



# **STATE OF NEW YORK**

## **ACTION PLAN AMENDMENT NUMBER 3**

### **Irene Lee Allocation:**

## **CONSOLIDATED ACTION PLAN**

## **FOR COMMUNITY DEVELOPMENT BLOCK GRANT-**

## **DISASTER RECOVERY**

*Utilizing Supplemental CDBG Disaster Recovery Funding from the Allocation, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees under the Department of Housing and Urban Development Appropriations Act, 2012*

**Public Law 112-55**  
**FR-5628-N-01: April 16, 2012**

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## Executive Summary

This Action Plan Amendment (Irene Lee APA3) makes modifications to the Irene Lee APA2 which superseded the original Action Plan and consolidated all required information into a single document. Irene Lee APA1 was approved by the U.S. Department of Housing and Urban Development (HUD) on December 6, 2016 and outlined the distribution of \$71,654,116 of Community Development Block Grant – Disaster Recovery (CDBG-DR) funding (Irene Lee allocation) towards meeting the unmet housing, infrastructure, and economic development needs of communities impacted by Hurricane Irene (Federal Emergency Management Agency (FEMA) Disaster No. 4020) and Tropical Storm Lee (FEMA Disaster No. 4031). The use of these funds, as outlined in the Federal Register Notice FR-5628-N-01, dated April 16, 2012, is restricted to the recovery efforts for Hurricane Irene and Tropical Storm Lee. Irene Lee APA2 was approved by the U.S Department of Housing and Urban Development (HUD) on May 9, 2018. APA2 added the Community Reconstruction (CR) Program, to be funded with this allocation, and deleted the Local Government & Critical Infrastructure Program, which was instead funded by PL 113-2.

Irene Lee APA3 supersedes Irene Lee APA2 and consolidates all required information into a single document. The original Action Plan and amendments are available on the State's website at <http://stormrecovery.ny.gov>.

The State of New York (the State) commits to the requirement that a minimum of 80 percent of allocated funds, or \$53,011,323, must be expended in the most-impacted counties. Federal Register Notice FR-5628-N-01 identified Broome, Greene, Orange, Schoharie, and Tioga as the most-impacted counties.

After the initial Action Plan for the Irene Lee allocation was approved, the State suffered another devastating storm. Superstorm Sandy hit the Northeast on October 29, 2012 and caused damage across the State from downstate to upstate communities. Many of the communities impacted by Superstorm Sandy were the same impacted by Hurricane Irene and Tropical Storm Lee in 2011. In the aftermath of Superstorm Sandy, the State received an additional CDBG-DR allocation through Public Law 113-2 (PL 113-2) to help meet the unmet housing, infrastructure, and economic development needs of communities impacted by disasters occurring in 2011-2013, including Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy.

As identified in Irene Lee APA1, for the Irene Lee allocation and in an effort to streamline recovery efforts, GOSR adopted a functionally equivalent set of disaster recovery programs that have been developed and implemented under its more recent PL 113-2 allocation. These programs are outlined in the HUD approved Action Plan and subsequent Amendments (Superstorm Sandy Action Plan and amendments) related to the PL 113-2 funding and can be viewed at <http://stormrecovery.ny.gov/action-plans-and-amendments>.

In June 2013, Governor Andrew M. Cuomo established the Governor's Office of Storm Recovery (GOSR) to maximize the coordination of recovery and rebuilding efforts in storm-affected municipalities throughout New York State. GOSR was formed under the auspices of New York State's Office of Homes and Community Renewal's Housing Trust Fund Corporation (HTFC), a subsidiary public benefit corporation of the New York State Housing Finance Agency, which directs the administration of the CDBG-DR grant. In addition to oversight of the Superstorm Sandy recovery, the Governor designated GOSR with helping communities continued recovery from Irene and Lee. As a result of this, there is a streamlining of operations

of the two CDBG-DR allocations and the use of the allocations to help meet the unmet needs of communities impacted by these disasters.

## **Amendment Changes**

This amendment moves funds from the Infrastructure Program to the Community Reconstruction program. In addition, updates are made to the Performance and Expenditure Schedule to reflect changes in program timelines and to the Public Notices and Comment Period section to reflect a new mailing address. These changes are outlined below.

### **Changes to Irene Lee Action Plan**

Irene Lee APA3 makes the following updates to the Action Plan:

- A. Updates the ‘Proposed Allocation of Funds’ table.**
- B. Updates the Performance and Expenditure Schedule.**
- C. Updates the Public Notices and Comment Period section.**

## **Introduction**

Hurricane Irene and Tropical Storm Lee caused major flooding and storm damage in 38 counties of New York State between August 29, 2011 and September 8, 2011. In the wake of Hurricane Irene and Tropical Storm Lee, along with other disasters that occurred nationwide in 2011, Congress appropriated funding in the Federal Fiscal Year 2011-2012 (FY 11-12) Budget for the CDBG-DR program. Section 239 of Public Law 112-55 was enacted on November 18, 2011, and appropriated \$400 million for:

*...necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (Public Law 93-383) 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.) in 2011: Provided, that funds shall be awarded directly to the State or unit of general local government at the discretion of the Secretary ...*

Counties that received a Presidential Disaster Declaration in 2011 due to the impact of Hurricane Irene and/or Tropical Storm Lee can utilize CDBG-DR funds for disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization. HUD allocated these funds based on its estimate of the total unmet need for infrastructure and the unmet need for severe damage to businesses, infrastructure, and housing that remain to be addressed in the most impacted counties after taking into account data on insurance, FEMA assistance, and Small Business Administration (SBA) disaster loans. Per this evaluation, New York State received \$93,213,963 to assist communities with flood recovery. Of this \$71,654,116 million was allocated to the State, \$11,422,029 was allocated directly to Orange County, and \$10,137,818 was allocated directly to the Town of Union.

### **Overview of Allocations and Program Delivery**

These funds will be used for eligible disaster recovery and resiliency related activities related to the disasters

of 2011. The State has also received an additional allocation of CDBG-DR funds totaling \$4,416,882,000 after Superstorm Sandy to help aid the recovery from damage resulting from storms occurring in 2011-2013. The State is required to publish an Action Plan that describes the proposed use of the HUD CDBG-DR funding. This Action Plan amendment describes how the State is using its Irene Lee allocation.

### Project Area

The Irene Lee allocation can be used to fund activities in the 38 counties, identified in Table 1 below, that received Federal Disaster Declarations as a result of Hurricane Irene (FEMA Declaration 4020) and Tropical Storm Lee (FEMA Declaration 4031). Areas eligible for assistance include non-entitlement communities within those counties and entitlement areas not already receiving direct assistance under this program.

According to HUD’s requirements, a minimum of 80 percent of these funds, \$53,011,323, must be spent on recovery activities in those counties most impacted by the 2011 storms. Federal Register Notice FR-5628-N-01 identified these counties as Broome, Greene, Schoharie, Tioga and Orange counties. Remaining funds may be made available to all 38 eligible counties and the communities within those counties. The use of the Irene Lee allocation is restricted to the recovery efforts from Hurricane Irene and Tropical Storm Lee.

An eligible recipient of CDBG-DR funds is any one of the 38 counties, a Unit of General Local Government (UGLG), such as a city, town or village, or a non-profit.

TABLE 1: FEDERALLY DESIGNATED AREAS ELIGIBLE FOR ASSISTANCE

| County |           | 4020 Hurricane Irene          |                           | 4031 Tropical Storm Lee       |                           |
|--------|-----------|-------------------------------|---------------------------|-------------------------------|---------------------------|
|        |           | Individual Assistance Program | Public Assistance Program | Individual Assistance Program | Public Assistance Program |
| 1.     | Broome    |                               |                           | X                             | X                         |
| 2.     | Greene    | X                             | X                         |                               |                           |
| 3.     | Schoharie | X                             | X                         | X                             | X                         |
| 4.     | Tioga     |                               |                           | X                             | X                         |
| 5.     | Orange    | X                             | X                         | X                             | X                         |
| 6.     | Albany    | X                             | X                         |                               |                           |
| 7.     | Bronx     | X                             | X                         |                               |                           |
| 8.     | Chemung   |                               |                           | X                             | X                         |
| 9.     | Chenango  |                               |                           | X                             | X                         |
| 10.    | Clinton   | X                             | X                         |                               |                           |
| 11.    | Columbia  | X                             | X                         |                               |                           |
| 12.    | Delaware  | X                             | X                         | X                             | X                         |
| 13.    | Dutchess  | X                             | X                         |                               |                           |
| 14.    | Essex     | X                             | X                         |                               |                           |
| 15.    | Franklin  |                               | X                         |                               |                           |
| 16.    | Fulton    |                               |                           | X                             |                           |
| 17.    | Hamilton  |                               | X                         |                               |                           |
| 18.    | Herkimer  | X                             | X                         | X                             | X                         |
| 19.    | Kings     | X                             | X                         |                               |                           |

|     |             |   |   |   |   |
|-----|-------------|---|---|---|---|
| 20. | Montgomery  | X | X |   | X |
| 21. | Nassau      | X | X |   |   |
| 22. | New York    |   | X |   |   |
| 23. | Oneida      |   |   | X | X |
| 24. | Otsego      | X | X | X | X |
| 25. | Putnam      | X | X |   |   |
| 26. | Queens      | X | X |   |   |
| 27. | Rensselaer  | X | X |   |   |
| 28. | Richmond    | X | X |   |   |
| 29. | Rockland    | X | X |   |   |
| 30. | Saratoga    | X | X |   |   |
| 31. | Schenectady | X | X | X | X |
| 32. | Suffolk     | X | X |   |   |
| 33. | Sullivan    | X | X |   |   |
| 34. | Tompkins    |   |   |   | X |
| 35. | Ulster      | X | X | X | X |
| 36. | Warren      | X | X |   |   |
| 37. | Washington  | X | X |   |   |
| 38. | Westchester | X | X |   |   |

## Eligibility Criteria

CDBG-DR funds must be used towards short and long-term recovery activities that have a tie to Hurricane Irene and Tropical Storm Lee.

### Eligible Use of Funds

CDBG-DR funds may be used for eligible CDBG activities that meets the State CDBG program regulations as found at 24 CFR 570.482 or any activity for which HUD has issued a waiver. The assistance may be provided for eligible projects that FEMA and/or other federal agencies have provided assistance to or otherwise approved. Assistance may also be provided for eligible projects that other sources, including FEMA, cannot fund or cannot fund in full, but which are nevertheless critical to recovery, or for activities where the costs significantly exceed the amount of assistance that FEMA or other sources can fund. However, any activity funded by these CDBG-DR funds shall be reviewed for compliance with duplication of benefits guidelines at 42 U.S.C. 5155, which specifically prohibits the use of funds for activities reimbursable by or for which funds have been made available by FEMA, SBA, or other federal or State sources. CDBG-DR funds may be used as the non-federal share of a matching requirement of other sources of federal funding, or a contribution for any other Federal program, provided all activities are in compliance with duplication of benefits guidelines.

### Pre-Agreement Costs

The provisions of 24 CFR 570.489(b) permit a State to reimburse itself for otherwise allowable costs incurred by itself or its sub grantees on or after the incident date of the covered disaster. Any unit UGLG receiving an allocation of this funding is subject to the provisions of 24 CFR 570.200(h) but may reimburse itself or its sub-grantee for otherwise allowable costs incurred on or after the incident date of the covered disaster. This may include pre-agreement costs for Hurricane Irene back to August 31, 2011 and Tropical Storm Lee back to September 13, 2011.

### Ineligible Uses of Funds

Ineligible activities include:

- General government expenses;
- Political activities;
- Operations and maintenance;
- Income payments;
- Purchase of equipment (with several exceptions, for example, purchases as part of an eligible economic development activity, a public service activity, a solid waste disposal facility or an integral part of a public facility project may be covered);
  - Purchase of any equipment requires a one-on-one consultation with GOSR to determine eligibility.
- Any assistance to a business or property owner who received FEMA assistance in the past and where required flood insurance has not been maintained; and,
- Preparedness activities for future disasters, except in cases where a facility was severely damaged and reconstruction includes mitigation efforts.

## Needs Assessment and Rationale for Prioritization of CDBG-DR Funds

In January 2015, GOSR released an updated unmet needs analysis for all counties impacted by Hurricane Irene and Tropical Storm Lee as well as Superstorm Sandy in the Superstorm Sandy Action Plan Amendment 8 and has made additional updates to sections of the unmet needs analysis in subsequent amendments. This analysis can be found in the Updated Impact and Unmet Needs Assessment section of the Superstorm Sandy Action Plan, which is available at: [https://stormrecovery.ny.gov/sites/default/files/crp/community/documents/20220926\\_NYS\\_Consolidated\\_ActionPlan\\_APAs\\_1-31\\_a.pdf](https://stormrecovery.ny.gov/sites/default/files/crp/community/documents/20220926_NYS_Consolidated_ActionPlan_APAs_1-31_a.pdf). Per this analysis, the greatest unmet need is in the Community Reconstruction Program, which is why this amendment is allocating PL 112-55 funding to the Community Reconstruction Program. The Local Government & Critical Infrastructure Program will continue to be funded but with the State's PL 113-2 grant.

### Overview of Method of Distribution and Allocation of Funds

Following consultation with local governments, the State opted to implement most programs in accordance with a waiver of 42 U.S.C. 5306, requiring states under the standard CDBG Program to grant funds to units of local governments. As such, the State will implement most CDBG-DR funded programs directly. In some cases, the State may work directly with local governments and nonprofits in the implementation of its Programs.

Irene Lee APA3 describes the details and method of funds distribution including eligibility, use of funds, time frames for funding, and terms of assistance. The method of distribution is subject to change in order to ensure an efficient and timely distribution and expenditure of funds. To streamline efforts, for the Irene Lee allocation, GOSR has adopted a functionally equivalent set of disaster recovery programs that have been developed and implemented under its more recent PL 113-2 allocation. Drawdowns for Programs identified in this APA can occur soon after the APA is approved by HUD and consistent drawdowns will continue to occur as the Programs continue to move through design, construction, and closeout phases.

Changes will be subject to the terms of HUD's action plan amendment process for this allocation, as detailed in FR 5628-N-01.



# Proposed Allocation of Funds

## Public Law 112-55: Hurricane Irene and Tropical Storm Lee Action Plan Amendment 3 – Use of Funds

| Program                              | Irene Lee APA 2 Allocation | Irene Lee APA 3 Changes | Revised Irene Lee APA 3 Allocation |
|--------------------------------------|----------------------------|-------------------------|------------------------------------|
| <b>Total of All Programs</b>         | <b>\$71,654,116</b>        | <b>\$0</b>              | <b>\$71,654,116</b>                |
|                                      |                            |                         |                                    |
| <b>Infrastructure</b>                | <b>\$18,780,821</b>        | <b>(\$1,800,000)</b>    | <b>\$16,980,821</b>                |
| <b>Community Reconstruction</b>      | <b>\$49,290,589</b>        | <b>\$1,800,000</b>      | <b>\$51,090,589</b>                |
| <b>Administration &amp; Planning</b> | <b>\$3,582,706</b>         | <b>\$0</b>              | <b>\$3,582,706</b>                 |

# Performance and Expenditure Schedule

The following table presents the State’s projected Performance and Expenditure Schedule for its PL 112-55 allocation. Prior to Q2 2018, the State had drawdown \$4,028,548 for Infrastructure Non-federal Share Match. Expenditure percentages represent the percentage of funds drawdown for each Program’s allocation under APA 3; outcome percentages represent the percentage completed for each metric.

| Performance and Expenditure Schedule                  | Q2 '18 | Q3 '18 | Q4 '18 | Q1 '19 | Q2 '19 | Q3 '19 | Q4 '19 | Q1 '20 | Q2 '20 | Q3 '20 | Q4 '20 | Q1 '21 | Q2 '21 | Q3 '21 | Q4 '21 | Q1 '22 | Q2 '22 | Q3 '22 | Q4 '22 | Q1 '23 | Q2 '23 | Q3 '23 | Q4 '23 | Q1 '24 | Q2 '24 | Q3 '24 | Q4 '24 |      |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|------|
| <b>Infrastructure</b>                                 |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| <b>(Non-Federal Share Match)</b>                      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| <b>Expenditures for Infrastructure</b>                |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| <i>Expenditure Projections</i>                        | 24%    | 24%    | 24%    | 24%    | 25%    | 31%    | 37%    | 39%    | 40%    | 40%    | 41%    | 42%    | 42%    | 50%    | 56%    | 57%    | 58%    | 59%    | 60%    | 65%    | 70%    | 75%    | 80%    | 85%    | 90%    | 95%    | 100%   |      |
| <b>Infrastructure</b>                                 |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| <b>(Buyouts)</b>                                      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| <b>Outcomes for Buyouts Activities</b>                |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| Offers made   | 11%    | 20%    | 28%    | 44%    | 49%    | 57%    | 65%    | 67%    | 72%    | 81%    | 92%    | 98%    | 99%    | 100%   |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| Buyouts closed  | 3%     | 6%     | 13%    | 19%    | 29%    | 43%    | 49%    | 56%    | 56%    | 59%    | 62%    | 75%    | 83%    | 87%    | 94%    | 96%    | 100%   |        |        |        |        |        |        |        |        |        |        |      |
| Properties demolished                                 | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 6%     | 16%    | 41%    | 44%    | 44%    | 44%    | 44%    | 44%    | 49%    | 66%    | 91%    | 100%   |        |        |        |        |        |      |
| Properties restored                                   | 1%     | 1%     | 1%     | 2%     | 6%     | 8%     | 8%     | 9%     | 9%     | 9%     | 14%    | 26%    | 49%    | 49%    | 52%    | 52%    | 52%    | 52%    | 54%    | 69%    | 90%    | 100%   |        |        |        |        |        |      |
| Properties closed out                                 | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 14%    | 41%    | 57%    | 73%    | 89%    | 100%   |      |
| <b>Infrastructure</b>                                 |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| <b>(Elevations)</b>                                   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| <b>Outcomes for Elevations Activities</b>             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| Design  | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 100%   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| Construction  | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 5%     | 67%    | 93%    | 100%   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| Closeout  | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 100%   |        |        |        |        |        |      |
| <b>Community Reconstruction</b>                       |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| <b>Expenditures for Community Reconstruction</b>      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| <i>Expenditure Projections</i>                        | 0%     | 1%     | 3%     | 6%     | 9%     | 13%    | 20%    | 27%    | 36%    | 42%    | 49%    | 53%    | 58%    | 64%    | 77%    | 86%    | 88%    | 91%    | 93%    | 95%    | 98%    | 99%    | 100%   |        |        |        |        |      |
| <b>Outcomes for Community Reconstruction</b>          |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| Design  | 28%    | 37%    | 44%    | 49%    | 65%    | 70%    | 74%    | 79%    | 81%    | 91%    | 95%    | 95%    | 100%   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| Bid   | 23%    | 28%    | 37%    | 40%    | 60%    | 63%    | 70%    | 74%    | 77%    | 88%    | 93%    | 95%    | 100%   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| Construction  | 5%     | 9%     | 12%    | 14%    | 16%    | 19%    | 23%    | 26%    | 30%    | 47%    | 63%    | 67%    | 72%    | 72%    | 79%    | 86%    | 91%    | 93%    | 98%    | 100%   |        |        |        |        |        |        |        |      |
| Closeout  | 0%     | 0%     | 5%     | 9%     | 9%     | 9%     | 9%     | 9%     | 9%     | 16%    | 19%    | 30%    | 37%    | 44%    | 47%    | 49%    | 53%    | 56%    | 63%    | 88%    | 93%    | 95%    | 100%   |        |        |        |        |      |
| <b>Administration &amp; Planning</b>                  |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| <b>Expenditures for Administration &amp; Planning</b> |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |      |
| <i>Expenditure Projections</i>                        | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 0%     | 20%    | 35%    | 50%    | 65%    | 80%    | 100% |

\* Infrastructure expenditures and outcome metrics starting in Q2 2018 represent a HMGP match buyout and elevations project.

\*\* Project costs for the HMGP match buyout and elevations project not covered under the State’s PL 112-55 allocation will be funded through its PL 113-2 allocation, and the project is expected to be completed in Q4 2024.

\*\*\*Administration and Planning expenditures will be funded through the State’s PL 113-2 Allocation through Q4 2024.

## Proposed Use of Funds

### NY Rising Community Reconstruction (NYRCR) Program

*The State's Community Reconstruction Program, as described below, has been previously approved by HUD in the Superstorm Sandy Action Plan and amendments funded by the PL 113-2 allocation. To promote consistency in program activities across disaster-impacted areas in the State, the Community Reconstruction Program described below, which is the same as in the Superstorm Sandy Action Plan and amendments, will allow the State to utilize CDBG-DR funds appropriated under PL 112-5, to the extent allowable by law, in a similar manner to those CDBG-DR funds appropriated under PL 113-2.*

Through its ground up planning process, the NYRCR Program identified numerous infrastructure, housing, and economic development initiatives which will be implemented through this Program.

**Activity Name:** NYRCR Program

**Type:** Infrastructure, Housing, Economic Development, Planning

**National Objective:** Low- and Moderate- Income, Urgent Need, or Slum and Blight

**Geographic Eligibility:** Disaster-declared counties, including New York City

**Eligible Activity:** 105 (a) all provisions 42 U.S.C. 5305(a)

**Program Description:** The NYRCR Program was established by Governor Cuomo to provide additional rebuilding and revitalization assistance to communities damaged by Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy. This program empowers communities to prepare locally-driven reconstruction plans that identify innovative resiliency projects and other actions to help each community build back better and smarter in the face of future extreme weather events.

The communities participating in the NYRCR program were selected principally using FEMA Individual Assistance (IA) Full Value Loss (FVL) total claims from Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy obtained in March 2013. Community populations measured in the 2010 census and other factors were considered on a discretionary basis. The NYRCR planning process originally began with 45 Round I Planning Areas, comprising 97 storm-impacted localities. Based on the initial success and popularity of the planning process, the State revisited available data to ensure the most impacted localities were included in the Program. The result was the addition of 22 localities—four of which were added to existing Round I Planning Areas and 18 of which formed 16 new Round II Planning Areas. Therefore, Round I includes 45 Planning Areas comprising 101 localities and Round II includes 16 Planning Areas comprising 18 localities.

After identifying impacted communities to participate in the NYRCR Program, the Governor announced that GOSR would allot CDBG-DR dollars to fund the implementation of eligible projects identified in NYRCR Plans in each participating locality. These allotments were calculated by taking approximately 25% of each respective locality's total IA FVL, with a minimum allotment of \$3,000,000 and a maximum allotment of \$25,000,000. Additionally, a set-aside of \$24,000,000 was made available for the implementation of projects proposed by Round I Planning Committees through a competitive process for the most innovative practices in categories such as public engagement, green infrastructure, and protection of vulnerable populations. Eight Round I awards were made through the competitive fund.

For Round II, GOSR has set aside \$3,500,000 for a commensurate competitive process outlined above. All said, \$624,726,846 has been allotted to fund the implementation of eligible projects identified in NYRCR Plans. In both rounds of the planning process, each NYRCR Planning Area is represented by a Planning

Committee composed of a cross-section of local civic, business, and nonprofit leaders who participate on a voluntary basis. As approved in the initial Action Plan, the State allocated \$25,000,000 to support Round I planning efforts. In January 2014, the State made available an additional \$7,000,000 for Round II planning efforts. The CDBG-DR funds are used to hire teams of professional planning consultants to support the citizen Planning Committees in their efforts. As part of the planning process, Committees are required to hold regular Planning Committee meetings, which are open to the public, and at least four larger-scale public engagement events designed to gather input from the greater community. To date, the NYRCR Program held at least 800 Planning Committee meetings and public engagement events.

Upon completion of the planning process, each Planning Committee submits a NYRCR Plan to the State. Once NYRCR Plans are submitted, GOSR works to ensure implementation of a number of projects included in the plans that are deemed eligible for CDBG-DR funding. Final plans will also include projects that are not CDBG-DR eligible, as well as long-term resiliency recommendations that are not intended for implementation through the NYRCR program. There is a commitment by the State to continue to work with the Committees to look for alternative funding sources for these projects. The State has successfully secured alternative funding sources for projects through the State's Consolidated Funding Application and Regional Economic Development Council process. In addition, the State is examining possible alternative funding sources such as community development banks, other federal grants, and philanthropic organizations for projects that appear across NYRCR Plans. Lastly, the State is identifying community-based organizations that may be interested in implementing projects.

Additionally, \$24,000,000 was made available to Round One communities through a competitive process for the most innovative practices in categories such as public engagement, green infrastructure, and protection of vulnerable populations. Eight Round I awards were made through the competitive fund. For Round II, GOSR has allocated \$3,500,000 for the competitive process outlined above.

In the second allocation, the State increased the NYRCR budget to more than \$650 million of CDBG-DR funds to support the implementation of community-developed resiliency projects as a result of the planning process. The State only funds projects that address a recovery need arising from the disaster(s), meet a CDBG National Objective, and constitute an eligible CDBG activity.

**Implementation Approach:** As the Committees draft their final reconstruction plans, they are asked to identify "Proposed Projects" where CDBG-DR dollars are intended to be the full or partial source of funding for the project. In an effort to develop resilient, cost effective and successful projects for implementation, GOSR is also partnering with the Department of State to engage the Governor's Regional Economic Development Council State Agency Resource Teams (SARTs) to provide additional review of projects and guidance to the Committees.

After the final submission of the NYRCR Plans, GOSR begins the implementation process. The State conducts a formal review of CDBG-DR eligibility for projects, as well as an initial feasibility analysis of the projects. GOSR identifies specific projects that were included in NYRCR plans for implementation on the basis of eligibility, feasibility, stakeholder support, and alignment with program priorities including but not limited to support for vulnerable populations, innovation, alignment with other resiliency projects and state policy objectives, regional collaboration, and ecosystem restoration.

In most cases an eligible sub recipient is identified by the NYRCR program. Potential classes of sub recipients are, local governments (such as county and special districts), nonprofit organizations, and State agencies. The State may also implement select projects directly by either issuing a request for proposals ("Direct Selection") through a Notice of Funding (NOFA), or by utilizing other eligible implementation strategies. The State may also group like projects and projects which share regional boundaries to create a

reasonable and cost effective implementation process when applicable. The State further outlines the implementation process as well as the selection process for the entities who implement these projects in the NYRCR Program Policy and Procedure Manuals.

**Eligible Applicants:** The State intends to engage both units of local government and local nonprofit organizations, as well as appropriate State agencies, authorities, and public benefit corporations, to carry out these projects.

**Eligible Activities:** To the extent activities are disaster recovery related and part of the NYRCR Plans submitted to the State, eligible activities for this program include, but are not limited to the following:

- Acquisition of real property, public facilities and improvements, clearance, rehabilitation, reconstruction, and construction of buildings;
  - Removal of architectural barriers to access by the elderly and handicapped;
  - Disposition of real property, including costs associated with maintenance and transfer of acquired properties;
  - Provision of public services, such as job training;
  - Infrastructure projects including but not limited to payment of the non-federal share of other federal matching grant programs;
  - Relocation associated with projects that utilize one or more of the other eligible activities listed here;
  - Activities carried out through nonprofits;
  - Assistance to neighborhood-based organizations, local development corporations, and nonprofits serving the development needs of communities; and
  - Energy efficiency/conservation programs.
- Eligible Economic Revitalization activities, as listed in the above Economic Development section, may also be utilized within the implementation of the NYRCR Program.

## NY Rising Infrastructure Program

*The State's Infrastructure Program, as described below, has been previously approved by HUD in the Superstorm Sandy Action Plan and amendments funded by the PL 113-2 allocation. To promote consistency in program activities across disaster-impacted areas in the State, the Infrastructure Program described below will allow the State to utilize CDBG-DR funds appropriated under Public Law 112-5, to the extent allowable by law, in a similar manner to those CDBG-DR funds appropriated under PL 113-2.*

**Activity Type:** Public Facilities and Local Government Support

**National Objective:** Low- and Moderate- Income or Urgent Need

**Eligible Activities:** Public facilities 105(a)(2); Code Enforcement 105(a)(3); Clearance 105(a)(4); Public services 105(a)(8); Non-federal share 105(a)(9) Planning 105(a)(12); Energy Use Strategies 105(a)(16); 42 U.S.C. 5305(a)(2); 105 (a) (1), (7), (11), (14), (17), (21), (22), (24), 42 U.S.C. 5305(a) (1), (4), (7), (11), (14), (15), (17), (22), (24); Economic Revitalization FR-5628-N-01 (1) (D) (3)

**Geographic Eligibility:** The program can provide funds to counties in New York that were Presidentially Declared disasters in 2011 (FEMA Disaster Recovery Codes 4031 and 4020). This includes events commonly referred to as Hurricane Irene and Tropical Storm Lee.

**Eligible Applicants:** Eligible applicants for the Infrastructure programs outlined below include: State, local, and county governments; State agencies and authorities; public schools (K-12) and universities; first responders, including volunteer fire and EMS facilities, public housing authorities and other units of government. GOSR will work with State agencies, local governments, and other potential recipients to determine their eligibility for each component of the program.

New York City received its own CDBG-DR allocation to address infrastructure repairs and rebuilding. Therefore, although geographically eligible, the Infrastructure program will utilize its resources primarily outside of New York City, with some exceptions including providing funds for infrastructure projects through the New York Rising Community Reconstruction Program and for funds designated through PL 113-2 to the Rebuild by Design competition, which includes a project located in Staten Island.

**Program Description:** The State's Infrastructure Program, as funded with the Irene Lee allocation, utilizes CDBG-DR funds to provide support to storm impacted units of government and other eligible entities with payment of their non-federal share requirement ("match") so that they can access other federal disaster recovery resources.

New York's infrastructure assets are still recovering from Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy. The total cost of recovery from these storms will be better estimated as federal entities such as FEMA and the United States Department of Transportation (DOT) complete their assessments and determine the full costs of eligible repairs.

However, through the unmet needs analysis and in consultation with State agency partners, local and county government officials, federal agencies, and other public entities, it is clear that the unmet need for infrastructure recovery is great. The most recent unmet needs analysis identifies more than \$12 billion in outstanding unmet need. This unmet needs analysis confirmed that, while substantial federal recovery

resources are being provided to assist New York recover from Hurricane Irene, Tropical Storm Lee, Superstorm Sandy and other federally-declared events, the amount of available resources needed to rebuild damaged infrastructure and mitigate against future storms far exceeds available resources.

The State continues to work with all federal partners to maximize available repair and mitigation funds. In particular the State has been aggressively 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, 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.

The State has created an Infrastructure Program that addresses these outstanding needs. It is working aggressively to develop solutions to address the recovery needs of local, county and State government agencies and focusing on ensuring that publicly owned critical infrastructure assets in the energy, health care, transportation, and water sectors are rebuilt more resiliently. As part of the recovery, the State continues to support projects that restore, enhance, and make more resilient the region's natural resource assets through the use of green infrastructure. These projects provide a natural line of defense to safeguard communities against future disasters in a more sustainable holistic way. All of the State's infrastructure projects where possible and feasible will be developed to support green alternatives.

The Program is organized into two main sub-programs: the Local Government and Critical Infrastructure Program to support stand-alone infrastructure projects and a Non-Federal Share Match Program which supports CDBG-DR eligible activities. The Irene Lee allocation will be used to support the Non-Federal Share Match Program described below.

### Non-Federal Share Match Program

Many federal programs require that grant recipients provide a non-federal share match of their overall project budget as a condition of funding. In the aftermath of large disasters, this requirement can place a significant fiscal burden on storm-damaged communities. To provide relief to these communities, Congress allows CDBG-DR funds to be used as local match for federal funds that require a cost share to obtain these recovery dollars.

Given this provision, 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 non-federal cost share, or "match," payment for eligible CDBG-DR activities so that these entities can complete recovery and draw down the larger share of federal recovery funds. Rates for each of the federal programs vary by disaster. These are further defined below.

TABLE 2: FEDERAL PROGRAMS ELIGIBLE UNDER THE STATE’S MATCH PROGRAM

| Federal Program  | Federal Agency | Federal Cost Share | State Cost Share | Disasters     |
|--|----------------|--------------------|------------------|---------------|
| <b>Hazard Mitigation Grant Program (HMGP)</b>                    | FEMA           | 75%                | 25%              | Irene and Lee |
| <b>Public Assistance (PA)</b>                                    | FEMA           | 75%                | 25%              | Irene and Lee |
| <b>Federal Highway Administration Emergency Relief (FHWA-ER)</b> | DOT            | 75%                | 25%              | Irene and Lee |

Sectors eligible to receive funds from the match programs shown are:

- Local and county Government and their Departmental units
- State agencies and Authorities
- Schools (K-12) and Universities
- First Responders – Volunteer Fire and EMS facilities,
- Critical Infrastructure Facilities as defined by FEMA (wastewater and drinking facilities)
- Public Housing Authorities
- Other local and county federal program applicants eligible to receive Federal Recovery Funds (including libraries, zoos, museums, nursing homes and medical care facilities).

### FEMA Programs

FEMA provides funds to eligible applicants who must document storm-related damages. As a cost sharing program, FEMA requires that the State certify that local applicants that receive FEMA funds have met the “local match” requirement. The match rate is determined by disaster based on the extent of damage. The federal/local cost-share ratio is normally 75% in federal funds and 25% State or local funds. Under FEMA regulations however, HMGP is always a 75% in federal funds and 25% State or local funds cost share program without regard to disaster.

- Public Assistance:** FEMA’s PA Program is the nation’s primary and largest disaster recovery program. The number of projects eligible and costs incurred for PA has not been finalized.

TABLE 3: TOTAL PROJECT COST FOR EACH ELIGIBLE DISASTER

| Storm                            | Number of Eligible Applicants | Total Project Worksheets (PWs) | Total Project Cost (inclusive of federal share and local match) |
|----------------------------------|-------------------------------|--------------------------------|---|
| <b>Hurricane Irene (4020)</b>    | 1230                          | 9255                           | \$ 670,975,918  |
| <b>Tropical Storm Lee (4031)</b> | 358                           | 2646                           | \$ 349,861,711  |

Source: GOSR Program Data. Project Cost estimates as of 12/1/2014 and 12/2/2014.

As part of its process for its programs, FEMA validates that projects are storm-related. They also account for insurance proceeds in the calculation for the award, reducing duplication of benefit issues. The State, through its review of PA worksheets and supporting documentation, continues to ensure that projects are CDBG-DR eligible and that duplication of benefits does not occur.



While the PA Program has thousands of applicants, the State is playing close attention to applicants who provide services to vulnerable populations and to entities that provide in-kind services that benefit community recovery. These entities, while they may not have large amounts of PA funding, provide critical resources to their communities.

- b. Hazard Mitigation Program:** GOSR will provide the required non-federal share for the FEMA HMGP for Hurricane Irene and Tropical Storm Lee. Using a Global Match financing strategy, it will capitalize on the portfolio of projects managed by GOSR that meet HMGP match requirements. This approved strategy will allow the State to assist communities who have FEMA HMGP allocations for FEMA disaster recovery codes 4020 and 4031. GOSR is responsible for administration of a Global Match financing strategy for these disasters and identified projects eligible for both CDBG-DR and HMGP funds that create programmatic, policy, and administrative efficiencies for the State's recovery. HMGP funds acquisition/buyout, demolition, elevation, and relocation of properties, all of which are otherwise eligible activities in the CDBG-DR program.

### Federal Highway Administration (FHWA) Emergency Relief (ER) Program

FHWA provides funds to repair or reconstruct eligible highways damaged by either natural disasters or catastrophic failure from external causes. FHWA oversees the ER program through coordination and implementation of disaster relief policies and procedures, provides assistance to agencies applying for funds, and supports agencies with technical review, design, repair, and reconstruction of damaged highway facilities. Emergency work directly following a disaster to restore essential traffic, minimize the extent of damage, and protect remaining facilities that is completed within 180 days of the event is eligible for reimbursement at 100%. GOSR will help cover the local match for eligible applicants.

The State will ensure that each project which receives funding under the Non-Federal Match Program will be for a CDBG-DR eligible activity, meet a national objective, be located in a HUD eligible county, and demonstrate a tie to the eligible storm.

### Administration & Planning

The State is allocating \$3,582,706 of CDBG-DR funds from this grant to Administration & Planning activities. Per FR-5628-N-01, grantees are allowed to use up to 5% of the Irene Lee allocation for administration costs. Combined Administration and Planning costs are subject to a 20% cap.

## Public Notices and Comment Period

The State Citizen Participation Plan ensures that there is reasonable and timely access for public notice and comment on the activities proposed for the use of CDBG-DR grant funds, in keeping with the requirements of FR-5628-N-01. The State will continue to invite public comment for any future Substantial Amendments for no less than seven calendar days, posted and easily accessible on GOSR's website.

### *Substantial Amendments to the Action Plan*

FR-5628-N-01 defines Substantial Amendments to the Action Plan as:

- A change in program benefit or eligibility criteria;
- The allocation or re-allocation of more than \$1 million;
- or the addition or deletion of an activity.

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

**Governor's Office of Storm Recovery  
60 Broad Street  
26<sup>th</sup> Floor  
New York, New York 10004**

**Comments may also be made at: [www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov)**

A summary of all comments received and responses are included in the Substantial Amendment submitted to HUD for approval and posted to GOSR's website.

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

## Public Comment

GOSR posted APA3 for public comment at 5 pm on December 9, 2022. At that time, GOSR began accepting comments on the website [www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov), as well as through the mail. The comment period officially ended at 5 pm on December 16, 2022.

The legal notices of the comment period were publicized in three non-English newspapers, El Diario (Spanish), Russkaya Reklama (Russian) and Sing Tao (Chinese), as well as the NY Post.

This Amendment was made accessible to persons with disabilities upon request (by telephone or in writing). Translations of APA 3 were made available in Chinese, Russian and Spanish, the three most commonly used languages in the storm affected areas of New York State based on an analysis of

Census data for households with members five years or older with limited English proficiency.

GOSR did not receive any comments relating to APA 3.