



Governor's Office of Storm Recovery

NY Rising Infrastructure Program POLICY AND PROCEDURE MANUAL

Andrew M. Cuomo, Governor of New York State
RuthAnne Visnauskas, Commissioner/CEO,
New York State Homes and Community Renewal
Governor's Office of Storm Recovery of the Housing
Trust Fund Corporation

November 20, 2019 Version 3.1

Prepared by:
Governor's Office of Storm Recovery
New York State Homes and Community Renewal
Housing Trust Fund Corporation
Office of Community Renewal

The policies and procedures stated in this manual are current as of December 20, 2017. This Manual represents the current version of the Governor's Office of Storm Recovery's (GOSR) policies and procedures which shall provide general guidance for the operation of the GOSR Program. All manuals will be reviewed periodically and will be updated. GOSR will use its best efforts to keep its manuals current. Therefore, you are strongly urged to visit our website www.stormrecovery.ny.gov or to contact info@stormrecovery.ny.gov to ensure that you have the latest version of GOSR's policies and procedures. There may be times, however, when a policy or procedure will change before the manual is revised.

POLICY AND PROCEDURE MANUAL

NY Rising Infrastructure Program

Version Control

Version Number	Date Revised	Description of Revisions
Working Draft	2/17/2014	PA Match Program Initial Draft
1.0	8/11/2014	Non-Federal Match Policies and Procedures Manual
Working Draft	6/4/2014	Modified Retrieval Plan
Working Draft	9/4/2014	HMGP Plan Initial Draft
Working Draft	12/16/2014	Modified QA/QC Plan
Working Draft	12/23/2014	Combined Plan to create one Infrastructure Manual
Working Draft	1/13/2015	Added language reflecting match includes two (2) 2013 FEMA events
Working Draft	3/23/2015	Clarified Match Process for Long Island Power Authority
Draft for HUD	4/15/2015	Revised and Clarified Non-Federal Share Match policies and procedures
2.0	6/4/2015	Comprehensive revision of Policies and Procedures for NY Rising Infrastructure Program
2.1	11/21/2016	Revision of Policies and Procedures arising from the August 2015 HUD Monitoring visit
3.0	12/20/2017	Comprehensive revisions, clarifications and updates to Policies and Procedures for NY Rising Infrastructure Program
3.1	11/20/2019	Revised and Clarified Non-Federal Share Match Policies and Procedures

This page is intentionally blank

Table of Contents

New York State Program Goals.....	9
Introduction	9
Oversight of Storm Recovery	9
Manual Overview	10
Meeting CDBG-DR Program Goals.....	10
Fulfilling the Principles Established by New York State’s Action Plan	11
Citizen Participation Plan	12
1.0 Summary of NY Rising Infrastructure Program and Funding Resources	13
1.1 Non-Federal Share Match Program.....	13
1.2 Local Government and Critical Infrastructure Program	14
2.0 HUD Requirements for NY Rising Infrastructure Projects	15
2.1 Tie to the Storm, National Objective, and Eligible Activity.....	15
2.1.1 Tie to the Storm	15
2.1.1.1 Geographical Eligibility	15
2.1.1.2 Meeting a National Objective	16
2.1.2.1 National Objective Documentation and Records	16
2.1.3 Meeting an Eligible Activity.....	18
2.2 Timely Expenditure of Funds.....	18
2.3 Order of Assistance	18
2.4 Duplication of Benefits	20
2.5 Program Income	20
2.6 Monitoring and Compliance Oversight	20
2.7 Investigations	22
2.8 Diversity and Civil Rights Oversight.....	22
2.9 Cross-Cutting Federal Regulations	23
2.9.1 Americans with Disabilities Act	23
2.9.2 Davis-Bacon Labor Standards.....	23
2.9.3 Force Account Labor	24
2.9.4 Equal Employment Opportunity.....	24
2.9.5 Fair Housing.....	24
2.9.6 Fair Labor Standards Act of 1938, as Amended	25
2.9.7 Limited English Proficiency.....	25
2.9.8 Minority- and/or Women-Owned Business Enterprises	26
2.9.9 Section 3.....	26
2.9.10 Residential Anti-Displacement	27
2.9.11 Uniform Relocation Act and Real Property Acquisition	27
2.9.11.1 Real Property.....	27
2.9.11.2 Acquisition of Real Property.....	28
2.9.12 Financial Management	29
2.9.13 Procurement Policy	29
2.9.14 Insurance and Property Management	30
2.9.14.1 Insurance Waiver.....	30
2.9.15 Recordkeeping, Retention and File Management.....	31
2.9.15.1 Reporting.....	31
2.9.15.2 Record Retention.....	32
2.9.15.3 Access to Records.....	32
2.9.16 Audit Trail.....	33

2.9.16.1 Audit Requirements	34
2.9.17 Conflicts of Interest and Confidentiality.....	34
2.9.17.1 Conflicts of Interest	34
2.9.17.2 Confidentiality/Privacy	35
2.10 Infrastructure Requirements.....	35
2.10.1 Comprehensive Risk Analysis	36
2.10.2 Green Infrastructure	36
2.10.3 Resilience Performance Standards.....	36
2.11 Covered Project Requirements	36
2.11.1 Sandy Regional Infrastructure Resilience Coordination Group	37
3.0 Non-Federal Share Local Match Program Policies.....	39
3.1 Introduction.....	39
3.2 Funding Sources	40
3.2.1 Federal Emergency Management Agency.....	40
3.2.2 Other Federal Agencies	41
3.2.2.1 Environmental Protection Agency.....	41
3.3 Determining the Non-Federal Share Amount	42
3.4 Eligibility	42
3.4.1 Eligible Activities (For PA Match only).....	42
3.4.2 Eligible Applicants	43
3.4.2.1 FEMA-Funded Programs: Public Assistance, Hazard Mitigation Grant Program, and Individual Assistance	43
3.4.2.2 EPA’s Sandy-Appropriated Storm Mitigation Loan Program	43
3.4.3 National Objective Documentation and Records	43
3.5 Project Review Order	44
3.5.1 FEMA Category (for PA Match only).....	45
3.5.2 Project Size	46
3.6 Environmental Review for Non-Federal Share Match Payments – Special Provisions Concerning Use of FEMA’s process	46
3.7 Non-Federal Share Match Program Payment Policy	47
3.7.1 FEMA Transitional Shelter Assistance Payments	48
4.0 Non-Federal Share Match Program Procedures.....	49
4.1 Storm Eligibility	49
4.2 Eligible Applicants	49
4.2.1. Hurricane Irene and Tropical Storm Lee: Applicant Eligibility for PA Match Payments	50
4.2.2 PA Match Review Process: Superstorm Sandy, Winter Storm Nemo, Upstate Severe Storms and Flooding: Applicant Eligibility	50
4.2.2.1 Entities with an Interest in PA Match Program	51
4.3 Duplication of Benefits	51
4.4 FEMA PA Project Worksheet File Review Procedures	53
4.4.1 FEMA Document System	53
4.4.2 PA Match Program Review Process: Hurricane Irene/Tropical Storm Lee	53
4.4.2.1 Outreach Applicant Notification.....	54
4.4.2.2 Document Retrieval.....	54
4.4.2.3 Funded PA Match Program Payments.....	55
4.4.3 PA Match Program Review Process: Superstorm Sandy, Winter Storm Nemo, Upstate Severe Storms and Flooding	55
4.4.3.1 Applicant Notification Procedure	55
4.4.4 Document Retrieval.....	55

4.4.4.1 Document Retrieval Process.....	56
4.4.5 PW Selection Review Process.....	57
4.4.6 PA Match Program: CDBG-DR Project Eligibility Review Process	57
4.4.6.1 Payment and CDBG-DR Compliance Review	57
4.4.6.2 PW Funding Review Process.....	61
4.4.6.3 Large Projects Funding Recommendations	61
4.4.6.4 Small Projects Funding Recommendations	62
4.4.7 Special Large Projects.....	62
4.4.7.1 Long Island Power Authority Payments	62
4.4.7.2 Bay Park Wastewater Treatment Plant	62
4.4.7.3 Roberto Clemente State Park Shoreline and Park Improvements	63
4.5 Records Management	63
4.5.1 NYS Server for Records Management	63
4.5.1.1 PA Infrastructure Approval Procedures.....	64
4.5.2 Cost Documentation Review	64
4.5.3 Procurement Documentation Review	65
4.5.4 Reporting.....	65
4.6 Internal Controls.....	65
4.6.1 Quality Assurance (QA)/Quality Control (QC) of PA Match Program Files	65
4.6.2 Compliance.....	65
4.6.3 Programmatic Management and Monitoring	66
4.6.3.1 Programmatic Management	66
4.6.3.2 PA Match Program Technical Assistance.....	66
4.6.3.3 Monitoring and Compliance	67
4.6.4 Closeout of PA Match Program	67
5.0 Hazard Mitigation Grant Program Global Match Strategy Policy	69
5.1 Global Match Strategy.....	70
5.2 HMGP Requirements.....	72
5.3 Conforming with the State and Local Hazard Mitigation Plans	73
5.4 Beneficial Impact.....	74
5.5 Historical and Environmental Requirements.....	75
5.6 Utility of a Project.....	75
5.7 Cost-Effectiveness	75
5.8 CDBG-DR Criteria.....	76
5.8.1 Eligibility for CDBG-DR funded Global Match Projects – NY Rising Infrastructure Floodplain Management Program	76
5.8.2 Eligibility for CDBG-DR funded Global Match projects – Infrastructure Program	77
5.9 HMGP Project Prioritization and Review	77
5.9.1 Location and LMI Benefit of a Project	78
5.9.2 Feasibility of HMGP Eligibility and Approval	78
5.9.3 Project Cost	78
6.0 Hazard Mitigation Grant Program Global Match Strategy Procedures	80
6.1 CDBG-DR Funded Global Match Project Implementation Procedures.....	80
6.2 Floodplain Management Program – Project Implementation Procedures	80
6.3 HMGP Infrastructure Project Implementation Procedures.....	80
6.4 Project Selection and Review Procedures.....	80
6.4.1 Duplication of Benefits	81
6.4.2 Application Submission Procedures - Projects Funded Under the HMGP Non-Federal Share Global Match Program	82

6.4.3 100% CDBG-DR-Funded Global Match Projects Included in the HMGP Non-Federal Share Global Match Program	82
6.5 Superstorm Sandy Environmental Adoption Provision	83
6.6 Utility of a Project.....	83
6.7 HMGP Global Match Projects - Additional Implementation Procedures	83
6.8 Closeout.....	84
6.8.1 Closeout of Floodplain Management Projects	84
6.8.2 Closeout of Infrastructure Projects	84
7.0 Local Government and Critical Infrastructure Program Policies	85
7.1 Energy Infrastructure	85
7.1.1 Eligible Counties	86
7.1.2 Eligible Subrecipients	86
7.1.3 Allocation Methodology	86
7.1.4 Project Selection	86
7.1.4.1 CDBG-DR Microgrids.....	86
7.2 Local Government Support Program.....	87
7.2.1 Eligible Counties	88
7.2.2 Eligible Subrecipients	88
7.2.3 Allocation Methodology	88
7.2.3.1 Use of FEMA PA Categories	88
7.2.3.2 FEMA Housing Damage	89
7.2.3.3 Total Allocation	89
7.2.4 Project Selection	89
7.3 Water and Wastewater Treatment Facilities	89
7.3.1 EPA Storm Mitigation Loan Program.....	90
7.3.1.1 Eligible Counties	90
7.3.1.2 Eligible Subrecipients	91
7.3.1.3 Allocation Methodology	91
7.3.2 Standalone Water and Wastewater Treatment Plant Projects	91
7.4 Natural Resources Infrastructure	92
7.4.1 Eligible Counties and Geography.....	92
7.4.2 Eligible Subrecipient.....	92
7.4.3 Eligible Applicants	92
7.5 Local Government and Critical Infrastructure Program Implementation Policies	93
7.5.1 Project Coordinator Selection	93
7.5.2 Subrecipient Selection and Capacity	93
7.5.2.1 Subrecipient Criteria.....	94
7.5.2.2 Direct Selection	94
7.5.3 Contractual Agreement.....	95
7.5.4 Pre-Application.....	95
7.5.4.1 Pre-Application Review Panel.....	96
7.5.5 Application	96
7.5.6 Application Acceptance.....	96
7.5.7 Duplication of Benefits and Order of Assistance.....	96
7.5.8 Environmental Review	97
7.5.9 Technical Assistance to Subrecipients.....	98
7.5.10 Project Delivery Costs.....	98
7.5.11 Subrecipient Procurement	99
7.5.11.1 Professional Services	99
7.5.11.2 Construction Services	100

7.5.12 Payment	100
7.5.12.1 Subrecipient Payment	100
7.5.12.2 New York State Division of the Budget Payment	100
7.5.12.3 Final Payment.....	101
7.5.13 Project Closeout	101
7.5.14 Subrecipient Closeout	101
8.0 Local Government and Critical Infrastructure Implementation Procedures	102
8.1 Subrecipient Selection.....	103
8.1.1 Selection Criteria	103
8.1.2 Subrecipient Agreement	104
8.2 Pre-Application Phase	104
8.2.1 Pre-Application.....	104
8.2.2 Pre-Application Review Panel	104
8.3 Application Phase	105
8.3.1 Subrecipient Policies and Procedures	105
8.3.2 Procurement of Professional Services.....	106
8.3.3 Application	106
8.3.4 Application Review	106
8.3.5 Application Acceptance.....	107
8.3.6 Development of Scope, Budget, and Schedule	107
8.4 Project Development Phase	107
8.5 Construction Services Bidding/Preconstruction Phase	107
8.5.1 Construction Services Bidding.....	108
8.5.2 Preconstruction	108
8.6 Construction Phase	108
8.6.1 Substantial Change Order	109
8.7 Programmatic Management and Monitoring Phase.....	109
8.7.1 Programmatic Management	109
8.7.2 Monitoring and Compliance.....	109
8.8 Closeout Phase	110
8.8.1 Project Closeout	110
8.8.2 Subrecipient Closeout	111
9.0 Definitions and Acronyms.....	112
9.1 Commonly used acronyms	112
9.2 Definitions	113
10.0 Exhibits.....	120

New York State 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, through Public Law (P.L.) 113-2, appropriated \$16 billion in Federal Fiscal Year 2013 funds for the Community Development Block Grant - Disaster Recovery (CDBG-DR) program. Enacted on January 29, 2013, P.L. 113-2 stipulates that these funds must 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...”

Prior to the appropriation in Fiscal Year 2013, in 2011, the U.S. Congress also appropriated \$400,000,000 to support recovery from Hurricane Irene and Tropical Storm Lee through P.L. 112-55. This appropriation provided federal disaster aid to address damaged public infrastructure and housing caused by these events, and provided New York State with \$93,213,963 to assist communities with flood recovery. New York State Homes and Community Renewal (HCR), through its Office of Community Renewal, received \$71,654,116 of this total. This brought the total CDBG-DR allocation to the State to \$4,416,882,000.

As required by the April 16, 2012 Federal Register Notice (FR-5628-N-01), New York State outlined the disaster recovery initiatives for Hurricane Irene and Tropical Storm Lee in the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* which was submitted to the U.S. Department of Housing and Urban Development (HUD) in July of 2012.

Additionally, as required by the March 5, 2013 Federal Register Notice (FR-5696-N-01), the State of New York outlined the disaster recovery initiatives for Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee in the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan) which was submitted to HUD in April of 2013. The State has subsequently amended the Action Plan through Action Plan Amendments. The Action Plan and all amendments are available at www.stormrecovery.ny.gov.

Oversight of Storm Recovery

Governor Cuomo established the Governor’s Office of Storm Recovery (GOSR), a program of the Housing Trust Fund Corporation (HTFC) in June 2013 to maximize the coordination of recovery and rebuilding efforts in municipalities throughout New York State affected by Superstorm Sandy,

Hurricane Irene, Tropical Storm Lee, and other disasters. GOSR operates within HTFC. HTFC is a component of 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 CDBG-DR Funds.

GOSR works in close collaboration with other Federal and State agencies engaged in disaster recovery, to support rebuilding and recovery actions in New York State, and coordinate and provide funding to local governments and public entities in storm damaged counties. GOSR collaborates with local and community leaders to respond to their communities' most urgent rebuilding needs and identifies 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.

Manual Overview

This Manual outlines the policies and procedures that the State and its agents use to direct the operation of the NY Rising Infrastructure Program (the Infrastructure Program or the Program), which is comprised of: (1) Non-Federal Share Match Program (including match from a variety of funding sources) and (2) Local Government and Critical Infrastructure Program. This Manual is intended to serve as a resource for New York State residents and other parties, including State agencies, units of general local government, and non-profit organizations that are engaged as subrecipients to deliver assistance through the Program. It details how the Infrastructure Program will operate, including basic information on who will be served by each program, the types of assistance offered, and program recipient obligations.

This Manual only addresses the Infrastructure Program. This Manual, the State Action Plan and subsequent amendments, and the policy manuals for other NY Rising programs are available for public review and use at <http://www.stormrecovery.ny.gov>.

Meeting CDBG-DR Program Goals

To meet HUD disaster recovery objectives, New York State has specifically designed programs to help impacted residents and communities recover from the damage inflicted by storms in 2011, 2012, and 2013. 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 also meet this general objective.

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

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

Activities must also meet at least one CDBG-DR program eligible activity and demonstrate a tie to one of the presidentially declared disaster events, outlined in the Federal Register Notices, as well as Section 2.1 of this Manual.

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

The Infrastructure Program is expected to encourage recovery in communities by ensuring that they are not just rebuilt to pre-storm condition, but to the extent feasible, become safer, especially in areas where there is high risk of future flooding. The program also strives to revitalize the vibrancy of New York State's disaster-impacted communities, while enhancing the quality of life of storm impacted residents, and help communities develop and implement strategies that facilitate the coordination and use of the CDBG-DR funding with other Federal, State, and local community development resources.

The Infrastructure Program activities outlined in the Action Plan are based on the foundation of six key principles:

1. ***Building back better and smarter*** – As New York communities work to repair the severe damage caused by Superstorm Sandy and other events, the State uses the recovery programs as an opportunity to ensure that damaged infrastructure is not simply restored to its 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 will collaborate closely with local governments and other organizations to ensure a coordinated and holistic response, while enabling and assisting individual communities to develop forward-looking local recovery plans that meet their specific needs.
3. ***Recovery from Irene, Lee, Sandy, Nemo and Upstate Severe Storms and Flooding*** – Recovery efforts will also extend to those communities recovering from Hurricane Irene and Tropical Storm Lee in 2011, along with those impacted by Winter Storm Nemo and Upstate Severe Storms and Flooding in 2013.
4. ***Leveraging private dollars and maximizing public funds*** – New York State seeks to develop programs that will help unlock capital markets and increase the amount of low-interest financing of key projects by reducing risk for private sector lenders and increasing the funds available to assist local governments initiate projects. New York State will also work with individual communities and federal recovery agencies to maximize available recovery dollars so that communities engaged in recovery actions will not be forced to borrow or bond out recovery to undertake storm related repairs.
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*** – 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 HUD guidelines.

Citizen Participation Plan

The New York State Citizen Participation Plan provides New York citizens an opportunity to participate in the planning, implementation, and assessment of the State's CDBG-DR recovery program. The Plan sets forth policies and procedures for citizen participation, in accordance with 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, and individuals requiring special accommodations due to disabilities. 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 now include a thirty-day public period with at least one public hearing. The State has, and will continue to, coordinate technical and programmatic outreach meetings with State entities, local governments, non-profits, private sector, and involved associations. The State invites public comments to the Action Plan and Substantial Amendments as required by HUD. These documents are posted prominently and can be accessed on GOSR's official website. The State uses 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 NY Citizen Participation Plan for CDBG-DR Sandy, Irene, and Lee recovery is attached as Exhibit 1 to this Manual.

For the Non-Federal Share Match Program outlined in this Manual, the eligibility of applicants who may participate in the GOSR program is governed by the rules and regulations of the primary federal funding agency, the Federal Emergency Management Agency (FEMA) or the Environmental Protection Agency (EPA). Therefore, only applicants who have applied and are accepted into these federal recovery programs are eligible for participation in GOSR's Non-Federal Share Match Program. These federal agencies that administer recovery dollars require a local match, non-federal share contribution from the applicant who applied for assistance as a requirement to draw federal funds. CDBG-DR funding has the flexibility to be utilized as the match funding for these programs and those applicants. GOSR has an outreach process for these applicants which is outlined further in this Manual. This includes conducting technical and programmatic on-site Technical Assistance (TA) meetings with State entities, local governments, and non-profits, and providing webinars and direct correspondence to inform them about the CDBG-DR program and related requirements.

For the Local Government and Critical Infrastructure Program, GOSR follows both the Citizen Participation Plan, attached as Exhibit 1 to this Manual, along with additional requirements stipulated by HUD for Covered Projects as detailed in Section 2.11 of this Manual.

1.0 Summary of NY Rising Infrastructure Program and Funding Resources

The State's Infrastructure Program utilizes CDBG-DR funds to address two primary needs: (1) providing support to storm impacted units of government and other eligible entities with payment of their Non-Federal Share ("local match") requirement so that they can access other federal disaster recovery resources without incurring an unexpected financial burden to address recovery needs; and (2) providing funds to units of government to develop "stand-alone" infrastructure projects which are funded with up to 100% CDBG-DR funding, that are necessary to address identified unmet disaster recovery needs in communities and counties that are not funded by other federal recovery programs. Consequently, the Infrastructure Program has two Sub-Programs:

1. Non-Federal Share Match Program (including funding from various sources per Section 3.2)
2. Local Government and Critical Infrastructure Program.

The State continues to work with all federal partners to maximize available repair and mitigation funds that these agencies can provide. In particular, the State has been working to develop solutions to address the recovery needs of local, county, and State government agencies and has been focused on ensuring that publicly-owned critical infrastructure assets in the energy, health care, public housing, transportation, and wastewater sectors are not only identified and funded, but are being repaired and constructed in ways that are more resilient. This is intended to create a more resilient environment for New York's residents and to safeguard the billions of dollars of federal investment provided to recover and rebuild New York following these disasters.

1.1 Non-Federal Share Match Program

Many federal disaster recovery programs require that grant recipients, including units of government and eligible non-profit organizations, provide a Non-Federal Share match, also referred to as "local match," which is a portion of their overall project budget as a condition of receiving disaster funding. In the aftermath of large disasters, this requirement can place a significant fiscal burden on storm-damaged communities and slow recovery as communities struggle to identify the financial resources to meet the requirements. To provide relief to these entities, Congress allows CDBG-DR funds to be a source of federal funding that can be used for the Non-Federal Share contribution.

GOSR has designed the Non-Federal Share Match Program to assist storm-impacted entities with the cost share associated with other federal disaster recovery funds. Specifically, the program uses CDBG-DR funds to provide the required local match payment so that eligible entities can complete recovery and draw down the larger share of federal recovery funds. Local match rates for each of the federal programs vary by both disaster and funding agency, ranging from a 10% local share to 25% local share per project. These are further defined in Section 3.3.

The Non-Federal Share Match Program provides the local match to public entities (applicants) that have received disaster recovery funds from various federal agencies to address impacts from seven Presidentially declared events: Hurricane Irene (DR-4020), Tropical Storm Lee (DR-4031), Superstorm Sandy (DR-4085), Severe Winter Storms and Snowstorms (DR-1957), Severe Storms,

Flooding, Tornadoes, and Straight Winds (DR-1993), Upstate Severe Storms and Flooding (DR-4129) and Winter Storm Nemo (DR-4111). The program allows applicants to complete, repairs, rebuilding, replacement and/or mitigation of facilities damage sustained from these events to occur in a timely manner.

The program currently assists public entities with match obligations from two federal agency's disaster programs: FEMA, and EPA. A summary of funding sources is provided at Section 3.2.

1.2 Local Government and Critical Infrastructure Program

The majority of local governments' recovery needs are being addressed through the Non-Federal Share Match Program described above. However, the State has developed the Local Government and Critical Infrastructure Program to provide resources to storm damaged units of government and communities which have identified recovery gaps in funding for public services and critical infrastructure that benefit the community and region. Under this program, CDBG-DR funds are used to repair, rebuild, enhance, or mitigate facilities that were impacted by Superstorm Sandy, Tropical Storm Lee, and Hurricane Irene, Winter Storm Nemo and the Upstate Severe Storms and Flooding. The Local Government and Critical Infrastructure Program has four sectors:

1. Energy Infrastructure
2. Local Government Program
3. Water and Wastewater Infrastructure
4. Natural Resource Infrastructure.

2.0 HUD Requirements for NY Rising Infrastructure Projects

All projects in the Infrastructure Program must comply with the required in this section. Other program-specific policies and procedures are outlined in subsequent sections of this Manual.

2.1 Tie to the Storm, National Objective, and Eligible Activity

Before any activity can be funded in whole or in part with CDBG-DR funds, the activity must be determined eligible under Title I of the Housing and Community Development Act (HCDA), as amended.

2.1.1 Tie to the Storm

All activities funded with CDBG-DR in the Infrastructure Program must in some way respond to a direct or indirect impact of one of the following federally declared disasters:

- DR-4020 Hurricane Irene (2011)
- DR-4031 Tropical Storm Lee (2011)
- DR-4085 Superstorm Sandy (2012)
- DR-4111 Winter Storm Nemo (2013)
- DR-4129 Upstate Severe Storms and Flooding (2013).

FEMA, as the nation's primary disaster response agency, operates four distinct recovery programs that each requires a local match: Public Assistance (PA) Program, Hazard Mitigation Grant Program (HMGP), Individual Assistance (IA) Program and Transitional Shelter Assistance (TSA) Program (a distinct IA sub-program). FEMA disaster recovery programs, along with the EPA disaster recovery programs, require clear documentation showing a direct storm related impact as a prerequisite for entry into these programs and funding. Only after an impact threshold has been met will the lead federal agency consider making disaster funds available to the applicant.

It is assumed that if the applicant received funding and support through one of the federal recovery programs set out above, the applicant was impacted by one or more of the declared disasters. GOSR's Non-Federal Share Match Program will not fund projects that are not responding to an impacted of a federally declared disaster. For the FEMA Public Assistance program, tie to the storm is documented by FEMA's approval of the Project Worksheet for a particular declared disaster. For Local Government, Critical Infrastructure and HMGP Infrastructure projects the tie to the storm is documented as a part of the pre-application and application process and stored in the program file (see Section 7.5.4 and 7.5.5).

2.1.1.1 Geographical Eligibility

CDBG-DR funds can only be used in counties that were presidentially declared disaster areas. GOSR will only utilize and provide funds for work in these counties. A list of the counties is shown below and maps of the disasters are shown in Exhibit 2. Following each allocation, HUD required the State to utilize 80% of the overall allocation of funds in HUD-defined 'most impacted and distressed' counties, as outlined in the federal notices. The specific counties for the Hurricane Irene

and Tropical Storm Lee allocation as well as Superstorm Sandy allocation are shown below. These counties include:

- **Tropical Storm Lee (4020) and Hurricane Irene (4031):** HUD-defined most impacted counties are: Broome, Greene, Schoharie, and Tioga counties. Entities located in other presidentially-declared counties can also receive CDBG-DR funds: Albany, Bronx, Chemung, Chenango, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Hamilton, Herkimer, Kings, Montgomery, Nassau, New York, Oneida, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Suffolk, Sullivan, Tompkins, Ulster, Warren, Washington, and Westchester.
- **Superstorm Sandy (4085):** HUD-defined most impacted counties are: Nassau, Suffolk, Rockland, Westchester, Bronx, New York, Queens, Kings, and Richmond. Entities located in other presidentially-declared counties can also receive CDBG-DR funds: Greene, Ulster, Putnam, Sullivan and Orange.
- **Winter Storm Nemo (4111):** HUD did not define most impacted counties. Suffolk County was the only declared county for this event.
- **Upstate Severe Storms and Flooding (4129):** HUD did not define most impacted counties. Entities located in these presidentially-declared counties can receive CDBG-DR funds: Allegany, Broome, Chautauqua, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Herkimer, Madison, Montgomery, Niagara, Oneida, Otsego, and Warren.

2.1.2 Meeting a National Objective

All activities funded with CDBG-DR must meet one of the three national objectives outlined in the introduction of this Manual.

The CDBG-DR regulations state that a project is not considered as meeting a national objective until it is complete. GOSR will track each project through the completion and closeout phase.

2.1.2.1 National Objective Documentation and Records

Program records must demonstrate that funded activities meet a national objective. Depending on the national objective, the files must contain, at a minimum, the documentation described in Table 1. This documentation may also be used in reporting performance measures.

TABLE 1: REQUIRED DOCUMENTATION TO MEET A NATIONAL OBJECTIVE

National Objective	Required Documentation
LMI Area Benefit	<ol style="list-style-type: none"> 1. Boundaries of service area of activity 2. Census data including total persons and percentage LMI 3. Evidence area is primarily residential 4. Survey documentation (if applicable).
LMI Limited Clientele	Documentation that the beneficiaries are or are presumed to be LMI (by category).
LMI Housing	If applicable, income documentation for all household members 18 years of age and older
Urgent Need	Per the March 5, 2013 Federal Register Notice (FR-5696-N-01) as modified by the February 12, 2016 Federal Register Notice (FR-5696-N-18), Urgent Need documentation requirements are waived until the end of the grantee's expenditure deadline.
Slum and Blight	<ol style="list-style-type: none"> 1. Designation of an area as Slum and Blight 2. Spot designation for Slum and Blight.

Infrastructure Program records demonstrate that funded activities meet one of the national objectives. The types of records to be maintained for each CDBG-DR funded activity depend on the national objective category for which they qualify. For all infrastructure projects, with the exception of GOSR's Public Assistance Non-Federal Share Local Match Program ("the PA Match Program"), the determination of the national objective is completed during the application process based on HUD guidance. For the PA Match Program, GOSR's Research and Strategic Analysis team works closely with the PA recipient, Infrastructure Program staff, and FEMA representatives to accurately determine and document the national objective of each activity.

The scale of the PA Match Program necessitates adopting a broad-based approach using repeatable methodologies to determine the national objective. To demonstrate the national objective for each activity, GOSR draws upon the best available HUD-approved data. Determining the service area of an activity involves consideration of the nature, location, and accessibility of each activity, as well as the type of applicant and the information contained within the Project Worksheet (PW) (e.g. the FEMA PA Category). Service areas are based on the beneficiaries of recovery activities and/or types of facilities (e.g. debris removal, work on roads and bridges, schools, wastewater treatment facilities, etc.) and geographic features (e.g. locations of highway, rivers etc.) and local population characteristics (e.g. population size and density). Wherever possible, GOSR leverages pre-defined service areas, mapped by New York State and federal agency partners, and may be informed by best practices developed by other HUD grantees, to establish methodologies to define service areas. This approach enables GOSR to process projects and address the needs of communities in a timely and HUD-compliant manner.

Service area documentation, including maps and memoranda, is saved in the respective PW folders for the Non-Federal Share Match Program. For LMI Area Benefit activities, HUD Low to

Moderate Income Summary Data is used to determine that the areas are primarily residential.

2.1.3 Meeting an Eligible Activity

For a detailed overview of the eligible activity requirements for CDBG, please refer to ‘24 CFR 570 – Community Development Block Grants Subpart C – Eligible Activities’¹. All CDBG-DR funded activities must meet one of the eligible activities outlined in Section 105(a) of HCDA², or relevant Federal Register Notices.

Infrastructure Program activities primarily use the HUD eligible activities listed below, however it reserves the right to use other eligible activities as necessary for recovery projects.

1. Public Facilities
2. Debris Removal
3. Public Services
4. Planning
5. Code Enforcement
6. Clearance
7. Non-Federal share
8. Energy Use Strategies
9. Economic Revitalization

For the Non-Federal Share Program the eligible activity is defined by the FEMA Category of Work and is documented in the program’s system of record (see section 2.9.16).

Eligible FEMA PA categories of work are set out in Section 3.4.1. Non-Federal Share Match assistance provided under Section 105(a)(9) is limited to the first four eligible activities listed above.

2.2 Timely Expenditure of Funds

As per the Appropriations Act (P.L. 113-2), CDBG-DR funds must be obligated no later than September 30, 2017, and expended within two years of the date funds are obligated, unless a waiver is granted by HUD. In May 2017, an expenditure deadline extension was approved by HUD, extending to September 30, 2022 the expenditure deadline for some of GOSR’s obligated funds.

2.3 Order of Assistance

The Infrastructure Program has instituted a variety of checks to ensure that CDBG-DR funds are used only as the recovery funding source of last resort. Projects developed and/or funded by GOSR are reviewed for applicability and eligibility against other Federal disaster recovery programs, including FEMA and U.S. Army Corps of Engineers (USACE) funding sources, before being considered for CDBG-DR funding. The program follows the steps below to ensure the Order of Assistance requirement set out in P.L. 113-2 is met.

¹ 24 CFR Part 570 – Community Development Block Grants.

<https://www.hudexchange.info/resources/documents/24-CFR-Part%20-570-CDBGs.pdf>

² https://portal.hud.gov/hudportal/documents/huddoc?id=DOC_16364.pdf

1. Review of State and local priorities
2. Recommendation of appropriate funding source(s) by Infrastructure Program staff to Program Director. Possible funding sources are considered in the following order:
 - a. FEMA PA Program
 - i. The PA Program provides assistance to State, Tribal and local governments, and certain types of private nonprofit organizations to help communities quickly respond to and recover from major disasters or emergencies
 - b. FEMA HMGP
 - i. HMGP provides grants to States and local governments to implement long-term hazard mitigation measures after a major disaster declaration
 - c. FEMA Community Disaster Loan Program (CDL)
 - i. FEMA CDL supports local governments or other eligible jurisdictions in a designated disaster area that have demonstrated a substantial tax loss and a need for financial assistance to perform their governmental functions
 - d. USACE
 - i. USACE works with Federal, State and local partners to reduce risk to lives, property and the environment, and to strengthen coastal community resilience
 - e. Other relevant disaster recovery funding sources
 - f. CDBG-DR
3. Confirmation of funding source(s) available by GOSR Infrastructure Director
4. Development of appropriate applications, or assisting potential subrecipients/subapplicants with application development as applicable.
5. Coordination with federal funding agencies prior to GOSR's approval and commitment of CDBG-DR funds.

If a project is denied funding or otherwise found to be ineligible in steps 2-5, this process returns to step 1 for detailed funding review and development, considering the Order of Assistance outlined in step 2. For Local Government and Critical Infrastructure Program and for Standalone Projects, an Order of Assistance Verification Form documenting these procedures are completed by Infrastructure Program staff and saved in the project files in the GOSR Subrecipient Portal. Projects funded through GOSR's PA Match Program undergo an additional process to verify that CDBG-DR funds are used as the funding source of last resort. FEMA views the PA Match Program and, through the national disaster response framework, verifies with each applicant that other Federal program funds are not available for a project before awarding PA funds (this includes the use of USACE and EPA funds). The FEMA PA Program then uses a portion of New York State's CDBG-DR allocation to pay the Non-Federal Share for qualifying local government and private non-profit FEMA PA applicants in keeping with Order of Assistance requirements.

The nature of the PA Match Program, and the FEMA and GOSR verification processes, ensure that Order of Assistance requirements are followed for the CDBG-DR funded portion of match projects.

2.4 Duplication of Benefits

Disaster recovery activities may be funded through a variety of both public and private sources. A Duplication of Benefits occurs when financial assistance received from one source is provided for the same purpose for which CDBG-DR funds are provided (in accordance with Section 312 of the Stafford Act and HUD guidance in the November 16, 2011 Federal Register Notice (FR-5582-N-01)). Duplication of Benefits processes for projects developed and/or funded through the Non-Federal Share Match Program or the Local Government and Critical Infrastructure Program, are detailed in the relevant program sections, however all projects funded in whole or in part with CDBG-DR funds are reviewed for applicability and eligibility against other recovery programs before being considered for CDBG-DR funding. This review for applicability and eligibility is an iterative process that occurs throughout the duration of the project to protect against a Duplication of Benefits.

2.5 Program Income

Following the requirements of 24 CFR 570.489 in regards to program income, all program income must be returned to the State.

As part of a standard microgrid subrecipient agreement, any GOSR-funded microgrids will require subrecipients to submit a preliminary plan on program income. The plan will include preliminary income projections, options for dilution and offset, as well as options to spend program income on microgrid expansion (adding capacity, energy storage etc.). A more detailed program income plan will be required as part of the closeout process for GOSR-funded microgrids.

2.6 Monitoring and Compliance Oversight

GOSR must ensure compliance with applicable regulations, which include but are not limited to regulations regarding: recordkeeping, 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 fulfill the goals set forth in the Action Plan and the Action Plan Amendments.

The goals of monitoring as implemented by the MCD include, but are not limited to:

- Determining whether a recipient is carrying out its CDBG-DR program or project in compliance with HUD and GOSR policies and procedures, and relevant laws
- Determining whether a recipient is carrying out its activities in a timely manner so that projects will be completed to meet the HUD timely expenditure of funds requirement set out in Section 2.2
- Identifying potential problem areas and assisting the recipients in complying with applicable laws and regulations

- Assisting recipients in resolving compliance problems through discussion, negotiation, and the provision of technical assistance (TA) and training
- Ensuring that required records are maintained to demonstrate compliance with applicable regulations.

To ensure that all statutory and regulatory requirements are met for activities using HUD funds, the MCD uses various monitoring standards and procedures, and issues corrective actions and TA where deficiencies are noted.

The MCD conducts two types of monitoring: Desk Review and On-site Review. In order to determine the type of monitoring needed, the MCD conducts an annual risk analysis. This enables the MCD to identify those entities and programs that are most susceptible to fraud, abuse, or mismanagement. The components for determining the appropriate level of review may include:

- Amount of funding
- Number and type of approved projects overseen
- Complexity of project
- Implementation method
- Relevant experience
- Compliance history
- Project timeline
- Length of time since recipient monitored.

When monitoring, the MCD considers whether the recipient's program and/or project(s) meet all applicable CDBG-DR guidelines, the program purpose is being accomplished, the program beneficiaries being served are as defined and intended, and the program requirements for administration and financial management are being met. The MCD develops checklists tailored to the specific recipient and projects being reviewed. These checklists are developed in accordance with HUD guidelines and serve to ensure that interview and files reviews are comprehensive and complete. The two levels of review are as follows:

Desk Review enables the MCD to identify problems requiring immediate attention and to schedule projects for on-site monitoring if issues are identified. Materials used for this review may include:

- Executed Agreements and Amendments
- Progress reports
- Procurement documents
- Payment Requests.

On-site Review is conducted at the location where project activities are carried out or where records are maintained.

In instances where fraud, embezzlement, or other financial crimes are suspected, the MCD may refer these matters for *Forensic Audit* to the Investigations Department. The MCD works in cooperation with the Investigations Department to pursue any matters that may indicate waste, fraud, abuse, and mismanagement of GOSR resources. If necessary, the Investigations Department

will refer these matters to the appropriate authorities.

2.7 Investigations

The Investigations Department at GOSR is responsible for the following duties:

- Managing a fraud hotline;
- Processing all incoming complaints relating to fraud, misconduct, and wrongdoing;
- Reviewing and analyzing such complaints;
- Obtaining relevant programmatic information to assess such complaints; and
- Determining appropriate further action, including but not limited to further internal investigation, referral to the appropriate law enforcement agency, and corrective action to address any risks or deficiencies in existing programmatic policies and procedures.

2.8 Diversity and Civil Rights Oversight

GOSR's Office of Diversity and Civil Rights (DCR) works closely with Subrecipients and contractors to advance GOSR's mission, while increasing access to its workforce and contracting opportunities. This is achieved through advocacy, outreach, technical assistance and training, regulatory review and program implementation. DCR facilitates GOSR's compliance with several federal and State diversity and inclusion regulations including: The Minority and Women-Owned Business Enterprises (M/WBE), Fair Housing & Equal Opportunity (FHEO) and HUD's Section 3 Program. DCR also oversees important accessibility issue areas, including: Limited English Proficiency (LEP), Americans with Disabilities (ADA) and Section 504 of the Rehabilitation Act.

DCR serves as an internal resource for GOSR, providing support to Programs, Subrecipients, and vendors, in achieving compliance with statutory requirements and diversity objectives. DCR's programmatic support services include:

- Working with Infrastructure Program projects to ensure they are aligned with GOSR's diversity and civil rights requirements;
- Reviewing and providing guidance on Section 3 Plans, Section 3 Greatest Extent Feasible Efforts, M/WBE Utilization Plans and M/WBE Good Faith Efforts;
- Conducting technical assistance and trainings with internal program staff, Subrecipients and contractors;
- Planning and executing networking events which bring together GOSR subrecipients and contractors with MWBE and Section 3 businesses looking for contracting opportunities;
- Participating in pre-bid, pre-construction and project meetings to consistently be a resource and provide strategic advice where required;
- Providing policy and regulatory guidance pertaining to applicable diversity regulations, particularly M/WBE and Section 3 requirements;
- Strategically identifying M/WBE and Section 3 firms in order to facilitate the dual goals of providing greater opportunities to M/WBE and Section 3 firms, while also assisting Program in meeting their mandated goals and requirements;
- Working with subrecipients and vendors to utilize the New York State Storm Recovery Opportunities Portal (NYSSROP) in order to post procurement and job opportunities in

- order to recruit and source MWBE and Section 3 businesses and Section 3 residents; and
- Provide hands-on technical assistance to Subrecipients and contractors where there is a gap between their project's required goals and current utilization.

For more information about the Infrastructure Program's M/WBE and Section 3 procedures, see section 2.9.8 and Section 2.9.9.

2.9 Cross-Cutting Federal Regulations

GOSR and its 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 for all Infrastructure Program activities.

2.9.1 Americans with Disabilities Act

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 telecommunications device for the deaf (TDD)/telephone relay services.³ 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 persons with disabilities. GOSR's mandate to conform to the requirements of ADA, flows down to all of its stakeholders, including subrecipients, vendors and developers.⁴

2.9.2 Davis-Bacon Labor Standards

The Davis-Bacon Act⁵ and Related Acts (DBRA) applies to contractors and subcontractors carrying out federally funded or assisted contracts in excess of \$2,000 for the fringe benefits for corresponding work on similar projects in the area. In some cases, New York State Prevailing Wage Law is in effect. In these cases, the higher prevailing wage rate between the Federal and State must be adhered to and made applicable. 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 U.S. Department of Labor regulations. This requirement also extends to GOSR subrecipients and contractors.

HUD issued specific guidance for Davis-Bacon Labor standards for Sandy Grantees, who use CDBG-DR funds to make match payments for FEMA PA Program activities. This letter is attached

³ http://www.ada.gov/2010_regs.htm

⁴ <http://www.disabilityrightswi.org/wp-content/uploads/2008/09/ada-title-2.PDF>

⁵ 40 U.S.C. 3141 *et seq.*

as Exhibit 3. Further detail on DBRA and GOSR's PA Match Program activities are reflected in Section 4.0.

The MCD ensures that GOSR's applicable programs and services are in compliance with DBRA through the submission of certified payroll records and interviews of prime and sub-contractor laborers. The Local Government and Critical Infrastructure Program utilizes Elation Systems, to track, review, and monitor weekly payroll submissions by contractors. GOSR procured Elation Systems—a cloud-based Davis-Bacon, labor and contract compliance management system used by HUD—to streamline the Davis-Bacon compliance efforts agency wide. For the PA Match Program, depending on the stage of completion of a specific project, payroll information is either maintained in Elation or in program specific network drives. In either case, GOSR ensures that Davis-Bacon compliance per regulation and disaster specific guidance is met.

2.9.3 Force Account Labor

Force account labor occurs when a unit of government that is a subrecipient or PA Match applicant uses their own workforce to complete construction of an Infrastructure Program project. For infrastructure projects, the use of force account labor requires advance review and approval by GOSR. This may be documented by approval of a project budget that includes force account labor. Subrecipients that proceed without prior approval risk disallowance of all incurred costs. The force account labor approval process is used for all infrastructure projects with the exception of the PA Match Program.

For the PA Match Program, units of government frequently utilize some staff to undertake repairs following a disaster. As part of its review process, GOSR monitors and documents whether projects included work that was performed using force account labor and materials, contractual labor, or a combination of force account and contractual labor. GOSR does not require advance approval for the use of force account labor for the PA Match Program, however, GOSR will deem the use of force account labor or materials ineligible if appropriate supporting documentation is not obtained.

2.9.4 Equal Employment Opportunity

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.⁶ This regulation is adhered to within GOSR programs.

2.9.5 Fair Housing

While it is not expected for the Infrastructure Program to intersect with Fair Housing Act requirements, the Fair Housing Act requires all grantees, subrecipients, and/or developers funded

⁶ 41 CFR Part 60

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, 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.

2.9.6 Fair Labor Standards Act of 1938, as Amended

The Fair Labor Standards Act of 1938, as amended (FLSA), 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.⁷ 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 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 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
- Debris removal, 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.

2.9.7 Limited English Proficiency

Federal Executive Order 131661 and State Executive Order #26 require GOSR and all satellite offices, programs, subrecipients, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. GOSR ensures fair access through the implementation of a Language Access Plan (LAP) which includes non-English based outreach, translation services of vital documents, free language

⁷ *Id.*

assistance services, and staff training. GOSR's LEP Coordinator with the Diversity and Civil Rights team is responsible for coordinating all activities associated with the LAP.

Refer to the "Language Access Plan" Provision of Language Assistance Services for additional guidance and protocols.

2.9.8 Minority- and/or Women-Owned Business Enterprises

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, sub-contractors, 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 Local Government and Critical Infrastructure Program projects executed 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. WBE and MBE targets for the PA Match Program are determined depending on the stage of completion of each project and project bid dates.

For all infrastructure projects, DCR works with applicants and subrecipients to provide the TA, guidance, and one-on-one support, required to implement good faith efforts and meet applicable MWBE thresholds. MCD monitors the level of MWBE utilization and provides additional on the ground support as required.

2.9.9 Section 3

Section 3 of the Housing and Urban Development Act of 1968 requires that grantees, subrecipients, contractors, sub-contractors, and/or developers funded in whole or in part by CDBG-DR funding, to the greatest extent feasible, 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. On a quarterly basis, MCD reviews and tracks quarterly reports as well as calculates utilization rates. MCD informs DCR and the

Infrastructure Program of outstanding quarterly reports and of current utilization rates.

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. DCR also reviews Section 3 goal attainment and provides additional on the ground support where required.

For Local Government and Critical Infrastructure Programs, projects are required to meet Section 3 requirements as shown above. For the PA Match Program, GOSR also requires and checks for Section 3 compliance, however, Section 3 goals and objectives are set depending on the date of completion of each project and project bid dates. GOSR staff ensures that Section 3 objectives are addressed through direct TA with individual applicants and file reviews of projects.

2.9.10 Residential Anti-Displacement

All subrecipients must follow GOSR's Residential Anti-Displacement policy.

2.9.11 Uniform Relocation Act and Real Property Acquisition

Infrastructure Program does not expect to be engaged in projects that would result in the applicability of the uniform relocation act and/or real property acquisition. However, the Infrastructure Program staff would comply with these requirements as 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 (URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 CFR 24 (URA), 24 CFR 42 (Section 104(d)), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

The March 5, 2013 Federal Register Notice (FR-5696-N-01) waived the one-for-one replacement requirements at Section 104(d)(2)(A)(i)-(ii) and (d)(3) and 24 CFR 42.375.

Subrecipients or contractors must provide the following benefits to households or businesses 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 URA 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 URA and Section 104(d) shall refer to Federal and State rules, as appropriate.

2.9.11.1 Real Property

If CDBG-DR funds are used to acquire real property, GOSR Legal 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 approach to 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)(as amended by 2 CFR 200 as needed).⁸

The federal requirements relating to real 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.

2.9.11.2 Acquisition of Real Property

Upon notification of permission from GOSR, the subrecipient proceeds with efforts to acquire any real property, including easements and right-of-ways, required for the project. 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.

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

⁸ 24 CFR 84 and 24 CFR 85 are affected by the transition to the 2 CFR 200 super circular. All references to 24 CFR 84 and 24 CFR 85 within this Manual conform with the requirements of 2 CFR 200 as needed. For more information see: <https://portal.hud.gov/hudportal/documents/huddoc?id=15-01sdn.pdf> and <http://portal.hud.gov/hudportal/documents/huddoc?id=16-04cpdn.pdf>

subrecipient 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. Prior to advertising for bids, the subrecipient must have obtained all lands, rights-of-way and easements necessary for carrying out the project.

GOSR provides subrecipients with templates for: Involuntary Preliminary Acquisition Notice, Invitation to Accompany an Appraiser, Written Offer to Purchase, Statement of Basis of Just Compensation, Notice of Intent Not to Acquire, Donation and Appraisal Waiver, and Administrative Settlement.

GOSR rules, 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.

MCD ensures that if CDBG-DR funds are used to acquire real property, and 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 CDBGDR 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.

Subrecipients with eminent domain authority may only utilize this authority to acquire property using GOSR funding after discussion with and approval from GOSR.

2.9.12 Financial Management

Pursuant to P.L. 113-2, GOSR maintains and has in place proficient financial controls. MCD ensures that GOSR, as the grantee, as well as those administering CDBG-DR resources, continuously demonstrate conformity with financial management requirements as required by the March 5, 2013 Federal Register Notice (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 Single Audit provisions pursuant to 2 CFR 200 Subpart F (formerly 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), which ensures that GOSR funds are managed with high levels of accountability and transparency.

GOSR's Internal Audit Department ensures that GOSR's Financial Management practices adhere to the following:

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

2.9.13 Procurement Policy

GOSR has established and adopted a procurement policy that meets State and Federal

requirements. MCD performs procurement reviews on subrecipients sampled for monitoring, and the Internal Audit Department performs reviews to ensure that GOSR adheres to its established policies.

2.9.14 Insurance and Property Management

For all projects in the Infrastructure Program, all subrecipients, with the exception of those in the PA Match Program, must procure and maintain insurance for the duration of the subrecipient agreement to protect all contract assets from loss due to any cause, such as theft, fraud and physical damage. If CDBG-DR funds are used to acquire real property or personal property, the subrecipient is responsible for ensuring that:

- The property continues to be used for its intended (and approved) purpose;
- The subrecipient keeps track of, and takes care of, the property; and
- If the subrecipient sells or disposes of the property within five years after expiration of the subrecipient agreement or a longer period as GOSR deems appropriate, the subrecipient reimburses GOSR for the share of the property's value according to the subrecipient agreement.

For the PA Match Program, applicants must follow and comply with FEMA requirements. Each subrecipient must maintain fidelity bond coverage for all employees in an amount equal to cash advances from GOSR. At a minimum, subrecipients must comply with the bonding requirements at 24 CFR 85.36 or 84.48, as applicable, and with the requirements of their subrecipient agreement.

2.9.14.1 Insurance Waiver

GOSR subrecipient agreements require that subrecipients incorporate GOSR's Supplementary Conditions for Contracts (Supplementary Conditions) in any contract entered into under the subrecipient agreement. The Supplementary Conditions require that any contractor providing services to a GOSR subrecipient must obtain and maintain certain types and amounts of insurance coverage. The Supplementary Conditions also provide that GOSR may waive, decrease, alter or amend these insurance requirements in writing.

It is typically the responsibility of GOSR's Chief Financial Officer to determine when a waiver or alteration of insurance requirements is appropriate. However, at the request of Infrastructure Program staff, GOSR legal counsel representing the program may waive any additional insurance requirements when a subrecipient's professional services contractor presents evidence that they carry at least \$2 million of general liability insurance in aggregate and at least \$1 million of general liability insurance per occurrence, and where the total budget of the relevant contract does not exceed \$1 million. If the amount of the relevant contract exceeds \$1 million, or if the contractor carries less than \$2 million of general liability insurance in aggregate and at least \$1 million of general liability insurance per occurrence, or if the contract is other than a professional services contract, Infrastructure Program staff should consult the Chief Financial Officer before taking further action.

2.9.15 Recordkeeping, Retention and File Management

In accordance with HUD regulations, GOSR, as a grantee and recipient of CDBG-DR funds follows the records retention requirements cited in 24 CFR 84.53, which includes financial records, supporting documents, statistical records and all other pertinent records. GOSR established recordkeeping and retention requirements in its subrecipient and contractor agreements in accordance with the guidelines established in 24 CFR 570.503(b)(2).

GOSR subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement (i) for three (3) years from the time of closeout of HUD's grant to the State or for the period provided in the CDBG regulations at 24 CFR 570.487 (or other applicable laws and program requirements) and 24 CFR 570.488, or (ii) for six (6) years after the closeout of a CDBG-DR funded project pursuant to 42 USC 12707(a)(4) and New York Civil Practice Law and Rules § 213, whichever may be longer. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the retention period, then all such records must be retained until completion of the actions and resolution of all issues, or the retention period, whichever occurs later.

Every subrecipient and contractor is required to establish and maintain at least three major categories of records: Administrative, Financial, and Project/Case Files.

GOSR maintains records as required to facilitate a review or audit by HUD.

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

- a. Personnel files;
- b. Property management files;
- c. General program files: Files relating to the sub-grantee, subrecipient's, or contractor's application to the grantee, the subrecipient agreement, program policies and guidelines, correspondence with grantee and reports, etc.; and
- d. 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.

2.9.15.1 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. Program reviews reporting requirements for standalone Infrastructure projects at

five different intervals, as applicable:

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

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

For the majority of the PA Match Program, Infrastructure Program reviews reports for projects that are ongoing according to HUD reporting requirements. At the discretion of the Director of the NY Rising Infrastructure Program, large projects under the PA Match program may instead follow the reporting requirements for standalone projects as described above.

2.9.15.2 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 a review or audit by HUD. Records are maintained in accordance with Section 2.9.15. The GOSR Records Management Program seeks to ensure that:

- GOSR complies with all requirements concerning records and records management practices under Federal and State regulations;
- GOSR 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.

2.9.15.3 Access to Records

24 CFR 570.49 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.

2.9.16 Audit Trail

All records defined by the organization as important are captured into GOSR’s recordkeeping systems (e.g., SharePoint, IntelliGrants, Tribuo, Elation, IMARC, network drives, the GOSR Subrecipient Portal (GSP), etc.) so they can be appropriately managed. For the Infrastructure program, the program uses two (2) different systems of record that allow for audits. The GSP serves as the management information and model file system for all projects in the Local Government and Critical Infrastructure Programs of the Infrastructure Program. 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.

For the PA Match Program, GOSR uses a separate drive on its network as the system of record for program files. The network drive holds all PA Match Program documentation including but not limited to CDBG-DR documentation for each PW, all FEMA required supporting documentation needed to make a CDBG-DR payment, along with GOSR approvals for payment, and cost documentation materials.

Elation Systems, Inc. is a provider of diversity and labor compliance reporting and management services. GOSR has adopted this cloud-based compliance management system to help all its Contractors and Subrecipients receiving Federal funds to adhere to Labor Compliance (Davis-Bacon), MWBE and Section 3 Federal reporting requirements. The Elation Systems application will serve as the system of record for all MWBE, Section 3 and Davis-Bacon report submissions from GOSR subrecipients and direct contractors.

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. This includes hardware and software data security protocols and contractors having signed non-disclosure agreements. GOSR also requires that hard copy files containing non-public personal information are kept in locked file cabinets to ensure their physical security.

2.9.16.1 Audit Requirements

In accordance with Subpart F of 2 CFR 200, non-Federal entities⁹ that expend \$750,000 or more during their fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions therein. The MCD is responsible for conducting reviews of these single or program-specific audit reports and for coordinating the issuance of management decisions for audit findings relating to GOSR-provided Federal funds.

2.9.17 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.

The conflict of interest regulations contained in the contract between the subrecipient and the HCR prohibit local elected officials, HCR staff, subrecipient employees, and consultants who exercise functions with respect to CDBG-DR activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, from receiving any benefit from the activity either for themselves or for those with who they have family or business ties, during their tenure or for one year thereafter.

2.9.17.1 Conflicts of Interest

The Program requires all program staff to disclose any relationship with an Applicant or contractor. Infrastructure 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, the or 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).

GOSR may consider granting an exception to the conflict of interest provisions per 24 CFR 570.489(h)(4) 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

⁹ Non-Federal entity means a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

the subrecipient has complied with the requirements listed in 24 CFR 570.489(h)(4)(i) and (ii). 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 interested 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.

2.9.17.2 Confidentiality/Privacy

The Infrastructure 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 for the Infrastructure Program may 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:

1. Program staff 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. GOSR 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 it not limited to, HUD, FEMA, FBI, NYS Office of the Comptroller, and the Office of the Inspector General.

2.10 Infrastructure Requirements

Per the November 18, 2013 Federal Register Notice (FR-5696-N-06), an infrastructure project is defined as an activity, or a group of related activities, designed by the grantee to accomplish, in whole or in part, a specific objective related to critical infrastructure sectors such as energy, communications, water and wastewater systems, and transportation, as well as other support

measures such as flood control. This definition is rooted in the implementing regulations of the National Environmental Policy Act (NEPA) at 40 CFR 1508 and 24 CFR 58. Further, consistent with HUD's NEPA implementing requirements at 24 CFR 58.32(a), a grantee must group together and evaluate as a single infrastructure project all individual activities which are related to one another, either on a geographical or functional basis, or are logical parts of a composite of contemplated infrastructure-related actions. Consistent with 40 CFR 1508, infrastructure projects are "related" if they automatically trigger other projects or actions, cannot or will not proceed unless other projects or actions are taken previously or simultaneously, or are interdependent parts of a larger action and depend on the larger action for their justification.

2.10.1 Comprehensive Risk Analysis

FR-5696-N-06 requires that each grantee must describe the science-based risk analysis it has or will employ to select, prioritize, implement, and maintain infrastructure projects or activities. GOSR has outlined this Risk Analysis in the State's Action Plan Amendments and will adhere to the analysis for all infrastructure projects.

2.10.2 Green Infrastructure

Per FR-5696-N-06, each grantee must describe in any Action Plan Amendment, its process for the selection and design of green infrastructure projects or activities, and/or how selected projects or activities will incorporate green infrastructure components. GOSR is committed to utilizing green infrastructure when and where applicable for its infrastructure projects.

2.10.3 Resilience Performance Standards

The State has committed to implementing resilience performance standards for Infrastructure projects as outlined in the State's Action Plan Amendments.

2.11 Covered Project Requirements

In the November 18, 2013 Federal Register Notice (FR-5696-N-06), HUD included requirements for the funding of Infrastructure Programs: "HUD approval is required for each major infrastructure project with such projects defined as having a total cost of \$50 million or more (including at least \$10 million of CDBG-DR funds), or benefits multiple counties. Additionally, two or more *related infrastructure projects* that have a combined total cost of \$50 million or more (including at least \$10 million of CDBG-DR funds) must be designated as major infrastructure projects."

This includes placing additional reporting and consultation requirements on grantees for projects that exceeded award thresholds and were tied to multiple funding sources. GOSR will be administering projects which meet this threshold through the PA Match Program as well as in the Local Government and Critical Infrastructure Program. GOSR is actively engaged with the Sandy Regional Infrastructure Resilience Coordination Group (SRIRC) and HUD to ensure compliance with these processes. GOSR will submit all Covered Projects to HUD as required through a substantial Action Plan Amendment and address the following requirements as outlined in the November 18, 2013 Federal Register Notice (FR-5696-N-06); the October 14, 2014 Federal Register Notice (FR-5696-N-11), and any other Federal Register notices issued for P.L. 113-2. For

each identified Covered Project GOSR will provide the following information as required in the Notice:

1. **Identification/Description.** A description of the Covered Project, including: Total estimated project cost, how it will meet a national objective, and the project’s connection to the disaster.
2. **Use of Impact and Unmet Needs Assessment, the Comprehensive Risk Analysis and the Rebuild by Design (RBD) Collaborative Risk Analysis.** A description of how the Covered Project is supported by GOSR’s updated impact and unmet needs assessment, as well as the GOSR’s comprehensive risk analysis. The description must describe how Covered Projects address the risks, gaps, and vulnerabilities in the region as identified by the comprehensive risk analysis. Additionally, the description must also describe how the collaborative risk analysis developed through the RBD initiative has been or will be used for the evaluation of Covered Projects.
3. **Transparent and Inclusive Decision Processes.** A description of the transparent and inclusive processes that have been or will be used in the selection of a Covered Project(s) including accessible public hearings and other processes to advance the engagement of vulnerable populations. GOSR should demonstrate the sharing of decision criteria, the method of evaluating a project(s), and how all project stakeholders and interested parties were or are to be included to ensure transparency including, as appropriate, stakeholders and parties with an interest in environmental justice or accessibility.
4. **Long-Term Efficacy and Fiscal Sustainability.** A description of how GOSR will monitor and evaluate the efficacy and sustainability of Covered Projects, including how it will reflect changing environmental conditions (such as sea level rise or development patterns) with risk management tools, and/or alter funding sources if necessary.
5. **Environmentally Sustainable and Innovative Investments.** A description of how the Covered Project(s) will align with the commitment expressed in the President’s Climate Action Plan to “identify and evaluate additional approaches to improve our natural defenses against extreme weather, protect biodiversity, and conserve natural resources in the face of a changing climate...”.

2.11.1 Sandy Regional Infrastructure Resilience Coordination Group

As required by the November 18, 2013 Federal Register Notice (FR-5696-N-06), all Covered Projects must be approved by the SRIRC. The objective of the SRIRC is to support regional resilience across federal infrastructure investments by gathering, discussing, and considering technical information about individual planned and proposed projects. This will allow the identification and seizing of opportunities to enhance resilience, consistent with grant requirements through the Disaster Relief Appropriations Act of 2013 (“Sandy Supplemental”), and the Infrastructure Resilience Guidelines (pages 49-54) of the Rebuilding Strategy¹⁰ by:

¹⁰ <http://portal.hud.gov/hudportal/documents/huddoc?id=hsrebuildingstrategy.pdf>

1. Gathering, discussing, and considering technical information related to planned and proposed projects in order to identify opportunities to enhance resilience;
2. Advising grantees and project sponsors on project scopes so that the projects may have enhanced resilience, individually or together;
3. Identifying potential implementation challenges such as funding and/or federal review and permitting issues that can be addressed through collaboration or referral to appropriate federal committees or groups dedicated to the issues; and
4. Federal grantees are also able to request that projects are considered/discussed by the Sandy Regional Team for Federal Review and Permitting (FRP Team) at any time to help coordinate and expedite the collective review and permitting processes necessary. The FRP process is required for all RBD projects. Additionally, the FRP team may be utilized for any covered infrastructure project.

Management of the SRIRC and administration sits at the FEMA Sandy Recovery Office (SRO) with support from each of the Regional Administrators for Region II of FEMA and HUD. Additional leadership and support is provided by federal officials in the affected region from U.S. Department of Homeland Security (DHS) (through FEMA), U.S. Department of Commerce (through the National Oceanic and Atmospheric Administration), Department of Defense (through USACE), U.S. Department of Energy, U.S. Department of the Interior (through U.S. Fish and Wildlife Service, National Park Service, and U.S. Geological Survey, DOL, DOT, EPA, General Services Administration, U.S. Department of Health and Human Services, HUD, and the U.S. Department of Veterans Affairs, and the infrastructure project sponsors as federal grantees from the States of Connecticut, New Jersey, New York, the City of New York, the Port Authority of New York and New Jersey, and tribal nations in the affected region (“Federal Grantees”). The SRIRC comprises decision-makers as the Principal Members (“Members”), and their primary points of contact, who are responsible for the integration of SRIRC principles and information with their organization.

3.0 Non-Federal Share Local Match Program Policies

3.1 Introduction

Note: The policies in this section apply to all Match programs (except when stated otherwise). **In addition, FEMA HMGP and the EPA-SMLP follow the additional policies in the sections set out in Table 2.**

The Non-Federal Share Local Match Program works with public entities and other eligible applicants to ensure that disaster recovery resources provided by federal agencies to entities in New York can be leveraged with CDBG-DR funding to maximize, facilitate and ensure recovery from presidentially declared disasters outlined in this Manual. All Non-Federal Share Match payments will be reimbursed based on payments for cost incurred. The Non-Federal Share Match Program is broken into four sub-programs which are outlined within this document and provided in Table 2. The largest of the match programs, in terms of applicants and financial commitment, is match for FEMA PA program projects. FEMA HMGP has a separate policy and procedure section as GOSR, the State of New York, FEMA and HUD were able to develop a unique financing plan to meet the match requirement for this program. The EPA-SMLP, also funded under P.L. 113-2, provided funds to the EPA which in turn created recovery and resiliency programs to address wastewater and drinking water systems that were impacted by Superstorm Sandy.

TABLE 2: NON-FEDERAL SHARE MATCH SUBPROGRAMS AND THEIR CORRESPONDING POLICIES AND PROCEDURES

Non-Federal Share Match Programs	Impacted Storms	Policies	Procedures
FEMA PA; TSA	Superstorm Sandy, Hurricane Irene, Tropical Storm Lee, Winter Storm Nemo, Upstate Severe Storms and Flooding	Section 2.0 and Section 3.0	Section 4.0
FEMA HMGP	Superstorm Sandy, Hurricane Irene, Tropical Storm Lee, Winter Storm Nemo, Upstate Severe Storms and Flooding, Severe Winter Storms and Snowstorms (1957), Severe Storms, Flooding, Tornadoes, and Straight Winds (1993)	Section 2.0 and Section 5.0	Section 6.0
EPA – SMLP	Superstorm Sandy	Section 2.0 and Section 7.0	Section 8.0

- **PA Non-Federal Share Match:** All PA Match Program and TSA Program projects will follow the policies and procedures outlined in Section 3.0 and Section 4.0. GOSR is providing the local match for FEMA PA associated with the five presidentially declared events that occurred in 2011, 2012 and 2013. GOSR is providing the FEMA TSA local match only for Superstorm Sandy. GOSR provides a direct reimbursement to the State of

New York, through coordination with the Division Budget and the Division of Homeland Security and Emergency Services (DHSES) for match payments which the State has made to applicants in these FEMA programs.

- **HMGP Non-Federal Share Match:** To satisfy the FEMA match requirement for HMGP, GOSR along with DHSES and FEMA approved an innovative financing strategy that known as the ‘Global Match’ strategy which is outlined in Section 5.0 and 6.0 of this Manual. The Strategy allows the State to use homes bought out and returned to greenspace through the GOSR Housing Program as the match for the HMGP program if the GOSR buyouts meet FEMA regulations. FEMA also has allowed the State to use eligible GOSR Infrastructure projects that are CDBG-DR funded projects and which meet FEMA HMGP requirements to be used as match, allowing the State to maximize both FEMA HMGP and HUD CDBG-DR funds¹¹. GOSR uses this strategy to address the match obligation for seven events that occurred in 2011, 2012, and 2013.
- **EPA Superstorm Sandy SMLP:** This program was funded with P.L. 113-2 funds, with the appropriation provided to EPA. EPA in turn provided funds to Sandy-impacted States – and in New York provided funds to the Environmental Facilities Corporation – to address drinking water and wastewater systems that were impacted and were not funded by the FEMA PA program. GOSR is only providing the match for the wastewater portion of the program. Because these match projects were identified after GOSR’s creation, the Non-Federal share requirement for the SMLP Program is implemented in the Water and Wastewater facilities subprogram shown in the Local Government and Critical Infrastructure section of this Manual. All projects follow processes and protocols that apply to 100% CDBG-DR funded projects.

3.2 Funding Sources

Every project in the Non-Federal Share Match Program leverages CDBG-DR funding with other federal disaster recovery funding sources, which act as the primary funding source. This section briefly describes those other federal funding sources.

3.2.1 Federal Emergency Management Agency

When a disaster occurs it is the responsibility, first of the local community, and then of the State, to respond. Often their combined efforts are not sufficient to address the impact of the disaster. These situations call for federal assistance to supplement State, tribal, and local efforts. The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Stafford Act), as amended, authorizes the President to provide such assistance. Assistance is coordinated through FEMA, which is the primary disaster response agency in the Federal government. It is an agency within the U.S. Department of Homeland Security (DHS).

FEMA provides grants to communities that allow them to address immediate, post-storm response

¹¹ Traditional sources of Non-Federal Match Share, such as individual entities paying their own 25% match, remains eligible to be counted towards the total match obligation as well.

needs and long term rebuilding needs through the PA program. FEMA also provides funds to assist individuals address a number of needs including housing needs resulting from the storm in the immediate aftermath of an event through the Individual Assistance program (IA). IA includes the TSA program, whereby the Federal government through FEMA pays for impacted citizens to stay in hotels until communities and homes are safe to return to. FEMA also provides funds to the State through the HMGP program so that following a disaster, communities and areas can become more resilient to future events. Through the PA and HMGP programs, FEMA provides grants to the State and its subapplicants to address the long-term rebuilding, recovery and resilience needs of communities.

Following a disaster, and upon official declaration by the President of the United States, FEMA designates area(s) as eligible for assistance. Following the federally declared disasters in 2011, 2012 and 2013, FEMA provided, PA, IA and HMGP funds to New York State. GOSR, through its Infrastructure Program is assisting New York State and eligible entities with the:

1. PA Program
2. TSA Program
3. HMGP Program

Each program is guided by the Stafford Act, USC 5121, The Code of Federal Regulations Title 44 Parts 13.36, 13.37 and 13.40, and the FEMA Disaster Assistance Guidance 9500 Series.

3.2.2 Other Federal Agencies

While the Stafford Act and FEMA are the primary means for how communities address disaster recovery, for certain types of facilities, other federal agencies have the primary authority to provide disaster assistance. When an applicant requests PA for a facility whose repair FEMA considers to be within the authority of another federal agency, FEMA will ask the specific federal agency responsible to review the request and advise FEMA whether the work would be eligible under that agency's authority. If the work falls outside the statutory authority of that agency, FEMA may consider providing assistance for the work under the Stafford Act. In addition to HUD, Federal agencies that often have authority to provide disaster assistance are detailed below.

3.2.2.1 Environmental Protection Agency

The EPA provides funding to New York State's Department of Environmental Conservation (DEC) and Environmental Facilities Corporation (EFC) to administer the Clean Water State Revolving Fund (CWSRF), which provides low- or no-interest rate financing to construct water quality protection projects. Following Sandy, Congress appropriated funds through P.L. 113-2 to further assist Sandy impacted facilities. EFC is administering these additional Sandy related funds and created the SMLP, a subsidiary program of the CWSRF. The SMLP provides funding to eligible municipalities to protect and make water treatment facilities more resilient from future storm events. The SMLP funds are offered as 25% grant and 75% zero-interest loan. EPA requires that the State of New York provide a Non-Federal share payment to access the SMLP funds. GOSR works closely with EFC to identify applicants and coordinate how the EPA match for the SMLP program meets both EPA and HUD requirements. The Non-Federal Match share provided by

GOSR to applicants may vary by project and is designed to limit the overall match obligation of the State.

3.3 Determining the Non-Federal Share Amount

The Non-Federal share match payment amount varies by federal disaster relief program and disaster. GOSR only provides reimbursement for the State cost share or local match for the portion of a project that meets a HUD eligible activity under CDBG-DR requirements, as described in 3.4.1 below. The table below shows the current match percentage by disaster and federal program. As such, the match rates below represent the maximum federal share that GOSR may provide. On a per project basis GOSR may match less than the full project amount because items within the scope of work do not meet HUD CDBG-DR guidelines or because HUD required documentation is not provided. Additionally, to prevent Duplication of Benefits, matching funds from other sources (i.e. local funds or grants) are considered before GOSR funding decisions are confirmed.

TABLE 3: FEDERAL PROGRAMS AND SHARE RATE ELIGIBLE UNDER THE STATE'S MATCH PROGRAM

Federal Program	Federal Agency	Federal Cost Share	State Cost Share	Disasters
Storm Mitigation Loan Program (SMLP)	EPA	84%	16%	Sandy
Hazard Mitigation Grant Program (HMGP)	FEMA	75%	25%	Sandy, Irene, Lee, Nemo, Mohawk Floods, Upstate Severe Storms and Flooding, Tornadoes and Straight Winds, Severe Winter Storms and Snowstorms
Transitional Shelter Assistance (TSA)	FEMA	90%	10%	Sandy
Public Assistance (PA)	FEMA	75%	25%	Irene, Lee, Nemo, Mohawk Floods
Public Assistance (PA)	FEMA	90%	10%	Sandy

3.4 Eligibility

3.4.1 Eligible Activities (For PA Match only)

For the Non-Federal Share Match Program, HUD allows grantees to use CDBG-DR funds to address the Non-Federal Share as long as the funded project can meet the Non-Federal Share requirement of the lead agency and at least one additional HUD eligible activity. GOSR, working with HUD Community Planning and Development staff, has currently defined three specific eligible activities that correspond to payments being made in the PA Match Program.

For the Non-Federal Share Program, projects must meet HUD's Non-Federal share eligible activity requirement (Section 105(a)(9)) in addition to one of the following eligible activities requirements:

1. Public Facilities (Section 105(a)(2))
2. Debris Removal, Housing Rehabilitation (Section 105(a)(4))
3. Public Services (Section 105(a)(8))
4. Planning (Section 105(a)(12)).

3.4.2 Eligible Applicants

3.4.2.1 FEMA-Funded Programs: Public Assistance, Hazard Mitigation Grant Program, and Individual Assistance

Examples of eligible entities that may receive match PA and/or HMGP funding include the following:

- New York State Agencies and Public Authorities
- County Governments (including departments and divisions)
- Local and Municipal Governments (including departments and divisions)
- Free-standing local and municipal government facilities (libraries, parks, Fire and volunteer fire departments, first responder facilities, wastewater treatment facilities, etc.)
- Public Schools, including Districts and Charter schools
- Public Universities and Colleges
- Public Hospital and Health Systems
- Nonprofits determined by FEMA to be eligible to receive federal funding

IA payments are only made for TSA. The State of New York is the only eligible applicant.

3.4.2.2 EPA's Sandy-Appropriated Storm Mitigation Loan Program

In New York, public wastewater systems are operated by a county, local and/or municipal government and/or water-related subdivisions that provide services to specific and defined communities' areas. Only these entities are eligible to receive Non-Federal Share assistance from the EPA program. Eligible applicants for the program must be a:

- County Government – including departments and divisions
- Local or Municipal Government – including departments and divisions; or
- Other County and Municipal entity engaged in wastewater related activities.

3.4.3 National Objective Documentation and Records

To ensure the eligibility of all PA Match Program projects, Infrastructure program records must demonstrate that funded activities meet one of the national objectives required by HUD. The types of records to be maintained for each CDBG-DR funded activity depend on the national objective category for which they qualify (See Section 2.1.2.1).

To demonstrate the national objective for each activity, GOSR draws upon the best available HUD-approved data. In determining the service area of an activity, GOSR assesses the nature, location, and accessibility of each activity, as well as the type of applicant and the information contained within the PW (e.g. the FEMA PA Category). The scale of the PA Match program necessitates adopting a broad-based approach using repeatable methodologies to determine the national objective. Wherever possible, GOSR leveraged existing service areas, mapped by its New York State agency partners, and best practices developed by other HUD grantees to establish

methodologies to define service areas based on the beneficiaries of mitigation activities and/or types of facilities (e.g. debris removal, work on roads and bridges, schools, wastewater treatment facilities, etc.) and geographic features (e.g. locations of highway, rivers etc.) and local population characteristics (e.g. population size and density). This approach enables GOSR to process projects and address the needs of communities in a timely and HUD-compliant manner.

To determine if a project meets the LMI area national objective, GOSR defines a service area that is appropriate to the scope of the project and uses census data to assess if at least 51% of beneficiaries in that service area are LMI persons (excluding exception grantee areas with LMI percentages specifically set forth by HUD). Where applicable, for LMI Area Benefit activities, State and Federal data is used to determine that the areas are primarily residential. Exhibit 4 details the methodologies GOSR has developed to determine the service area of PA Match projects.

Service area documentation, including maps and memoranda, is saved in the respective PW folders located on the program's system of record (as set out in Section 2.9.16).

3.5 Project Review Order

Due to the large volume of PA Project Worksheets to be reviewed for match eligibility, GOSR prioritizes the analysis of federal databases to determine the Non-Federal Share match based on the elements shown below. For GOSR's HMGP Match Program, projects will be reviewed in a separate process which is outlined in Section 5.0 with procedures for the program shown in Section 6.0. For the EPA SMLP Match Program, projects will be reviewed following a more traditional CDBG-DR project process, which is outlined in Section 7.0 and 8.0. For all funding sources in the Non-Federal Share Match Program, file reviews will be conducted in the following order:

1. Payment Date of Federal and Non-Federal Share
2. Date of the disaster (Storm Date)
3. Project Location (county)
4. FEMA Category (For PA Match Program payments only).

While GOSR will initiate reviews in the order above, program staff may need to alter reviews based on the availability of either payment data provided by DHSES and/or supporting documentation that is available from applicants. GOSR makes funding recommendations based on data obtained from multiple sources including project specific information contained in FEMA's Emergency Management Mission Integrated Environment (EMMIE), a database that contains PA-related data obtained by FEMA, financial payment data that is maintained by DHSES, State vouchers showing payment of the Non-Federal share, and others. Financial data includes payments the State makes for the non-federal share amount, which GOSR reimburses, and Federal share payments that FEMA provides to applicants on each project. Financial payment data is maintained by GOSR and is updated to reflect the most recent current payment amounts. GOSR cannot make funding recommendations until a PW has both Federal Share and Non-Federal Share payments. GOSR is periodically provided updated payment files by disaster that shows Federal and State disbursements at the PW level. GOSR confirms and coordinates with DHSES and the Division of the Budget that Non-Federal share payments have been made, to ensure that GOSR only reimburses the State for work that is performed and completed. Because payments may be

processed at varying schedules by DHSES and FEMA, based in part on when work is completed by applicants, GOSR will review files based on when payments are made to applicants.

3.5.1 FEMA Category (for PA Match only)

FEMA has a detailed process that categorizes eligible projects by the type of work that needs to be repaired, restored, or removed following a disaster. PA Match projects are described as either being for emergency work (response related), or for permanent work (recovery related). PWs clearly document the eligible work. Emergency work takes place immediately after an event and is comprised of two categories, Category A and Category B work. Permanent work restores or rebuilds a damaged asset and is comprised of five categories (Categories C-G). FEMA clearly distinguishes the eligible work through the series of work categories outlined below to prevent a Duplication of Benefits. PA applicants can have work at the same facility that is both response and recovery related and across multiple categories. Only public entities, organizations, and specific not-for-profit entities are eligible for FEMA PA funding and they must demonstrate a direct tie to the storm to be eligible for payment. Private companies and utilities cannot receive funding.

GOSR reviews PWs by initially reviewing emergency work followed by permanent work, but this process may be subject to alteration based on what HUD required documentation is ultimately obtained from EMMIE and the applicants.

Emergency Work: Response Related (Categories A and B)

Category A: Debris Removal

Clearance of trees and woody debris; certain building wreckage; damaged/destroyed building contents; sand, mud, silt, and gravel; and other disaster-related material deposited on public and, in very limited cases, private property.

Category B: Emergency Protective Measures

Measures taken before, during and after a disaster to eliminate/reduce an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures.

Permanent Work: Recovery Related (Categories C – G)

Category C: Roads and Bridges

Repair of roads, bridges, and associated features, such as shoulders, ditches, culverts lighting, and signs.

Category D: Water Control Facilities

Repair of drainage channels, pumping facilities, and some irrigation facilities. Repair of levees, dams and flood control facilities fall under Category D, but the eligibility of these facilities is restricted.

Category E: Buildings and Equipment

Repair or replacement of buildings, including their contents and systems; heavy equipment and vehicles.

Category F: Utilities

Repair of water treatment, and delivery systems; power generation facilities, and distribution facilities; sewage collection and treatment facilities; and communications.

Category G: Parks, Recreation Facilities, and Other Facilities

Repair and restoration of parks, playgrounds, pools, cemeteries, mass transit facilities, and beaches. This category also is used for any work or facility that cannot be characterized by Categories A-F.

3.5.2 Project Size

When FEMA obligates a project worksheet, it provides funds to an applicant to initiate work. To facilitate how FEMA processes and reimburses applicants for work, FEMA categorizes the work into two categories, “Small” and “Large” projects, based on the total dollars provided to the project. The split between the Small and Large categories is determined by using the annual Consumer Price Index, resulting in project threshold size varying by year. For example, in fiscal year 2014, a Small project is any eligible work, either emergency or permanent, costing up to \$68,500. Projects above this threshold are classified as Large projects. In subsequent years a different threshold is used.

FEMA undertakes this categorization so that it can facilitate review, approval and funding of repair projects. In most disasters, the vast majority of work consists of Small projects. Large projects are not only more costly but also typically more complex to manage. To facilitate the oversight of Large projects, a streamlined formulation process is used that consolidates specialized expertise in the disaster area. When FEMA receives a request for reimbursement of a Small project it provides the entire federal share as a single reimbursement. For Large projects FEMA reimburses only for work completed and “interim or progress payments” can be made while work is ongoing.

GOSR, through its project review process, collects documentation equally for Large and Small projects to determine eligibility; however, it may decide to use the project size categorization to prioritize reviews for an applicant.

3.6 Environmental Review for Non-Federal Share Match Payments – Special Provisions Concerning Use of FEMA’s process

Prior to CDBG-DR program funds being expended, a HUD environmental review must be completed. Following Superstorm Sandy, grantees that use P.L. 113-2 funds were allowed to adopt and accept FEMA’s environmental review process if certain conditions and actions were taken. To document the environmental review process, for each project reviewed, GOSR maintains a letter adopting FEMA’s environmental review process in its program files, along with the FEMA environmental review record. An example of this is shown in Exhibit 5 of this document.

Prior to February 2014, GOSR’s PA Match Program made payments using funds from the Irene and Lee CDBG-DR allocation P.L. 112-55. Because match payments for those projects were made using that allocation, the State followed HUD’s environmental review process, including utilizing the exemption set forth in 24 CFR 58.34 for emergency work.

As noted above, under P.L. 113-2, grantees funded through the Sandy allocation were allowed to adopt the environmental review of another federal agency as long as the grantee notified HUD of this intent when Sandy CDBG-DR funds were used. GOSR informed HUD that the State would utilize this provision for the PA, TSA and HMGP Match Programs, and is relying on FEMA’s

environmental review.

Therefore, since the transition to GOSR management of PA match obligations in February, 2014, in an effort to streamline the PA match process, and to utilize the environmental flexibility allowed in the March 27, 2014 Federal Register Notice (FR-5696-N-08) all match payments made with P.L. 113-2 grant funds to support PA applicants impacted by Hurricane Irene, Tropical Storm Lee, Superstorm Sandy, Winter Storm Nemo, and Upstate Severe Storms and Flooding have been made using the Superstorm Sandy allocation and GOSR is using the P.L. 113-2 environmental review adoption. The summary below shows which environmental reviews are being used based on the allocation and federal program.

1. FEMA PA and HMGP Programs

a. Hurricane Irene (DR-4020) and Tropical Storm Lee (DR-4031), FEMA PA and HMGP Applicants

- Payments made prior to October 31, 2013 used HUD's Environmental Review. PWs were funded with the Hurricane Irene/Tropical Storm Lee allocation (P.L. 112-55).
- Payments that use the P.L. 112-55 allocation continue to use HUD's Environmental Review.
- Payments that use the Superstorm Sandy allocation (P.L. 113-2) use FEMA's Environmental Review.

b. Superstorm Sandy (DR-4085), Winter Storm Nemo (DR-4111), Upstate Severe Storms and Flooding (DR-4129), FEMA PA and HMGP Applicants

- Payments use FEMA's Environmental Review Process.

2. EPA SMLP

a. Superstorm Sandy Applicants

- Projects are funded using P.L. 113-2. Payments use HUD's Environmental Review requirements.

3.7 Non-Federal Share Match Program Payment Policy

While the Non-Federal Share Match Program supports the recovery efforts of units of local government, the Non-Federal Match payment is made to the State of New York, through coordination with the Division of the Budget and DHSES. The Division of the Budget works with all of New York's agencies and operates and oversees the State's finances. The Division of the Budget provides spending authority to DHSES to make the match reimbursement directly to communities for their Non-Federal Share requirement for covered disasters and funding sources.

For the HMGP projects receiving funds under the Non-Federal Share Match Program, GOSR makes payments directly to the subrecipients while documenting the match payment to FEMA and DHSES; the process is outlined in Section 5 and 6 of this document. For the EPA SMLP, FEMA PA and FEMA IA program projects receiving match funding, GOSR will directly reimburse the State of New York.

GOSR has chosen to reimburse the State instead of issuing payments directly to an applicant to streamline payments. As applicants draw down federal funds for repairs they are able to receive

reimbursement for the full amount of Federal and State shares at the same time. This is also necessary because GOSR, through the Non-Federal Share Match Program, will reimburse the State only for HUD eligible storm-related damages. It is possible that while projects are FEMA or EPA compliant, they may not be fully compliant with HUD CDBG-DR criteria. Program staff will work directly with local entities that initiated the projects to verify project eligibility and collect necessary documentation so that payments made by GOSR to the State General Fund are HUD compliant. These local entities will be required to comply with applicable CDBG-DR program requirements.

After January 2018, for any new PWs identified to be funded with CDBG-DR, Program will conduct further review of the documentation with regard to compliance with Federal Cost principles and not rely solely on FEMA's review.

3.7.1 FEMA Transitional Shelter Assistance Payments

For the TSA Match program, GOSR will only provide the required match funding for the TSA payments made in response to Superstorm Sandy. HUD regulations allow for Rental Assistance for up to 90 days. GOSR has reviewed all TSA documentation to ensure that all payments were made in accordance with the regulations. GOSR reimbursed the Division of the Budget for all TSA match payments made by the State of New York for CDBG-DR eligible activities.

4.0 Non-Federal Share Match Program Procedures

Note: The below procedures in Section 4.0 apply to the GOSR Non-Federal Share Match Program, excluding the HMGP Match Program and EPA – SMLP Match Program, which are described in subsequent sections, per Table 2.

4.1 Storm Eligibility

The PA Match Program will provide match payments for the following declared disasters:

- Hurricane Irene (DR-4020)
- Tropical Storm Lee (DR-4031)
- Superstorm Sandy (DR-4085)
- Winter Storm Nemo (DR-4111)
- Upstate Severe Storms and Flooding (DR-4129)

4.2 Eligible Applicants

GOSR's procedure to determine applicants for the PA Match Program is to utilize FEMA's applicant eligibility review processes and supplement a GOSR-defined process whereby applicants opt in to the match program. Eligible applicants include public entities and private nonprofits that have applied to FEMA for a declared disaster, have met FEMA's requirements and have obligated PWs. Additionally, eligible applicants must be able to receive CDBG-DR funds. Eligible applicants include:

- New York State Agencies and Public Authorities
- County Governments (including departments and divisions)
- Local and Municipal Governments (including departments and divisions)
- Free-standing local and municipal governments (libraries, parks, fire and volunteer departments, and first responder facilities, wastewater treatment facilities, etc.)
- Public Schools, including districts and charter schools
- Public Universities and Colleges
- Public Hospital and Health Systems
- Nonprofits determined by FEMA to be eligible to receive PA funding

PA Match Program payments made prior to October 31, 2013 were made using the Hurricane Irene and Tropical Storm Lee CDBG-DR allocation (P.L. 112-55). All payments made using this allocation were solely for FEMA PA PWs related to Hurricane Irene and Tropical Storm Lee; however, available funds from the CDBG-DR allocation for Hurricane Irene and Tropical Storm Lee were insufficient to provide the required match to all FEMA PA activities generated by these disasters. After February 2014, GOSR began making match payments for all FEMA PA activities, including remaining unmatched activities relating to Hurricane Irene and Tropical Storm Lee, using the Superstorm Sandy allocation, and used the following procedure to determine applicant

eligibility.^{12, 13}

4.2.1. Hurricane Irene and Tropical Storm Lee: Applicant Eligibility for PA Match Payments

Applicant eligibility determination for Hurricane Irene and Tropical Storm Lee occurred prior to GOSR's creation. The determination of which applicants from these events would be in the match program was determined by FEMA eligibility and by the State's limited funds that were provided through the Hurricane Irene and Tropical Storm Lee CDBG-DR allocation. Due to the limited availability of funds, HCR provided Irene and Lee funds to the most impacted county governments to implement match programs. Following Superstorm Sandy and with the opportunity to use P.L. 113-2 funds to assist with Hurricane Irene and Tropical Storm Lee recovery, additional applicants were determined by the State to be eligible to receive funds for the match program. The Division of the Budget provided GOSR with a list of additional entities that needed assistance from the Sandy allocation within these counties. GOSR confirmed the applicants identified were able to receive CDBG-DR funds.

In 2012 and 2013, there was not yet a formal notification process to PA applicants that the State of New York would provide funds for local match and that CDBG-DR funds would be used, with the exception of notification to the most impacted county governments. In 2014, GOSR, as part of program management and its review process, began to contact applicants as needed to obtain information necessary to provide a match payment and has since been making applicants aware of CDBG-DR requirements.

The current Action Plan for Hurricane Irene and Tropical Storm Lee, as amended, notes that counties eligible to receive matching funds from the P.L. 112-55 allocation includes all 38 Federally-declared counties covered under P.L. 112-55. The State ensures activities in the five counties prioritized in the initial Action Plan – Broome, Greene, Orange, Schoharie and Tioga – retain priority status.

4.2.2 PA Match Review Process: Superstorm Sandy, Winter Storm Nemo, Upstate Severe Storms and Flooding: Applicant Eligibility

For these three disasters, GOSR utilizes both the FEMA applicant eligibility review process and the GOSR "opt-in" process, which informs applicants that HUD CDBG-DR funds may be used to provide the local match.

When using funds from the Superstorm Sandy allocation, GOSR will coordinate with DHSES and Division of the Budget to notify eligible applicants of the opportunity to participate in the PA Match Program. Only applicants who have applied for and been approved by FEMA to participate

¹² The unmet need associated with Hurricane Irene and Tropical Storm Lee was significantly greater than the CDBG-DR funds (allocated under P.L. 112-55) available to provide funds for local match for all eligible activities. Activities for which funds were not available under P.L. 112-55, may have received funding under P.L. 113-2 (if eligible). The New York State Action Plan for Hurricane Irene and Tropical Storm Lee provides information about funding allocations associated with P.L. 112-55 and is available at <https://stormrecovery.ny.gov/funding/action-plans-amendments>.

¹³ In September, 2017, an additional match payment was made using available funds from the CDBG-DR allocation for Hurricane Irene and Tropical Storm Lee.

in the PA program are eligible for GOSR's PA Match Program. The correspondence will inform applicants that HUD CDBG-DR funds are being used as the local match for these events and that in addition to providing GOSR with access to necessary information depending on the type of work, stage of completion for a project, or when work was completed, additional HUD regulations will be required. The correspondence also includes information regarding the CDBG-DR requirements that applicants will have to follow to be considered eligible for receiving funding under the PA Match Program. Through this direct correspondence, all applicants are aware that HUD funds may be used to cover their Local Match obligation and are given the option to "opt-in" to the program accordingly.

4.2.2.1 Entities with an Interest in PA Match Program

Following notification to GOSR that an applicant is interested in the program, GOSR will:

1. Inform the entity of additional steps and actions that the entity must take as a condition of being in the Non-Federal Match Program for FEMA PA. This will include agreeing to comply with CDBG-DR and GOSR program requirements and providing GOSR with necessary documentation.
2. Provide TA workshops: Each applicant must attend a TA workshop where GOSR will provide an additional opportunity to learn about program requirements such as Section 3, MWBE, and Davis-Bacon. Following the TA workshop, applicants will have the opportunity to formally "opt-out" of the PA Match Program.
3. Work with the Division of the Budget and DHSES, the lead agency, to make the reimbursement payments for the entity through the State's PA payment system.

4.3 Duplication of Benefits

For the PA Match Program, prior to PWs being reviewed by GOSR for HUD eligibility, FEMA also conducts Duplication of Benefit checks to ensure that FEMA's Federal funds are used only after other Federal disaster recovery and private funds are applied. FEMA conducts this analysis prior to a PW being obligated. FEMA determines an applicant's unmet need(s) before obligating/awarding a PW which primarily includes ensuring that insurance proceeds are checked and reduced from the award amount. During PW development, FEMA may de-obligate PWs as additional Duplication of Benefits, including insurance proceeds, are realized. FEMA has the primary disaster recovery responsibility for public infrastructure assets, including verifying all sources of disaster assistance as shown through the Stafford Act. GOSR refers to this process as the FEMA Duplication of Benefits check. If FEMA or the State find that additional funds have been realized for a project, which would result in a Duplication of Benefits, GOSR will work to reallocate match to other projects.

As part of the PA Match Program (including through TA), GOSR will confirm that costs shown in each project's worksheets are accurate. Further, applicant documentation is reviewed, both by program staff and by MCD as part of its monitoring process for sampled applicants, to ensure that

a Duplication of Benefits has not occurred after work has begun.¹⁴ New York State, through DHSES, conducts checks to ensure that if FEMA PA grantees receive additional assistance from insurance proceeds, that PW rewards are de-obligated or reduced accordingly.

GOSR's uniform prevention of Duplication of Benefits procedure is to have program staff:

1. Accept FEMA's Duplication of Benefit check, which is done during the PW eligibility review and obligation process.
2. Review the most current version of a PW for HUD eligibility and potential match payment. This ensures that any de-obligations or reductions in a PW that occurred after a POW was obligated for benefits are accounted for.
3. Place in the PW project file a copy of FEMA's Duplication of Benefits analysis. This information is generally summarized on the FEMA 90-91 form. Per the Stafford Act, FEMA which acts as the lead Federal disaster response agency, would deny as an eligible cost for a PW, funding if other Federal disaster recovery resources are available (Such as the Small Business Association, USACE, and USDA). In addition to the PW or the 90-91, often Duplication of Benefits materials are supported by an insurance reduction spreadsheet, which is shown in the FEMA attachments section in EMMIE. GOSR procedure is to download this attachments page and any supporting documentation tied to Duplication of Benefits and place this material in the 'Financial' folder for the PW.
4. Check other Federal disaster recovery databases to verify all sources of disaster assistance, including:
 - i. US DOT FHWA-ER;
 - ii. FEMA HMGP program;
 - iii. EPA SMLP program for wastewater Treatment Facilities;
 - iv. NY Rising Community Reconstruction Program.
5. Through on-site monitoring, GOSR staff will ask applicants questions designed to identify if Duplication of Benefits has occurred.
6. By conducting eligibility reviews of the most recent version of a PW, program staff ensures that applicants have not received additional funds from other sources. GOSR working with DHSES also confirms before reimbursing the State of New York for the Non-Federal share that the recommended match amount be accepted. This ensures that as match funding recommendations are made that accurate match applicable to the PW is paid. This process also confirms that match reimbursements are made only when the Division of the Budget has provided State funds to meet the Non-Federal share on behalf of the applicant.
7. For ongoing construction projects (FEMA work categories C-G), program staff conducts an annual survey of applicants as part of a Duplication of Benefits reviews to verify that the applicant has not received funds from another disaster recovery program that covers the same scope of work. Annual checks will be conducted each year within 120 days after the close of the State fiscal year.

¹⁴ NY Rising Infrastructure Program staff conducted monitoring through the end of calendar year 2015. MCD staff took over this monitoring from Quarter 1, 2016.

4.4 FEMA PA Project Worksheet File Review Procedures

All FEMA PA projects considered for Non-Federal Share Local Match with CDBG-DR funds must have funding and a scope of work that is contained in an eligible and obligated PW. PWs are drafted and agreed to by the applicant, State of New York, and FEMA. Each PW contains the scope of work for items eligible for FEMA reimbursement. At a minimum, files for each PW created by FEMA document the project, the location, the damage, the scope of work, and the actual cost or a cost estimate. FEMA, working in conjunction with the lead State agency, DHSES, ensures that each PW has met FEMA requirements. GOSR works with DHSES and State and local applicants, to obtain and maintain a file for each PW. GOSR also obtains, processes, and analyzes PWs so that match payments comply with the requirements governed by HUD CDBG-DR regulations. It is only when GOSR is confident that it has sufficient documentation and has completed its analysis of a PW that GOSR processes a reimbursement with HUD CDBG-DR funds. The procedures in this Manual document the steps that GOSR takes to process a match payment after the other agencies have already completed their due diligence.

Given the nature of the PA Match Program, it is required by FEMA that the applicant and PW demonstrate a tie to the storm. GOSR, will document the storm impact in its program files.

4.4.1 FEMA Document System

FEMA's recordkeeping system, EMMIE, tracks grant applications and associated documents after each disaster declaration. GOSR utilizes information contained in the EMMIE system related to the PW, which FEMA uses to ensure compliance with FEMA regulations. HUD, however, has additional and differing regulations that their grantees need to comply with as part of their grant. To efficiently confirm that the PA Match Program applicants are compliant with CDBG-DR requirements, GOSR starts project reviews by obtaining and reviewing the documents in EMMIE.

4.4.2 PA Match Program Review Process: Hurricane Irene/Tropical Storm Lee

Prior to February 2014, all PA Match Program activities funded through the Hurricane Irene and Tropical Storm Lee CDBG-DR allocation were managed by HCR. In February 2014, management of the Hurricane Irene and Tropical Storm Lee allocation officially transitioned to GOSR. This section of the Manual highlights and discusses how outreach to PA applicants was conducted, as well as any previous policies and procedures that existed for this Program, prior to GOSR assuming management of the Hurricane Irene and Tropical Storm Lee PA Match Program.

All PA Match Program payments made prior to October 31, 2013 were funded using the Hurricane Irene and Tropical Storm Lee CDBG-DR allocation (P.L. 112-55) under these processes. After the transition to GOSR in February 2014, GOSR began making match payments for all FEMA PA activities, including remaining unmatched activities relating to Hurricane Irene and Tropical Storm Lee, using the Superstorm Sandy CDBG-DR allocation.¹⁵

¹⁵ In September, 2017, an additional match payment was made using available funds from the CDBG-DR allocation for Hurricane Irene and Tropical Storm Lee.

4.4.2.1 Outreach Applicant Notification

Prior to the February 2014 transition to GOSR, only a select number of eligible PA applicants in the five Hurricane Irene and Tropical Storm Lee most impacted counties were notified by HCR that the State would make the Non-Federal Share payment on the applicant's behalf and that CDBG-DR funds would be used to cover the match. For other applicants, there was no direct communication other than an official press release stating that New York would cover the FEMA PA Non-Federal Share Local Match for applicants impacted by Hurricane Irene and Tropical Storm Lee. The press release did not detail how or with what funds New York would cover the local match. While DHSES worked with applicants on the PA program, no official letter or guidance was provided informing them that HUD CDBG-DR funding would be used for applicants' project cost(s) or that compliance with HUD regulations and/or requirements would be necessary to have the State make a match payment. DHSES, working with the Division of the Budget, continued using this process until GOSR was created and formal meetings with GOSR, the Division of the Budget, and DHSES began in November 2013. After this time, Infrastructure program staff began to assess the files for applicants that had received a match payment using the Irene and Lee allocation. GOSR then began to engage with PA applicants to collect the required HUD documentation to ensure that payments to Hurricane Irene and Tropical Storm Lee applicants were CDBG-DR eligible.

4.4.2.2 Document Retrieval

For payments made prior to October 31, 2013, GOSR reviewed EMMIE to determine if all the items needed by GOSR to determine CDBG-DR eligibility and to maintain the file for desktop monitoring were available. If required documentation was not available in EMMIE for payments made prior to November of 2013, Infrastructure Program staff scheduled a meeting with the public entity to obtain the missing documentation. For all remaining PA applicants, and for projects not reimbursed, the process for obtaining missing documentation included:

- Program analyst documented the missing information on the file review sheet and provided the information to the eligibility review manager.
- The eligibility review manager then contacted the document retrieval team to initiate a strategy on how to obtain the missing documentation and provided the list of items that were needed.
- The GOSR field coordinator then contacted the public entity electronically and informed the entity that additional documentation was needed to make the file HUD eligible and support the payment and/or complete the documentation necessary for the file. A sample letter is attached in Exhibit 6.
- Document retrieval team then followed up with the public entity and arranged to either obtain the documentation electronically from the entity or schedule an in-person meeting at the location of the applicant's office.
- After the files were obtained, the document retrieval team uploaded the documents to the network drive. The field coordinator then informed the eligibility review manager that the missing documentation had been obtained.

- The file review was then completed and forwarded to the State for additional review processes as needed.

Note: This process was subsequently used for Sandy, Nemo & Mohawk (Section 4.4.4).

4.4.2.3 Funded PA Match Program Payments

GOSR match payments made prior to October 31, 2013 for FEMA PA Programs were made using the Hurricane Irene and Tropical Storm Lee CDBG-DR allocation (P.L. 112-55). All payments made using this allocation were solely for FEMA PA PWs related to Hurricane Irene and Tropical Storm Lee.

As part of its management process for the Hurricane Irene and Tropical Storm Lee PA Match Program, GOSR developed an electronic file system for each PW that is maintained by Infrastructure Program staff. Files include HUD required documentation, including items that are contained in the primary federal agency's database (EMMIE) and materials and documentation that is obtained through the GOSR document retrieval process. These items are necessary to determine and confirm CDBG-DR eligibility and to document the payment for the project. Additionally, these files allow HUD, GOSR MCD, and other auditors to have access to this information.

After February 2014, GOSR began making payments for all FEMA PA activities, including remaining unmatched activities relating to Hurricane Irene and Tropical Storm Lee, using the Superstorm Sandy allocation (P.L. 113-2) and implemented the below process (with the exception of requiring Hurricane Irene and Tropical Storm applicants to “opt-in” to GOSR's Non-Federal Share Match Program).¹⁶ If GOSR finds that certain PWs do not contain HUD CDBG-DR required documentation, it follows the document retrieval process outlined below in Section 4.4.4.

4.4.3 PA Match Program Review Process: Superstorm Sandy, Winter Storm Nemo, Upstate Severe Storms and Flooding

4.4.3.1 Applicant Notification Procedure

Following on from the PA Match review process set out in 4.2.2 and 4.2.2.1, GOSR maintains a list of current eligible applicants who have opted into the PA Match Program, sorted by disaster (current lists are maintained on GOSR's public website).

4.4.4 Document Retrieval

During the PW Selection Review Process outlined in Section 4.4.5, all documentation in EMMIE at the time of review, is copied and maintained in GOSR's file management system. GOSR maintains a copy of these documents so that they can be reviewed and preserved for CDBG-DR requirement compliance. If a project is missing documentation necessary to document or determine HUD compliance or support the funding recommendation, a list of missing documents will be created by the Project team and GOSR commences the document retrieval process outlined in this

¹⁶ In September, 2017, an additional match payment was made using available funds from the CDBG-DR allocation for Hurricane Irene and Tropical Storm Lee.

section.

Once an applicant has completed the TA workshop, GOSR will begin the document retrieval process. For all applicants, GOSR will first review and obtain all information from EMMIE relating to the PW. Additionally, GOSR will request, obtain, scan, and maintain required supporting documentation from the applicant, related to the work completed on the PW and is necessary to demonstrate HUD compliance and/or eligibility. All PWs will be in one of the following different stages upon entering the PA Match program:

- **Project work completed:** For PWs where the work has been completed prior to the applicant “opt in” to the PA Match Program, GOSR will follow the document retrieval process outlined in this Manual to collect all relevant documents needed for program compliance. The documents collected will include necessary documentation that will allow external reviewers, auditors and others to determine that some HUD and U.S. Department of Labor regulations do not apply.
- **Project work in progress:** For PWs where the work has begun, but is not complete, at the time the applicant “opts in” to the PA Match Program, GOSR will follow the document retrieval process outlined in this Manual to collect all relevant documents needed for program compliance.
- **Project work not begun:** For PWs where the work has not begun at the time the applicant “opts in” to the PA Match Program, GOSR will follow the document retrieval process outlined in this Manual to collect all relevant pre-construction documents needed for program compliance. In addition, GOSR will work with the applicant through TA to ensure that the project will be compliant with all CDBG-DR requirements prior to and during construction. Additionally, GOSR may, at its discretion, direct Infrastructure Program staff to provide TA to the applicant to ensure that the project remains CDBG-DR compliant.

4.4.4.1 Document Retrieval Process

The document retrieval process is an integral part of the PA Match Program. It provides GOSR, New York State, and HUD with the documentation required for maintaining CDBG-DR compliance while imposing only a minor burden on applicants. The document retrieval process may include program staff traveling to the applicant’s physical location to obtain and scan the required supporting documentation or having the applicant scan and send the supporting documentation to GOSR. Document retrieval begins with outreach to the applicant requesting files and is completed when the required supporting documentation is transferred to GOSR document storage locations. Once documents are obtained, files are further reviewed for eligibility and completeness.

The following steps are included in the document retrieval process:

1. Applicant pre-site visit preparation:
 - a. Creation of a Document Checklist that identifies the required CDBG-DR documentation on file in EMMIE, and identify missing CDBG-DR required documentation for all PWs,

per applicant. This Document Checklist, Project Status Form and a letter requesting provision of the documents is sent via email and a hard copy is mailed to the grantee at least two (2) weeks prior to the site visit. Exhibit 7 shows an example letter and Document Checklist.

- b. GOSR will follow-up with the applicant(s) prior to the site visit to confirm the time and date of the scheduled appointment(s).

2. Option 1: Site visit

- a. Infrastructure Program staff obtains and scans PW documentation provided by the applicant.

Option 2: Applicant scans documentation

- b. An applicant may choose to forgo a site visit and instead scan and either electronically submit the missing documentation, ship a media device containing the same or mail in hard copies of the files that will be scanned by Infrastructure Program staff.

3. Post-site visit or receipt of scanned documents:

- a. Infrastructure Program staff upload collected PW documents to GOSR's servers and drives.
- b. Organize and name documents according to the agreed-upon GOSR approved naming convention. This facilitates the storage and retrieval of records and enables users to browse file names more efficiently and effectively.
- c. GOSR will follow up with the applicant once the files are received to request any items that remain outstanding and determine next steps, if any, to obtain the remaining items.

4.4.5 PW Selection Review Process

Projects for CDBG-DR funding will include short- and long-term recovery activities, addressing disaster relief, restoration of infrastructure, and public assistance, tied to Hurricane Irene (DR-4020), Tropical Storm Lee (DR-4031), Hurricane Sandy (DR-4085), Winter Storm Nemo (DR-4111), and Upstate Severe Storms and Flooding (DR-4129). GOSR only reviews PWs deemed eligible and that have been obligated by FEMA. Following the CDBG-DR eligibility review, projects will be recommended for CDBG-DR funding and disbursement. GOSR will use EMMIE data, or analyze the information contained within the PWs, to determine the beneficiaries of the activity. Funding and funding recommendations will be prioritized to assist the State in meeting program specific and overall CDBG-DR statutory requirements (set out in Section 2).

4.4.6 PA Match Program: CDBG-DR Project Eligibility Review Process

GOSR, working in coordination with DHSES and the Division of the Budget, will only reimburse applicants who have had the State pay the local match or Non-Federal Share, thereby allowing GOSR to reimburse the State with CDBG-DR funds.

4.4.6.1 Payment and CDBG-DR Compliance Review

In addition to meeting the national objective, eligible activity, and tie to the storm CDBG-DR requirements (see Section 2.1), applicants, as required by HUD, must satisfy and maintain records to demonstrate compliance. To facilitate HUD's review of the PA Match Program, GOSR maintains an electronic copy of all applicable applicant records in GOSR's data warehouse that

are necessary to satisfy HUD requirements. In addition, over the life of the project, GOSR program staff conduct at least one on-site monitoring visit with each PA applicant who has FEMA categorized Large PWs to review, and ensure that program files are maintained at the applicant's location. For applicants with only FEMA-categorized Small projects worksheets, GOSR program staff conduct a desktop review of the files.¹⁷ All files are reviewed for completion and compliance in the areas listed below:

4.4.6.1.1 FINANCIAL MANAGEMENT

For the PA Match Program, GOSR maintains financial management documentation based on requirements set forth by HUD. Applicants are also required to meet FEMA's federal requirements. See Exhibit 8 for the information that is being maintained. Applicants, as part of the PW obligation process, record amounts budgeted for eligible activities, as well as accounting for Duplication of Benefits and insurance proceeds.

As a match program where CDBG-DR funds are used to pay for only a portion of the total PW cost, GOSR documents financial costs for Large PWs on the Cost Documentation Review (CDR). For Small PWs GOSR does not require a CDR but may use one to document costs. Further information on CDR procedures is shown in Section 4.5.2.

For all reviews that began on or after February 8, 2016, reviewers will need to identify, record and document only the financial documentation used to build to the match amount plus 5% of the total project amount. Prior to February 8, 2016, reviewers reviewed all available documentation.

4.4.6.1.2 PROCUREMENT

Due to the emergency nature of most projects funded through the FEMA PA program, many projects began and were completed before applicants were made aware that HUD CDBG-DR funds may be used to meet their Non-Federal Share obligation. To be eligible to receive funding through FEMA's PA Program, applicants are required to adhere to the FEMA procurement rules set out at 44 CFR 13.36, which require applicants to use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law, and/or meet cost reasonableness requirements set forth in 2 CFR 200 (formerly 2 CFR 225; effective for awards made after December 26, 2014).

For projects that are ongoing or have not been initiated when GOSR notifies FEMA PA applicants that they may be eligible to have the State cover their local match obligation using CDBG-DR funds, applicants are informed that work must adhere to HUD procurement requirements as shown in 24 CFR 85.36.

As part of its review and recommendation process, GOSR confirms that costs funded through CDBG-DR funds meet the applicable procurement requirements. To make this determination, GOSR completes the following process:

1. Obtain the applicant's procurement policy and maintain an electronic copy of the policy

¹⁷ NY Rising Infrastructure Program staff conducted monitoring through the end of calendar year 2015. MCD staff took over this monitoring from Quarter 1, 2016.

2. Determine the costs associated with the match obligation and record this on the CDR
3. Determine applicable procurement requirements, if any, for costs associated with the Non-Federal share obligation. Many applicants in the PA program use force account labor and materials to perform work:
 - a. If the work is completed using only force account resources, procurement documentation is not required, however, supporting documentation contained in the file supports the use of force account labor
 - b. If the work is completed in part or in whole using contracted resources, GOSR determines if the contracted resources are procured before or after the applicant was notified they may be eligible to received CDBG-DR funds for their Non-Federal share obligation:
 - i. If the work is complete prior to notification, the applicant is required to adhere to FEMA's procurement requirements and use their own procurement procedures
 - ii. If the work is ongoing or has not started at the time of notification, the applicant is required to adhere to procurement requirements that conform with HUD requirements when and where practical
4. GOSR reviews the applicable procurement policy
5. GOSR documents the results of its review as part of the Procurement Documentation Review process (set out in Section 4.5.3).

4.4.6.1.3 FAIR HOUSING AND EQUAL OPPORTUNITY

The PA Match Program primarily funds projects that address public infrastructure, so there are Fair Housing requirements that are not applicable to the match program. However, the program will comply with all relevant Fair Housing and Equal Opportunities as required by HUD. For the Equal Opportunity requirements, these federal cross-cutting requirements would apply to FEMA's program with the exception of HUD Section 3 requirements.

The PA Match Program's procedure for complying with Fair Housing and Equal Opportunity requirements is the following:

- For PWs where work was completed prior to the applicant being made aware of the availability of CDBG-DR funds. GOSR confirms with DHSES that the applicant followed required FEMA requirements
- For PWs where work was contracted and bid prior to GOSR making applicants be aware of the availability of funds but where work is not complete, GOSR will confirm with DHSES that work is being done in a FEMA compliant manner and will work with the applicant to add in additional HUD requirements if Change Orders and/or additional bid and procurement takes place
- For PWs where work has yet to begin, GOSR will work with the applicant to ensure that additional HUD requirements are met and will confirm with DHSES that the applicant is FEMA compliant.

4.4.6.1.4 LABOR

HUD provided guidance to grantees on December 4, 2014 regarding Davis-Bacon labor compliance processes for the PA Match Program. While the U.S. Department of Labor informed HUD that sub-recipients and grantees must comply with Davis-Bacon, FEMA's PA Program, as

defined in the Stafford Act, does not require applicants to comply with Davis-Bacon. As a result of the HUD guidance, the PA Match Program determines whether Davis-Bacon and Related Acts are applicable to a project based on the date of the work performed and the type of work performed. This process will ensure that the program complies with Davis-Bacon [40 USC 276(a) 276(a) 7], Copeland “Anti-Kickback” [40 USC 276(c)], and other State and local laws.

GOSR groups the work into 2 sub-categories:

Category 1 Definition: Encompasses work that is either exempt from Davis-Bacon requirements including:

- FEMA Category A work and PWs less than \$2,000 (Category 1A),
- Works performed entirely by units of government, or PWs where the work is complete on the project, work reflects 100% complete by May 13, 2013 in FEMA’s EMMIE system for PWs paid using the Superstorm Sandy allocation, and by July 27, 2012 for PWs paid using the Hurricane Irene and Tropical Storm Lee allocation (the respective CDBG-DR Grant Agreement dates) (Category 1B).

Category 2 Definition: Encompasses work that was completed prior to the grant agreement being executed with the State but FEMA’s data warehouse does not record that the work on the project had been completed or the project was closed. Includes PWs where all work is understood to be complete by May 13, 2013 for PWs paid using the Superstorm Sandy allocation, and complete by July 27, 2012 for PWs paid using the Hurricane Irene and Tropical Storm Lee allocation, but reflect less than 100% complete in EMMIE (the completion percentage in EMMIE lags behind the real-time status of projects). GOSR program uses invoices or proofs of payment to confirm that work was completed.

The following outlines the procedure depending on the category each PW falls into:

1. GOSR’s first step is to analyze the FEMA category of work to determine whether the project is Davis-Bacon applicable.
 - a. Category 1A: Verify the PW to determine if it is exempt from Davis-Bacon requirements because the total PW value is less than \$2,000 or is a Category A PW. If exempt, no actions are required and program staff adds a Justification Statement to the project file.
 - b. Category 1B: Verify the PW to determine if it was completed before the Grant Agreement date. If completed before the Grant Agreement date, program staff will add a Justification Statement to the file.
 - c. GOSR analyzes remaining PWs to determine if Davis-Bacon applies based on the date the work is performed and if the work was complete prior to the HUD guidance. If the PW is not subject to Davis-Bacon. Based on this criteria, documentation to demonstrate completion by May 13, 2013 for PWs paid using the Superstorm Sandy allocation, and completion by July 27, 2012 for PWs paid using the Hurricane Irene and Tropical Storm Lee allocation, along with a “Category 2 Justification Memo”, is added to the file.

Payroll reviews will occur for all Davis-Bacon applicable PWs as described in Section 2.9.2.

4.4.6.1.5 FEDERAL COST PRINCIPLES

After January 2018, for any new PWs identified to be funded with CDBG-DR, Program will conduct further review of the documentation with regard to compliance with Federal Cost principles and not rely solely on FEMA's review.

4.4.6.2 PW Funding Review Process

GOSR will review PWs based on the process documented throughout Section 4.4. However, GOSR references FEMA project size categorizations to maximize making reimbursements to the State, and when possible prioritizes reimbursements of Large PWs.

4.4.6.3 Large Projects Funding Recommendations

Prior to April 1, 2015, GOSR analyzed large PWs and made payment recommendations based on the project's completion status shown in EMMIE. This approach was followed assuming that the application in EMMIE contained the most up-to-date project status. GOSR has since modified its review and funding recommendation policy for Large projects, as the percent complete field shown in EMMIE was often outdated.

After April 1, 2015, GOSR began to analyze all Large projects by initially conducting an assessment to determine if the necessary files and supporting documentation are maintained in EMMIE. GOSR assessed the completion status for all Large projects, and as needed, GOSR began to obtain documentation through the document retrieval process, prior to conducting a review. If projects are not complete, GOSR will provide TA and assist applicants so that they remain in compliance with HUD CDBG-DR and other federal guidelines as contained in this Manual. To the extent possible, GOSR will make Large project match payment recommendations only when projects are complete; however, it reserves the right to make progress payments when deemed necessary. In all situations, a full review of the file is completed before a payment is recommended.

As outlined by FEMA, Large projects are funded using a final accounting of actual costs. FEMA's steps for processing a Large project are described below.

1. A PW is prepared by the Project Specialist. FEMA approves funding using an estimate when actual costs are not available, and obligates the federal share of the funds to the State.
2. As the work for the PW proceeds, the Applicant periodically requests funds from the State to meet expenses that have been incurred or that are expected in the near future.
3. When the project is complete, the State determines final costs of accomplishing the eligible work, often performing inspections or audits to do so. The State then submits a report on the completed project to FEMA, certifying that the Applicant's costs were incurred during the completion of eligible work. Upon completion of this process, a Final Inspection Report is released by FEMA.
4. After reviewing the State's report, FEMA will consider adjusting the amount of the grant to reflect the actual cost of the FEMA eligible work.

While proceeding with the project, grant funds are only used for eligible work. When reviewing

final costs, GOSR cannot provide funds for costs that are outside the scope of work approved by FEMA. This action ensures that the PA Match Program payment, made on behalf of the applicant, meets the HUD CDBG-DR tie to the storm requirement and that documentation maintained in GOSR files is comprehensive for the work performed.

4.4.6.4 Small Projects Funding Recommendations

Small projects are fully funded by FEMA at the Federal Cost Share regardless of the completion percentage of the eligible work. Therefore, GOSR will conduct its review of each Small project following the process and guidelines described in the Manual and may pay up to 100% of the Non-Federal Share of eligible costs once a review has been completed. GOSR will analyze all Small projects using the same procedures outlined for Large projects.

4.4.7 Special Large Projects

On a case by case basis, GOSR will review special projects outside of the order of prioritization identified in this section. Special projects include, but are not limited to, projects funded under FEMA's 428, or Public Assistance Alternative Procedures (PAAP) Pilot Program. In addition, PWs with significant funding amounts, unique scopes of work, and those projects requiring specific HUD input and approval will be prioritized for reviews. Special Large projects identified through the PA Match Program include eligible PA performed on the Long Island Power Authority's (LIPA's) Transmission and Distribution System, Nassau County's Bay Park Wastewater Treatment Plant, and the Roberto Clemente State Park Shoreline and Park Improvements.

4.4.7.1 Long Island Power Authority Payments

LIPA, a public utility company, was eligible for CDBG-DR assistance through the PA Match Program for eligible activities. Recognizing the magnitude of damages and the need to make this critical infrastructure asset more resilient to future disaster events following two major disasters, the State and LIPA worked with FEMA to apply for FEMA's 428, or PAAP Pilot Program. GOSR assisted LIPA with match payments for those activities which addressed the immediate restoration of the Transmission and Distribution System damaged by Hurricane Irene and Superstorm Sandy. GOSR's Non-Federal share match payment reimburses the State General Fund, managed by the Division of the Budget for LIPA's eligible restoration costs. These match payments are made upon consultation with HUD Community Planning and Development staff. GOSR maintains a library of all documents related to the Non-Federal share match payment in the GOSR data warehouse—including those downloaded from FEMA's database and those items requested and obtained from LIPA.

As outlined in this Manual, LIPA's payment exceeded HUD's Covered Project threshold, therefore triggering an additional set of reviews for the project (per the November 18, 2013 Federal Register Notice (FR-5696-N-06)).

4.4.7.2 Bay Park Wastewater Treatment Plant

As a public facility, Bay Park Wastewater Treatment Plant was eligible to receive FEMA PA funding following Superstorm Sandy. Recognizing the magnitude of damages and the need to

make this critical infrastructure asset more resilient to future disaster events, the State and Nassau County worked with FEMA to apply for FEMA's PAAP Pilot Program. An understanding was reached between FEMA, the State, and Nassau County that provided funds to not only repair but also to make the facility more resilient to future storms. This PA Match Program payment exceeds the \$10 million covered project threshold (outlined in Section 2.11), and therefore triggering a separate set of procedures to be followed. Bay Park follows the Local Government and Critical Infrastructure Program procedures for implementation located in Section 8 of this document.

4.4.7.3 Roberto Clemente State Park Shoreline and Park Improvements

Owned and maintained by the State of New York, Roberto Clemente State Park was determined to have significant unmet recovery need, and to be a suitable candidate for CDBG-DR funding. Due to pre-storm deterioration of the bulkhead, FEMA denied funding for all but approximately \$1.5 million of the costs of the project. Similarly, the proposed project was deemed ineligible to receive HMGP funding. The expected budget for the project, covered by CDBG-DR grant funds, totals \$51.5 million. As the total budget exceeds \$50 million, this project meets the HUD definitions of a 'covered project' and follows the Local Government and Critical Infrastructure Program procedures for implementation located in Section 8 of this document.

4.5 Records Management

GOSR established recordkeeping and retention requirements in accordance with the guidelines established in 24 CFR 570.503(b)(2). For GOSR, documentation supporting the funding recommendation must be maintained in accordance with the Section 2.9.15, and be available to GOSR or HUD for review and monitoring upon request.

GOSR has created a PA Match Program user interface to access PA Match Program documentation and provide transparency. The user interface is structured to tell the story of a project clearly and enables users to access all documentation for a project in a single place.

While the appearance and volume of documentation for each project will vary because of variations in project type and availability of documentation, the categories of documents collected and maintained will be consistent across all projects (see Exhibit 9).

4.5.1 NYS Server for Records Management

GOSR developed a SharePoint site to facilitate the review of PWs and allow for payment recommendations to be submitted to the State. The site was built to more efficiently review FEMA PWs and assess HUD eligibility so that CDBG-DR funding can be applied for the match. The site, located on the State's servers, acted as the official system of record for the program.

The site included a Review and Recommendation page, which tracked every PW eligible to receive match funding. Every PW underwent a two-level case management review, followed by a two-level GOSR approval process. This process ensured Program completion/compliance, funding, and procurement reviews were complete, and approved before a PW was recommended for funding. Based on the compliance and funding review procedures outlined above, a funding recommendation was made that takes HUD-ineligible costs into account.

As of November 2017, the front-end user interface is provided via Access 2016, allowing the end-user to interact with the programmatic data in the Review and Recommendation forms. SharePoint serves as an archive. This allows the GOSR Infrastructure Program user to review documentation files and edit form data to assess the PWs for HUD eligibility so that CDBG-DR funding can be applied for the match program. The Review and Recommendation screens allow for the tracking of every PW eligible to receive match funding and allows for a two-level case management review followed by a two-level GOSR approval process. This process ensures compliance, funding, and procurement reviews are complete and approved before a PW is recommended for funding.

For the Non-Federal Share Match program, GOSR utilizes databases and network drives to capture and store programmatic data and documentation files. Data for the program is stored in GOSR's Data Warehouse. The documentation files are stored on a specific network drive with access restricted to users approved by GOSR program managers.

The Data Warehouse and network drives are hosted on New York State network and infrastructure and can be accessed through approved and valid active directory credentials provisioned by the New York State Office of Information Technology Services (ITS). The Data Warehouse follows ITS's Enterprise Architecture policies, procedures, and guidelines. ITS's policies and procedures that outline standards and security can be found online at: <https://its.ny.gov/tables/technologypolicyindex>.

4.5.1.1 PA Infrastructure Approval Procedures

When all reviews and approvals are complete for a PW, the PW is transferred to the Infrastructure Draw Application (IDA) tool built by GOSR. The tool serves to consolidate all PWs ready for draw and facilitates the creation of a draw request form.

Before a draw request is sent to HUD, GOSR works with DHSES' Finance Department and Division of the Budget to verify that CDBG-DR funds are only used to reimburse the State for local match payments already disbursed to the applicant. This final review also ensures that once received from HUD, funds can quickly be transferred to the general fund and credited to the appropriate PW in compliance with HUD requirements.

4.5.2 Cost Documentation Review

The CDR spreadsheet is used to capture financial documentation associated with each PW. The CDR tracks all financial management documentation associated with the costs being reimbursed by GOSR. GOSR's procedure for using the CDR is based on the date of the review and the storm.

For Hurricane Irene and Tropical Storm Lee, a CDR is available for all large PWs and for Small PWs for reviews initiated after February of 2016. For Superstorm Sandy, Winter Storm Nemo, and Upstate Severe Storms and Flooding, CDRs exist for both Large and Small PWs.

For all PW reviews conducted before February 8, 2016, the CDR captures all financial documentation corresponding to the PW. In order to streamline the review process, and reduce project delivery and administrative costs, for all reviews, for all reviews that began after February 8, 2016, the CDR captures documentation associated with the Non-Federal Share Match amount

for the disaster, plus an additional 5% buffer. For example, for Superstorm Sandy the CDR documentation would equal 15% of the match, i.e. supporting financial documentation is shown by adding 5% to the 10% Non-Federal Share Match amount.

4.5.3 Procurement Documentation Review

Prior to March 8, 2015, GOSR utilized the retrieval process to document procurement for PWs. Due to the large amount of PWs, GOSR implemented the Procurement Documentation Review spreadsheet to provide additional tracking of the procurement documentation. Following March 8, 2015, a Procurement Documentation Review is completed in conjunction with the CDR for both Large and Small PWs associated with Superstorm Sandy, Winter Storm Nemo, and Upstate Severe Storms and Flooding.

4.5.4 Reporting

After a PW is assessed against CDBG-DR funding requirements, all pertinent information is reported through the Infrastructure Dashboard, a tool used to aggregate program data and provide additional reporting metrics.

The review of a PW is a point-in-time assessment that is documented by the percentage of work completed in EMMIE and the review date signed-off in the Review and Recommendation forms in Access 2016. The information available in the Dashboard allows for accurate and timely reporting on the status of eligible CDBG-DR funding to be reviewed, approved, or reimbursed.

4.6 Internal Controls

4.6.1 Quality Assurance (QA)/Quality Control (QC) of PA Match Program Files

For PA Match Program payments where the total PW cost is equal to or greater than \$1,000,000, the State has implemented increased internal QC measures prior to payments being made. This represents a Non-Federal Share Match Payment of \$250,000 for Hurricane Irene, Tropical Storm Lee, Winter Storm Nemo, and Upstate Severe Storms and Flooding. For Superstorm Sandy, this equates to a \$100,000 match share payment. At a minimum, match payments that exceed this threshold have two internal reviews completed by GOSR prior to a payment being made.

For the remaining projects where the total PW is under \$1,000,000, but is classified by FEMA as a Large PW, and where GOSR's local match payments are less than \$250,000 for Hurricane Irene, Tropical Storm Lee, Winter Storm Nemo and Upstate Severe Storms and Flooding, and less than \$100,000 for Superstorm Sandy, GOSR conducts a QA/QC of files.

Beginning in April 2015, QA/QC reviews were completed prior to payment. Prior to April 2015, GOSR completed a QA/QC on the 15 PWs with the largest PW total cost, reimbursed using the Hurricane Irene/Tropical Storm Lee allocation. For PWs funded with the Superstorm Sandy allocation prior to April 2015, GOSR completed a QA/QC on the 25 PWs with the highest Non-Federal Share recommended match payment and on an as-needed-basis. Some QA/QC reviews were completed post payment because payments were made prior to the creation of GOSR.

4.6.2 Compliance

While match payments reimburse the State General Fund which is managed by the Division of the

Budget, GOSR pays particular attention to ensuring that the use of funds by the public entities are disaster-related, and that the entity complies with primary federal funding source rules and regulations in addition the requirements imposed by GOSR. To facilitate review, GOSR obtains necessary supporting documentation from applicants and transfers these items to the GOSR data warehouse (while relying on the eligibility determination and accounting analysis by the primary State and Federal agency). Additionally, program staff provides TA workshops to these public entities so that files and documents are maintained in a compliant manner.

For the PA Match Program, GOSR works closely with DHSES and the Division of the Budget to address changes and findings for projects funded to applicants with these disaster recovery resources.

4.6.3 Programmatic Management and Monitoring

4.6.3.1 Programmatic Management

Program staff and project managers work with applicants throughout implementation of PA Match projects to ensure that:

- An approved project is being constructed and implemented in a manner that is consistent with application and public procurement process;
- Approved activities are carried out and completed in a timely manner;
- Activities and certifications are conducted in accordance with the requirements and the primary objectives of the approved application, subrecipient agreement, program requirements, and other applicable State and Federal rules, regulations, policies, and related statutes; and
- Administrative systems, policies, and procedures provide adequate protection for the prevention and mitigation of fraud, waste, and abuse.

In addition, throughout implementation, project coordinators conduct reviews to identify weaknesses in project administration. TA is provided throughout the implementation phase to ensure that subrecipients have the continuing capacity to carry out the approved project and activities.

4.6.3.2 PA Match Program Technical Assistance

All program participants who opt into the Superstorm Sandy, Winter Storm Nemo, and Upstate Severe Storms and Flooding PA Match Program are required to attend an in-person Round 1 TA Training Workshop. The TA session explains the rules and general information for compliance with the CDBG-DR program, as utilized in conjunction with the PA Match Program.

For projects in progress at the start of this process, the infrastructure team members will provide assistance from this point forward and work with participants to build files with all HUD required documents. They will assist the applicant, contractor(s) and subcontractor(s) with registration with Elations Systems and other steps needed to meet all other compliance requirements.

For projects that were completed prior to the start of this process, program staff will work with the participants, as previously done for Irene (4020) and Lee (4031) to build files and collect necessary

documentation.

GOSR's TA is included but not limited to the following areas:

1. CDBG-DR National Objective Compliance;
2. CDBG-DR Eligible Activity Compliance;
3. Financial Management and Reporting;
4. General Record-Keeping Requirements;
5. Procurement;
6. Environmental Requirements;
7. Cross Cutting and other federal requirements such as:
 - a. Office of Fair Housing and Equal Opportunity requirements
 - b. Section 3
 - c. Section 504
 - d. Compliance with the American Disabilities Act of 1990
 - e. Equal Employment Opportunity (EEO)
 - f. Labor Standards including Davis-Bacon.

4.6.3.3 Monitoring and Compliance

Details of GOSR's monitoring and compliance goals and standards are set out at Section 2.6.

4.6.4 Closeout of PA Match Program

GOSR's closeout process for PA Match Program projects is initially triggered by a PW receiving the status of "Closed" within EMMIE. Once a PW has a "Closed" status in EMMIE, GOSR will determine if any additional Non-Federal Share Match will be paid to the Applicant for other PWs per GOSR's payment priorities.

If it is determined that a PW is "Closed" in EMMIE, and that GOSR will not be paying any further match to the Applicant, the following steps will be followed:

- A final review of the PW's file, which will require locating a Final Inspection Report (FIR), FEMA's P4 Form, or the closing letter between FEMA and DHSES (noting that Small PWs may have less FEMA closing documentation than other projects); and
- Send a letter to the Applicant requiring the Applicant to sign-off on the specific documentation that GOSR used to make their funding recommendation and explain to the Applicant how long they should maintain their files in accordance with applicable regulations.

If it is determined that a PW is "Closed" in EMMIE but GOSR will be paying more match to the Applicant, GOSR will collect closing documentation as it becomes available but will wait to send the letter to the Applicant until the Applicant will no longer receive any match from GOSR. GOSR will check quarterly for changes in EMMIE status to identify which PWs have moved to the "Closed" status.

Final policies and procedures are still under development for any additional programmatic coordination needed between internal teams within GOSR, and with external organizations

including but not limited to DHSES, FEMA, and HUD.

5.0 Hazard Mitigation Grant Program Global Match Strategy Policy

Note: The below policies in Section 5.0 apply exclusively to the GOSR HMGP Global Match Program, excluding other Non-Federal Share Match Programs and the EPA – SMLP Match Program, per Table 2.

FEMA makes HMGP funding available to States after a Presidential disaster declaration. The purpose of this program is to fund projects that reduce risk to individuals and properties with a goal of diminishing reliance on Federal disaster funding in the future by mitigating the risks of future disasters. The amount of HMGP funding available to the applicant (State) is based on the estimated total Federal assistance that FEMA provides for disaster recovery under Presidential major disaster declarations, subject to the sliding scale formula outlined in 44 CFR 206.432(b).¹⁸ Similar to FEMA PA, FEMA HMGP typically requires a Non-Federal Share Match of 25% of the total project cost. HMGP grants are provided by FEMA through the State to individual communities and eligible entities. In New York State DHSES is the applicant, or grantee, of HMGP funds as they are the State's responsible entity for the administration and management of the grant. Similar to GOSR's relationship with HUD, DHSES ultimately maintains the primary responsibility for FEMA HMGP in its entirety for each grant cycle in New York and ensures that projects are in compliance with FEMA requirements and applicable State regulations.

GOSR, working in close coordination with DHSES, has two primary responsibilities in the HMGP effort: to review and recommend HMGP projects to DHSES and FEMA, and to lead the State's effort in identifying and maximizing funding sources that are needed to satisfy the Non-Federal Share Match requirement. Table 4 below shows the HMGP grants that were awarded to New York from 2011 to 2013, for which GOSR shares these responsibilities in accordance with P.L. 113-2.

TABLE 4: NYS DECLARED DISASTERS ASSOCIATED WITH HMGP

Year	New York State Declared Disaster
2011	1957 – Severe Winter Storms and Snowstorms
2011	1993 – Severe Storms, Flooding, Tornadoes, and Straight Winds
2011	4020 – Hurricane Irene
2011	4031 – Tropical Storm Lee
2012	4085 – Superstorm Sandy
2013	4111 – Severe Winter Storm and Snowstorm
2013	4129 – Severe Storms and Flooding

¹⁸ Federal Emergency Management Agency, Hazard Mitigation Assistance Guidance, February 27 2015.

5.1 Global Match Strategy

Global Match is a funding strategy for FEMA HMGP that eliminates the need for eligible applicants to make the cost share payments associated with each HMGP projects and make the match payment based on the total of HMGP projects, and thereby reduces administrative burdens to the State and many subapplicants. In 2014 GOSR, in coordination with DHSES and Division of the Budget, established an agreement with FEMA which allowed the State to use CDBG-DR funds as a Non-Federal Share Match for HMGP funding. This agreement built upon HUD's allowance for States to use CDBG-DR funds as Non-Federal Share Match for other Federal grant programs as an eligible activity (42 U.S.C. 5305(a)(9)). Projects receiving any CDBG-DR funding as part of this program are referred to as "Global Match Projects."

Leveraged together, DHSES's HMGP and GOSR's CDBG-DR programs ensure that New Yorkers receive the greatest and most efficient benefit from Federal recovery funding while rebuilding in smarter, more resilient ways. By utilizing CDBG-DR funding to cover the HMGP Non-Federal Share Match, these two funding sources leverage Federal dollars to help storm-impacted communities escape the burdensome need to make match payments. Without Global Match, each project's subapplicant would be required to provide the 25% cost share, an onerous requirement for many storm-hit and economically struggling communities.

Through Global Match GOSR meets this 25% local match requirement on an aggregate level rather than a project-by-project level. This approach simplifies program administration by allowing the State to concentrate its Non-Federal Share Match spending in a small number of closely managed projects rather than funding portions of a much larger number of projects. GOSR coordinates with DHSES to invest CDBG-DR match funds to reimburse funds advanced by Division of the Budget to subrecipients.

This policy shifts the Match burden from a 25% requirement for every project to a higher percentage requirement for a small number of projects, allowing many others to be funded 100% by FEMA HMGP. Therefore, these projects will be effectively matched but will not receive any CDBG-DR funds. For example, in Table 5 and Figure 1, a portion of all projects are funded with Non-Federal Share Match, while in the Table 6 and Figure 2 Global Match scenario one project is fully funded with the Non-Federal Share Match funding but still effectively and satisfactorily matches the aggregated FEMA grant. GOSR, FEMA, and DHSES have approved this methodology and approval is referenced in the letters attached in Exhibit 10.

TABLE 5: SAMPLE TYPICAL HMGP PROJECT BREAKDOWN

Projects	HMGP Funding	Non-Federal Share Match Funding (CDBG-DR)	Total Funding
Standard HMGP Project 1	75%	25%	100%
Standard HMGP Project 2	75%	25%	100%
Standard HMGP Project 3	75%	25%	100%
Standard HMGP Project 4	75%	25%	100%
Total Percentage of Project Costs paid by Program	75%	25%	100%

FIGURE 1: SAMPLE STANDARD HMGP PROJECT BREAKDOWN

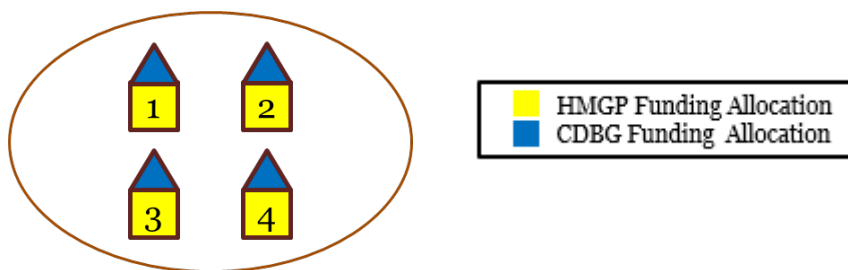
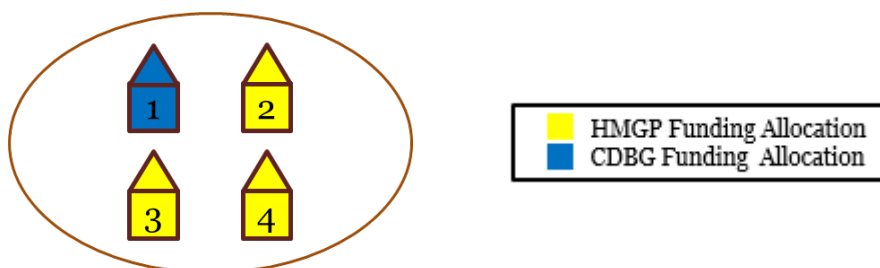


TABLE 6: HMGP GLOBAL MATCH STRATEGY

Projects	HMGP Funding	Non-Federal Match Share	Total Funding
Standard HMGP Project 1	0%	100%	100%
Standard HMGP Project 2	100%	0%	100%
Standard HMGP Project 3	100%	0%	100%
Standard HMGP Project 4	100%	0%	100%
Total Percentage of Project Costs paid by Program	75%	25%	100%

FIGURE 2: HMGP GLOBAL MATCH STRATEGY



Note that funding percentages within Global Match may vary by project. Some Global Match Projects may receive funding shares other than 75% HMGP and 25% Non-Federal Share Match or 100% HMGP and 0% Non-Federal Share Match based on timing, funding availability, and administrative considerations for individual projects. Due to budgetary and regulatory constraints, some HMGP subrecipients will provide their own Non-Federal Share funding to help meet match requirements. Collectively, the State will ensure that the total dollar value of the Non-Federal funds applied to HMGP projects will equal or exceed the minimum 25% Non-Federal Share Match for the overall Statewide HMGP grant award for each eligible declared disaster.

One advantage of the Global Match Strategy is that it allows the State to utilize eligible CDBG-DR projects located in HUD eligible Hurricane Irene-, Tropical Storm Lee-, or Superstorm Sandy-affected areas to help meet the match for all FEMA HMGP disasters. Global Match also eases the funding burden on storm-affected local governments and non-profits which, following a disaster

and the many associated recovery costs, may not be financially capable of putting up the 25% Non-Federal Share themselves. Global Match also allows the State to fund some HMGP projects using 100% FEMA funds, thus creating efficiencies in application development and project management while minimizing the need for many individual applicants to comply with the requirements of two Federal agencies.

Projects may initially come to GOSR's HMGP Global Match Non-Federal Share Match Program (HMGP Global Match Strategy) through a DHSES-identified HMGP project subapplication or from a GOSR-identified CDBG-DR project application. In either case, the Global Match projects are subject to both FEMA and HUD regulations. HMGP projects located in counties and/or areas that benefit LMI persons and meet LMI funding requirements will be prioritized for CDBG-DR Non-Federal Share Match funding. Subrecipients initially submit projects to DHSES to be considered for HMGP funding. Through this "pre-application" process DHSES, in coordination with GOSR, reviews projects for HMGP eligibility. Additionally, GOSR reviews projects submitted in the "pre-application" phase for CDBG-DR eligibility to determine if they have met HUD HMGP Non-Federal Share Match requirements.

Projects selected for the HMGP Global Match Strategy will be defined as either Floodplain Management or Infrastructure projects.

Floodplain Management: Within the NY Rising Infrastructure HMGP Floodplain Management Program (FMP) a unit of local government or eligible non-profit entity (the subrecipient) may: purchase a flood-prone structure from a willing seller and then demolish or relocate it to a site outside the floodplain¹⁹; or assist eligible property owners within the floodplain in elevating their structures to a safe height. Any purchased land is deed-restricted and maintained as open space in perpetuity to restore and/or conserve the natural floodplain functions in accordance with FEMA regulations.²⁰ This is coordinated with the regulations governing HUD CDBG buyouts, which are also deed-restricted and maintained as open space.

Infrastructure: HMGP funds can also be used to address infrastructure needs. Infrastructure projects, which are defined as mitigation projects (not including buyouts, elevations, or relocations), are intended to either protect a critical infrastructure asset necessary to the community, mitigate risk to historical structures, and/or fortify public space or structures such as shorelines, hospitals, and waste water systems. These projects align with HUD infrastructure projects under eligible activity 105(a)(2) and will be subject to the Policies and Procedures of the Infrastructure Program outlined in this Manual as well as applicable FEMA regulations.

5.2 HMGP Requirements

Before any activity can be approved through HMGP, including CDBG-DR funded Global Match activities, the activity must meet all eligibility requirements outlined in 44 CFR 206, Subpart N as

¹⁹ HMGP defines "acquisitions" as property buyouts specifically for deed-restricted open space; this is synonymous with CDBG-DR "buyouts." This should not be confused with CDBG-DR "acquisitions" which allow for redevelopment; NY Rising Infrastructure will not engage in CDBG-DR acquisitions for redevelopment.

²⁰ 44 CFR 80.19

summarized below in Table 7. Any HMGP project being funded in part by CDBG-DR must also meet the CDBG-DR eligibility criteria set out in Section 2.

TABLE 7: HMGP CRITERIA SUMMARY

HMGP Criteria Summary	
<input type="checkbox"/>	The activity conforms to the State's Hazard Mitigation Plan (see Section 5.3).
<input type="checkbox"/>	The project has a beneficial impact on the disaster area, i.e. the State (see Section 5.4).
<input type="checkbox"/>	The project meets the necessary environmental requirements (see Section 5.5).
<input type="checkbox"/>	The project is autonomous of other projects, solving a problem independently (see Section 5.6).
<input type="checkbox"/>	The project is considered cost-effective (see Section 5.7).

5.3 Conforming with the State and Local Hazard Mitigation Plans

A subrecipient that wishes to receive FEMA HMGP funding after a disaster must have participated in and adopted a FEMA-approved Hazard Mitigation Plan to be eligible. This details the State-determined natural hazards and vulnerabilities for the area, as well as the locality's mitigation goals and priorities. Projects submitted to DHSES for consideration must be consistent with the objectives of the New York State Hazard Mitigation Plan.

Table 8 outlines the goals of the 2014 State Hazard Mitigation Plan. This is also found on the DHSES website at <http://www.dhSES.ny.gov/recovery/mitigation/plan.cfm>.

TABLE 8: GOALS OF THE 2014 STATE HAZARD MITIGATION PLAN

Goals of the 2014 State Hazard Mitigation Plan	
Goal 1	Promote a comprehensive State hazard mitigation policy framework for effective mitigation programs that includes coordination between Federal, State, and local organizations for planning and programs.
Goal 2	Protect property including public, historic, private structures, and critical facilities and infrastructure.
Goal 3	Increase awareness and promote relationships with stakeholders, citizens, elected officials, and property owners to develop opportunities for mitigation of natural hazards.
Goal 4	Encourage the development and implementation of long-term, cost-effective, and resilient mitigation projects to preserve and/or restore the functions of natural systems.
Goal 5	Build stronger by promoting mitigation actions that emphasize sustainable construction and design measures to reduce or eliminate the impacts of natural hazards.

To ensure that the proposed projects are eligible and aligned with State and local planning initiatives, projects will be reviewed against both the plan adopted by the subrecipient and the State's plan to ensure that it:

1. Addresses the hazards and risks identified in each plan;
2. Meets the State's primary goals as identified in the State's Hazard Mitigation Plan; and
3. Has one of the actions identified by the subrecipient as a viable mitigation measure in the subrecipient's adopted plan.

If a subrecipient's proposed project is not in agreement with the State's HMGP plan, GOSR will notify both the subrecipient and DHSES for possible corrective action. It is often possible for a subrecipient to join a local plan or modify an existing plan with their proposed project to meet this requirement. In these instances, the proposed project will be reviewed in coordination with DHSES and the local planning agencies, and will need to be approved by these agencies prior to the commitment of funding by the State (in advance of formal FEMA approval of the project, as well as HUD approval as applicable).

The FEMA Regional Administrator may grant an exception to the local jurisdiction or Indian Tribal mitigation plan requirement in extraordinary circumstances, when justification is provided. If this exception is granted, a local jurisdiction or Indian Tribal mitigation plan must be approved by FEMA within 12 months of the awarding of project funds.

5.4 Beneficial Impact

Projects chosen for HMGP funding must have the potential to reduce loss of life and property over the long-term. Further, it must be both feasible and cost effective, in that it can be completed in a timely fashion and meets accepted best practices, codes, standards, or techniques.

To assess beneficial impact of a project proposed for HMGP funding, each project application must be reviewed for conformance with the latest adopted version of the FEMA Benefit-Cost Analysis tool. GOSR will review the "history of hazards" in the impacted area, which includes the number of past disaster events, recurrence of events, amount of damage or loss of life from events, and other data that will provide relevant detail regarding the risk to the area, property, and residents. This information, along with an understanding of the need for action in an area, can be found in the State Hazard Mitigation Plan.

Beneficial impact can also be assessed by reviewing possible alternatives or the costs of no action. Subrecipients should provide these possible alternatives within a project proposal, which will be assessed in the same manner as the project for eligibility and cost efficacy. A reviewer will also assess the long-term costs or hazard impact of allowing the hazard to persist with no mitigation at all.

A project can be considered to have beneficial impact when the history of hazards demonstrates quantifiable risk to the community over the long-term and when alternatives can be considered ineligible or costlier to the government and/or the community. Cost-effectiveness plays a significant role in FEMA eligibility for funding approval; see Section 5.7 for more information on

determining cost effectiveness.

5.5 Historical and Environmental Requirements

Projects funded using HMGP funds must conform to all applicable historical and environmental laws and regulations, as detailed in 44 CFR 9 and 10. These include NEPA, the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA) and Executive Orders 11988, 11990, and 12898 for Floodplain Management, Protection of Wetlands, and Environmental Justice, respectively. This requires that subrecipients identify possible alternative projects and consider any possible impacts to the environment throughout the project approval process.

To assess historical and environmental impact, GOSR will review the unique site information provided by the subrecipient on the State Historic Preservation Office's Building Survey Form. This form will be completed by the subrecipient for infrastructure projects and by individual homeowners for Floodplain Management projects. GOSR will ensure that the form is complete and that any necessary supplemental information is gathered from the subrecipient or individual homeowners. Once complete, information will be included in the project application for a FEMA review.

Following FEMA's determination under NEPA, GOSR will, as necessary, adopt the environmental review pursuant to the provisions of P.L. 113-2. Additionally, GOSR's Bureau of Environmental Review and Analysis (BERA) will work to form cooperative agreements with FEMA for the purposes of coordinating on environmental review determinations, whether made by FEMA or by GOSR under 24 CFR 58.

5.6 Utility of a Project

To be funded per FEMA HMGP regulations, a project must be independent of other projects and solve a given problem or condition in its own right. More specifically, the efficacy of a project's hazard mitigation attributes cannot be conditioned on the success of other projects.

To determine the utility of a project, GOSR's reviewers determine the actual cause of damage and make a determination as to whether or not this cause will be mitigated to an acceptable level through the steps related to the project. If not eliminated, the GOSR reviewer needs to determine whether or not the project will mitigate damage if the cause persists.

Should additional possibilities for damage be found, or should it be found that more work is necessary to eliminate causes of damage, GOSR may determine that the project does not have independent utility; GOSR will then work with the subrecipient to either refine the project's scope to better achieve the project's intended benefits, or will work with the subrecipient to find a new project to meet the same need.

5.7 Cost-Effectiveness

Projects must be cost effective to be eligible for HMGP funding, meaning that the costs of undertaking and maintaining the project over the course of the project's life must be less than the benefits it poses to bring. Project costs, costs of maintenance over the course of the project's intended use, and previous damage costs are all included in a Benefit Cost Analysis (BCA) to

project the intended savings, or benefit, of the proposed action.

To determine cost efficacy, the FEMA-approved BCA Tool evaluates the possible benefits of a project when compared directly to the costs associated; in rare cases, FEMA policy guidance asserts cost-effectiveness determinations with respect to specific mitigation project categories for which traditional BCA is not used. Future benefits of a project must be equal to or greater than the costs of the project, leading to a benefit-cost ratio of 1.0 or higher in order to be eligible, with higher BCAs showing more cost-effective projects. GOSR will consult regularly with DHSES and FEMA to incorporate new BCA calculation methodologies, including those that consider green infrastructure and social benefits. BCA calculations and results are saved on the program system of record (as set out in Section 2.9.16).

As noted, conceptual alternative projects developed to satisfy HMGP subapplication and environmental review requirements also need to be evaluated for cost effectiveness prior to rejection in favor of the preferred project.

5.8 CDBG-DR Criteria

To be confirmed by GOSR as a part of the CDBG-DR funded Global Match Non-Federal Share Match Strategy, each project will be reviewed for CDBG-DR project eligibility in accordance with 24 CFR 570 and the Federal Register Notices issued for Tropical Storm Lee, Hurricane Irene, and Superstorm Sandy as outlined in Table 9 below.

TABLE 9: CDBG-DR CRITERIA SUMMARY

CDBG-DR Criteria Summary
<input type="checkbox"/> The project is located in an eligible county (see Section 2.1.1.1)
<input type="checkbox"/> Project sustained damaged during a qualified storm event (see Section 2.1.1)
<input type="checkbox"/> The subrecipient or homeowner meets one of the CDBG National Objectives (see Section 2.1.2)
<input type="checkbox"/> The project meets HUD environmental requirements (see Section 3.6)
<input type="checkbox"/> The project meets one of the defined eligible activities (see Section 2.1.3)
<input type="checkbox"/> The project satisfies CDBG requirements related to Duplication of Benefits and Order of Assistance, as applicable (see Sections 2.3 and 2.4)

The project also must meet any other Non-Federal Share Match criteria and CDBG-DR requirements outlined in the State's Action Plans and this Infrastructure Manual.

5.8.1 Eligibility for CDBG-DR funded Global Match Projects – NY Rising Infrastructure Floodplain Management Program

To be eligible to enter the FMP as part of the HMGP Global Match strategy, potential subrecipients

must have been impacted by a HUD-eligible event and be located in a HUD-eligible county. Projects must demonstrate a tie to the disaster. Additionally, subrecipients must demonstrate management capacity and project eligibility for FEMA HMGP as defined by applicable Hazard Mitigation Assistance guidance. Projects eligible for the FMP must improve floodplain conditions by meeting one or more of the following objectives:

- Removing at-risk properties (including residential or commercial) from the floodplain through buyouts or relocations
- Removing public infrastructure and assets tied to the community from the floodplain
- Elevating structures in the floodplain above the base flood elevation (including freeboard as defined by relevant HUD, FEMA, and New York State regulations)
- Restoring the natural ecosystem to an area of the floodplain to slow and/or contain flooding and stormwater
- Using green infrastructure and other eligible techniques to improve the flood protection and stormwater capacity of the area beyond what the restored natural ecosystem alone can provide.

5.8.2 Eligibility for CDBG-DR funded Global Match projects – Infrastructure Program

For a Global Match project to be funded with CDBG-DR funds under the Infrastructure Program, the project must meet all of the requirements outlined in Section 7.0 of this document for the Local Government and Critical Infrastructure Program, including being located in a storm impacted county.²¹ The project must have been impacted by Hurricane Irene, Tropical Storm Lee, Superstorm Sandy, the Upstate Severe Storms and Flooding or Winter Storm Nemo. GOSR will document the storm impact in its Program files. Projects will not be funded if the project is not related to the impact of the disaster.

5.9 HMGP Project Prioritization and Review

Demand for FEMA HMGP funds and GOSR Non-Federal Share Match assistance far exceeds the available resources of either program, necessitating prioritization of project subapplications before they are submitted to DHSES, FEMA or GOSR reviewers. In prioritizing New York State HMGP projects, DHSES and GOSR give preferences to “pre-applications” that meet the HMGP criteria outlined in Sections 5.2 through 5.8.

Based on these criteria, GOSR will utilize both DHSES’ HMGP pre-application files and the NY Rising Infrastructure Program Policy and Procedure Manual to identify projects for the program. Based on this filtering, projects identified from the existing pool will:

1. Be in a county that is eligible for both HUD and FEMA funding;
2. Be eligible for both HUD and FEMA funding upon review;
3. Meet eligibility requirements for applicable GOSR CDBG-DR program; and
4. Meet the goals of NY Rising, as identified in the introductory section entitled *Fulfilling*

²¹ FEMA allows statewide eligibility for HMGP projects regardless of the locations of the declared disaster’s impacts. Global Match projects, as recipients of CDBG-DR funds, will follow HUD’s geographic eligibility requirements.

the Principles Established by New York State's Action Plan.

Once identified as potential HMGP Global Match Strategy projects, GOSR will prioritize these projects based on the following criteria:

1. Location and LMI benefit of a project;
2. Feasibility of FEMA HMGP eligibility and approval;
3. Recovery benefit to the subrecipient and community; and
4. Project cost and available program funds.

Final HMGP project selection and decision on the amount or percentage of funding that will be allocated from the programs will be made by the GOSR Managing Director of Infrastructure based on CDBG-DR funding allocated in the most recent GOSR Action Plan Amendment as well as the other criteria listed above. Review and consideration by the Infrastructure program ensures that HMGP funds, Global Match Project credit, and Non-Federal Share Match from non-GOSR sources are all calculated before the expenditure of GOSR CDBG-DR funds is considered. Order of Assistance and Duplication of Benefits reviews confirm these decisions.

5.9.1 Location and LMI Benefit of a Project

As outlined in the State's Hurricane Irene and Tropical Storm Lee Action Plan and subsequent amendments, as well as the Superstorm Sandy Action Plan and subsequent amendments, CDBG-DR funds were allocated to address the HMGP Non-Federal Share Match needs of all 38 Federally-declared counties impacted by these events. All eligible applicants in the Hurricane Irene and Tropical Storm Lee counties are also eligible to receive Superstorm Sandy funds. All projects considered for prioritization in the HMGP Non-Federal Share Match Program must satisfy the requirements for CDBG-DR projects, including National Objective and tie to the storm, as described in Section 2.1. Projects impacted by the storm and located in most impacted counties, and/or principally benefiting areas of Low and Moderate Income, receive additional consideration.

5.9.2 Feasibility of HMGP Eligibility and Approval

Projects which are used as part of the HMGP Global Match financing strategy will not be approved for Global Match until the project is completed and closed out. Therefore, it is an essential first step to selecting a project for this process to select projects which meet the HMGP and HUD eligibility requirements and meet all of the Global Match requirements outlined in this Manual. Ensuring this eligibility and approval from FEMA is key to completing the Global Match Strategy for the State.

5.9.3 Project Cost

Project cost will be measured against funding availability to determine whether a project's inclusion in HMGP is both possible and an effective use of the funding amounts available given unmet need. Larger or scalable projects will be given preference where possible to limit the number of projects exposed to both HUD CDBG-DR and FEMA HMGP requirements, maintaining efficiencies in project administration. This process allows the State to reduce the administrative burden on most HMGP subrecipients while still coordinating the benefits of HMGP and CDBG-DR projects across the State and its constituent regions.

Once GOSR has identified potential projects using the above criteria, GOSR will reach out to subrecipients to notify them of GOSR's strategy for providing Non-Federal Share Match for the project: either through 100% FEMA HMGP funding or Global Match Project CDBG-DR match funds. GOSR will provide any technical training necessary to aid subrecipients in the application and project processes. GOSR will continue to work with DHSES to identify new projects as needed to complete FEMA HMGP Non-Federal Match requirements for applicable HMGP allocations, within the relevant FEMA and State rules and guidance pertaining to FEMA HMGP application development and submission. GOSR will continue to communicate with all stakeholders as final determinations are made as to whether each project will receive Global Match funding, standard HMGP funding (i.e. receive a 25% match payment), or funding from other applicable NY Rising CDBG-DR programs (i.e. NY Rising Community Reconstruction).

6.0 Hazard Mitigation Grant Program Global Match Strategy Procedures

Note: The below procedures in Section 6.0 apply exclusively to the GOSR HMGP Global Match Program, excluding other Non-Federal Share Match Programs and the EPA – SMLP Match Program, per Table 2.

6.1 CDBG-DR Funded Global Match Project Implementation Procedures

As indicated in Section 5.0 there are two types of projects which will be selected to fulfill the Global Match requirement, Floodplain Management projects and Infrastructure projects. Each project will follow the below outlined procedures for implementation. Details of GOSR's monitoring and compliance goals and standards are set out at Section 2.6. Projects which receive 100% FEMA HMGP funding will be implemented through DHSES and are not addressed in this Manual as there are no CDBG-DR funds tied to these projects.

6.2 Floodplain Management Program – Project Implementation Procedures

Floodplain Management-designated HMGP projects to be funded in whole or in part with CDBG-DR funds, for the purposes of meeting the HMGP Match requirement, must be implemented by an entity eligible to receive CDBG-DR funds through a subrecipient agreement with GOSR. FMP subrecipients must comply with pre-application and application processes including vetting by a panel of qualified Infrastructure Program staff for conformance with CDBG-DR eligibility requirements and FMP policies. Once applications are approved, subrecipients will be required to follow all requirements, including quarterly reporting, as determined by HUD, FEMA, GOSR and DHSES. The subrecipient will maintain all materials on site and will provide copies of all CDBG-DR and HMGP materials to GOSR – and, upon request, to DHSES. Records will be maintained in accordance with GOSR recordkeeping requirements set out in section 2.9.15.

6.3 HMGP Infrastructure Project Implementation Procedures

HMGP Infrastructure projects, as described in Section 5.1 and to be funded in whole or in part with CDBG-DR for the purposes of meeting the HMGP Non-Federal Share Match requirement, will additionally be subject to the NY Rising Local Government and Critical Infrastructure policies (outlined in Section 7.0) and procedures (outlined in Section 8.0) of this Manual.

6.4 Project Selection and Review Procedures

HMGP project selection for submission to FEMA and decisions as to the amount or percentage of funding that will be allocated from each program – CDBG-DR and HMGP²² – will be made by the GOSR Managing Director of Infrastructure based on CDBG-DR funding allocated in the most recent GOSR Action Plan Amendment as well as the other criteria listed above. Submission and

²² Other traditional sources for Non-Federal Share match, such as direct funding by an eligible subapplicant/subrecipient, are considered as part of the GOSR's oversight of the general HMGP match obligation but are not directly administered by GOSR.

funding decisions will be intended to minimize the requirement for GOSR to invest Infrastructure program CDBG-DR funds directly to meet the Non-Federal Share Match requirements. The amount of funding per project will be regularly measured against the funds available through the CDBG-DR and the FEMA 25% Non-Federal Match requirement to ensure that all funding is obligated to eligible projects and that all grant management requirements are met.

6.4.1 Duplication of Benefits

For the HMGP Non-Federal Share Match Program, prior to projects being reviewed by GOSR for HUD eligibility, FEMA also conducts Duplication of Benefit checks to ensure that FEMA's Federal funds are used only after other Federal disaster recovery and private funds are applied. FEMA conducts this analysis prior to a project subapplication being approved. FEMA has the primary disaster recovery responsibility for public infrastructure assets, including verifying all sources of disaster assistance as shown through the Stafford Act. GOSR refers to this process as the FEMA Duplication of Benefits check. If FEMA or the State find that additional funds have been realized for a project, which would result in a Duplication of Benefits, GOSR will work to reallocate match to other projects.

As part of the HMGP Non-Federal Share Match Program, GOSR will confirm that costs shown in each project's documents are accurate. Further, applicant documentation is reviewed, both by program staff and by MCD as part of its monitoring process for sampled applicants, to ensure that a Duplication of Benefits has not occurred after work has begun.²³ New York State, through DHSES, conducts checks to ensure that if FEMA HMGP grantees receive additional assistance from insurance proceeds, FEMA awards are de-obligated or reduced accordingly.

GOSR's uniform prevention of Duplication of Benefits procedure is to have program staff:

1. Accept FEMA's Duplication of Benefit check, which is done during the subapplication eligibility review and obligation process.
2. Review the most current version of a subapplication for HUD eligibility and potential match payment.
3. Place a copy of FEMA's Duplication of Benefits analysis in the project file.
4. Check other Federal disaster recovery databases to verify all sources of disaster assistance, including:
 - v. US DOT FHWA-ER;
 - vi. FEMA HMGP program;
 - vii. EPA SMLP program for wastewater Treatment Facilities;
 - viii. NY Rising Community Reconstruction Program.
5. By conducting eligibility reviews of the most recent version of an approved subapplication and Subrecipient agreement, program staff ensures that subapplicants have not received additional funds from other sources. Working with DHSES, GOSR also confirms, before reimbursing the

²³ NY Rising Infrastructure Program staff conducted monitoring through the end of calendar year 2015. MCD staff took over this monitoring from Quarter 1, 2016.

State of New York for the Non-Federal share, that the recommended match amount can be accepted.

For ongoing construction projects, program staff will conduct annual Duplication of Benefits reviews to verify that the applicant has not received funds from another disaster recovery program that covers the same scope of work. Annual checks will be conducted within 120 days after the close of the State fiscal year.

6.4.2 Application Submission Procedures - Projects Funded Under the HMGP Non-Federal Share Global Match Program

For HMGP subapplications to be considered for Non-Federal Share Match in whole or in part by GOSR CDBG-DR funds, a Global Match Strategy will be implemented. The Global Match Strategy procedure includes:

- A thorough review of the application
- The identification and resolution of documentation-related or eligibility-related issues
- The building of full HMGP subapplications from initial drafts maintained within the State's grants management system (if full HMGP subapplications do not otherwise exist)
- Updating existing HMGP subapplications as necessary for submission to FEMA
- Creating a CDBG-DR counterpart application for the CDBG-DR-funded Global Match Projects
- The pursuit of, receipt of, and filing of additional supporting documentation that is not essential to the subapplication approval but which supports the CDBG-DR application and may be requested by FEMA, HUD or State reviewers and auditors.

Once completed, the HMGP subapplications will be submitted to FEMA through DHSES for review and approval. CDBG-DR applications will be submitted to the Infrastructure Program and maintained for HUD review.

6.4.3 100% CDBG-DR-Funded Global Match Projects Included in the HMGP Non-Federal Share Global Match Program

As outlined in Section 5.0, some HMGP projects identified through the Global Match Strategy may be appropriate for CDBG-DR funding, including the potential for projects intended for 100% CDBG-DR funding and a "\$0" FEMA HMGP funding subapplication. To include these projects in the HMGP Global Match Strategy and best leverage all funds, these projects will undergo HMGP review, subapplication development, and approval and monitoring by FEMA.

HMGP projects being funded wholly or partially by CDBG-DR as part of the HMGP Global Match Strategy will first be reviewed for eligibility to both programs, after which Infrastructure Program staff will proceed with HMGP and CDBG-DR application development in close coordination with the subrecipient, DHSES, Division of the Budget, and other relevant agencies as necessitated by the project. Once completed, reviews of applications will be submitted to FEMA through DHSES for review and approval.

6.5 Superstorm Sandy Environmental Adoption Provision

As outlined in Section 3.6 of this Manual, under P.L. 113-2, grantees are allowed to adopt the environmental review of another federal agency as long as the grantee notifies HUD of this intent. GOSR informed HUD that the State would utilize this provision for the FEMA PA, IA and HMGP Global Match Strategy, relying on the environmental review of federal agencies for all eligible applicants when Sandy CDBG-DR funds are used. Thus, HMGP Global Match projects using CDBG-DR funding, in part or in whole, are not required to undergo additional review under 24 CFR 58. Additionally, GOSR works with FEMA to form cooperative agreements to coordinate on all environmental reviews implicating both CDBG-DR and FEMA programs, whether the review is performed by FEMA or by GOSR under 24 CFR 58.

All other HMGP match projects receiving CDBG-DR funds, including CDBG-DR from the Hurricane Irene and Tropical Storm Lee allocation (P.L.112-55), are required to undergo both HUD and FEMA's environmental review processes, as there is no comparable environmental review adoption allowance. GOSR works with FEMA to form cooperative agreements or practices to coordinate on all environmental reviews implicating both CDBG-DR and FEMA programs, whether the review is performed by FEMA or by GOSR under 24 CFR 58.

6.6 Utility of a Project

Project utility, as defined by FEMA for HMGP eligibility, is determined during preparation of applications for FEMA HMGP review, and pre-applications for CDBG-DR review. Utility is defined by Subrecipients, with Technical Assistance as needed, in both narrative and quantitative formats. The narrative component is included in justification sections of both the HMGP application and CDBG-DR pre-application, and also provides the basis for alternatives analysis when required. Quantitative utility analysis is documented as part of the cost-effectiveness calculation and forms part of the project file.

6.7 HMGP Global Match Projects - Additional Implementation Procedures

For projects which are designated for the HMGP Global Match Strategy, in addition to meeting the NY Rising policies and procedures and HUD requirements the following implementation procedures are followed:

FEMA HMGP Approval: All FEMA HMGP subapplications, including Global Match Project "\$0" HMGP subapplications, must be submitted to FEMA for approval in accordance with FEMA and DHSES requirements. GOSR's Infrastructure Program staff work with DHSES and FEMA to ensure that these projects, as part of the Global Match strategy, are approved by FEMA.

FEMA HMGP Monitoring: Those Global Match Projects with a FEMA approved subapplication undergo monitoring from both GOSR, on behalf of HUD and CDBG-DR requirements for the State, and FEMA/DHSES, in accordance with FEMA HMGP requirements. This dual monitoring ensures that both the FEMA requirements as well as CDBG-DR requirements are being met as these projects are funded in whole or part by

CDBG-DR funds. Based on the level of GOSR's close coordination and communication with FEMA and DHSES, as well as State HMGP efforts prior to the creation of GOSR or the institution of Global Match, GOSR believes that this dual monitoring does not create a substantial hardship on subrecipients.

Payment: Projects which are identified as being 100% CDBG-DR funded follow the payment procedures for the GOSR Infrastructure program with GOSR documenting to DHSES and FEMA that the program match obligation has been met. For projects which are funded in part with FEMA HMGP funding and HUD CDBG-DR funds, GOSR coordinates with DHSES so that HMGP payments are made directly from the State, through Division of the Budget, to the subrecipient and that appropriate documentation is shared with all relevant parties.

6.8 Closeout

The closeout of the FEMA HMGP program and the projects included therein are coordinated with GOSR and DHSES. GOSR follows DHSES policies for all FEMA requirements related to closeout. This section outlines the closeout of Global Match Projects funded wholly or in part with CDBG-DR.

6.8.1 Closeout of Floodplain Management Projects

As an HMGP project, GOSR maintains compliance with FEMA and HUD requirements. Final procedures for closeout of this program are in development and will be provided in a future version of this Manual.

6.8.2 Closeout of Infrastructure Projects

Infrastructure designated HMGP projects follow the Closeout Procedures for the NY Rising Infrastructure Local Government and Critical Infrastructure Program (see Section 8.8). The GOSR Infrastructure Team, in conjunction with MCD, ensures that all necessary information from the NY Rising Infrastructure Local Government and Critical Infrastructure Program closeout process is shared with the HMGP team to closeout the HMGP project. Final policies and procedures are still under development for any additional programmatic coordination needed.

7.0 Local Government and Critical Infrastructure Program Policies

As outlined in the overview of this Manual, the Local Government and Critical Infrastructure Program is designed to meet additional unmet recovery needs of communities impacted by Hurricane Lee, Tropical Storm Lee, and Superstorm Sandy. The Program is divided into four sectors; Energy Infrastructure Sector, Local Government Infrastructure Sector, Water and Wastewater Infrastructure Sector, and Natural Resource Infrastructure Sector. This overarching program is designed to address unmet needs that are not met through other Federal disaster recovery programs. This program works in close collaboration with the Non-Federal Share Match Program and other federal disaster recovery programs to provide recovery assistance for the gaps which are not met through these programs. All projects funded under the four Sub-Program areas are 100% CDBG-DR funded and must meet all of the requirements outlined in section 2.0 of this Manual.

7.1 Energy Infrastructure

This Sub-Program is designed to both assist with the rebuilding of public energy infrastructure impacted by Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee, and to develop innovative energy infrastructure to enhance the resilience of storm impacted communities. This will enable residents and businesses to recover from future disasters in a more efficient manner. This Sub-Program provides funds to address both match requirements for the PA Match Program for eligible public energy utilities (LIPA) that were impacted by an eligible storm and to make storm impacted critical community assets more resilient to future events through the construction and development of microgrids.

Sandy made landfall on Long Island crippling the region's Largest public energy system, LIPA. Just two years earlier in 2012, LIPA's system sustained massive power loss following Hurricane Irene. LIPA provides service to over 90% of Long Island residents and sections of Long Island were without power for weeks. The total match costs required to restore the LIPA system and others in the State from these events exceeds \$200 million dollars. As a public authority, LIPA is eligible for federal programs, including FEMA's PA program. GOSR also assists LIPA and other eligible public utilities with rebuilding, repairing, and making more resilient elements of the system that were directly impacted by the storm.

Working in coordination with New York State Energy Research and Development Authority (NYSERDA), GOSR developed creative strategies for addressing power reliability challenges. As such, GOSR and NYSERDA launched the three-phased NY Prize competition with the objective of repairing damaged energy systems and developing resilient "microgrid" power systems. The NY Prize Competition challenges New York communities, businesses, entrepreneurs, and electric utilities to design and implement community-based micro grids, which offer energy independence as well as local power generation and distribution.

Additionally, these standalone energy systems can operate independently in the event of a power outage and advance the resilient recovery of some of the State's most vulnerable communities.

The competition spurs new business models and community partnerships with the private sector to increase reliability and reduce costs for consumers. The competition, run in three phases by NYSERDA, results in the selection of between 3-6 winning projects. Based on the location of the winning CDBG-DR eligible designs, GOSR will provide up to \$20 Million in CDBG-DR funds to complete the final construction phase.

7.1.1 Eligible Counties

For both assistance to LIPA and funding through the NY Prize Program, counties must be presidentially declared disaster counties for Hurricane Irene, Tropical Storm Lee, Superstorm Sandy, Winter Storm Nemo or Upstate Severe Storms and Flooding. In addition, for LIPA assistance only, counties must be determined by FEMA to be eligible to receive FEMA PA.

7.1.2 Eligible Subrecipients

For assistance to LIPA, LIPA will be the eligible authority. For CDBG-DR funding, eligible entities include entities that are located in a HUD declared county. Entities must also either be classified by FEMA as a public critical infrastructure asset, a recognized Native American tribe, a publicly held utility, county, local or municipal government, State agencies or State authority, water and wastewater treatment facility, public, primary and secondary schools (K-12), public university, non-profit or Health Care facility.

7.1.3 Allocation Methodology

Following Superstorm Sandy, GOSR began working with DHSES to assess the match obligation for public utilities with FEMA PA PWs. Additionally, GOSR met with NYSERDA to determine estimated needs to create a microgrid pilot program.

7.1.4 Project Selection

GOSR will continue to work with LIPA, DHSES and the Division of the Budget to determine eligible FEMA PA projects. GOSR will work in coordination with NYSERDA to identify projects which meet an unmet recovery need in a disaster declared county as outlined in Section 7.1.1. The New York Prize Competition will operate within three distinct phases. Additionally, as part of the competition, each applicant must meet the criteria outlined by NY Prize microgrid competition guidelines.

7.1.4.1 CDBG-DR Microgrids

Microgrids Project Phase 1: Feasibility

In Phase 1 of the NY Prize Competition, eligible applicants as described in Section 7.1.2 submitted microgrid proposals that align with the published competition guidelines. At the close of Phase 1, NYSERDA reviewed all applications to confirm that submitted microgrids projects met the published program guidelines. NYSERDA and GOSR determined the proposed microgrid projects moving forward. NYSERDA sent GOSR the applications to determine which microgrids meet HUD CDBG-DR criteria. In Phase 1, GOSR focused on identifying if the microgrid is located in a HUD eligible county, had a tie to one of the eligible disasters, and if the applicant is eligible to receive HUD CDBG-DR funds. Since the competition uses both CDBG-DR and State Funds, GOSR scored the proposed microgrids projects and classified them into three risk areas. This

scoring tool is shown as Exhibit 11. After NYSERDA reviewed the applications and obtained the HUD funding risk assessment, NYSERDA informed applicants which microgrids will receive additional funds to move forward in the competition. To further the feasibility assessment and provide more specificity, NYSERDA entered into a relationship with the design team and provided up to \$100,000 of funding to each team to support the work for Phase 2 of the microgrids project. At the close of Phase 1, NYSERDA reviewed the submitted microgrids projects, and reduced the number of projects moving into the final completion to less than 10 projects.

Microgrids Project Phase 2: Design

NYSERDA entered into a contract with approximately 10 applicants selected to advance to Phase 2, provide up to \$1,000,000 to each applicant to support the design of the proposed microgrid project. GOSR worked with NYSERDA to conduct a more detailed review to ensure some of the Phase 2 candidate microgrid projects identified met CDBG-DR criteria. No CDBG-DR funding was used or provided for the competition for this phase. In Q3 2018, NYSERDA is expected to advance up to 11 microgrids projects from Phase 2 into Phase 3 of the competition.

Microgrids Project Phase 3: Construction

In Phase 3, NYSERDA will fund up to 5 microgrids projects from Phase 2 for implementation. GOSR will work with NYSERDA to conduct a detailed review of the winning projects to determine which microgrids would meet CDBG-DR criteria. After the winning designs are announced, NYSERDA working with GOSR, will announce the funding allocations for each microgrid. Some winning designs may not be HUD CDBG-DR eligible due to a number of factors, including, but not limited to, working with private utilities, the location of the microgrid, and tie to the storm. However, for those winning microgrid designs, which are HUD eligible and approved by GOSR's internal review team, GOSR will work with NYSERDA to provide funding for the implementation of the winning design. GOSR as will provide up to \$20 million of CDBG-DR funds for microgrid project construction. Municipalities with winning projects will be required to execute subrecipient agreements with GOSR and comply with all HUD CDBG-DR funding rules and guidelines.

As the NY Prize competition progresses, GOSR will update the progress of the competition on the NY Prize Microgrid Competition webpage: <https://stormrecovery.ny.gov/ny-prize-microgrid-competition>.

7.2 Local Government Support Program

This Sub-Program is designed to provide additional CDBG-DR funding to address unmet Superstorm Sandy recovery needs in HUD-declared most impacted counties. This program works closely with the PA Match Program to ensure that storm-impacted counties and municipalities can address unmet infrastructure and essential service recovery needs by advancing projects that meet CDBG-DR eligibility requirements, but do not fulfill FEMA PA eligibility requirements. Funding for this program was based on damages to housing and public infrastructure. While GOSR provides funds to counties and municipalities to address unmet recovery needs, each funded entity is responsible for identifying and prioritizing eligible projects, bringing them to GOSR for

consideration, and following processes detailed in this Manual. GOSR along with its project coordinators (defined in Section 7.5.1), work with local governments to assist the continued repair and mitigation of public facilities and services. GOSR is aware that many local and municipal governments, school districts and Public Housing Authorities in HUD's most impacted counties, continue to find unmet recovery needs relating to Superstorm Sandy and that these emerging costs of recovery can put a strain on their capacity to provide essential services to residents in these counties currently and in the future. GOSR reserves the right to allocate additional recovery funds to these entities through this program as these unmet recovery needs are identified. GOSR pays particular attention to unmet needs that are tied to the FEMA PA program. When FEMA has determined that a recovery need is not be eligible for the PA program, but there is a direct and clear tie to community recovery and are related to the impacts of Sandy, GOSR engages with units of local government, public housing, school districts and DHSES to identify gaps in recovery that could be met through this Program.

7.2.1 Eligible Counties

Most impacted and distressed counties for Superstorm Sandy are eligible for this program, as defined by HUD. Those counties are set out in Section 2.1.1.1.

7.2.2 Eligible Subrecipients

Eligible subrecipients for this program must be either a HUD eligible county, Public Housing Authority, school district or local government. Westchester County government currently cannot receive HUD CDBG-DR funds and is excluded.

7.2.3 Allocation Methodology

Funding for this program was initially based on damages to housing and public infrastructure using FEMA PA obligated funds and FEMA Housing Damage Estimates. Using a weighted formula, GOSR used 2/3 of the eligible PA dollars and 1/3 of housing damage estimates to allocate funds to the most impacted counties as these measures ensure that the two primary unmet needs of each the county are met.

7.2.3.1 Use of FEMA PA Categories

FEMA Category C-G work is referred to as permanent recovery work and includes the repair and restoration of roads and bridges; water control facilities; buildings and equipment; utilities; and parks, recreational facilities, and other items. Permanent recovery work, therefore, can be used as a proxy for significant damages to an area and accurately reflects the level of infrastructure needs within each eligible county. GOSR utilized a weighted calculation by using two thirds of FEMA PA dollars for a community after omitting Category A and Category B work, addressing debris removal and emergency protective measures to meet immediate post-storm disaster recovery needs.

GOSR used all FEMA C-G PWs within EMMIE that are located within the eligible counties and had been eligible PWs on December 8, 2014, for the purpose of determining total obligated amounts within each county. Additionally, all category C-G PWs where work was performed by

a State agency in an impacted county has been geo-coded when possible, to the county that corresponds to where the work is located.

In the calculation, GOSR also excluded the PA Match associated with the Bay Park Wastewater Treatment Plant, as it is a part of FEMA's PAAP Pilot Program.

7.2.3.2 FEMA Housing Damage

To quantify housing damage for the Local Government Support Program, GOSR totals the number of severe and major damaged units as determined by FEMA for each eligible county. FEMA calculates owner-occupied homes in each eligible county classified as having suffered severe damage as one unit, while those homes classified as having suffered major damage are considered a half unit

7.2.3.3 Total Allocation

The weighted percentages calculated for the FEMA C-G work and the damage estimates for owner-occupied homes are combined for each county. As set out in Table 10 below, the combined weighted percentages are multiplied by the \$40 million in Local Government Support Program funding to obtain the initial allocation of funding each applicant is eligible to receive.

TABLE 10: TOTAL ALLOCATION BREAKDOWN BY COUNTY

Allocation of Funds to Eligible Counties			
	Combined Weighted Percentage	Allocation of \$40 million Based on Weighted %	
Nassau	68.91%	\$	27,565,135.46
Rockland	3.40%	\$	1,361,318.63
Suffolk	27.68%	\$	11,073,545.91
Total	100.00%	\$	40,000,000.00

7.2.4 Project Selection

GOSR notified eligible applicants of the Local Government Support Program. Eligible applicants provided a list of activities that represent an unmet need in the county from the impacts of Superstorm Sandy. The proposed projects must have a tie to the storms, represent an eligible CDBG-DR activity, meet one of the three HUD-defined National Objectives, and not represent any type of Duplication of Benefits. Once the list of potential recovery projects is sent to GOSR, Infrastructure program staff work with the applicant to review projects and identify those projects which meet all CDBG-DR program criteria, and fall within the program budget. Applicants may request assistance with essential services, but must adhere to the criteria listed below. GOSR and the project coordinators work with applicants to identify these eligible projects. Once a final project or projects are selected, GOSR works with the applicant to execute a subrecipient agreement and begin the application process outlined in Section 7.5 of this Manual.

7.3 Water and Wastewater Treatment Facilities

This Sub-Program includes the EPA SMLP Non-Federal Share Match payments, and standalone wastewater treatment facilities including Bay Park Wastewater Treatment Plant and Suffolk County Coastal Resiliency and Water Quality Improvement Initiative. Treatment facilities are

generally located in low-lying areas and thus were heavily impacted by Superstorm Sandy. Total estimates to repair the full slate of storm-impacted facilities in New York State exceeds \$1 billion. The recovery, repair and resilience of these treatment facilities are a priority for GOSR.

7.3.1 EPA Storm Mitigation Loan Program

Through the EPA SMLP, outlined in the Non-Federal Share Match section (see Section 3.0) of this Manual, GOSR pays the Non-Federal Share under the Local Government and Critical Infrastructure Program, for projects in the water and waste water treatment facilities sector. These projects follow the State lead agency, EFC's application process. For SMLP financing from EFC, applicants need to complete the following steps:

1. A Project Listing Form. Each applicant is required to submit a project listing form for the program. This form includes the following project information.
 - a. All projects are required to meet the following programmatic guidelines:
 - SMLP funding is used for the planning, design, and construction of projects that serves one of the following purposes:
 - Reduces the likelihood of physical damage to a treatment works or drinking water system;
 - Reduces a treatment works' or water system's susceptibility to physical damage or ancillary impacts caused by floods;
 - Facilitates preparation for, adaptation to, or recovery from a sudden, unplanned change in the amount of and movement of water in proximity to a treatment works or water system; or,
 - Facilitates preparation for, adaptation to, or recovery from climate change or any other type of natural disaster
2. EFC scores each application and, ranking projects.
3. All ranked projects are listed in New York State's EFC Intended Use Plan (IUP).
4. The applicant completes a Clean Water State Revolving Fund Financing Application- after the project is included in the IUP. The application provides details regarding the project costs, applicant credit information, and other information to size the financing and prepare documentation.

After completing EFC's Financing Application, GOSR works together with EFC, DEC, and SMLP subrecipients to facilitate the application through GOSR's application process. Through this process, GOSR ensures that each match project funded through the SMLP meets all required CDBG-DR projects. GOSR has agreed to pay the match solely on projects which have future construction, ensuring that all projects are CDBG-DR compliant throughout the project.

7.3.1.1 Eligible Counties

SRF eligible entities within the 14 counties designated as disaster areas following Superstorm Sandy: Suffolk, Nassau, Queens, Kings, Richmond, New York, Bronx, Westchester, Putnam, Rockland, Orange, Sullivan, Ulster, and Greene and have a facility or equipment which has damage or have had a loss or disruption of a mission-essential function to the facility.

7.3.1.2 Eligible Subrecipients

Eligible subrecipients are eligible counties.

7.3.1.3 Allocation Methodology

As part of the commitment to pay the Non-Federal Share Match for federal recovery programs, GOSR funds the 16% Non-Federal Match Share payment as outlined in the chart below.

TABLE 11: ALLOCATION METHODOLOGY

Federal Program	Federal Agency	Federal Cost Share	State Cost Share	State Cost Share Methodology
Storm Mitigation Loan Program (SMLP)	EPA	84%	16%	To meet the State's cost share requirement of 16%, GOSR will fund up to 25% of CBDG-DR eligible construction costs associated with SMLP grants

7.3.2 Standalone Water and Wastewater Treatment Plant Projects

Additionally, GOSR identifies standalone infrastructure projects in this category such as the Covered Project Suffolk County Coastal Resiliency and Water Quality Improvement Initiative, Bay Park Wastewater Treatment Plant and other projects that complement the PA Match Program payments which are being made to Water and Waste-water Treatment Facilities. Repairing the damage caused by Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy to these critical facilities is essential to the impacted region's recovery. GOSR has committed to ensuring that necessary repairs are completed and resilient systems are put in place. Below are two project overviews, complete with the specific eligible applicants and allocation methodologies.

A. Suffolk County Coastal Resiliency and Water Quality Improvement Initiative:

The Suffolk County Coastal Resiliency and Water Quality Improvement was approved in Action Plan Amendment No. 8 as a Covered Project that aims to address public health and water quality. Suffolk County has a federally-designated sole source aquifer used as public drinking water. The severe flooding in this region during Superstorm Sandy raised the groundwater elevation above the top of the septic systems and cesspools, resulting in public health and water quality hazards. Nitrogen pollution has caused a degradation of water quality in the Great South Bay, resulting in the erosion of coastal wetlands. These coastal wetlands provide a natural shoreline and can reduce vulnerability from storm surge.

Eligible Subrecipient: GOSR will enter into a subrecipient agreement with Suffolk County and all other required entities to administer this project.

B. Bay Park Wastewater Treatment Plant:

An additional Covered Project approved by HUD in APA 9, Bay Park is the largest wastewater treatment plant in Nassau County, treating 58 million gallons of wastewater a day and serving more than 550,000 residents representing 40% of the county's population. Superstorm Sandy caused catastrophic damages to the facility. During Superstorm Sandy, engines for the plant's main

pumping system were flooded by over nine feet of water, destroying the plant's electrical system and compromising other critical components of the plant. The electrical failure resulted in over 200 million gallons of raw sewage being discharged into nearby neighborhoods, waterways and natural resource areas causing a public health crisis and safety hazard for these areas. The level of discharge also had a direct impact on already fragile natural resources surrounding Bay Park Wastewater Treatment Plant.

Eligible Subrecipient: GOSR has entered into a subrecipient agreement with Nassau County to administer this project.

7.4 Natural Resources Infrastructure

This Sub-Program is designed to promote the State's commitment to restoring and addressing damages that Superstorm Sandy had on the State's natural resources. Additionally, this Sub-Program strives to fulfill the commitment the State made to use natural resource systems (dunes, wetland forests, marshlands), and green infrastructure to meet recommendations made by the Hurricane Sandy Rebuilding Task Force, and embrace HUD's recommendation that grantees incorporate natural resiliency measures into infrastructure projects. The State will also use funds to address the recovery and rebuilding needs of State agencies and units of local government who pursue projects that are natural resource based and/or incorporate green infrastructure methods in project design. Examples of projects that may be developed include: restoring, developing, and/or enhancing natural barrier dune systems, wetland habitats, near shore vegetation and forest canopies; creating living shorelines; and restoring man-made or natural beach or riverine environments.

7.4.1 Eligible Counties and Geography

Most impacted counties for Superstorm Sandy are eligible for this sector, as defined by HUD. Those counties are: Nassau, Suffolk, Rockland and Westchester and the five New York City counties: Kings, Queens, Richmond, Bronx, and New York.

Funds may only be used in these counties to address unmet recovery needs in public spaces, public parks, preserves, nature areas, trails, beaches, waterways, and for publicly accessible fishing piers and boat launches.

7.4.2 Eligible Subrecipient

Eligible subrecipients for this sector must either be a county or local government or State agency located in county listed above. Westchester County government currently cannot directly receive or manage HUD CDBG-DR funds and is excluded from this Program. Other entities can manage CDBG-DR funding, but public parks and lands managed and owned by public entities are eligible.

7.4.3 Eligible Applicants

Applicants eligible for this sector are constrained to units of governments (Local, County or State) whose work is primarily focused on natural resources areas and outdoors. Examples of eligible applicants include local and county government's park and recreation departments; New York State Parks Recreation and Historic Preservation, New York State Department of Environmental

Conservation.

7.5 Local Government and Critical Infrastructure Program Implementation Policies

This section of the Manual provides an overview of the Local Government and Critical Infrastructure Program's project implementation policies. Though each project is funded through one of the unique sectors outlined above, all programs for implementation follow the same policies shown below.

7.5.1 Project Coordinator Selection

To assist GOSR's staff and provide Local Government and Critical Infrastructure Program subrecipients with TA to remain compliant with HUD CDBG-DR regulations, GOSR publicly procured and retained vendors to support the Local Government and Critical Infrastructure Program implement projects through the use of project coordinators. Project coordinators provide support to Infrastructure Program staff and the subrecipients. The firm was chosen through a Request for Proposals (RFP). The RFP had the following criteria:

1. Experience and Capacity
2. Technical Approach
3. Proposal Rate Structure
4. Information Technology
5. Knowledge of Sandy Recovery in New York

Copies of all contracts awarded by GOSR can be found on www.stormrecovery.ny.gov.

7.5.2 Subrecipient Selection and Capacity

For the Local Government and Critical Infrastructure Program, GOSR enters into subrecipient agreements with county and local governments and private non-profits, or MOUs with State agencies, to implement the projects in each program. GOSR selects a suitable subrecipient for each project by direct, discretionary selection. Because many of the Local Government and Critical Infrastructure programs are designed to further the recovery of the local governments and repair critical infrastructure impacted by Hurricane Irene, Tropical Storm Lee and Superstorm Sandy, GOSR has engaged the entities who have relevant jurisdictional oversight over the projects.

GOSR reviews subrecipients' Single Audits (pursuant to 2 CFR 200 Subpart F) and audits from the State Comptroller's Office. Infrastructure Program staff reviews the audits as part of the capacity check and continues to collect subsequent audit reports, with MCD reviewing on a continual basis (for more on MCD's audit review role see Section 2.9.16.1). All Local Government and Critical Infrastructure Program subrecipients and projects are provided with a project coordinator, which is an Infrastructure Program staff member or consultant, and are required to take part in ongoing TA without regard to risk or project size. GOSR's TA is intended to not only build a subrecipient's capacity, transfer knowledge, but also to ensure compliance with CDBG-DR requirements for the life of the project.

7.5.2.1 Subrecipient Criteria

Subrecipients should demonstrate the following qualities:

- Prior experience with executing CDBG, CDBG-DR or other federal funded projects including but not limited to knowledge and prior experience with the following:
 - 24 CFR 84 and 85 requirements;
 - Documentation that the project meets a CDBG National Objective; and
 - Documentation that the project's expenditures are for CDBG Eligible Activities.
- Staff capacity to effectively manage CDBG-DR grants, including but not limited to:
 - Capacity to perform financial management and oversight;
 - Capacity to perform grant management functions as demonstrated through prior experience with managing grants with in-house staff or with a grants management consultant;
 - Internal auditing capability;
 - Administrative staffing; and
 - Knowledge of both Federal and State procurement and contracting requirements.
- Knowledge and experience in financial management of Federal grant funds, specifically of CDBG funds; and the ability of financial systems to meet all State and Federal requirements including but not limited to:
 - Accounting methods, and budget controls;
 - Proof that expenditures are necessary, reasonable and directly related to the grant;
 - Monitoring and controls of timely expenditure of Federal funds;
 - Compliance with 2 CFR 200 (effective for awards made after December 26, 2014, formerly OMB Circular A-87 (government agencies) or A-122 (for non-profits), A-121 (for higher learning institutions));
 - Completion and results of prior audits under 2 CFR 200 Subpart F (formerly under A-133; effective for awards made after December 26, 2014), if applicable; and
 - Completion and results of any other audits as it relates to financial capacity.
- In good standing with the State of New York (for entities other than public entities).
- Experience, knowledge, and compliance with all Federal regulations outside of direct CDBG requirements, as it applies to the grant including, but not limited to, the following requirements:
 - Davis-Bacon and all labor standards, Section 3, M/WBE, environmental, lead based paint, Civil Rights, Section 504, Uniform Relocation Act, Fair Housing Act, ADA, Age Discrimination Act, and records management.

7.5.2.2 Direct Selection

Under the Local Government and Critical Infrastructure Program, subrecipients are selected based upon sub-program requirements to implement the appropriate project. GOSR's ability to directly select a qualified subrecipient is allowed under HUD Section 24 CFR 570.500(c).

GOSR may directly select a subrecipient:

- When an entity is uniquely qualified to implement a project because either the entity has sole jurisdiction over the project or complete control/ownership over a project site;
- When the jurisdiction is the applicant to another federal recovery program, and GOSR is paying the Non-Federal Share Match for the project being implemented;
- When there is a reasonable basis to conclude that the direct selection of the subrecipient will result in increased efficiencies for the State and more quickly result in the project being implemented thereby more quickly addressing the unmet need; and
- When there is reasonable evidence to conclude that the minimum needs of the Program project can only be satisfied by the selected subrecipient.

7.5.3 Contractual Agreement

GOSR works with the subrecipient to execute a subrecipient agreement (or, in the case of eligible State agencies, a memorandum of understanding). The subrecipient agreement serves as the mechanism for transfer of funds to the subrecipient, and submission of required documents to establish proof of compliance with all Federal, State and local laws as applicable.

For projects receiving CDBG-DR funding for multiple project phases (i.e. planning, design, and construction), individual amendments may be utilized for each phase. Each amendment will include the scope, budget time and performance metrics of the applicable phase. Should scope and budget change significantly during construction, change orders will be considered on a case-by-case basis.

7.5.4 Pre-Application

Project pre-applications are drafted by program staff with consultation from a vendor that GOSR procured to provide project delivery support. The purpose of the pre-application process is to document:

- How the project meets one of HUD's three National Objectives
- How the project is an eligible activity
- How the project is tied to one of the five disasters.

The pre-application consists of:

- A project description
- Tie to the disaster
- Assigned National Objective
- Project eligibility review under 24 CFR 570.483
- Project cost estimate
- Statement of justification and recommendation
- Other relevant information.

The project description contains a level of detail sufficient for assessing the appropriate level and scope of any environmental review requirements. A pre-application is attached to this document in Exhibit 12.

7.5.4.1 Pre-Application Review Panel

Each project's pre-application is reviewed by a GOSR pre-application review panel, composed of at a minimum of three rotating members from GOSR's Compliance, Legal, Policy, Finance, and Environmental departments. The panel votes on if the project meets at least one National Objective, is an eligible activity, and has a tie to the storm. Pre-applications that receive two of the three panelists' votes advance to the full project application phase. Pre-applications that do not receive a majority of the votes are not advanced. Pre-applications may be advanced with qualifications, which are noted on the voting sheets. Subrecipients will be notified of the pre-application review panel's decision.

7.5.5 Application

Once a project's pre-application is approved, the subrecipient completes and submits to GOSR the full project application. Infrastructure Program staff and project coordinators (if applicable) provide the subrecipient with support in completing the application. The full application provides:

- A detailed description of the project
- Tie to the disaster
- Information pertaining to CDBG-DR eligibility
- A project cost estimate
- Project maps
- Project time schedule
- Activity beneficiary form.

A sample application is provided in Exhibit 13.

7.5.6 Application Acceptance

Once a project is advanced by the application panel, the subrecipient will be notified of the application review panel's decision via an application acceptance letter that is sent electronically. A copy of this letter is placed in the project file.

7.5.7 Duplication of Benefits and Order of Assistance

Infrastructure Program staff have added additional Duplication of Benefit checks for Infrastructure Standalone projects initiated after August 15, 2015. Program staff review proposed projects and compare them against all Federal disaster recovery data warehouses to determine if funds are available through other sources or if the Subrecipient has applied for additional funds. In addition, GOSR requests materials from applicants that demonstrate that the correct Order of Assistance was followed. GOSR includes a form in each project file to document compliance with Order of Assistance requirements.

Per the subrogation clause in the subrecipient agreement, subrecipients must return to New York State any funds found to be a Duplication of Benefits, ineligible, unallowable, unreasonable, or non-compensable, no matter the cause. Under this clause, should a subrecipient receive CDBG-DR funding to support an activity and subsequently receive additional funding that would render the CDBG-DR funds a Duplication of Benefits, the duplicative CDBG-DR funds must be returned

to GOSR. Following the Duplication of Benefits review, projects undergo iterative funding and scope reviews to check for Duplication of Benefits:

1. Application phase: The Subrecipient completes a questionnaire to self-certify that no other funds are available
2. Pre-Bid: GOSR conducts a Duplication of Benefits check to verify that additional funds have not become available
3. Project completion: A final Duplication of Benefits review will be conducted to verify that GOSR is only funding the Subrecipient's unmet need.

The results of all Duplication of Benefits checks will be available in the project file.

7.5.8 Environmental Review

CDBG-DR funding is contingent upon compliance with both State and Federal environmental regulations. This includes compliance with NEPA and related environmental and historic preservation legislation and executive orders. In addition, the Housing Trust Fund Corporation, as well as State agencies and UGLGs in New York State must comply with the State Environmental Quality Review Act (SEQRA). In general, GOSR serves as the lead agency for purposes of NEPA and SEQRA. Environmental review for GOSR projects is overseen by BERA and the policies and procedures implemented by BERA are set forth in the BERA Policy Manual. In certain circumstances, GOSR may decide to cooperate in a joint environmental review with another Federal, State or UGLGs. GOSR may also choose to delegate its NEPA or SEQRA responsibilities if, in the discretion of a GOSR Certifying Officer, such delegation is warranted and supported by law.

As explained in the BERA Policy Manual, HUD's Environmental Review Procedures allow grantees, such as New York State to serve as the "Responsible Entity" to assume environmental review responsibilities under NEPA. In accordance with 24 CFR 58 and pursuant to the State's Grant Agreement with HUD, BERA has two Certifying Officers that conduct and approve environmental review documents. Within GOSR the BERA will be responsible for performing environmental reviews and compiling the Environmental Review Records. BERA conducts environmental reviews either directly or through the use of BERA-supervised qualified environmental service contractors. The GOSR Certifying Officers are ultimately responsible with certifying that GOSR's environmental reviews are in compliance with NEPA and HUD environmental regulations.

In accordance with P.L. 113-2, when GOSR uses CDBG-DR funds to supplement federal assistance provided under Section 402, 403, 404, 406, 407, or 502 of the Stafford Act (42 U.S.C. 5121 et seq.) GOSR may adopt, without review or public comment, any environmental review, approval, or permit performed by a Federal agency, and such adoption shall satisfy the responsibilities of GOSR with respect to environmental review.

In general, environmental review of projects will consist of the following steps:

- Program provides BERA with a project description for review. Project descriptions must

be detailed enough so that the scope of the project and its potential environmental impacts are clear. Generally, construction projects with 5% to 30% design have sufficient details to conduct an environmental review.

- BERA reviews the project description and categorizes the action with regard to the appropriate level of environmental scrutiny that must be applied.
- With regard to NEPA, BERA will determine whether projects are exempt from environmental review, Categorical Excluded Subject To (Cat Ex(a)), Categorical Exempt Not Subject To (Cat Ex(b)), or require an Environmental Assessment. Certain Large projects may proceed immediately to preparation of an environmental impact Statement.
- With regard to SEQRA, BERA determines whether Program projects are Type I, Type II, Exempt, or Unlisted.
- BERA issues a general exemption for qualified activities associated with project development that are required to generate project information necessary for environmental reviews, project feasibility assessments, and the creation of funding applications.
- BERA conducts the appropriate environmental analysis and prepare compliance documentation in support each project, except for qualified exempt activities that fall under the general exemption for project development, in accordance with HUD's NEPA regulations and SEQRA.
- Upon completion of the environmental review of an action that Categorical Excluded but subject to 24 CFR 58.5 (Cat Ex A) or that requires an Environmental Assessment or Environmental Impact Statement, BERA submits a Request for Release of Funds to HUD.
- HUD reviews and approves or denies the Request for Release of Funds. If approved, HUD issues an Authority to Use Grant Funds authorizing the commitment of HUD funds to a particular project.

For projects that exceed and/or meet the Covered Project threshold, GOSR, through Program and BERA, will follow the steps listed above but will include consultation with SIRIC and utilize the Federal Permitting Review team. Further information concerning the environmental review process is set forth in the BERA Policy Manual.

7.5.9 Technical Assistance to Subrecipients

To assist applicants and subrecipients in complying with all CDBG-DR regulations and any GOSR policies, as well as to build capacity, Infrastructure Program staff and project coordinators provide applicants and subrecipients with necessary TA throughout the life cycle of the project.

GOSR's TA is comprised of formal trainings (prepared materials, in-person presentations and webinars) and informal trainings (verbal or written advice, provided as needed, through in-person meetings, emails or telephone calls). The nature and rigor of TA is continuously tailored to meet the subrecipient's unique needs.

7.5.10 Project Delivery Costs

In general, only subrecipient administrative and project delivery costs incurred after the acceptance

of a project application by GOSR and execution of an amendment to the subrecipient agreement are eligible for reimbursement. The Infrastructure and Local Government Program will coordinate and communicate with the subrecipient on whether project delivery and administrative costs are to be provided to supplement the grant or if these costs are included in the project amount. While GOSR may provide subrecipients with up to 10% of the cost of a project for subrecipient project delivery costs and up to 0.5% of the cost of a project for subrecipient administrative costs, depending on the type of project, a subrecipient must submit a detailed justification and budget for all requested administrative and project delivery services as part of the project application. Costs must not be duplicative of services provided by GOSR through its staff or consultants. All proposed subrecipient administrative and project delivery costs must be determined to be allowable, allocable, and reasonable during the project application review process.

7.5.11 Subrecipient Procurement

Subrecipients must follow Federal, State, and local procurement rules when purchasing services, supplies, materials or equipment. The procurement requirements found at 24 CFR 570.489, 24 CFR 85.36 (for local governments) and 84.42 (for non-profit organizations) establish CDBG-DR standards and guidelines for the procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services. Subrecipients must also follow applicable conflict of interest provisions in Federal, State, and local regulations. If a real or perceived potential conflict of interest is identified, subrecipients must contact GOSR for further guidance.

To help ensure that subrecipients' procurement will follow regulations, GOSR provides subrecipients with considerable onsite TA via its project coordinators, RFP/Qualifications procurement templates and a checklist to help develop procurement documents that comply with federal regulations. GOSR will also provide procurement TA consisting of:

- Review of 24 CFR 85.36 and 85.42 procurement requirements related to competitive proposals and Small purchases;
- Review of existing subrecipient procurement policies and procedures for compliance with 24 CFR 85.36 and 85.42. To the extent policies are out of compliance with those regulations, TA on coming into compliance will be provided; and
- Review of subrecipient procurement documents, with TA as necessary.

7.5.11.1 Professional Services

In order to develop a detailed project description and a conceptual cost estimate for a project application, GOSR or the subrecipient may engage the services of professional architects or engineers. If the subrecipient engages the architect or engineer directly, the subrecipient must comply with CDBG-DR procurement guidelines. The scope of the procurement may also include future services for design, surveying, and construction inspection/representation services. The critical infrastructure and local government program may allow units of local government to conduct professional services using force account labor with prior approval and with an

understanding that additional oversight from GOSR to ensure cost reasonableness in lieu of competitive bidding.

7.5.11.2 Construction Services

GOSR provides substantial TA to subrecipients so that projects remain in compliance with all requirements through the life of the project. This is particularly true for the pre-construction bidding and construction phases of the project. GOSR notifies the subrecipient to advertise for bids following the completion of:

- GOSR review of plans and specifications
- Environmental clearance of proposed construction activities
- Verification that all lands, rights-of-way and easements have been acquired
- Verification that all other program requirements have been met.

After notification to advertise for bids has been issued, the subrecipient may proceed with public advertising for bids in accordance with Federal, State, and local procurement standards. Generally, under New York law, local governments are required to advertise for competitive bids for contracts for public work in excess of \$35,000. The contract should be awarded to the lowest priced responsible bidder that has complied with the specifications. In some cases, the lowest bid received will exceed the amount of funds allocated for the project. When this happens, the subrecipient must contact GOSR to determine the best option to proceed.

7.5.12 Payment

7.5.12.1 Subrecipient Payment

All subrecipient payments are expended on a reimbursement based payment process. “Reimbursement-based” means that project costs must be incurred by the subrecipient and documented as required by the terms of the subrecipient agreement for payment of invoices. The subrecipient submits a draw request form. GOSR reviews and approves the form. Sub-recipients may request advances for work based on anticipated cash flow needs and capacity by project in consultation with GOSR.

7.5.12.2 New York State Division of the Budget Payment

This section discusses Non-Federal Match Payments which follow the Local Government and Critical Infrastructure Program implementation policies and procedures. GOSR reimburses the State General fund for costs incurred. This procedure is currently applied for the PA Match Program and EPA SMLP programs. In cases where match funds are combined with standalone CDBG-DR projects funded through the Local Government and Critical Infrastructure program, GOSR will follow the Local Government and Critical Infrastructure program procedures listed above. Currently this includes projects such as the Bay Park Wastewater Treatment Plant. It is anticipated that this may also include work to be performed under the Suffolk County Water Quality Initiative in the Water and Wastewater program.

7.5.12.3 Final Payment

Program withholds final payment to Subrecipients until the satisfactory completion of project closeout.

7.5.13 Project Closeout

The project closeout is the process by which GOSR determines whether all requirements of the subrecipient agreement between the GOSR and the subrecipient for a specific project have been completed in accordance with the terms and conditions of the subrecipient agreement. Project closeout begins when:

- At least 70% of funds allocated to the project have been spent; or
- At the discretion of Program.

Project closeout consists of:

- A closeout request, with applicable project documents attached, submitted to GOSR by the subrecipient;
- A project closeout checklist completed and approved by the Program and other departments within GOSR; and
- A project closeout letter sent to the subrecipient and to GOSR departments.

For projects which use funding from the Local Government Critical Infrastructure program and have other federal disaster recovery dollars (such as FEMA PA or EPA) in the project, GOSR will follow the closeout procedures detailed in Section 8.8 as well as coordinate with the State lead agency so that the closeout of the Non-Federal Share funded portion of the program is also completed in a compliant manner for that program.

In addition, the project's status must be updated in HUD's Disaster Recovery Grant Reporting (DRGR) system, and a final HUD quarterly narrative report must be submitted to reflect the project's status. For projects comprised of GOSR's CDBG-DR funds as well as other funds, project closeout occurs when all funds are spent.

7.5.14 Subrecipient Closeout

Subrecipient closeout is undertaken by the Program once all projects under the subrecipient's SRA are completed and closed out. Subrecipient closeout activities include an on-site records audit by NYRCR Program staff, a closeout letter sent to subrecipients, a closeout notice sent to GOSR staff, and subrecipient closeout in Elation.

8.0 Local Government and Critical Infrastructure Implementation Procedures

Table 12 displays the major actions occurring in each phase of project implementation. Unless otherwise Stated, Infrastructure Program staff or project coordinators take all actions below. The following paragraphs discuss implementation procedures in detail.

TABLE 12: PHASES OF INFRASTRUCTURE PROJECT IMPLEMENTATION

Phase	Action
Pre-Application Phase	Subrecipient agreement executed.
	Pre-application completed.
	Approval of pre-application and authorization to proceed to full application issued.
Application Phase	Work necessary for development of scope and budget for project assigned by subrecipient or GOSR. If necessary, subrecipient procures A/E or other services necessary for this step.
	Initial environmental review assigned.
	Application completed.
	Application accepted.
Project Development Phase	A/E procured if not previously procured.
	Environmental review completed (if applicable).
	Plans and specifications are reviewed for conformity with application and accepted.
	Property, rights of way, permits, etc. acquired by subrecipients.
	Environmental review record approved and formal "Release of Funds" for construction letter sent.
	Subrecipient agreement amended for changes in scope or budget amended (if required).
	Authorization to proceed to advertise for bids issued.
Bidding/Pre-Construction Phase	Approval of addendums issued during bidding phase (if required).
	Approval of change orders (if required).
	Respond to labor compliance issues (if required).
	Subrecipient agreement amended for changes in scope or budget (if required).
Construction Phase	Set up subrecipient and contractors in Elation Systems.
	Subrecipient reporting on Elation Systems.
	Change orders reviewed.
	Project acceptance verified.
Monitoring Process	Subrecipient continues to utilize Elation System to report on Section 3, Davis-Bacon, M/WBE, and other GOSR requirements.
	Onsite employee interviews are conducted as needed.
	Desk reviews of selected subrecipients and projects conducted.
	Onsite monitoring of selected subrecipients and projects conducted.
	Monitoring letter issued.
	Subrecipients respond to monitoring concerns and findings.
	Clearance of monitoring findings issued.
Closeout Phase	Confirmation that all monitoring findings are closed.
	Program completion report completed.
	Certificate of completion issued.
	Project closed out.

8.1 Subrecipient Selection

Subrecipients provide day-to-day administrative management and oversight of CDBG-DR activities. Subrecipients are responsible for establishing and maintaining financial accountability for CDBG-DR funds, complying with CDBG-DR regulations, and establishing and maintaining project files and records. Infrastructure Program staff and project coordinators identify an appropriate subrecipient, taking into consideration concerns outlined in “Selection Criteria” (Section 8.1.1, below).

8.1.1 Selection Criteria

- Prior experience with executing CDBG, CDBG-DR, or other federal funded projects including but not limited to knowledge and prior experience with the following:
 - 24 CFR 85 and 84 requirements
 - Documentation regarding meeting a National Objective
 - Documentation regarding Eligible Activities
- Staff capacity to execute grants management. Including but not limited to:
 - Financial staff capacity
 - Grants management capacity (prior experience through in house staff or grants management consultant)
 - Internal auditing capability
 - Administrative staffing
 - Knowledge of both Federal and State procurement and contracting requirements
- Knowledge and experience in financial management of federal grant funds, specifically CDBG funds:
 - Financial systems able to meet all State and Federal requirements included but not limited to:
 - a. Accounting methods and budget controls
 - b. Proof that expenditures are necessary, reasonable and directly related to the grant
 - c. Monitoring and controls of timely expenditure of federal funds
 - d. Compliance with 2 CFR 200 (effective for awards made after December 26, 2014; formerly OMB Circular A-87 (government agencies), A-122 (for non-profits), A-121 (for higher learning institutions));
 - e. Completion and results of prior audits under 2 CFR 200, if applicable (effective for awards made after December 26, 2014; formerly A-133 audits);
 - f. Completion and results of any other audits as they relate to financial capacity
- In good standing with the State of New York (for entities other than public entities).
- Experience, knowledge, and compliance with all federal regulations outside of direct CDBG requirements as they apply to the grant, including but not limited to:
 - Davis-Bacon and all Labor Standards, Section 3, M/WBE, Environmental, Lead Based Paint, Civil Rights, Section 504, Uniform Relocation Act, Fair Housing,

8.1.2 Subrecipient Agreement

After a subrecipient is selected, Infrastructure Program staff and project coordinators work with the subrecipient staff to execute a subrecipient agreement. The subrecipient agreement serves as the mechanism for transfer of funds to the subrecipient, and documents what is required to remain in compliance with all Federal, State and local laws as applicable. As applications for specific projects are developed and submitted to GOSR, the subrecipient agreement is amended to reflect the scope and budget of each project.

Any use of CDBG-DR funds must take into consideration all other funding sources, in order to meet Order of Assistance requirements, and deduct all funds that could be considered Duplication of Benefits, including insurance proceeds and other federal disaster recovery grant funds. As part of the application process, each subrecipient submits a form detailing all funds received for a project. The subrogation clause in the subrecipient agreement ensures that Duplication of Benefits does not occur. Per this clause, subrecipients must return to New York State any funds found to be a Duplication of Benefits, ineligible, unallowable, unreasonable, or non-compensable, no matter the cause. Under this clause, should a subrecipient receive CDBG-DR funding to support an activity and subsequently receive outside funding that would render the CDBG-DR funds a Duplication of Benefits, these funds must be returned to GOSR.

8.2 Pre-Application Phase

During this phase, Infrastructure Program staff and project coordinators continue to do due diligence to ensure that the project to be implemented is eligible and meets CDBG-DR requirements. The pre-application process is also used by Infrastructure and Local Government Program staff to determine the types of TA to provide to subrecipients during a project's implementation. The pre-application phase culminates in pre-application review by a GOSR-staffed pre-application panel.

8.2.1 Pre-Application

The pre-application determines whether a project may proceed into the full application. A pre-application is initially prepared by the Infrastructure Program staff and project coordinators and edited by the subrecipient.

The pre-application also provides descriptions of acquisition and construction that are expected, as well as a conceptual site plan.

8.2.2 Pre-Application Review Panel

After the pre-application is complete, it is reviewed by a GOSR-staffed pre-application panel.

The panel:

1. Consists of six members from GOSR's Compliance, Legal, Policy, Procurement, Finance, and Environmental departments.
 - Three members of the panel are voting members; the voting responsibilities rotate meeting to meeting.

1. Consists of a presentation about the project, questions from the voting and non-voting members, and a spoken vote on whether the project is eligible for CDBG-DR funding and should move to the application phase.
2. Projects receiving two of the three of the panelist' votes advance to the full application phase are approved. Projects that do not receive a majority of the votes are not advanced. Projects maybe advanced with qualifications, which are noted on the voting sheets.

Infrastructure Program staff will notify subrecipients on the outcome of the pre-application panel.

8.3 Application Phase

Once the pre-application is approved, the project advances to the full application phase. GOSR establishes deadlines for the submission of application related tasks. To develop a detailed project description and a cost estimate for the project to be included in the application, GOSR or the subrecipient may engage the services of professional architects or engineers. Applications are accepted in this phase, but applications are not approved until the project development phase, the subsequent phase (set out in Section 8.4).

Applications build on the justification report and provide critical information on a project, including a description of a project, and its:

- CDBG-DR eligibility (including HUD matrix code);
- National Objective;
- Tie to the storm;
- Estimated total costs (including sources and uses of funds);
- Source of funds identified for the project;
- Current status (whether any work has already been completed);
- Project context (whether the project is part of a Larger project/plan);
- Beneficiaries/public benefit/target areas;
- Recovery rationale; and
- Feasibility.

8.3.1 Subrecipient Policies and Procedures

GOSR works with subrecipients to determine whether certain critical subrecipient policies and procedures that are required by law or regulation are in place, and to confirm that any such policies or procedures are in compliance with all requirements. If necessary, GOSR provides subrecipients with templates and/or TA to assist in adopting or amending any required policies or procedures. Examples include:

- Review of Procurement Policy (to ensure HUD compliant language exists);
- Review of Pre-Construction and Construction Bid Document Packages;
- Section 504 Policy and Grievance Procedures (if required);
- Affirmative Action Plan;
- HUD required file management and recordkeeping requirements; and
- HUD required Section 3 Plans and Outreach Strategies.

8.3.2 Procurement of Professional Services

To complete an application, subrecipients may engage an architect or engineer directly. If subrecipients do this, subrecipients must comply with CDBG-DR procurement guidelines (24 CFR 85.36). As discussed in Section 7.5.11, GOSR provides intensive TA on procurement on an ongoing basis. The scope of the procurement may also include future services for design, surveying, and construction inspection/representation services. The infrastructure and Local Government program may allow units of local government to conduct professional services using force account labor with prior approval and with an understanding that additional oversight from GOSR will be required.

The procurement of professional services process is as follows:

1. The subrecipient prepares and publicizes RFP/RFQ, soliciting responses from an adequate number of sources.
2. The subrecipient conducts a technical evaluation of responses and selects the most advantageous offer.
3. The subrecipient verifies response eligibility, using system for award management.
4. The subrecipient conducts contract negotiations.
5. GOSR gives subrecipient consent to enter into a contract with the selected contractor.
6. The subrecipient executes contract.

8.3.3 Application

An application includes a detailed description of the project, supplemental information about the project, a project budget, project timeline, activity beneficiary form, project maps, supplemental funds documentation, and applicant/recipient disclosure/update report.

Infrastructure Program staff work with project coordinators and the subrecipient to prepare the application. The subrecipient reviews and submits the application. In order to assist in identifying a project's beneficiaries, Infrastructure Program staff and project coordinators created an online tool to enable Infrastructure Program staff to determine the demographics of a project's beneficiaries. The tool provides information on the income demographics for the block groups affected by a project using the 2006-2010 American Community Survey as well as race and ethnicity demographics from the 2010 U.S. Census.

Infrastructure Program staff review the application and notify the subrecipient if any clarifications, corrections or revisions are required. If the subrecipient is unwilling or unable to address issues identified in the application, a notice of denial is issued. The notice of denial includes guidance on actions the subrecipient can take for application reconsideration.

8.3.4 Application Review

Each project's application is reviewed by a GOSR application review panel, composed of six members from GOSR's Compliance, Legal, Policy, Procurement, Finance, and Environmental departments. The panel reviews all aspects of the project, including: scope, budget, eligibility, environmental review, legal/policy issues, procurement, and compliance. Any concerns noted in the pre-application panel are also reviewed prior to voting on the project. Projects that receive four

of the six panelists' votes are accepted to move forward. Applications may be advanced with qualifications, which are noted on the voting sheets. Applications that are rejected may be amended and submitted to a subsequent review panel at a later date. Once an application has been approved, applicants are notified of the decision via electronic means and an acceptance letter is placed in the GSP (for more information on the GSP see Section 2.9.16).

8.3.5 Application Acceptance

Once a project is accepted by the application panel, the subrecipient will be notified of the application review panel's decision via an acceptance letter that is sent electronically. A copy of this letter is placed in the project file in the GSP.

8.3.6 Development of Scope, Budget, and Schedule

As part of application development, subrecipients are required to produce and include in their application a detailed project description, cost estimate, and project schedule. The cost estimate may include project costs, project delivery costs, and administrative costs. The Infrastructure and Local government program will coordinate and communicate with the subrecipient on whether project delivery and administrative costs are to be provided to supplement the grant or if these costs are included in the project amount. In the event that reimbursement for project delivery costs is granted it may not exceed 10% of project costs, and administrative costs may not exceed 0.5% of project costs. All project delivery costs and administrative costs must be justifiable. No project costs incurred prior to application acceptance will be eligible for reimbursement, except for those required for the development of the application itself. No project delivery or administrative costs incurred prior to application acceptance will be eligible for reimbursement.

8.4 Project Development Phase

In the project development phase, GOSR provides substantial TA to subrecipients (see Section 7.5.9) so that subrecipients remain in compliance with all requirements through the life of the project including the project development phase. The following steps are taken in the project development phase:

1. Engagement of A/E professionals to design project if not previously procured.
2. Development of project design by A/E professionals.
3. Preparation of the bidding documents for construction by subrecipients.
4. Acquisition of real property, rights of way, permits, by subrecipients.
5. Obtainment of federal wage decisions and State wage decisions by subrecipients.
6. Preparation of the environmental review record by GOSR.
7. Authorization of the subrecipient to proceed to bidding/contract award by GOSR.
8. Creating and initiating Section 3, MWBE outreach strategies and plans for the project.

8.5 Construction Services Bidding/Preconstruction Phase

GOSR provides substantial TA to subrecipients so that subrecipients remain in compliance with all requirements through the life of the project. This is particularly true for the pre-construction bidding phases of the project. Infrastructure Program staff and the project coordinators will review and work closely with the subrecipient in this phase. Generally, subrecipients must advertise for

competitive bids for contracts for public work in excess of \$35,000. The contract should be awarded to the lowest priced responsible bidder that has complied with the specifications. In some cases, the lowest bid received will exceed the amount of funds allocated for the project. When this happens, subrecipients must contact Infrastructure and Local Government Program staff to determine the best option to proceed.

Subrecipients may advertise after receiving a letter, or e-mail notification from GOSR allowing them to do so. This communication, letter or email follows:

- GOSR review of plans and specifications
- Environmental clearance of proposed construction activities
- Verification that all necessary lands, rights-of-way, and easements have been acquired
- Verification that all other program requirements have been met.

Upon completion of bidding, subrecipients enter the preconstruction phase, which focuses on the subrecipients' understanding of CDBG-DR compliance. During this phase, specific pre-construction and construction phase TA is provided to keep sub-recipient projects HUD CDBG-DR eligible. All projects may not proceed to construction until environmental review is complete.

8.5.1 Construction Services Bidding

The process for project bidding is:

1. Subrecipient advertises for bids
2. Subrecipient procures construction contractor with GOSR TA
3. GOSR reviews bid process and contract award
4. Construction contract is executed.

8.5.2 Preconstruction

In the preconstruction phase, subrecipients, their contractors, Infrastructure Program staff, and project coordinators meet to discuss CDBG-DR requirements including:

- Section 3/EEO
- Labor standards
- Payroll reporting
- Project signs
- Payment procedures
- Inspection reports by project A/E and/or construction manager
- Change orders.

8.6 Construction Phase

In the construction phase, Infrastructure Program staff and project coordinators ensure subrecipient conformance with all applicable CDBG-DR regulations, particularly:

- Labor standards
- Section 3
- EEO

- Financial management.

8.6.1 Substantial Change Order

If a change to the project is necessary during construction, subrecipients submit the preliminary construction change order to GOSR and/or its project coordinators for review. GOSR then revises the requested change order to ensure that all costs and changes are HUD eligible and procured according to CDBG-DR requirements including:

- Sufficient grant or local funds are available to meet any increased costs;
- Documentation that all items listed on the change order were reviewed for price reasonableness;
- Documentation that all items listed on the change order are included in the scope of the environmental review record; and
- Documentation that all items listed on the change order are within the scope of the approved application.

If a change of scope or cost occurs after application approval, but before construction begins GOSR will issue an application amendment.

8.7 Programmatic Management and Monitoring Phase

8.7.1 Programmatic Management

Program staff and project managers work with subrecipients throughout implementation of a project to ensure that:

- An approved project is being constructed and implemented in a manner that is consistent with application and public procurement process;
- Approved activities are carried out and completed in a timely manner;
- Activities and certifications are conducted in accordance with the requirements and the primary objectives of the approved application, subrecipient agreement, program requirements, and other applicable State and Federal rules, regulations, policies, and related statutes; and
- Administrative systems, policies, and procedures provide adequate protection for the prevention and mitigation of fraud, waste, and abuse.

In addition, throughout implementation, project coordinators conduct reviews to identify weaknesses. TA is provided throughout the implementation phase to ensure that subrecipients have the continuing capacity to carry out the approved project and activities.

8.7.2 Monitoring and Compliance

Details of GOSR's monitoring and compliance goals, standards and procedures are set out at Section 2.6.

8.8 Closeout Phase

8.8.1 Project Closeout

On September 13, 2017, the Program started using a revised project procedure and accompanying documents for project closeouts. All project starting the closeout process after September 13, 2017 must follow the updated procedure laid out in this manual. No projects were closed out prior to the adoption of this revised procedure.

Project closeout is the process by which GOSR determines all requirements of the SRA between GOSR and the subrecipient for a specific project have been completed in accordance with the terms and conditions of the SRA. If the project has two subrecipients, the closeout request would be signed by both subrecipients and both subrecipients would be informed of the project's successful closeout.

The steps for project closeout are as follows:

1. Contracts for the project are paid as vendors request payment.
 - a. Through the **Payment Request Review Checklist**, additional scrutiny is paid to final payment requests from Subrecipient's²⁴ vendors, final request for payment on Project from Subrecipient, and final request for payment for Subrecipient.
2. Subrecipient initiates contract closeout(s) with Contractors.
3. Once 70% of funds allocated to the project spent, or at the discretion of the Program Manager²⁵ and Director,²⁶ Program Manager alerts Technical Advisor²⁷ to initiate Project Closeout.
4. Technical Advisor or Program Manager send **Closeout Notification Letter** to Subrecipient that states what documents the Subrecipient must submit when it requests Project Closeout and Final Payment.
5. Program Manager begins **Project Closeout Review Checklist** for project.
 - a. Technical Advisor completes **Portal Audit** and communicates results to Program Manager.
 - b. Program Manager consults with Policy Manager²⁸ to confirm project completion and conformance with Infrastructure Policies and Procedures.
 - c. Program Manager communicates to Subrecipient any outstanding documents required from the Subrecipient.
 - i. If Subrecipient is in good standing with all documentation, Program Manager informs Subrecipient and Technical Advisor that Subrecipient may proceed to Project Closeout.

²⁴ For the purposes of this form and procedure, the term "Subrecipient" refers to Subrecipients, MOU partner agencies, and any other applicable organization receiving CDBG-DR funds through GOSR.

²⁵ GOSR staff – Infrastructure and Local Government Program Manager or Senior Program Manager

²⁶ GOSR staff – Infrastructure and Local Government Director or Deputy Director

²⁷ Consultant(s)

²⁸ GOSR staff – dedicated department Policy Manager

6. Technical Advisor or Program Manager tell Subrecipient that when it is ready, it may submit **Request for Project Closeout** form.
 - a. Subrecipient submits **Request for Final Payment Cover Letter** and **Final Invoice** with **Request for Project Closeout** form and all **related or missing documentation**.
 - b. Program Participant(s) submit **Program Participant Acceptance Letter(s)**, if applicable.
7. Program Manager ensures that **Project Closeout Review Checklist** is fully completed and signed by all GOSR departments and Director, and that all required documents have been completed and submitted.
8. Project is closed out.
 - a. Program Manager sends **Request for Project Closeout** and **executed Checklist** to Program Assistant.²⁹
 - b. Program Assistant sends **Project Closeout confirmation email** to GOSR departments and sends completed **Project Closeout Review Checklist and confirmation email** to HGA Project Controls for upload to the Portal.
 - c. Program Manager reviews **final invoice** on Elation and **final invoice** is approved by GOSR.
 - i. Program Manager informs Program Assistant when **final invoice** is approved.
 - d. Program Assistant drafts and emails **Project Closeout Acceptance letter** from Deputy Executive Director³⁰ to Subrecipient.
 - i. Program Assistant sends **Project Closeout Acceptance letter** to Program Manager and to HGA Project Controls for upload to the Portal.
 - e. Program Manager team alerts GOSR Finance and GOSR's Research and Strategic Analysis team for DRGR changes.
9. Subrecipient receives **final payment** for project.

8.8.2 Subrecipient Closeout

Subrecipient closeout is undertaken by the Program once all projects under the subrecipient's SRA are completed and closed out. Once this has occurred:

1. Program staff undertake an on-site records audit of the subrecipient and issue documentation showing that the audit is clear.
2. A closeout letter is drafted by Program Assistant, signed by the Deputy Executive Director, and sent to the subrecipient.
3. The Program Assistant sends a closeout notice to all GOSR departments.
4. Program Manager closes the subrecipient out in Elation.

²⁹ GOSR staff – Infrastructure and Local Government Program Assistant

³⁰ GOSR staff – GOSR Deputy Executive Director

9.0 Definitions and Acronyms

9.1 Commonly used acronyms

Acronym	Meaning
BCA	Benefit Cost Analysis
BERA	GOSR's Bureau of Environmental Review and Analysis
CDBG	Community Development Block Grant
CDBG-DR	Community Development Block Grant – Disaster Recovery
CDR	Cost Documentation Review
CWSRF	EPA Clean Water State Revolving Fund
DBRA	Davis-Bacon and Related Acts
DHS	United States Department of Homeland Security
DHSES	New York State Division of Homeland Security and Emergency Services
DOT	Department of Transportation
DRGR	Disaster Recovery Grant Reporting System
EEO	Equal Employment Opportunity
EMMIE	Emergency Management Mission Integrated Environment
FEMA	Federal Emergency Management Agency
FHWA-ER	Federal Highway Administration – Emergency Relief
FLSA	Fair Labor Standard Acts of 1938
GOSR	Governor's Office of Storm Recovery
GSP	GOSR Subrecipient Portal
HCDA	Housing and Community Development Act
HUD	United States Department of Housing and Urban Development
LEP	Limited English Proficiency
LMI	Low and Moderate Income
MBE	Minority Business Enterprise
MWBE	Minority and Women Business Enterprise
NEPA	National Environmental Policy Act
NYS	New York State
NYSERDA	New York State Energy Research and Development Authority
OIG	HUD Office of Inspector General
PAAP	Public Assistance Alternative Procedures Pilot Program
PWs	Project Worksheets
QA	Quality Assurance
QC	Quality Control
RFP	Request for Proposals
RFQ	Request for Qualifications
SEQRA	State Environmental Quality Review Act
SMLP	EPA Storm Mitigation Loan Program
URA	Uniform Relocation Act
USACE	U.S. Army Corps of Engineers

9.2 Definitions

100-Year Floodplain: Also referred to as the ‘base flood.’ This term, adopted by the National Flood Insurance Program as the basis for mapping, insurance rating, and regulating new construction, is the floodplain that would be inundated in the event of a 100-year flood. The 100-year flood has a 1% chance of being equaled or exceeded during any given year.

Applicant: A homeowner, landlord, business or other entity who makes a formal application for a GOSR Program.

Benefit Cost Analysis (BCA): The process of evaluating a business opportunity or decision based on its cost involved and possible profits.

Benefit Cost Ratio (BCR): An indicator to identify the relationship between cost and benefit used in a BCA.

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

Community Development Block Grant (CDBG): A federal program administered by 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.

Community Development Block Grant Disaster Recovery (CDBG-DR): Similar in many ways to the CDBG program, these federal funds are administered by HUD but are specifically dedicated to assist with disaster recovery in areas impacted presidentially declared events. The grant funds differ from the traditional CDBG program by providing added flexibility grantees to enact projects however all work must comply with HUD requirements.

Cost Documentation Review (CDR): A spreadsheet used to capture financial documentation associated with each PW.

EPA Clean Water State Revolving Fund (CWSRF): A Federal-State partnership that provides low- or no-interest rate financing to construct water quality protection projects.

Contract for Deed (also referred to as a Lease Purchase Agreement): Legal document that establishes items to be met in order for the deed to a piece of property to transfer from one person to another, usually in exchange for monthly payments until the purchase price has been paid.

Covered Project: A major infrastructure project with such projects defined as having a total cost of \$50 million or more (including at least \$10 million of CDBG-DR funds), or benefits multiple counties. Additionally, two or more related infrastructure projects that have a combined total cost of \$50 million or more (including at least \$10 million of CDBG-DR funds) must be designated as major infrastructure projects.

Davis-Bacon Wage Requirements/Davis-Bacon and Related Acts (DBRA): The DBRA require all contractors and subcontractors performing work on federal or District of Columbia construction contracts or federally assisted contracts in excess of \$2,000 to pay their laborers and mechanics

not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts.

United States Department of Homeland Security (DHS): A department under the US federal government with the primary responsibility of protecting US territory (including from natural disasters).

New York State Department of Homeland Security and Emergency Services (DHSES): The NYS Division of Homeland Security that provides leadership, coordination, and support for all man-made and natural disasters.

Department of Transportation (DOT): DOT oversees the Federal Highway Administration Emergency Relief Program (FHWA-ER) and provides FHWA-ER funds to New York State through the State's Department of Transportation.

Disaster Recovery Grant Reporting System (DRGR): The Disaster Recovery Grant Reporting system was developed by HUD's Office of Community Planning and Development for the CDBG Disaster Recovery program and other special appropriations. Data from the system is used by HUD staff to review activities funded under these programs and for required quarterly reports to Congress.

Equal Employment Opportunity (EEO): 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.

Emergency Management Mission Integrated Environment (EMMIE): FEMA's recordkeeping system. EMMIE tracks grant applications and associated documents after each disaster declarations. This system manages all files related to the PWs, keeping applicants in compliance with FEMA regulations.

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

Federal Emergency Management Agency (FEMA): An agency of the United States Department of Homeland Security. The agency's primary purpose is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and State authorities.

Federal Highway Administration – Emergency Relief (FHWA-ER): The FHWA-ER program funds the repair or reconstruction of Federal-aid highways and roads on Federal lands that have suffered serious damage as a result of natural disasters or catastrophic failures from an external cause.

Final Inspection Report (FIR): FIR is released by FEMA upon the completion the project and

of the report submitted by State certifying that the Applicant's costs were incurred during the completion of eligible work.

Fair Labor Standard Acts of 1938 (FLSA): FLSA 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.

Floodplain fringe: The portion of the floodplain outside of the floodway, which is covered by floodwater during the 100-year Flood. The term, "flood-fringe" is generally associated with standing rather than flowing water. It is also that part of the floodplain wherein development is subject to a community's floodplain ordinance.

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.

Flood Zones: The land areas identified by the Federal Emergency Management Agency (FEMA). Each flood zone describes that land area in terms of its risk of flooding. Everyone lives in a flood zone; it's just a question of whether you live in a low, moderate, or high risk area.

Governor's Office of Storm Recovery (GOSR): An office for maximizing the coordination of recovery and rebuilding efforts in storm-affected municipalities throughout New York State, which operates within New York State Housing Trust Fund Corporation.

Grantee: The term "grantee" refers to any jurisdiction receiving a direct award from HUD under the March 5, 2013 Federal Register Notice (FR-5696-N-01). The State of New York is identified as a grantee in the notice.

Housing and Community Development Act (HCDA): HCDA is a US federal law that authorizes funds to be "awarded directly to the State or unite of general local government as a grantee at the discretion of the Secretary of Housing and Urban Development".

Housing Trust Fund Corporation (HTFC): New York State agency through which Program funds are administered to Applicants and other sub-recipients.

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 persons 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 benefits from an interpreter who translates 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.

Minority Business Enterprise (MBE): A business that is owned and controlled (minimum of 51 % ownership) by a member of a minority group.

Minority and Women-owned Business Enterprise (MWBE): A business that is owned and controlled (minimum of 51 % ownership) by a member of a minority group, or women.

Non-compliant with flood insurance requirement (NCOMP): Records indicate that flood insurance on the damaged home has not been maintained as required. Failing to maintain flood insurance makes this home ineligible for assistance for damages to the property caused by flooding.

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.

Office of Community Renewal (OCR): A department of New York State Homes and Community Renewal that oversees the New York Action Plan for disaster recovery programs.

Owner: A person or persons who are listed on the deed as owning that property.

HUD Office of Inspector General (OIG): OIG’s mission is independent and objective reporting to the Secretary and the Congress for the purpose of bringing about positive change in the integrity, efficiency, and effectiveness of HUD operations. The Office of Inspector General became statutory with the signing of the Inspector General Act of 1978 (P.L. 95-452).

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)).

Public Assistance Alternative Procedures (PAAP) Pilot Program: The Public Assistance Alternative Procedures Pilot Program implements the alternative procedures which allows FEMA to gather information on their effectiveness.

Procurement Documentation Review (PDR): PDR is designed to capture all relevant procurement documentation associated with PWs. This includes contracts, purchase orders, bid packages, and the classification of labor as contract, force account, or both.

Property Owner: Property Ownership is defined as holding a fee simple title as evidenced by a warranty deed, bargain for sale deed, or a quitclaim deed to the Property to be assisted. The deed must be recorded with the county, city, or appropriate local municipality.

Project Worksheets (PWs): Each PW contains the entire funded project and only items contained in a PW are eligible for FEMA reimbursement. At a minimum, files for each PW created by FEMA document the project, the location, the damage, the scope of work, the cost estimate, as well as back-up documentation.

Quality Assurance (QA): Planned and systematic production processes that provide confidence that the policy and procedures of the Program are being executed as planned.

Quality Control (QC): Testing to ensure that the policy and procedures of the Program are being executed as planned.

Reconstruction: The labor, materials, tools and other costs of rebuilding.

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.

Request for Qualifications (RFQ): A procurement document designed to solicit a quote for services defined.

Responsible Entity (RE): Under 24 CFR Part 58, the term “responsible entity” (RE) means the grantee receiving CDBG assistance. The responsible entity must complete the environmental review process. The RE is responsible for ensuring compliance with NEPA and the Federal laws and authorities, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the Environmental Review Record is complete.

Small Business Administration (SBA): SBA’s Office of Disaster Assistance (ODA) provides affordable, timely and accessible financial assistance to Applicants, 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.

State Environmental Quality Review Act (SEQRA): All State and Local Government agencies must comply with SEQRA responsibilities to consider environmental impacts equally with social and economic factors.

Storm Mitigation Loan Program (SMLP): The EPA’s SMLP provides financing to enhance the resiliency of water treatment facilities.

Scope of Work (SOW): The works to be performed or completed by the applicant. All FEMA PA projects considered for Non-Federal Share Local Match with CDBG-DR funds must have funding and a scope of work that is contained in an eligible and obligated Project Worksheet (PW).

Slum and Blight: “Blighted area” and “slum” mean an area in which at least 70% 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.

Subrogation: The process by which duplicative assistance paid to the Applicant after receiving an award, is remitted to the Program in order to rectify a Duplication of Benefits.

Trust: A legal vehicle to hold property subject to certain duties and to protect it for another individual.

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.

U.S. Army Corps of Engineers (USACE): A US federal agency for public engineering, design, and construction management.

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 threats to the health/welfare of the 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. All Applicants who cannot meet the LMI National Objective are placed into the Urgent Needs category.

10.0 Exhibits

Exhibit Number	Exhibit Name
1	GOSR Citizen Participation Plan
2	Disaster Impact Maps
3	HUD Davis Bacon Guidance Letter
4	National Objective Service Area Mapping Methodology
5	Environmental Review
6	GOSR Document Collection Letter for Hurricane Irene and Tropical Storm Lee Allocation Applicants to the FEMA Non-Federal Share Local Match Program
7	Non-Federal Share FEMA Public Assistance Local Match Program Documentation Collection letters to Applicants and Checklist templates
8	FEMA Public Assistance Non-Federal Share Local Match Program Procurement and Compliance Procedures
9	FEMA Public Assistance Non-Federal Share Local Match Program File Management
10	HMGP Global Match Strategy Approval Letters
11	NY Prize CDBG-DR Risk Assessment Tool
12	GOSR Local Government and Critical Infrastructure Pre-Application
13	GOSR Local Government and Critical Infrastructure Application