



Governor's Office of Storm Recovery

REBUILD BY DESIGN: LIVING WITH THE BAY POLICY MANUAL

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The policies and procedures stated in this manual are current as of November 23, 2020. This manual represents the current version of the Governor's Office of Storm Recovery's (GOSR) policy and procedure which shall provide general guidance for the operation of the Rebuild by Design (RBD) Living with the Bay (RBD) project. All procedure manuals will be reviewed periodically and will be updated. GOSR will use its best efforts to keep all of its Policy and Procedure Manuals current. Therefore, you are strongly urged to visit our website www.stormrecovery.ny.gov or to contact the info@stormrecovery.ny.gov to ensure that you have the latest version of GOSR's policies. There may be times, however, when a policy will change before the manual can be revised.

POLICY MANUAL

Rebuild by Design

Version Control

Version Number	Date Revised	Description of Revisions
1.0	July 11, 2018*	RBD Projects moved to the CR Program – RBD policies and procedures refined.
2.0	November 2020	Substantial revisions to the entire manual to remove Living Breakwaters to be documented in a separate Policy Manual, as well as for accuracy and clarity, including updates and changes to sections 1.0 Introduction; 2.0 Summary of RBD Projects; 3.0 HUD CDBG-DR requirements; and 4.0 RBD Policies. Removal of section 5.0 RBD Procedures to a separate RBD Procedure Manual

*Prior to this update the RBD projects followed the policies and procedures of the NY Rising Infrastructure Program or NY Rising Community Reconstruction Program, as appropriate.

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Table of Contents

1.0 Introduction	6
1.1 Oversight of Storm Recovery	6
1.2 Manual Overview	7
1.3 Meeting the CDBG-DR Program goals	7
1.4 Fulfilling the Principles Established by State’s Action Plan	8
1.5 Citizen Participation Plan	8
2.0 Summary of Rebuild by Design Projects	9
2.1 RBD: Living with the Bay (LWTB)	9
3.0 HUD CDBG-DR Requirements	9
3.0.1 Tie to the Storm	9
3.0.2 Meeting a National Objective	10
3.0.3 Meeting an Eligibility Activity	10
3.0.4 Geographic Eligibility	10
3.1 RBD and Infrastructure Regulatory Requirements	10
3.1.1 Infrastructure Requirements met through the RBD Competition	10
3.1.2 RBD Specific Requirements	11
3.1.3 Infrastructure Requirements	12
3.1.4 Resilience Performance Standards	12
3.1.5 Monitoring and Evaluating Efficacy and Sustainability	12
3.2 Multi-Phase Requirements for Subrecipients	13
3.2.1 Timely Expenditure of Funds	13
3.2.2 Duplication of Benefits	13
3.2.3 Order of Assistance	13
3.2.4 Program Income	14
3.2.5 Force Account Labor	14
3.2.6 Acquisition of Real Property	15
3.2.7 Insurance	16
4.0 Rebuild by Design Policies	16
4.1 Pre-Construction and Design Development Policies	16
4.1.1 Coordination with Federal and State Partners	16
4.1.2 Sandy Regional Infrastructure Resilience Coordination Group	16
4.1.3 Coordination with State Partners	17
4.2 Post Award Analysis and Design Changes	17
4.3 Certification of Final Designs	17
4.4 Implementation Partnerships	17
4.5 Leveraging of Funds for RBD Projects	17
4.6 Subrecipient Selection and Capacity Policies	18
4.7 Contractual Agreements	18
4.8 Environmental Review Policies	19
4.8.1 Documenting Project Changes	19
4.9 Action Plan Amendment Process	20
4.10 Flood Insurance Requirements	20
4.11 RBD Project Closeout	20
4.12 Feasibility and Effectiveness of RBD Projects	21

5.0 Definitions21
Exhibit 1 – Program Administrative Requirements and Cross-Cutting Federal Regulations32

1.0 Introduction

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

In June 2014, the U.S. Department of Housing & Urban Development (HUD) announced the winners of its innovative Rebuild By Design competition— a contest that encouraged interdisciplinary firms (representing the best in planning, design and engineering) to create blueprints for recovery and resiliency efforts. Initiated by the Presidential Hurricane Sandy Rebuilding Task Force, and promoting the innovative principles developed by the group in the Hurricane Sandy Rebuilding Strategy, the contest recognized four outstanding project proposals from New York State. The Governor’s Office of Storm Recovery (GOSR) is now working to implement two of these groundbreaking projects.

In October 2014 Federal Register Notice (FR-5696-N-11), HUD announced the funding of the winning RBD proposals. No RBD project was fully funded. The State of New York was awarded \$185 million dollars in CDBG-DR funding to implement two of the projects. \$60 million was made available for the Living Breakwaters project, an infrastructure project designed to reduce or reverse erosion and damage from storm waves, improve the ecosystem health of the Raritan Bay and encourage stewardship of our nearshore waters and generally enhance people’s experience of the shoreline of southern Staten Island. \$125 million was made available for the Living with the Bay project, which aims to mitigate damage from storm surges by strategically deploying protective measures; manage stormwater in order to mitigate the damages from common rain events; as well as improve the water quality in the Mill River and the South Shore Back Bay .

Information regarding these two projects can be found in the State’s Action Plan on GOSR’s website.

1.1 Oversight of Storm Recovery

Governor Cuomo established the Governor’s Office of Storm Recovery (GOSR), a division of the Housing Trust Fund Corporation, in June 2013 to maximize the coordination of recovery and rebuilding efforts in storm-affected municipalities throughout New York State. GOSR operates

within the New York State Housing Trust Fund Corporation (HTFC). HTFC is a component of New York State Homes and Community Renewal (HCR), a unified leadership platform, encompassing a variety of New York State agencies and public benefit corporations involved in the provision of housing and community renewal. GOSR was formed to direct the administration of the Federal Community Development Block Grant-Disaster Recovery Funds.

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

1.2 Manual Overview

This manual is designed to outline the major program policies that the State and its agents will use to direct the operation of its Living With The Bay (LWTB) program. LWTB will be referred to in this manual as the "Program" or the "Project". It is intended to serve as a resource for New York State residents and other parties interested in details of how the program will be operated, including eligibility requirements, the types of assistance offered, and program recipient obligations. It serves as a general reference guide for administrative staff and other interested parties, including, Contractors, Subrecipients, units of general local government (city and county governments) that are engaged as "sub-grantees" to deliver assistance through the program, and any non-profit organizations that are involved as "subrecipients" or consultants.

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

1.3 Meeting the CDBG-DR Program goals

In support of the HUD recovery objectives, the State of New York has specifically designed its programs to help impacted residents and communities to recover from the damage inflicted by the storms of 2011 and 2012. As expressed in the Federal Housing and Community Development Act, the primary objective of the general CDBG program is "the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income (LMI)." CDBG funding appropriated in response to disasters must meet those general goals of the CDBG program. All CDBG-DR funded activities must meet one of the three national objectives required under the authorizing statute of the CDBG program:

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

The LWTB program will meet the Urgent Need National Objective, and focus on decreasing the effects of tidal inundation, increasing coastal protection, addressing storm water runoff into the Mill River, and creating a publicly accessible greenway that connects the South Shore of Long Island communities. The LWTB program will achieve these objectives by focusing on the core principles of flood defense, ecological restoration, access and urban quality, and social resiliency.

1.4 Fulfilling the Principles Established by State's Action Plan

The RBD projects are expected to make communities more resilient and encourage investment in areas that were awarded RBD funding by revitalizing storm-impacted regions and ensuring that communities are not just rebuilt, but also become safer and more resilient—especially for those areas where there is a high risk of future flooding. RBD projects aim to restore the vibrancy of New York State's disaster-impacted communities and enhance the quality of life for its residents.

The State's recovery programs, including the RBD projects, and the other activities outlined in the Action Plan, are based on six key principles below:

1. ***Building back, better, and smarter*** – As New Yorkers work to repair the severe damage caused by Superstorm Sandy and other storm events, the State uses the recovery programs as an opportunity to ensure that damaged infrastructure, natural resources and buildings are not simply restored to their pre-storm condition or replaced with the same kind of structures. Instead, New York State invests in additional mitigation measures to prevent similar damage from occurring in the future. The RBD projects incorporate innovative solutions for how communities can rebuild and adapt in response to future risks presented by natural hazards and climate change.
2. ***State-led, community-driven recovery*** – New York State is collaborating closely with local governments, residents and other community based organizations to ensure a coordinated and holistic response, while looking to individual communities to develop forward-looking local recovery plans that meet their specific needs.
3. ***Recovery from Irene, Lee and Sandy*** – The RBD projects will enhance and extend recovery efforts to communities with significant food risks.
4. ***Leveraging funds*** – The RBD projects will seek to leverage private and public funds.
5. ***Spending accountability and transparency*** – New York State implements rigorous controls and oversight 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 are shaped to achieve the fastest delivery and best support possible, while working within the parameters of the HUD guidelines.

1.5 Citizen Participation Plan

GOSR's Citizen Participation Plan, and the Citizen Participation Plan for RBD projects are outlined in the Action Plan and can be found on GOSR's Website. A primary outreach strategy used to implement RBD projects was the formation of a Citizens Advisory Committee (CAC) for each RBD project. The Living with the Bay CAC was formed in April 2016 with a kick-off meeting held on May 24, 2016. This group represents both local and regional stakeholders with environmental, educational, government, business and civic backgrounds.

2.0 Summary of Rebuild by Design Projects

2.1 RBD: Living with the Bay (LWTB)

Based in Nassau County, Long Island, the LWTB project aims to increase the resiliency of communities along the Mill River project area and around the South Shore Back Bay.

The project proposes to mitigate damage from tidal storm surge by strategically deploying protective measures such as the installation of check valves on outfalls below the high tide mark and retrofitting wastewater infrastructure to prevent the release of untreated effluent; manage stormwater in order to mitigate the damages from common rain events; as well as improve the water quality in the Mill River and the bay. As part of LWTB, green and grey infrastructure improvements will be made along the Mill River project area, thereby benefitting the Nassau County communities in the project area. The project aims to decrease the effects of tidal inundation, increase coastal protection, address stormwater runoff into Mill River and create publicly accessible greenways that connect the South Shore's communities. The core principles from the winning RBD proposal that this project will address are as follows:

- Flood defense
- Ecological restoration
- Access and urban quality
- Social resiliency.

LWTB has developed a series of projects to address a variety of flooding sources throughout the project area in a comprehensive, practical and feasible manner. The project is organized into seven focus areas, each tied to one of the four LWTB objectives. Working collaboratively with community members, municipal leaders, and not-for-profits, GOSR developed the following LWTB objectives:

1. Preserve quality of life in the community during natural disasters, emergency events, and tidal inundation.
2. Increase community resilience and improve drainage infrastructure to address the impacts of rising sea level and increased frequency and intensity of extreme weather events.
3. Incorporate environmental and water quality improvements within the projects.
4. Create and improve public access to the waterfront – lakes, river and bay.

For additional information about the RBD LWTB project, see the NYS Action Plan: <https://stormrecovery.ny.gov/funding/action-plans-amendments>.

3.0 HUD CDBG-DR Requirements

3.0.1 Tie to the Storm

As part of the RBD competition, design firms developed projects that were located in counties which received a disaster declaration following Superstorm Sandy. Design firms also researched and analyzed projects to demonstrate a tie to the storm. In the October 16, 2014 Federal Register Notice (FR-5696-N-11), HUD informed grantees that RBD projects had met this requirement during the design competition.

3.0.2 Meeting a National Objective

The Living With The Bay Rebuild by Design project meets the Urgent Need National Objective. The October 16th, 2014 Federal Register Notice (FR–5696–N–11) establishes that “through the research and analysis conducted as part of the competition, RBD Projects have demonstrated an acceptable connection to recovery from the direct and indirect impacts of Hurricane Sandy.” In addition, the State has documented how the project responds to a disaster related impact in its Action Plan, as required by the Urgent Need National Objective waiver in the March 5th, 2013 Federal Register Notice (FR–5696–N–01) and subsequent Federal Register Notices.

3.0.3 Meeting an Eligibility Activity

In the October 16th, 2014 FRN, HUD waived 42 U.S.C. 5305 (a) to the extent necessary to create a new CDBG eligible activity, “Rebuild by Design,” that includes RBD pre-development, construction, and implementation case study and lessons learned document costs. RBD projects, including LWTB, are eligible under this eligible activity, subject to HUD’s determination that the project remains as consistent with the RBD proposal as practicable and appropriate, as reflected by Action Plan Amendment approvals. However, RBD funds expended on planning and general administration must be considered as those respective eligible activities for purposes of calculating compliance with the respective caps.

3.0.4 Geographic Eligibility

As stated in the October 16th, 2014 FRN, all RBD proposals selected for implementation are located in counties previously identified by HUD as Sandy Most Impacted and Distressed counties.

3.1 RBD and Infrastructure Regulatory Requirements

The State, as the grantee, is required to meet all applicable CDBG-DR requirements, unless otherwise advised in Federal Register Notices. This section outlines the Infrastructure and RBD specific requirements which the State will demonstrate compliance with, as well as the requirements which the project has already met through the RBD competition process.

3.1.1 Infrastructure Requirements met through the RBD Competition

Under the October 16, 2014 Federal Register Notice (FR-5696-N-11), and as a result of the RBD competition, RBD projects are considered as having met:

- i. The definition of infrastructure projects and related infrastructure projects under Section VI.b.1 of the November 18, 2013 Notice;
- ii. The requirement for impact and unmet needs assessments and the comprehensive risk analysis under Section VI.c and VI.d of the November 18, 2013 Notice;
- iii. The process required for the selection and design of green infrastructure projects or activities under Section VI.f of the November 18, 2013 Notice; and
- iv. The additional requirements for major infrastructure projects (“Covered Projects”) under Section VI.g of the November 18, 2013, Notice.¹

¹ However, the Initial RBD Action Plan Amendment as described in Section VI.6.a of FR-5696-N-11 must still include a description of how the grantee plans to monitor and evaluate the efficacy and sustainability of RBD Projects, and meet the resilience performance standards requirement as outlined at Section VI.2.e of the November 18, 2013 Notice.

3.1.2 RBD Specific Requirements

Under the October 16, 2014 Federal Register Notice (FR-5696-N-11), grantees implementing RBD projects must:

- Describe the major or primary RBD project elements being developed for future implementation according to the total amount of funding (HUD and non-HUD funds) that can be reasonably anticipated as part of the RBD Action Plan Amendment process
- Develop an implementation strategy, including identification of potential funding sources and financing mechanisms, to continue the subsequent phase or phases of the selected RBD proposal
- Develop an implementation case study and lessons learned document, recording the implementation process for each RBD project, to be submitted to HUD prior to grant close-out.

With regard to the first bullet above, primary RBD project elements are included in the State's Action Plan, and will be amended if needed through an Action Plan amendment. GOSR is committed to vetting, refining and, as needed, reframing the project concepts developed through the RBD competition. GOSR is committed to continuing to engage with HUD, provide periodic status updates to HUD's Office of Community Planning and Development, and present status reports to other federal agencies through the Sandy Regional Infrastructure Resilience Coordination Group (SRIRC), which is a group comprised of federal, State, and local officials. GOSR will ensure that projects are implemented consistent with the objectives of the RBD competition and will utilize the experience that the State possesses in considering the technical, fiscal, environmental, legal, and other constraints or opportunities that exist for these projects. When major design and construction milestones are approaching and completed, GOSR will engage and meet with HUD and other Federal partners as necessary, to discuss the projects and provide documentation to show that the projects meet the objectives and goals of the competition. GOSR will ensure that each RBD project achieves independent utility consistent, to the greatest extent practicable and appropriate, with the proposal selected through the RBD competition.

For this RBD project, and addressing the second bullet, GOSR developed an implementation strategy, including identification of potential funding sources and financing mechanisms, to facilitate the completion of subsequent phases of the RBD project. GOSR's planning activities ensured continuity and connection between the completed RBD project and other resilience plans and strategies.

GOSR is also cognizant of the importance of maintenance and operations arrangements to the ongoing efficacy of the RBD project. As such, prior to construction, agreements, such as Right of Entry (ROE) agreements that include operation and maintenance responsibilities, or maintenance and operation plans and budgets will be in place. GOSR will also ensure and document that, as subrecipients implement projects on publicly-owned land, identified entities will accept and agree to perform long-term operation and maintenance (O&M) of the asset.

For the LWTB RBD project, the long-term operation and maintenance will be adequately funded from each governmental subrecipient's reasonably anticipated annual operating budget. GOSR will ensure the availability of funds through specific provisions within agreements with

subrecipients. Through final design, GOSR will develop robust O&M plans, along with budgets, by working collaboratively with appropriate State, city, county and federal agencies, as well as non-profit organizations. The O&M plans will describe the procedures and responsibilities for routine maintenance, communication, and timing of activation in the event of an impending storm. GOSR will serve as a monitoring entity with regard to enforcement of project O&M.

GOSR will develop an implementation case study and lessons learned document, to record the implementation process for the RBD project and will submit these to HUD prior to grant close-out. GOSR will develop the lessons learned and case study document based on the guidance provided by HUD relating to the necessary format, scope and methodology.

3.1.3 Infrastructure Requirements

Per the Federal Register Notice of November 18, 2013 (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.

As a result of the RBD competition process, HUD defined RBD projects as being infrastructure projects. This requires grantees in receipt of RBD funds to include in their Action Plan a description of:

1. How the grantee plans to monitor and evaluate the efficacy and sustainability of major infrastructure projects, including how it will reflect changing environmental conditions with risk management tools, and/or alter funding sources if necessary, and
2. How the grantee will meet the resilience performance standards requirement outlined in Section VI.2.e of the November 18, 2013 Federal Register Notice for the RBD Project(s).

The RBD project has met these requirements. Information relating to the requirements can be found in the New York State Action Plan, available online at: <https://stormrecovery.ny.gov/>.

3.1.4 Resilience Performance Standards

The State has committed to implementing the resilience performance standards for RBD projects as outlined in the State's Action Plan. The Action Plan includes a description of how GOSR will meet the resilience performance standards requirement. Consistent with Section VI.2.e of the November 18, 2013 Federal Register Notice (FR-5696-N-06), GOSR implements resilience performance standards for the LWTB project.

3.1.5 Monitoring and Evaluating Efficacy and Sustainability

The Action Plan includes a description of how GOSR will monitor and evaluate the efficacy and sustainability of RBD Projects. As part of the design process, GOSR will develop a Monitoring Plan to establish the baseline of flooding and surface water quality near select LWTB project components and in the project area. The plan will specify the parameters to monitor. After completion of construction for LWTB, the monitoring will be repeated to allow a comparison of the project's effectiveness before and after construction.

3.2 Multi-Phase Requirements for Subrecipients

3.2.1 Timely Expenditure of Funds

CDBG-DR funds must be obligated no later than September 30, 2017, and expended within two years of the date funds are obligated, unless an extension is granted by HUD. GOSR obligated all PL 113-2 funds in January 2017. HUD approved an expenditure extension for RBD funds to September 30, 2022.

3.2.2 Duplication of Benefits

GOSR provides written policies and procedures, along with required forms and required training, to all of its own staff, sub-grantees, sub-recipients, contractors, etc. As required by the Stafford Act, the State established a uniform procedure for verifying all sources of disaster assistance for the same purpose as CDBG-DR funding. To the greatest extent possible, GOSR determines a subrecipient's unmet need(s) before awarding assistance, and ensuring beneficiaries agree to repay the assistance if they later receive other disaster assistance for the same purpose. After the initial Duplication of Benefits review, GOSR conducts a subsequent review to detect additional benefits before release of final payment. These reviews identify situations where new information or changes to previously obtained assistance amounts require a recalculation of benefits.

In instances where full information is not available prior to making a final award, GOSR established a Uniform Recapture Policy to account for newly available data. The primary responsibility for compliance with the Stafford Act rests with GOSR staff. To ensure compliance, GOSR verifies information using available and accessible third-party data feeds from federal agencies. Data sharing agreements have been developed between GOSR and the Federal Emergency Management Agency (FEMA), to ensure that it has all the needed data to perform the analyses and calculations of allowable disaster recovery awards. Data matching protocols and software tools are utilized to automate the initial review by cross-comparing reported information with FEMA databases. These data tools are used to verify self-reported information provided by subrecipients and project participants before issuing payments. To ensure accuracy of automated procedures, GOSR staff are trained on data matching protocols and interface with contractors and partner agencies.

3.2.3 Order of Assistance

Following the hierarchy of funding enumerated in the Stafford Act, CDBG-DR funds will never displace other available funds (see Duplication of Benefits, [Section 3.3.2](#)). FEMA regulations at 44 CFR 206.191 make clear the order of funding assistance, and, as noted in the November 16, 2011 Federal Register Notice (76 FR 71060), "Since recovery provides long-term recovery assistance via supplemental congressional appropriations, and falls lower in the hierarchy of delivery than FEMA or SBA assistance, it is intended to supplement rather than supplant these sources of assistance."²

Starting in October 2018, the RBD Program checks infrastructure projects for compliance with order of assistance requirements. The FEMA Emergency Management Mission Integrated

² Federal Register Notice Vol. 76, No. 221 (November 16, 2011), <http://www.gpo.gov/fdsys/pkg/FR-2011-11-16/pdf/2011-29634.pdf>.

Environment (EMMIE) databases are reviewed to identify whether a project with the same or overlapping scope with a RBD focus area project received FEMA PA or HMGP funding and FEMA deobligation of the funding was requested so that CDBG-DR funding could be used. Additionally, as new EMMIE data is released, Program staff review the entire database for deobligated projects, to ensure none of these projects are the same or have overlapping scope with a RBD project.

RBD Program Staff also monitors for compliance with order of assistance requirements by reviewing other sources of grant funds such as U.S. Army Corps of Engineers funds .

3.2.4 Program Income

The State follows the program income requirements of 24 CFR 570.489 (e) as modified by the alternative requirements set out in the March 5, 2013 and April 19, 2013 FRNs with regards to program income. The March 5, 2013 FRN indicates that the Federal awarding agency regulations or the terms and conditions of the federal award may provide for the disposition of program income. GOSR's subrecipient agreements require that all program income must be reported and returned to the State by default but may be modified for subrecipient program income retention consistent with 24 CFR 570.489(e) as amended by the FRNs.

RBD Program staff are responsible for monitoring, identifying and tracking all projects that may generate program income. The subrecipient is also responsible for reporting on whether the activities funded by GOSR will generate revenue or support other revenue generating activities as part of the completion of the Subrecipient Quarterly Progress Report (QPR). For program participants that do not submit a QPR, it is the responsibility of RBD Program staff to identify potential program income.

Subrecipients or program participants who self-identify or are identified by RBD Program staff as potentially generating program income must fill out a Program Income Pro Forma annually, until the closeout of the SRA, unless GOSR determines otherwise.

If, after reviewing the Program Income Pro Forma, the generation of program income is possible, the subrecipient agreement or project management agreement and any program documents, such as the application, must be amended to reflect the generation of program income and how it will be returned to the State or retained by the subrecipient for eligible disaster recovery activities.

At subrecipient closeout, if program income has been or is expected to be generated, all program income is required to be returned to the State, and subrecipients and program participants are no longer able to retain program income. Subrecipients or program participants are required to complete a final long term pro forma to disclose any anticipated future generation of program income. If former subrecipients or program participants generate program income at any time after subrecipient closeout, it must be repaid to the State.

3.2.5 Force Account Labor

Force account labor (FAL) occurs when subrecipients use their own workforce to complete construction of a RBD project. This is not the preferred method of construction for RBD projects, however, it is allowed and is expected to occur as some RBD project work will be undertaken by

State, county or local governments. Force account labor requires advance review and approval by GOSR. Subrecipients that proceed without prior approval risk disallowance of all incurred costs. Subrecipients must justify the use of force account labor by demonstrating that this labor is cost effective and that qualified personnel are available to accomplish the work.

Subrecipients may undertake FAL provided the Program approves prior to subrecipients undertaking the initiative. Should subrecipients decide to utilize FAL, subrecipients must have:

- A skilled workforce;
- Proper supervision;
- Management control system; and
- Capacity to serve as their own general contractor.

Subrecipients must also determine that:

- They can meet the basic requirements.
- The nature, scope, and type of work items planned could be better accomplished by hiring dedicated labor staff rather than contracting in the open market.
- The benefits of using force account labor outweigh the costs. To determine this, subrecipients must do a cost-benefit analysis.

For subrecipients that want to utilize FAL, the Program provides subrecipients with a FAL proposal form, sample request for FAL letter from the subrecipient to Executive Director/General Counsel, sample FAL timesheet, and sample FAL equipment record. GOSR must authorize the use of FAL.

3.2.6 Acquisition of Real Property

If upon notification of permission from GOSR, the subrecipient proceeds with efforts to acquire any real property, including easements, right-of-ways and temporary construction easements, required for the project, URA requirements will be followed as applicable (see [Exhibit 1](#)).

A purchase option agreement on a proposed site or property prior to the completion of the environmental review is allowed if the option agreement is subject to a determination by the subrecipient 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.

Program policies, NOFAs, subrecipient 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.

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 and the sale proceeds will be treated as Program Income.

3.2.7 Insurance

Subrecipients are required to maintain appropriate insurance as required by the executed Subrecipient Agreement.

4.0 Rebuild by Design Policies

GOSR is the grantee agency responsible for implementation of the Living with the Bay (LWTB) RBD project. Portions of LWTB will be directly implemented by GOSR (“GOSR-led”). GOSR will procure and manage contractors/vendors to complete design and/or construction work. Portions of LWTB will be implemented by subrecipients (“subrecipient-led”). GOSR will enter into an agreement with a subrecipient, who will be responsible for managing a project or a component of a project, which may include procuring and managing a contractor/vendor to complete professional services, design or construction. The project structure of each RBD project will follow the implementation process outlined in this manual. This section of the Manual will serve as an overview of the RBD project implementation policies.

4.1 Pre-Construction and Design Development Policies

4.1.1 Coordination with Federal and State Partners

The nature of the RBD projects necessitates that the State engage with federal and State agencies. Federal partners include HUD, the Army Corps of Engineers (USACE), the US Environmental Protection Agency, National Oceanic and Atmospheric Administration (NOAA), US National Park Service (NPS), Department of Interior (DOI) and other Federal agencies. GOSR’s goal is to facilitate federal coordination and consultation through the SRIRC and to maintain frequent consultation and coordination with HUD.

4.1.2 Sandy Regional Infrastructure Resilience Coordination Group

The objective of the SRIRC is to support regional resilience through federal infrastructure investments, consistent with grant requirements contained in Public Law 113-2, and the Infrastructure Resilience Guidelines (pages 50-52) of the Sandy Rebuilding Strategy by:

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.

For both RBD projects, GOSR utilizes the SRIRC process and presents project plans, when applicable, to this group to take advantage of the ability to discuss technical components of both projects, to see if additional resilience values can be obtained from the federal partners, and to discuss funding options and challenges.

Federal grantees are also able to request that projects are considered/discussed by the Sandy Regional Team for Federal Review and Permitting (FRP) at any time to help coordinate and expedite the collective review and permitting processes necessary. GOSR's policy for the RBD projects is to utilize the FRP process for Federal environmental permitting process.

4.1.3 Coordination with State Partners

GOSR engages with State agencies and authorities in addition to federal parties. Within the State, there are several agencies and authorities that will play specific roles in the RBD projects. These agencies include, New York State Department of Environmental Conservation (DEC), Department of State (DOS), and Department of Homeland Security and Emergency Services (DHSES), Department of Transportation (DOT), and the NYC Metropolitan Transit Authority (MTA). The RBD project will require that GOSR coordinate with these agencies on regulatory and permitting components of the projects. To the extent feasible, GOSR has developed a coordinated and complete consultation process that involves the relevant government agencies as part of the environmental permitting processes.

4.2 Post Award Analysis and Design Changes

GOSR worked with the design team as well as the environmental teams to review the feasibility of the awarded design. In following the goals of the RBD competition, the team assessed the scope of each project and recommend appropriate changes. Through this process, GOSR worked to refine the project designs and submit to the SRIRC and/or FRP for review. In addition, the NYS Action Plan reflects the final RBD projects, as approved by HUD.

4.3 Certification of Final Designs

For all LWTB construction projects, a registered professional engineer, or other design professionals, certifies that the final design meets the appropriate codes prior to the obligation of funds by the grantee for construction.

4.4 Implementation Partnerships

For the RBD project, GOSR serves as the lead agency and consults closely with interested governmental and non-governmental stakeholders. The State understands that the partnership and coordination of partners throughout the life of the RBD project is crucial for its success. GOSR will document in its Action Plan the implementation partners that were identified and what actions were taken to include them in the project.

4.5 Leveraging of Funds for RBD Projects

The State is committed to the successful implementation of the RBD project using the allocations provided and understands the need to identify and secure additional funding outside of the CDBG-DR allocation as needed. This includes not only identifying funds to address the unmet needs identified in the awarded phases of the project but identifying funding mechanisms to pay for the long-term operation and maintenance costs of these projects. Through final design, GOSR will develop robust operation and maintenance (O&M) plans, along with budgets, by working collaboratively with appropriate State, county, city and federal agencies, as well as non-profit organizations. The O&M plans will describe the procedures and responsibilities for routine maintenance, communication, and timing of activation in the event of an impending storm. The

State will look at funding opportunities such as federal, State or private grants, and collaboration with not-for-profit and academic institutions focused on similar resiliency actions, as well as financing opportunities, which can be leveraged alongside CDBG-DR for investment.

4.6 Subrecipient Selection and Capacity Policies

Potential Living with the Bay Sub-Recipients were identified by examining existing need and potential partners within the LWTB Project Area, engagement with other State Agencies, local municipalities, and its Community Advisory and Technical Advisory Committees. These efforts were developed further through the completion of a Resiliency Strategy that identifies potential projects and their corresponding potential sub-recipients in the Project Area. Through the development of design and permitting GOSR further refined the LWTB projects and subrecipients by selecting the projects with the strongest connection to the RBD Grant and that will have the greatest impact on the local community, and selecting subrecipients on the basis of considerations including long term ownership of improved assets, capacity, and interest.

For LWTB's social resiliency focus areas, GOSR issued a Notice of Funding Availability (NOFA) to solicit program proposals and costs, and selected the subrecipients following the NOFA process.

GOSR will examine the subrecipients' organization, financial audits, and relevant experience managing similar grants to evaluate the subrecipients' capacity to complete their projects in compliance with the RBD Grant and provide technical support as needed to support the subrecipient.

4.7 Contractual Agreements

Once GOSR has selected a subrecipient, vendor, or partner (non-monetary partnership) for implementation of a component of the RBD project, GOSR will work with the subrecipient/vendor/partner to execute a subrecipient agreement (SRA), vendor contract, or a memorandum of understanding (MOU).

All of these agreements serve as the mechanism for transfer of funds to the subrecipient or vendor, and require compliance with all federal, State, and local laws, as applicable. These agreements may be amended, as required by specific circumstances.

GOSR will enter into additional agreements with subrecipients or other interested entities as needed to facilitate the completion of design and construction. The form of these agreements may include, but are not limited to project management agreements and right of entry agreements.

4.8 Environmental Review Policies

CDBG-DR funding is contingent upon compliance with both State and federal environmental regulations. This includes compliance with the National Environmental Policy Act (NEPA) and related environmental and historic preservation legislation and executive orders. In addition, the Housing Trust Fund Corporation, as well as State agencies and units of local government (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. In general, GOSR serves as the lead agency for purposes of NEPA and SEQRA.

Environmental review for GOSR projects is overseen by GOSR's Bureau of Environmental Review and Assessment (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 Part 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, BERA will be responsible for performing environmental reviews and compiling the Environmental Review Records (ERRs). 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 Public Law 113-2, when GOSR uses CDBG-DR funds to supplement federal assistance provided under Section 402, 403, 404, 406, 407, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance 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.

4.8.1 Documenting Project Changes

Changes to project scope are documented through the maintenance of meeting minutes and design review comment sheets, and then incorporated into project plans and designs. Substantial changes to the scope of projects are further reflected in amendments to Subrecipient Agreements; MOU's; Vendor Task Orders, work orders, and change orders; and amendments to its Action Plan as appropriate.

4.9 Action Plan Amendment Process

GOSR is required to issue a subsequent substantial Action Plan Amendment (APA) for the RBD project to reflect the final RBD project. GOSR issued substantial amendment 16, with additional information provided in non-substantial amendment 19 to the NYS Action Plan which was the required subsequent Action Plan amendment after Action Plan Amendment 8 where the RBD projects were initially described. Action Plan Amendment 16, as approved by HUD, provided additional detail and described the final RBD project. If needed, GOSR will release additional Action Plan Amendments to describe any additional changes to the RBD Project. HUD approved substantial APA 26, which included the addition of one focus area and removal of another, as well as updates to focus areas scopes, the BCA and other required project information. All approved Action Plan Amendments are reflected in the State's consolidated Action Plan, which includes the RBD projects as approved by HUD.

4.10 Flood Insurance Requirements

The requirements of 42 U.S.C. 5154a prohibit Federal disaster relief assistance made available in a flood disaster area from being used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

If the subrecipient receives CDBG-DR funding for acquisition and/or construction purposes for property that is insurable under the National Flood Insurance Program (NFIP) and the insurable property is located in a Special Flood Hazard Area (also known as the 100-year floodplain), the subrecipient will be required to obtain and maintain flood insurance in perpetuity for all such property for which funding is provided. However, self-insured state-owned property is exempted from this requirement, consistent with 44 CFR 75.11.

4.11 RBD Project Closeout

Project closeout is the process by which GOSR determines that the RBD project has been completed and meets an eligible activity and national objective. This project includes determining that the requirements of the subrecipient agreements or vendor contracts between GOSR and the subrecipients or vendors involved with the RBD project (or component parts of the larger RBD project) have been completed in accordance with the terms and conditions of the agreement or contract. Project closeout begins when:

1. All RBD project expenses to be paid with CDBG-DR funds (except for closeout costs) have been completed and payment requested
2. The RBD project has been completed and met an eligible activity and national objective
3. Any other responsibilities detailed in the vendor/subrecipient agreement related to RBD have been fulfilled (including implementation case study and lessons learned documentation)
4. All monitoring or audit finding related to RBD projects have been cleared.

5. 5. RBD compliance documents requirements are met

Because of the time frame and unique design of the RBD project, RBD project closeout policies are still being developed and will be updated in further versions of this manual. It is anticipated, however, that the policies and project closeout procedures for RBD will resemble processes used for GOSR's New York Rising Community Reconstruction and Infrastructure programs.

4.12 Feasibility and Effectiveness of RBD Projects

One of the primary goals of the RBD projects is to develop and implement projects which will make communities more physically, economically, and socially resilient in the face of climate change and volatile storm events. The RBD project will develop modeling of the storm surge and flooding mitigation measures. After construction is complete, an analysis will be performed to verify that planned mitigation goals were achieved.

5.0 Definitions

Action Plan: As prescribed by HUD in the Federal Register Notice(s), a state's Action Plan must outline how the State will utilize its allocation of federal funding to help homeowners, renters, businesses and communities impacted by the disaster.

Blue/Green Water Retention Park: Blue/Green infrastructure combines the restoration and preservation of hydrological (blue) and ecological (green) aspects of a region to structure the proposed Water Retention Park. Strategic excavation, grading, and landscaping. This will transform underutilized land into a public riverfront park that will filter stormwater and be inundated during storm events, as well as improve public access to the river.

Cistern: A waterproof receptacle for holding water, built to catch and store rainwater and prevent it from entering the Mill River.

Check Valves: A valve that will allow fluid to only flow in one direction. Check valves will be installed at various locations along the Mill River to prevent tidal water from entering the stormwater system.

Citizens' Advisory Committee (CAC): A CAC is a group of stakeholders assembled by the State to receive project updates and/or provide input in the project's development as the project progresses from design to completion. The CAC will play an advisory role and could also engage the wider community at key moments in the project development and environmental review process.

100-Year Floodplain (also referred to as "Base Flood"): This term, adopted by the NFIP as the basis for mapping, insurance rating, and regulating new construction, is the flood plain that would be inundated in the event of a 100-year flood. The 100-year flood has a one percent chance of being occurring during any given year.

Action Plan: The public document required by the U.S. Department of Housing and Urban Development (HUD) that details the NY Rising Recovery Programs and how the grantee plans to allocate Community Development Block Grant-Disaster Recovery (CDBG-DR) funds.

Additional resiliency recommendation: Additional Resiliency Recommendations are projects and actions that the Planning Committee wanted to highlight but were not categorized as proposed or featured projects. It was not anticipated that CDBG-DR funds would be used to implement the recommendations in this category.

Citizen Participation Plan (CPP): 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 Community Development Block Grant-Disaster Recovery (CDBG-DR) 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. For more information, see the Introduction.

City Environmental Quality Review (CEQR): As mandated by the State Environmental Quality Review Act (SEQRA), CEQR is the process by which New York City agencies determine what effect, if any, a discretionary action they approve may have upon the environment.

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

Covered 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

Community Development Block Grant-Disaster Recovery (CDBG-DR): Flexible grants provided by the U.S. Department of Housing and Urban Development (HUD) to help cities, counties, and States recover from Presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations. In response to Presidentially declared disasters, Congress may appropriate additional funding for the CDBG program as Disaster Recovery grants to rebuild the affected areas and provide crucial seed money to start the recovery process. Since CDBG-DR assistance may fund a broad range of recovery activities, HUD can help communities and neighborhoods that otherwise might not recover due to limited resources.

Competitive selection: Under the competitive selection method, Project Lead issues a notice of funding availability (NOFA) or a request for qualifications or proposals (RFQ/P) to solicit proposals from eligible non-profit or public organizations to implement the projects or programs in certain communities. The NOFA/RFQ/P includes the scoring criteria and the selection methodology used to select eligible subrecipients.

Contractor: A governmental agency, private non-profit, private for-profit, or Community Based Development Organization (CDBO) that must be selected through a competitive procurement process. The main difference between a subrecipient and a contractor is that a subrecipient can be selected or designated by the grantee through a non-competitive process. [See definitions of subrecipient and procurement below.]

Cost Benefit Analysis (CBA): Cost Benefit Analysis is the process of developing a cost estimate for the project while also writing a qualitative analysis profiling potential benefits and costs of the project. In instances that a benefit associated with a project was quantifiable, and the degree of the benefit could be determined with reasonable effort, the quantity of the benefit was included in the discussion.

Davis Bacon Wage Requirements: The Davis Bacon and Related Acts (DBRA) requires 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.

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

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

Direct Selection: Under the direct selection method, Project Lead identifies an appropriate subrecipient by considering opportunities to build capacity at the most local levels of government, jurisdiction over any assets that are essential to the project, existing project and financial management capacity, and any other considerations specific to the project being implemented. GOSR's ability to directly select a qualified subrecipient is allowed under HUD Section 24 CFR 570.500(c).

Duplication of Benefit (DOB): Duplication of Benefits (DOB) occurs when financial assistance received from one source is provided for the same purpose as CDBG-DR funds provided, in accordance with HUD DOB guidance, found at 76 FR 71060, November 16, 2011.

Ecosystem Restoration: Ecological restoration is the process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed.

Environmental Assessment (EA): A concise public document that a Federal agency prepares under the National Environmental Policy Act (NEPA) to provide sufficient evidence and analysis to determine whether a proposed agency action would require preparation of an environmental impact statement (EIS) or a finding of no significant impact. A Federal agency may also prepare an EA to aid its compliance with NEPA when no EIS is necessary or to facilitate preparation of an

EIS when one is necessary. An EA must include brief discussions of the need for the proposal, alternatives, environmental impacts of the proposed action and alternatives, and a list of agencies and persons consulted. [See environmental impact statement and National Environmental Policy Act.]

Environmental Impact Statement (EIS): The detailed written statement that is required by Section 102(2)(C) of the National Environmental Policy Act (NEPA) for a proposed major Federal action significantly affecting the quality of the human environment. The statement includes, among other information, discussions of the environmental impacts of the proposed action and all reasonable alternatives, adverse environmental effects that cannot be avoided should the proposal be implemented, the relationship between short-term uses of the human environment and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources.

Exposure: Exposure refers to the local landscape characteristics that tend to increase or decrease storm effects. It is one of the three factors identified in the risk assessment tool developed by the New York State Department of State for the RBD Projects.

Fair Housing Act: Title VIII of the Civil Rights Act, 42 U.S.C. 3601. The Fair Housing Act is a broad statute that prohibits discrimination based upon race, color, religion, sex, national origin, disability, or familial status in most housing and housing-related transactions.

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.

Floodplain (also known as the "Base Flood"): The low, flat, periodically flooded lands adjacent to rivers, lakes and oceans and subject to geomorphic (land-shaping) and hydrologic (water flow) process. The 100-year floodplain is the land that is predicted to flood during a 100-year storm, which has a 1 percent chance of occurring in any given year. Areas within the 100-year floodplain may flood in much smaller storms as well. The 100-year floodplain is used by FEMA to administer the federal flood insurance program.

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.

Force account labor: Force account labor occurs when subrecipients use their own workforce to complete construction of a GOSR-funded project. Force account labor requires advance review and approval by GOSR and subrecipients who proceed without prior approval risk disallowance of all incurred costs. Subrecipients must justify the use of force account labor by demonstrating that this labor is cost effective and that qualified personnel are available to accomplish the work.

Federal Register Notice 79 FR 62182 (Notice): The notice published by HUD on October 16, 2014 (FR-5696-N-11) to detail the third allocation of CDBG-DR funds, including Rebuild by Design.

Floatables: Water-borne litter, including man-made debris, plastics.

Governor's Office of Storm Recovery (GOSR): The division of the Housing Trust Fund Corporation established by Governor Cuomo in June 2013 to maximize the coordination of recovery and rebuilding efforts in storm-affected municipalities throughout New York State.

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

Hazard: Hazard refers to the likelihood and magnitude of anticipated hazard events. It is one of the three factors identified in the risk assessment tool developed by the New York State Department of State for GOSR.

Homes and Community Renewal (HCR): New York State unified leadership platform, encompassing a variety of New York State agencies and public benefit corporations involved in the provision of housing and community renewal.

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

Hurricane Sandy Rebuilding Task Force (Task Force): Created in 2012 to develop a recovery and resiliency framework for the region that focused on taking lessons learned during previous disasters. Members were comprised from federal, state, and local officials as well as the private and non-profit sector to promote recovery, and ensure region-wide coordination to help communities make decisions about long-term rebuilding.

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

Limited English Proficiency (LEP): A designation for person that are unable to communicate effectively in English because their primary language is not English, and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. An LEP person will benefit from an interpreter who will translate to

Low- and Moderate- Income (LMI): Low- and moderate- income people are those who have incomes not more than the “moderate-income” level (80 percent 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.

Mill River Watershed: Located in Nassau County, the RBD Living with the Bay Project funded work along this river system. The watershed which encompasses several creeks and streams and multiple communities is broadly defined as running from the Town of Hempstead around

Hempstead Lake State Park to the marshland areas located in Hewitt Bay, at the mouth of the Mill River, south Bay Park County Park.

Minority-Owned Business Enterprise (MBE): As defined by Article 15-A of the Executive Law, a minority-owned business enterprise is a business enterprise that is:

- At least 51 percent owned by one or more United States citizens or permanent resident aliens who are minority group members;
- An enterprise in which such minority ownership is real, substantial and continuing;
- An enterprise in which such minority ownership has and exercises the authority to control and operate, independently, the day-to-day business decisions of the business enterprise;
- An enterprise authorized to do business in this State and is independently owned and operated; and,
- An enterprise owned, either directly or through a holding company, by an individual or individuals, whose ownership, control and operation are relied upon for certification, with an individual personal net worth at the time of application that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year starting in 2011.

Minority/Women-Owned Business Enterprise (M/WBE): As defined by Article 15-A of the Executive Law, Women and Minority-Owned Business Enterprises (M/WBE) are business where at least 51 percent of the business is owned by either women or minorities. For more information see the definition of Minority-Owned Business Enterprise (MBE) and Women-Owned Business Enterprise (WBE).

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

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

New York City Parks (NYC Parks): NYC Parks is the steward of approximately 29,000 acres of land, including more than 5,000 individual properties including area in Staten Island.

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.

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 (Public Law 95-452).

National Objective: A HUD criteria governing the eligible uses of CDBG-DR funds.

Non-DASNY Project Management Agreement (Non-DASNY PMA): An agreement between a subrecipient (other than DASNY) and a program participant that grants the subrecipient right of entry to implement the proposed project and obligates the program participant to follow applicable state and federal rules and regulations, and GOSR program requirements. This agreement is specific to each project and is always between the subrecipient and the program participant.

NYRCR Plan: The NYRCR Plan is a document submitted to the Governor’s Office for Storm Recovery at the end of the NYRCR Planning Process. The document contains multiple projects eligible for consideration in the implementation phase of the NYRCR process. In implementation, the State chooses projects from the Planning Committee’s NYRCR Plan and awards funding for the development of projects on a staggered basis.

Planning Committee: An NYRCR Planning Committee is a group of community members—local residents, business owners, and civic leaders—who engage with their broader public to encourage participation in the recovery planning process, solicit feedback and ideas for innovative projects, and build support for implementation of NYRCR Plans.

Person with Disabilities: 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;
 - i. 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
 - ii. 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.
 - b. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - i. Is expected to be of long-continued and indefinite duration,
 - ii. Substantially impedes his or her ability to live independently, and
 - iii. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
 - c. 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)).

Program Participant: An eligible jurisdiction or entity that will ultimately own and maintain the finished project the applicant applied for, but relies on DASNY or another subrecipient to implement the project. A subrecipient may be a program participant but in some cases, is not.

Proposed Project: Proposed Projects are projects proposed for funding through an NYRCR Planning Committee’s allotment of CDBG-DR funding. In most instances, NYRCR Planning Committees elect to include Proposed Projects that, in their aggregate estimated cost, exceed the Community’s approved allotment. This allows for flexibility in the event that some Proposed Projects are ineligible because of environmental review, CDBG-DR eligibility, technical feasibility, or other factors identified upon further project review.

Public Engagement Event: Large-scale event—such as an open house, workshop, or public information session—held at four key milestones in the planning process to solicit input from the general public.

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

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

Quarterly Performance Report (QPR): Each grantee must submit a QPR through the DRGR system no later than 30 days following the end of each calendar quarter. Within 3 days of submission to HUD, each QPR must be posted on the grantee’s official web site.

Rebuild By Design (RBD): A 2013 HUD competition designed to better understand how to redevelop communities in environmentally and economically healthier ways to address changing environmental factors in light of damages from Superstorm Sandy.

Rebuild By Design Eligible Activity: HUD created an eligible activity referred to as ‘Rebuild by Design,’ to include all pre-development and construction activities carried out in accordance with identified RBD Projects referenced in the Federal Register Notice.

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.

Procurement Process: The process by which contractors are selected to work for a particular organization or agency.

Program Income: Program Income is the gross income received by a state, a unit of general local government, or a subrecipient of a unit of general local government that was generated from the use of CDBG funds. The State of New York will follow the requirements of 24 CFR 570.489 regarding Program Income.

Program Participant: An eligible jurisdiction or entity that will ultimately own and maintain the finished project the applicant applied for but relies on DASNY or another subrecipient to implement the project. A subrecipient may be a program participant but in some cases, is not.

Request for Proposals (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” 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 has been achieved, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the Environmental Review Record (ERR) is complete.

Request for Release of Funds (RROF): The issuance of the “Authority to Use Funds” form or equivalent letter by HUD or the state for activities which require the participating jurisdiction, insular area or state recipient to submit a Request for Release of Funds and Certification form to HUD or the state. This action completes the environmental clearance process.

Sluice Gate: Sluice gates are an artificial channel for conducting water, and comprise of a device with a valve or a gate, that would control water levels and flow rates. This component of the project mitigates tidal storm surge from certain storm events, and also creates stormwater storage capacity upstream.

Sandy Regional Infrastructure Resilience Coordination (SRIRC): Based on Recommendation 6 of the Hurricane Sandy Rebuilding Strategy (“Rebuilding Strategy”) and work initiated by the Hurricane Sandy Rebuilding Task Force, HUD and FEMA worked together to establish the Sandy Regional Infrastructure Resilience Coordination Group (“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 in order to identify and seize opportunities to enhance resilience, consistent with grant requirements through the Disaster Relief Appropriations Act of 2013 (“Sandy Supplemental”), and the Infrastructure Resilience Guidelines.

Section 3: Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

State: As referenced in this Policy Manual, means “New York State”.

State Environmental Quality Review Act (SEQR):

Slum and Blight: The elimination of slums and blight is a US Department of Housing and Urban Development (HUD) National Objective for the use of Disaster Recovery funds. The focus of activities under this national objective is a change in the physical environment of a deteriorating area.

State Environmental Quality Review Act (SEQRA): SEQR establishes a process to systematically consider environmental factors early in the planning stages of actions that are directly undertaken, funded or approved by local, regional and state agencies. By incorporating environmental review early in the planning stages, projects can be modified as needed to avoid adverse impacts on the environment.

Stormwater Management: The process of controlling the runoff from precipitation that primarily flows off impervious surfaces like parking lots, driveways, sidewalks, and rooftops. Unchecked stormwater flows from these hard surfaces to streets and gutters, which carry the untreated runoff to nearby receiving waters. Because stormwater runoff does not go to a treatment plant before discharging into the area's receiving waters, it transports pollutants that collect on the above-mentioned hard surfaces, like motor oil, litter, trash, debris, and sediment; it also picks up other materials that come from vegetated areas like lawn fertilizers, pesticides, grass clippings, and leaves; all of these items can negatively impact the water quality of the area's receiving waters.

Subrecipient: Subrecipients (sometimes referred to as “subgrantees”) are entities that are provided CDBG funds by a grantee for their use in carrying out agreed-upon, eligible activities. There are four basic kinds of subrecipients: government agencies, private non-profits, private for-profits, and Community Based Development Organizations (CBDOs).

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

Tie to the Storm: All projects receiving HUD CDBG-DR funds must respond to a disaster-related impact (e.g. a covered storm such as Hurricane Irene, Tropical Storm Lee, Superstorm Sandy etc.). Per the October 16, 2014 Federal Register Notice (FR-5696-N-11), “through the research and analysis conducted as part of the competition, RBD Projects have demonstrated an acceptable connection to recovery from the direct and indirect impacts of Hurricane Sandy.”

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

Vulnerability: Vulnerability refers to the capacity of an asset to return to service after an event. It is one of the three factors identified in the risk assessment tool developed by the New York State Department of State for GOSR.

Women-Owned Business Enterprise (WBE): As defined by Article 15-A of the Executive Law, a WBE is a business enterprise that is:

- At least 51 percent owned by one or more United States citizens or permanent resident aliens who are women;
- An enterprise in which the ownership interest of such women is real, substantial and continuing;
- An enterprise in which such women ownership has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise;
- An enterprise authorized to do business in this State, and which is independently owned and operated; and,
- An enterprise owned, either directly or through a holding company, by an individual or individuals, whose ownership, control and operation are relied upon for certification, with an individual personal net worth at the time of application that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year starting in 2011.

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

The Living With the Bay Program and its beneficiaries, project participants, subrecipients and contractors must adhere to federal and state requirements as applicable and provide confirmation of compliance upon request. It is incumbent upon grant recipients to determine which requirements apply to them. A general reference to all requirements may be found in the NY Rising Housing Recovery Program Cross-Cutting Manual, which is available upon request and located on the Program website.