirements for public hearings. The State will always hold a minimum of one public hearing for each substantial amendment which started with APA6. Written minutes of the hearings and attendance rosters will be kept for review by State officials. The State will continue to coordinate outreach meetings with State entities, local governments, non-profits, private sector, and involved associations. The State invited public comment to the New York Disaster Recovery Action Plan and will continue to invite public comment for any future Substantial Amendments for a minimum thirty days, posted prominently and accessed on GOSR’s official website.

Substantial Amendments to the Action Plan

The State has defined Substantial Amendments to the Action Plan as those proposed changes that require the following decisions:

- Addition or deletion of any allowable activity described in the approved application;
- The allocation or re-allocation of more than \$1 million; and,
- Change in the planned beneficiaries.

Those amendments which meet the definition of a Substantial Amendment are subject to public notification, public hearings and public comment procedures. Citizens and units of local government will be provided with reasonable notice and an opportunity to comment on proposed Substantial Amendments to the Action Plan. A notice and copy of the proposed Substantial Amendment will be posted on the agency's official website. Citizens will be provided with no less than thirty days to review and comment on the proposed amendment. Written comments may be submitted to:

Governor's Office of Storm Recovery
64 Beaver Street
P.O. Box 230
New York, New York 10004

Comments may also be made at www.stormrecovery.ny.gov. A summary of all comments received and reasons why any comments were not incorporated into the Substantial Amendment will be included in the HUD request for a Substantial Amendment and posted.

Non-substantial Amendments to the Action Plan will be posted on GOSR's website after notification is sent to HUD and the amendment becomes effective. Every Amendment to the Action Plan (substantial and non-substantial) will be numbered sequentially and posted on the website.

Performance Reports

The State must submit a Quarterly Performance Report through HUD's Disaster Recovery Grant Reporting (DRGR) system no later than thirty (30) days following the end of each calendar quarter. Within three (3) days of submission to HUD, each QPR must be posted on GOSR's official website for public review and comment. The State's first QPR is due after the first full calendar quarter after the grant award. QPR's will be posted on a quarterly basis until all funds have been expended and all expenditures have been reported.

Each QPR will include information about the uses of funds in activities identified in the Action Plan as entered in the DRGR reporting system. This includes, but is not limited to: project name, activity, location, and National Objective; funds budgeted, obligated, drawn down, and expended; the funding source and total amount of any non-CDBG-DR funds to be expended on each activity; beginning and actual completion dates of completed activities; achieved performance outcomes such as number of housing units complete or number of low and moderate income persons benefiting; and the race and ethnicity of persons assisted under direct-benefit activities. The State must also record the amount of funding expended for each Contractor identified in the Action Plan. Efforts made by the State to affirmatively further fair housing will also be included in the QPR.

During the term of the grant, the grantee will provide citizens, affected local governments, and other interested parties with reasonable and timely access to information and records relating to the approved program and to the grantee's use of grant funds as well as contracts procured with CDBG-DR funding. This information shall be posted on the grantee's official website and provided on request.

Technical Assistance

Citizen Participation Requirements for Subrecipients and Local Governments Participating in CDBG-DR Programs

To ensure applicant compliance with Section 508 of the Housing and Community Development Act of 1974, as amended, the citizen participation requirements for Units of General Local Government (UGLG) applying for or receiving DR funds from the State are as follows:

Each applicant shall provide citizens with adequate opportunity to participate in the planning, implementation, and assessment of the CDBG program. The applicant shall provide adequate information to citizens, obtain views and proposals of citizens, and provide opportunity to comment on the applicant's previous community development performance.

UGLGs receiving CDBG-DR funds must have a written and adopted Citizen Participation Plan which:

- Provides for and encourages citizen participation, with particular emphasis on participation by persons of low- and moderate- income who are residents of slum and blighted areas and of areas in which funds are proposed to be used;
- Provides citizens with reasonable and timely access to local meetings, information, and records relating to the State's proposed method of distribution, as required by regulations of the Secretary, and relating to the actual use of funds under Title I of the Housing and Community Development Act of 1974, as amended, and the unit of local government's proposed and actual use of CDBG funds;
- Provides for technical assistance to groups representative of persons of low- and moderate- income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;
- Provides for the review of proposed activities and program performance by potential or actual beneficiaries, and with accommodations for the disabled;
- Provides for a timely written answer to written complaints and grievances, within 15 working days where practicable;
- Identifies how the needs of non-English speaking residents will be met where a significant number of non-English speaking residents can be reasonably expected to be involved;
- Establishes procedures and policies to ensure non-discrimination, based on disabilities, in programs, and activities receiving Federal financial assistance as required by Section 504 of the Rehabilitation Act of 1973, as amended.

The plan must be made available to the public and must include procedures that meet the following requirements:

- *Performance Hearings:* Prior to close out of the disaster recovery program, the Program, the UGLG and State subrecipients may be required to hold a public hearing to obtain citizen views and to respond to questions relative to the performance of the program. This hearing shall be held after adequate notice, at times and locations convenient to actual beneficiaries and with accommodations for the disabled and non-English speaking persons provided. Written minutes of the hearings and attendance rosters will be kept for review by State officials. Nothing in these requirements shall be construed to restrict the responsibility and authority of the applicant for the development of the application.
- *Complaint Procedures:* The State will ensure that each UGLG, or Subrecipient funded with CDBG-DR funds will have written citizen and administrative complaint procedures. The written Citizen Participation Plan shall provide citizens with information relative to these procedures or, at a minimum, provide citizens with the information relative to the location and hours at which they may obtain a copy of these written procedures. All written citizen complaints which identify deficiencies relative to the UGLG, Subrecipient's community development program will merit careful and prompt consideration. All good faith attempts will be made to satisfactorily resolve the complaints at the local level. Complaints will be filed with the Executive director or chief elected official of the entity who is receiving the funds and who will investigate and review the complaint. A written response from the Chief Elected Official, Agency Head, or Executive Director to the complainant will be made within 15 working days, where practicable. A copy of the complaint and determination must be sent to GOSR's head of Monitoring and Compliance.