

# Resilient Communities Program

## Policy Guidelines

STATE OF NEW JERSEY  
DEPARTMENT OF COMMUNITY AFFAIRS  
DIVISION OF DISASTER RECOVERY AND MITIGATION

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# Version History and Policy

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## 1 VERSION HISTORY AND POLICY

The version history of the policy manual is tracked in the table below, with notes for each change. The dates of each publication also are tracked in the table.

The State will publish a new version after making substantive changes that reflect a policy change. The updated policy manual will be assigned a new primary version number, such as 2.0, 3.0, and so forth.

After making non-substantial changes, such as minor wording and editing or clarification of existing policy that do not affect the interpretation or applicability of the policy, the State will publish a version of the document with a sequential number increase following the primary version number, such as 2.1, 2.2, and so forth.

Amendments made to policy may go into effect on the date of the revision or may be applied retroactively. Whether a policy will be applied proactively or retroactively will be detailed in the version history below and/or within the relevant program sections.

Version No.	Date Revised	Key Revisions
1.0	6-27-2023	Original Resilient Communities Program Policy Manual
2.0	9-26-2023 & 5-30-2024	Public Notice Compliance requirements updated to reflect HUD requirements and New Jersey's Citizen Participation Plan for the CDBG-DR grant. Update the interchangeability scope to include the state identified most impacted and distressed (MID) area
3.0	6-12-2025	<ul style="list-style-type: none"> <li>• Clarified language describing working with partnerships.</li> <li>• Added a requirement for subrecipient to seek public comment on substantial changes and resubmit application to DCA for re-evaluation, approval.</li> <li>• Removal of eligibility exception for operations and maintenance under a special economic development activity.</li> <li>• Added reference to subrecipient manual.</li> <li>• Added reference to CPP template.</li> <li>• Added language describing property acquisition</li> <li>• Added clarification for justifications for withdrawal/termination of subrecipient agreement.</li> <li>• Revised Retainage from 5% to 2%.</li> <li>• Made revisions reflecting updated floodplain rule – FFRMS.</li> <li>• Made revisions to ER process.</li> <li>• Removed reference of aligning RCP with the BRIC Program.</li> <li>• Added second public hearing timing.</li> <li>• Added Non-Supplanting Certification reference.</li> <li>• Updated the Types of Monitoring.</li> </ul>



## Policy Guidelines

Version No.	Date Revised	Key Revisions
		<ul style="list-style-type: none"><li>• Added language on scoring 80 points or below.</li><li>• Removal of Authorized Pre-Award Costs from Financial Management.</li><li>• Made updates to the evaluation of the service area.</li><li>• Updated the State of New Jersey State General Records Schedule.</li></ul>





2

# Program Overview

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## 2 PROGRAM OVERVIEW

### 2.1 Introduction

In alignment with the State of New Jersey's comprehensive approach to resilient recovery from Hurricane Ida, the State is launching the Resilient Communities Program (RCP) to support resilient infrastructure activities designed to fortify New Jersey communities against severe weather events and flood damage. RCP will award competitive grants to impacted jurisdictions throughout the State to complete eligible flood hazard risk-reduction and resiliency measures. RCP is funded by Community Development Block Grant–Disaster Recovery (CDBG-DR) funds appropriated by the United States Congress for recovery from Hurricane Ida. CDBG-DR grants are administered by the U.S. Department of Housing and Urban Development (HUD) and are intended to address “unmet needs” that are not satisfied by other federal, State, and local recovery resources.

The purpose of this policy manual is to provide the overall objectives and process by which the New Jersey Department of Community Affairs (DCA) will award CDBG-DR funds to eligible local government entities for resilience activities encompassing acquisition; construction; reconstruction; or installation of public works, facilities, and sites or other improvements.

### 2.2 Program Description

RCP is a competitive grant program designed to fund unmet recovery and mitigation needs for public infrastructure projects that will help HUD-identified and State-identified “most impacted and distressed” (MID) areas become more resilient to current and future flood-related natural hazards. Eligible applicants will be responsible for the implementation, operation, and maintenance of awarded projects.

Proposals not awarded funds through the initial round may reapply through subsequent application rounds as funds are available. RCP projects funded through the initial round must adhere to a 3-year period of performance. Applicants to the program will be required to submit detailed project timelines with their applications to prove that projects can feasibly be completed within the 3-year timeframe from the executed subrecipient agreement. DCA will consider the timeline for projects funded in subsequent rounds subject to the overall CDBG-DR grant expenditure timeline.

### 2.3 Program Objectives

Approved activities will focus on achieving the following objectives:

1. Reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by lessening the impact of future disasters.
2. Recover from the disaster impacts of Hurricane Ida.
3. Protect publicly funded recovery investments in impacted communities.

4. Expand awareness within the State and help build the capacity of local governments to apply for funding through other FEMA Hazard Mitigation Assistance programs.

DCA will review projects for CDBG-DR and program eligibility and will select projects based on scoring and ranking approaches that are in alignment with CDBG-DR priorities. To advance long-term resilience, projects will be required to have natural hazard risk reduction benefits. FEMA defines *risk reduction* as the aggregate value of avoided losses to people, property, and critical infrastructure from a given risk over the useful life of the project. Methods for determining risk reduction benefits are included in the benefit-cost analysis guidance for this program, which is a required element of applications. In addition to the benefit-cost ratio or equivalent factors, projects will be assessed based on the degree to which the application meets certain program priorities, including the following:

- Mitigates the risk to public infrastructure, people, and property.
- Protects and benefits disadvantaged communities.
- Is a cost-effective solution to natural hazard risk(s).
- Promotes resiliency through ancillary or triple bottom line benefits (social, environmental, and economic benefits).
- Considers climate change and future conditions.
- Leverages federal, State, and local partnerships.
- Is designed and scoped with public input and meaningful stakeholder engagement.
- Can be feasibly implemented and completed by the applicant within budget and within the time frame required by the program.
- Incorporates nature-based solutions.
- The project scope is generated from previous qualifying resilience/infrastructure planning awards.

Prior to accepting applications for the program, DCA will offer technical assistance on the RCP application process and requirements. DCA also will provide training and technical assistance to approved applicants on project implementation, meeting State and federal requirements, environmental review, and project oversight. DCA will monitor approved projects and provide oversight to maintain compliance and ensure their successful completion.

## 2.4 Funding Sources

### 2.4.1 Hurricane Ida CDBG-DR

Funding for the Resilient Communities Program is provided through HUD's Community Development Block Grant–Disaster Recovery (CDBG-DR) Program, as appropriated by Congress. Funding for 2021 disasters was appropriated by the Extending Government Funding and Delivering Emergency Assistance Act of 2021 and the Disaster Relief Supplemental Appropriations Act of 2022 ("the Act"). The Act directs \$5 billion to HUD for recovery from disasters in 2020 and 2021. HUD allocated

\$228.346 million in CDBG-DR funds to the State of New Jersey as a result of Hurricane Ida, which impacted the State from September 1 to 3, 2021.

CDBG-DR grants are authorized under Title I of the Housing and Community Development Act of 1974 (HCDA) for 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.

Alternative requirements and waivers for the use of CDBG-DR funds are published in the applicable Federal Registers (FRs), including [87 FR 31636](#). Future FRs and allocations may be applicable and can be referenced on [the HUD Exchange](#).

HUD requires the State to use funds to address unmet disaster needs or mitigation activities within the following most impacted and distressed counties within the State:

- |             |              |
|-------------|--------------|
| • Bergen    | • Gloucester |
| • Essex     | • Hunterdon  |
| • Hudson    | • Mercer     |
| • Middlesex | • Morris     |
| • Passaic   | • Union      |
| • Somerset  | • Warren     |

2.4.2 Superstorm Sandy CDBG-DR

HUD allows States to use remaining funds from other disasters to address current disaster needs in the areas that were impacted by both disasters. This means that the State can leverage unused Superstorm Sandy funding to help address Hurricane Ida needs in overlapping Sandy- and Ida-impacted counties. Of the HUD- and State-identified Ida MID areas, the following counties also were impacted by Superstorm Sandy. These are considered overlapping MIDs because they are MIDs for both Hurricane Ida and Superstorm Sandy.

- |             |              |
|-------------|--------------|
| • Bergen    | • Gloucester |
| • Essex     | • Hunterdon  |
| • Hudson    | • Mercer     |
| • Middlesex | • Morris     |
| • Union     | • Warren     |

Superstorm Sandy Substantial Action Plan Amendment 48 outlines the details of the State’s use of Superstorm Sandy Recovery CDBG-DR funds for Ida recovery programs. This document includes the rules and requirements for both the Ida and Sandy funds. Superstorm Sandy Substantial Action Plan Amendment 56 (APA 56) clarified the counties that were eligible to utilize Superstorm Sandy funds by including State designated most impacted areas.



## 2.5 Grant Requirements

### 2.5.1 Mitigation Set-Aside Activities

The Disaster Relief Supplemental Appropriations Act of 2021 requires HUD to set aside 15% of disaster recovery grants for disaster mitigation activities in any allocation of CDBG-DR funds for unmet needs. Mitigation activities are those that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by lessening the impact of future disasters. To protect the State's investment in housing and community recovery, the State has allocated significant resources to resilient infrastructure activities through the Resilient Communities Program. This program's allocation will go toward funding mitigation activities that will enable the State to meet the 15% Mitigation Set-Aside requirement established by HUD.

### 2.5.2 Disaster Tie-Back

HUD permits the State to fund eligible mitigation activities that address the impacts of the disaster, as well as mitigation activities that respond solely to the Mitigation Needs Assessment. As such, RCP projects may address unmet recovery and mitigation needs in HUD-identified and State-identified MIDs related to Hurricane Ida or may choose to propose mitigation activities responding to other types of natural hazards identified in the Mitigation Needs Assessment. Funding from the Sandy CDBG-DR grant must address unmet recovery and mitigation needs tied to the impacts of Hurricane Ida. Applicants to the program must state whether proposed projects respond directly to disaster-related risks and impacts or projected hazard risks unrelated to the disaster.

### 2.5.3 National Objectives

Each activity funded through this program must meet one of HUD's national objectives. Per 87 FR 31636, HUD requires States to comply with an overall low- to moderate-income (LMI) benefit minimum, which requires that 70% of activity funds benefit LMI persons. Assistance provided under this program will meet the national objectives of benefiting LMI persons or households or addressing an urgent need. DCA will conduct an analysis of how projects can meet the LMI threshold and prioritize projects that provide benefits to a Low/Mod service area or clientele. A detailed description of the criteria for meeting a national objective and the mechanism for providing this preference are described in Section 3.4.5.

3

# Application and Priorities

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### 3 APPLICATION AND PRIORITIES

#### 3.1 Application Process Overview

All applicants must describe the scope, schedule, and budget for the proposed project, as well as how it will mitigate the risk from one or more natural hazards. Completed submission requirements are detailed in Section 3.3.

Applications will be reviewed by DCA for applicant eligibility, project eligibility, and scored based on the criteria set forth in Section 3.5.

##### 3.1.1 Administrative Framework

DCA will be responsible for collecting, reviewing, and approving all RCP applications. Applicants who are awarded funds will enter into a subrecipient agreement, become subrecipients of the State's CDBG-DR grant, and be responsible for adhering to their project schedule. Subrecipients must follow federal, State, and local requirements for these grant dollars. DCA will provide training and technical assistance to approved applicants. Throughout the duration of the project, DCA will monitor approved projects and provide oversight to maintain compliance and support subrecipients in ensuring their successful completion.

#### 3.2 Application Process and Timeline

Eligible applicants may apply during the designated application window for RCP. Responses will be evaluated to ensure that the proposed projects meet the minimum criteria as outlined in this policy manual. Responses will first be reviewed for eligibility, as specified in Section 3.4, and must meet the minimum threshold criteria before moving to a technical evaluation. Applications will then be evaluated according to the technical scoring criteria listed in Section 3.5. A review panel with relevant expertise will be tasked with developing objective and independent scores. The review panel will receive training and guidance on the score criteria prior to review.

The review panel will generate consensus scores for each application, provide technical score ranking and recommendations, and notify DCA of the results. Should additional and/or clarifying information be needed to determine eligibility or to score a submitted application, those applicants may be given additional time to respond at DCA's discretion. DCA will identify awardees and notify selected and non-selected applicants. Selected awardees will then enter into a subrecipient agreement phase during which DCA will notify awardees of the conditions of the grant, including the budget amount, timeline, and resilience performance measures. Applicants not selected will have an opportunity to apply during subsequent rounds of RCP as funds remain available.

##### 3.2.1 Competition Outreach and Program Promotion

DCA will release a public Notice of Funding Availability that announces the program through the following platforms:

- New Jersey State Register
- NJ DCA Disaster Recovery and Mitigation websites
- Department listserv to county executives and municipality mayors
- Public forums (virtual or in-person)

DCA will host webinars to provide an overview of the program goals and objectives, the application and scoring process, required documentation, and a forum for questions.

Applicants will have an opportunity to ask questions and/or discuss issues specific to their project and the application process, including specific federal and State regulations and requirements specific to this grant program.

Throughout the entire application cycle, technical assistance also is available by sending inquiries to RCP via email at [ResilientCommunities@dca.nj.gov](mailto:ResilientCommunities@dca.nj.gov). The RCP team will respond to all inquiries in a timely manner.

## 3.2.2 Application

Applications will be available for downloading on the Division of Disaster Recovery and Mitigation (DRM) website. Once the application window opens, completed applications and required attachments can be submitted to [ResilientCommunities@dca.nj.gov](mailto:ResilientCommunities@dca.nj.gov) for processing. The application window will be open for a limited period of time.

## 3.2.3 Public Notice Requirement

Applicants are required to solicit public feedback on their proposed projects prior to submitting an application and provide documentation of the feedback with the application. This public hearing is the first of two required by the Program; if an application is selected for funding, a second public hearing will be held after the applicant completes their design work. A key element of the hazard mitigation process is the discussion it promotes among community members about creating a safer, more disaster-resilient community. Community engagement and other outreach activities that capture a community's values and priorities are likely to result in a project having greater legitimacy and support, leading to greater success in implementation. Applicants must solicit feedback through a virtual or in-person public meeting with municipality, county, and tribal governments, followed by a 14-day public comment period, which must be completed prior to submission of the application.

Hearings must cover community development and housing needs (including affirmatively furthering fair housing), the needs for LMI households, other development and housing needs, and how the potential activity will address that need.

Hearings must also cover the development of proposed activity and application including when the application will be submitted, requested amount of funds, location of the project, and plans to minimize displacement of persons and businesses as a result of the funded activity.



Applicants should supply the same documentation that would normally be required to demonstrate that a meeting was held, including the following:

- A public meeting notice, posted at least five (5) days prior to the meeting
- A sign-in sheet
- Meeting minutes

The meeting notice should be posted in a newspaper with general circulation and on the applicant's website and must include the following:

- The type(s) of project(s) to be undertaken
- The source(s) of funds (i.e., CDBG-DR funds)
- The amount of funding requested
- The date by which comments must be made
- A contact person from whom to obtain a copy of the proposed application
- Accommodations for non-English-speaking citizens (all information posted will need to be translated into Spanish, unless less than 5% of the applicant's area of benefit population speaks Spanish).

Documentation of public engagement, solicitation of feedback, and any public comments received must be submitted with the application and will factor into the application's final score.

Additionally, applicants who are ultimately awarded funds and enter into a subrecipient agreement as subrecipients of the State's CDBG-DR grant also are required to adhere to the requirements for local governments stated in the [Citizen Participation Plan at Section V](#), Citizen Participation Requirements for Local Governments Participating in CDBG-DR Programs. As stated, jurisdictions must develop a Citizen Participation Plan that includes opportunities for citizens to learn about the project and provide feedback. **Subrecipients are also required to provide a minimum of two public hearings, each during a different stage of the program. The first hearing occurs before application submission, and the second after completion of design. These hearings serve to obtain residents' views and allow for subrecipients to respond to comments, questions and concerns.** Hearings conducted as part of the application phase of this Program may be used to fulfill the requirements of the Citizen Participation Plan, provided they meet the criteria stated in the State Citizen Participation Plan.

## 3.3 Application Submission Requirements

### 3.3.1 Project Description

The application must include a description of the project being proposed, including an explanation of how the proposed project will mitigate one or more of the hazards below:

- Coastal Erosion/Sea Level Rise

- Dam/Levee Failure
- Earthquakes
- Floods (riverine, coastal, storm surge, tsunami, and stormwater flooding caused by local drainage and high groundwater levels)
- Geological Hazards (landslide and subsidence/sinkholes)
- Hurricanes and Tropical Storms
- Nor'easters
- Severe Weather (high winds, tornadoes, thunderstorms, hail, and extreme temperatures)
- Severe Winter Weather (snow, blizzards, and ice storms)
- Wildfire

These hazards are identified in the State's Mitigation Needs Assessment in New Jersey's Hurricane Ida CDBG-DR Action Plan. The description must address how and why the project needs to be created, updated, or integrated to mitigate the risks attributable to threats. Descriptions also must discuss how the project was planned with current and future climate change conditions in mind, ensuring that the project is an investment in choices that protect lives and property for a longer time.

### 3.3.2 National Objective

Applications must include a description of the nature of the activity and the specific area served by the proposed project so that DCA can determine the national objective. As indicated in Section 2.5.3, the program is required to allocate 70% of funds to projects meeting an LMI national objective; therefore, applications that meet an LMI criteria will receive preference over those that meet the urgent need national objective.

### 3.3.3 Disadvantaged Communities

This program prioritizes projects that benefit the most at-risk and vulnerable populations. To facilitate this, the scoring criteria provides preference to projects serving communities with high proportions of vulnerable populations as measured by the Centers for Disease Control and Prevention (CDC) Social Vulnerability Index (SVI). Applications must address the extent to which the project benefits such populations and include documentation of an SVI of the area served.

### 3.3.4 Budget

Applications must include a proposed project budget with a detailed description of anticipated costs by category, including support services, program management, and administration. Explanations regarding how funding request amounts were determined must be included. The budget also will show the anticipated sources of funding. Applicants should develop a feasible budget that includes RCP funds, local funds, and any committed sources outside of RCP. Commitments of funding sources should be documented and included within the application. The program will provide preference through the scoring criteria for applications that include financial and non-financial partnerships.



### 3.3.5 Cost-Effectiveness

Applications will be evaluated to determine the mitigation value and cost-effectiveness of the proposed project. Applicants will be required to conduct a benefit-cost analysis of the project, as specified in Section 3.5.1.

### 3.3.6 Public Notice and Community Outreach

Applications must include evidence of meeting the public notice requirement, as outlined in Section 3.2.3, and the Application Instructions and Checklist. Furthermore, applicants must discuss the community engagement and other outreach activities in which it participated in order to capture the community's values and priorities.

### 3.3.7 Partnerships

Responses may include proposed subrecipient partnerships to deliver RCP projects. Leveraging partners allows applicant communities to access complementary strengths from neighboring communities, the State and/or the Federal Government, and nonprofit organizations and private partners.

If an applicant intends to utilize a partnership in order to complete a project, it must identify the partner(s) in the application. DCA will consider partner arrangements on a case-by-case basis during application review. In order to protect the subrecipient, and to ensure partners' compliance with all relevant requirements, the relationship between the two entities must be formally defined through a formal written agreement (contract, MOU, etc.).

### 3.3.8 Implementation and Timeline

Applicants must provide clear evidence of management capacity and a plan to implement the project within budget and on time. Proper implementation requires that an applicant understands what is expected of them, ensures that the human capital and financial resources needed to complete the project are in place, and develops a realistic timetable. Each application must include information demonstrating their capacity and the projected timeline for completion within three (3) years.

## 3.4 Eligibility

### 3.4.1 Eligible Applicants

Cities, townships, counties, special districts, and federally recognized tribal governments within the HUD or State-identified MID Counties, as specified in Section 2.4 or are wholly within one or more of these counties are eligible to apply to RCP. Each applicant is eligible to apply for no more than one distinct project. Exceptions to this will be made for multijurisdictional applications. The limit is subject to change contingent upon interest in the program and future funding available for this program. Applicants to RCP also must be a party to a current, FEMA-approved local, tribal, or multijurisdictional hazard mitigation plan.

Homeowners, businesses, and nonprofit organizations cannot apply directly to RCP; however, they may partner with an eligible entity in their area to assist in developing an application that reflects their priorities for mitigation. Such application partners may contribute to cost sharing, as applicable, and assist with application development subject to administrative requirements, particularly as they relate to conflicts of interest as set forth in 2 Code of Federal Regulations (CFR) Part 200.

### 3.4.2 MID Areas

Federal Register Notice [87 FR 31636](#) establishes the following counties as most impacted and distressed and requires the State to use funds to address unmet disaster needs or mitigation activities within them. Projects within the following counties are eligible for RCP funding:

- Bergen
- Essex
- Gloucester
- Hudson
- Hunterdon
- Mercer
- Middlesex
- Morris
- Passaic
- Somerset
- Union
- Warren

### 3.4.3 Eligible Activities

DCA sets broad eligibility requirements that allow applicants to develop mitigation projects that best suit their community's needs. At a minimum, projects proposed under RCP must:

- Be technically feasible and effective at reducing hazard risks.
- Be designed to increase resilience and reduce the risk of injuries, loss of life, and damage and destruction of property, including critical services and facilities.
- Solve a problem independently or constitute a functional portion of a long-term solution for which there is assurance that the project will be completed or there is a reasonable plan and available funding for completion.
- Conform with all applicable environmental planning and historic preservation laws, regulations, executive orders, and policies.
- Conform with all applicable State, federal, tribal, and local floodplain and land use laws and regulations.
- Conform with the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs.
- Comply with the [Federal Flood Risk Management Standard](#).
- Not have started construction work.
- Be CDBG-eligible activities under Title I of the HCDA or otherwise eligible pursuant to a waiver or alternative requirement.
- Meet a national objective.

Examples of eligible activities may include, but are not limited to, the following:

- Property acquisition and demolition
- Property acquisition and relocation
- Structure elevation
- Construction or reconstruction of infrastructure
- Installation of public works and facilities
- Structural retrofitting
- Infrastructure retrofits
- Site or other improvements
- Dry floodproofing

### 3.4.4 Definition of Mitigation – Risk Reduction Benefit

Projects funded under RCP must meet the definition of *mitigation* as specified in 87 FR 31636, which is “those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.” In addition, mitigation activities must address one or more of the current and future risks identified in DCA’s Hurricane Ida Action Plan, which include the following:

- Coastal Erosion/Sea Level Rise
- Dam/Levee Failure
- Earthquakes
- Floods (riverine, coastal, storm surge, tsunami, and stormwater flooding caused by local drainage and high groundwater levels)
- Geological Hazards (landslide and subsidence/sinkholes)
- Hurricanes and Tropical Storms
- Nor’easters
- Severe Weather (high winds, tornadoes, thunderstorms, hail, and extreme temperatures)
- Severe Winter Weather (snow, blizzards, and ice storms)
- Wildfire

### 3.4.5 National Objectives

Applications to RCP must include a description of the nature of the activity and the specific area served by the proposed project so that DCA can determine the national objective.

DCA will conduct an analysis of how projects can meet the LMI threshold and prioritize projects that provide benefits to Low/Mod service areas or clientele.

#### 3.4.5.1 Low/Mod Area Benefit

The program can use Low/Mod Area Benefit (LMA) to meet the LMI national objective. The area benefit category is the most commonly used national objective for activities that benefit a residential neighborhood. An area benefit activity is one that benefits all residents in a particular area, where at least 51% of the residents are LMI

persons. HUD provides guidance on meeting the LMA on its website at <https://www.hudexchange.info/programs/cdbg/cdbg-low-moderate-income-data/>.

To determine the service area of an activity and report on the beneficiaries of projects, DCA can use either (1) U.S. Census data by census tract, block group or place; or (2) survey data. For census tracts, DCA will utilize the Disaster Recovery Grant Reporting System's (DRGR) census tool to determine the LMA calculation and generate information for individual projects. When making a determination regarding the service area, DCA will consider the following:

- **The nature of the activity:** The service area for each of these infrastructure projects will be different in size and population. Based on the type of activity, the applicant will document how a project serves an entire neighborhood or adjacent properties. DCA will verify the service area and the population served to confirm that the LMA criteria are met.
- **The location of the activity:** In general, the immediate area surrounding a facility is expected to be included in the service area. Additionally, when a facility is located near the boundary of a particular neighborhood, its service area could likely include portions of the adjacent neighborhood, as well as the one in which it is located.
- **Accessibility issues:** Limits to accessibility, such as geographic barriers, access fees, language barriers, time or duration that an activity is available, access to transportation and parking, and so forth, can preclude persons residing in a nearby area. This would impact how the service area is drawn.
- **Availability of comparable activities:** Activities within the service area should be considered so that the project being proposed does not duplicate any other activities or projects doing the same work. Applicants are strongly encouraged to partner with other entities to get the most benefit for their communities.
- **Boundaries for facilities and public services:** The service area for some public facilities and services is determined based on established boundaries or districts.

When defining the service area, DCA will document information on whether the area is primarily residential through HUD's most current LMI database, who will benefit from the public facility or service, and if all residents in the census tract will benefit from the project or service. Based on this information, DCA will determine whether the project can qualify under LMA.

### 3.4.5.2 LMA Exception Criteria

HUD permits an exception to the LMI area benefit requirement that an area contains at least 51% LMI residents. This exception applies to entitlement communities that have few, if any, areas within their jurisdiction that have 51% or more LMI residents. These communities are allowed to use a percentage less than 51% to qualify activities under the LMI area benefit category. This exception is referred to as the "exception criteria" or the "upper quartile."

A grantee qualifies for this exception when fewer than one-quarter of the populated block groups in its jurisdictions contain 51% or more LMI persons. Activities must serve an area that contains a percentage of LMI residents that is within the upper

quartile of all census block groups within its jurisdiction in terms of the degree of concentration of LMI residents. Each year, HUD updates the upper quartile limit with the latest census income data and publishes the exception criteria on its website.<sup>1</sup>

HUD assesses each grantee's census block groups to determine whether a grantee qualifies to use this exception and identifies the alternative percentage that the grantee may use instead of 51% for the purpose of qualifying activities under the LMI area benefit category. HUD determines the lowest proportion a grantee may use to qualify an area for this purpose and advises the grantee accordingly.

Certain communities located within New Jersey's MID geography are eligible to use exception criteria to meet LMI area criteria. DCA will review each proposed project under this program to determine whether it meets the exception criteria for the LMI area, where applicable.

### 3.4.5.3 *Low/Mod Limited Clientele*

The program can use Low/Mod limited clientele to meet the LMI national objective. Unlike the area benefit, it is not the LMI concentration of the service area of the activity that determines whether the activity will qualify but rather the actual number of LMI persons that benefit from the activity. Activities should provide benefits to a specific group of people rather than everyone in an area. It may benefit particular people without regard to their residence, or it may be an activity that provides a benefit to only particular people within a specific area.

Below are examples of beneficiaries that qualify under the limited clientele national objective, including the following:

- Homeless populations
- Severely disabled persons
- Elderly persons

### 3.4.5.4 *Urgent Need*

The urgent need national objective will be used when an eligible recovery or mitigation project does not meet an LMI national objective. Subrecipients must describe how the activity alleviates conditions that pose a serious and immediate threat to the health or welfare of the community. Subrecipients using the urgent need national objective are subject to the waiver and alternative requirements described within the allocating Federal Register Notice at 87 FR 31661, III.F.3., Use of the urgent need national objective.

## 3.4.6 Maximum Awards

The maximum award available through RCP will be \$5 million. The RCP award may comprise up to 100% of the total project cost; however, applicants who wish to

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<sup>1</sup> <https://www.hudexchange.info/programs/acs-low-mod-summary-data/acs-low-mod-summary-data-exception-grantees/>





contribute additional funds to increase the project cost beyond \$5 million may do so at their discretion.

### 3.5 Scoring Criteria

Applications that meet the minimum eligibility requirements will be reviewed by a panel as part of a technical scoring process. The review panel will generate composite scores using the following score criteria. A detailed description of the scoring rubric is included with the application materials.

#### 3.5.1 Cost-Effectiveness

RCP project applications will be scored based, in part, on cost-effectiveness. Applicants are required to complete the cost-effectiveness worksheet provided with the application form to facilitate a benefit-cost analysis (BCA) that will factor into the application score. The worksheet is based on other established federal BCA methods; it enables DCA to assess the effectiveness of the project relative to its cost. RCP applicants will work with project designers and/or engineers to populate the worksheet. This process allows applicants to consider the primary BCA inputs for the project and is designed to incorporate non-quantifiable benefits of the project that are not typically included within standard BCA methods. More information on this method and how to complete the worksheet is included with the application.

All cost-effectiveness analyses will be reviewed and validated by DCA, or its designee, and points will be awarded according to an established scoring rubric. This will ensure that projects funded under RCP will reduce the risk to people and communities in ways that are cost-effective and that awards are not limited to communities with the resources to engage staff and/or technical professionals in lengthy application development.

#### 3.5.2 Risk Reduction/Resilience Effectiveness

Resilience is the ability to prepare for anticipated hazards, adapt to changing conditions, and withstand and recover rapidly from disruption. The score received for this criterion will depend on how well the application details the following elements: (1) effective risk reduction, (2) effective increase in community resilience, and (3) the leveraging of innovation.

#### 3.5.3 Climate Change and Other Future Conditions

Future conditions can be difficult to predict; however, it would be a mistake to not acknowledge potential climate change impacts when designing a project. The score received for this criterion will depend on how well the application details how the project will (1) enhance climate adaption; (2) respond to the effects of climate change; (3) respond to the effects of other future conditions (e.g., population, demographic, land use); and (4) cite data sources, assumptions, and models, especially the Mitigation Needs Assessment included within the Action Plan. Potential data sources



include the National Aeronautics and Space Administration and the U.S. Environmental Protection Agency.

### 3.5.4 Implementation Measures

Proper implementation requires that applicants understand what is expected of them, ensure that the human capital and financial resources needed to complete the project are in place, and develop a realistic timetable. The score received for this criterion will depend on how well the application describes (1) how the costs will be managed; (2) how the schedule will be managed; (3) how the project will be successfully implemented and how innovative techniques to facilitate implementation will be incorporated; (4) in its scope of work, the technical and managerial staff and resources available to successfully implement this project; and (5) how strong labor standards are incorporated to ensure high-quality work, avert disruptive and costly delays, and promote efficiency.

### 3.5.5 Population Impacted

While the intensity of a hazard is important, of equal or greater importance is the identification of the population impacted, many of whose demographic or socioeconomic characteristics may place its members at greater risk of harm before, during, and after a disaster. The score received for this criterion will depend on how well the application describes (1) community-wide benefits; (2) the proportion of the population that will be impacted, including a description of the disadvantaged communities as referenced in [Executive Order \(EO\) 14008](#); (3) how the project was selected and designed to maximize the positive impacts and minimize the negative impacts on any disadvantaged populations as referenced in EO 14008; and (4) how the proposed project clearly benefits a disadvantaged community. A disadvantaged community may be characterized by variables including, but not limited to, low income, high and/or persistent poverty, high unemployment and underemployment, racial and ethnic segregation, linguistic isolation, a high housing cost burden and substandard housing, distressed neighborhoods, a high transportation cost burden and/or low transportation access, a disproportionate environmental burden and high cumulative impacts, limited water and sanitation access and affordability, disproportionate climate impacts, a high energy cost burden and low energy access, and all geographic areas within tribal jurisdictions. Applicants are encouraged to indicate whether their community has a CDC SVI of 0.6 or higher. The Action Plan contains SVI scores for all HUD and State MID areas.

### 3.5.6 Community Engagement

A key element in the hazard mitigation process is the discussion it promotes among community members about creating a safer, more disaster-resilient community. Community engagement and other outreach activities that capture a community's values and priorities are likely to result in a project having greater legitimacy and support, leading to greater success in implementation. The score received for this criterion will depend on how well the application describes (1) the outreach strategy and supporting activities appropriate to the project and community that advance

hazard mitigation; (2) the types of community planning processes leveraged; (3) how input from a diverse range of stakeholders, including people from disadvantaged communities, was gathered and incorporated into project conception and design; and (4) how community planning and stakeholder input will continue to be used to help direct project execution.

### 3.5.7 Leveraging Partnerships

Leveraging partners allows applicants to access complementary strengths from neighboring communities, nonprofit organizations, and private partners. This potentially helps the applicant from a cost basis and serves the local community's greater good. The score received for this criterion will depend on how well the application incorporates (1) partnerships (e.g., private, district, local community) which will ensure that the project meets community needs, (2) an explanation of how these partnerships benefit disadvantaged communities, and (3) an explanation on the anticipated outcome of these partnerships (e.g., leveraging resources such as financial, material, and educational resources; coordinating multijurisdictional projects; heightened focus on equity-related issues).

### 3.5.8 Mitigation of Risk to Critical Infrastructure

To receive the point allotment for this criterion, the application must explain how the project mitigates the natural hazard risk to critical physical structures, facilities, and systems that provide support to a community, its population, and its economy. This includes natural systems.

### 3.5.9 Incorporation of Nature-Based Solutions

To receive the point allotment for this criterion, the application must describe how the project incorporates one or more nature-based solutions, including those designed to reduce carbon emissions, which are sustainable environmental management practices that restore, mimic, and/or enhance nature and natural systems or processes and support natural hazard risk mitigation, as well as economic, environmental, and social resilience efforts. Nature-based solutions use approaches that include, but are not limited to, the restoration of grasslands, rivers, floodplains, wetlands, dunes, and reefs; living shorelines; soil stabilization; aquifer storage and recovery; and bioretention systems.

### 3.5.10 Generated from the Previous Planning Award

To receive the point allotment for this criterion, applicants must demonstrate that the application was generated from one of the following programs:

- Resilient NJ
- FEMA Hazard Mitigation Assistance Project Scoping Award
- Other state or federal planning grant award
- Applicant is a past recipient of BRIC non-financial Direct Technical Assistance

4

# Review and Selection Process

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# 4 REVIEW AND SELECTION PROCESS

Eligible applicants may submit applications proposing Resilient Communities projects for funding through the CDBG-DR grants benefiting New Jersey MID areas. Responses will be evaluated to ensure that the proposed projects meet the minimum criteria as outlined in the application materials. Responses that meet the minimum threshold criteria will then be evaluated according to the scoring criteria listed in Section 3.5.

Projects awarded funding through RCP will be reviewed and selected through a multiphase process to comply with all applicable regulations and requirements and to ensure that funding goes to projects that respond to the stated goals and objectives of the Resilient Communities Program.

## 4.1 Application

Applicants will apply for the program by completing the application located on the DCA website. DCA is committed to ensuring a straightforward application process. To facilitate that goal, applicants will be provided with several resources during the application cycle, including the Application Instructions and Checklist. DCA will offer technical assistance on the RCP application process and requirements prior to the submission deadline.

Each eligible applicant can prepare a maximum of one project application. Applicants have until the RCP deadline to submit all required application materials. Only completed applications, including all required supporting documentation, will be considered for funding. Applications will not be accepted after the RCP deadline. DCA reserves the right to extend the deadline to meet the objectives of the program.

Application costs are not reimbursable using CDBG-DR grant funds.

## 4.2 Threshold Criteria

Receipt of applications will be followed by an application evaluation (threshold criteria), which will determine whether the application is complete, and the applicant and project are eligible for funding. This phase is unscored. DCA will further review only the applications that meet the following threshold criteria:

- The application was submitted on time.
- The application is signed and completed.
- The applying entity is an eligible city, township, county, special district, or federally recognized tribal government.
- The applying entity is registered in the System for Award Management System (SAM) and has not been excluded, debarred, or suspended within the System.
- The applicant's project benefits HUD and/or State-identified MID areas.
- The applicant meets either the LMI or urgent need national objective requirement.

- The applicant submitted evidence of compliance with the Public Notice requirement.

### 4.3 Technical Review

Applications that meet the minimum threshold criteria will then be reviewed by a panel as part of a technical scoring process. The review panel will generate individual scores using the established score criteria. The review panel will consist of staff who will independently and objectively score applications consistent with the scoring criteria. The review panel will meet regularly during the scoring process to discuss any widely divergent scores. Ultimately, the average of their scores will become the official composite score for each application. Only the application itself (including the requested attachments) will be scored. Any documents submitted with the application that were not requested will not be scored. Each element of the scoring criteria has a value associated with it. Applications that score below 80 points will not be considered for funding.

All scores and justification will be documented and provided to applicants upon request to ensure transparency in the award process. A description of the scoring rubric will be provided with the Application Packet and Instructions.

### 4.4 Clarifications

During the application review process, applicants are required to respond in a timely manner to any DCA requests for information/materials to complete the evaluation process. Any request for additional information will include a definitive due date for return of the requested information. If the applicant needs an extension, clarification, or assistance, the applicant may make its request within the allotted response timeframe. If an applicant fails to provide the requested information/materials or fails to ask for an extension or assistance, the applicant's response will be closed and disqualified.

### 4.5 Scoring and Ranking

DCA will rank applications based on the composite score generated by the review panel. As discussed, projects that meet the LMI area benefit national objective criteria will be prioritized until 70% of funding is awarded. The State reserves the right to allocate funds to projects if the project would otherwise meet program objectives and achieve a different national objective. After a comprehensive evaluation process, top applicants will be recommended to DCA management for funding.

### 4.6 Notice of Award

Projects selected for funding by DCA may be offered all or a portion of the total requested funding. DCA reserves the right to fund individual components of a proposed project depending on available funding and program priorities, including the need to meet the LMI overall benefit. Once award amounts are determined, DCA will send a Notification of Award to successful applicants, which is a preliminary offer to

enter into a subrecipient agreement. Execution of a grant is contingent upon both parties' agreement to the terms and conditions, including project scope; budget, including State and federal construction and financial rules and regulations; and timeliness, among others; these are described in greater detail in this policy. Awards will be considered final upon receipt of an executed subrecipient agreement between DCA and the applicant.

### 4.7 Appeals

All appeal requests related to program activities are processed and reviewed by DCA. Initial review of the appeal will be conducted by a three-person panel made up of the Office of Legal and Regulatory Affairs staff. This staff is independent from the group that originally made the decision being appealed. Each appeal will be reviewed against program policies and requirements. The panel will make a recommendation to the Deputy Commissioner of Disaster Recovery and Mitigation, who will make the final determination.

Appeal requests must be postmarked within sixty (60) calendar days of the date of service on the original correspondence communicating the decision to be appealed. Appeals must be submitted in writing to:

Department of Community Affairs  
Division of Disaster Recovery and Mitigation  
P.O. Box 823  
Trenton, NJ 08625-0800  
Attention: Legal

The applicant's written request should contain the following information:

- Applicant's name
- Address/Location of the impact area or proposed site
- Applicant's mailing address
- Applicant's telephone number
- Email address (if available)
- The reason(s) the decision or action is being appealed
- Documentation that supports the request to overturn the decision
- Application number

If appropriate, the Office of Legal and Regulatory Affairs may contact the applicant to allow the applicant to provide additional documents to address any deficiency or incomplete information, or to be interviewed to determine the merits of the applicant's appeal. If the action or decision is overturned, notification will specify the corrective action to be taken. The applicant shall be notified of the final determination in writing via certified mail.

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# Subrecipient Agreement and Finance

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# 5 SUBRECIPIENT AGREEMENT AND FINANCE

## 5.1 Roles and Responsibilities

The DCA Division of Disaster Recovery and Mitigation is responsible for implementing the program, including key roles in the execution of awards, managing payments, communication with HUD, and monitoring and financial oversight.

Awardees of the RCP funds will enter into a legal subrecipient agreement as a subrecipient of the State's CDBG-DR grant and must comply with all applicable federal and State rules and regulations. Subrecipients are responsible for managing project activities, timely reporting on financial and project progress, internal monitoring, contracting and contractor management, compliance with all applicable rules and regulations, and maintaining project records.

## 5.2 Funding Method

Funding will be provided as a grant to the subrecipient on a cost reimbursement basis according to the terms identified in the subrecipient agreement. Subrecipients must verify all costs before submitting invoices to DCA for reimbursement and provide all required reporting and supporting documentation (e.g., subrecipient agreements, contracts and procurement files, program files) requested by DCA.

## 5.3 Budget

Awards will be granted in accordance with the program's assessment of reasonable and necessary work, which may equal the budgets submitted by recipients during the application process. The subrecipient's budget must provide a comprehensive picture of RCP funds, local funds, any committed sources outside of RCP for the project, and a requested reimbursement payment schedule based on project milestones.

## 5.4 Eligible and Ineligible Costs

### 5.4.1 Eligible Costs

Eligible costs for this program must comply with the eligibility requirements outlined in Section 3.4.3 of this policy manual and be reasonable and necessary as determined by the program and the detailed eligibility requirements of 24 CFR §§ 570.201–206. Examples of basic eligible activities that RCP funds may be used for including, but are not limited to, the following:

- Acquisition
- Disposition
- Public facilities and improvements
- Clearance and remediation



- Public services
- Buildings or portions thereof, used for the general conduct of government as defined at § 570.3 cannot be assisted with CDBG-DR funds; however, this prohibition is waived for activities funded through the Superstorm Sandy allocation. Should the jurisdictions not eligible for Sandy funding wish to fund mitigation for such buildings, DCA may request a waiver of this prohibition from HUD.

The full list of eligible activities, including those not previously mentioned, is available at 24 CFR §§ 570.201–570.206.

### 5.4.2 Ineligible Costs

Costs associated with activities not outlined in 24 CFR §§ 570.201–570.206 are generally considered to be ineligible for CDBG funds unless waived by HUD. The following activities are specifically stated in the Code of Federal Regulations to be ineligible:

- General government expenses
- Political activities

The following activities are ineligible to receive Program funding:

- Purchase of equipment
- Operating and maintenance expenses

A fully detailed list of ineligible activities and their descriptions can be found in 24 CFR § 570.207, unless waived by HUD, and are applicable to this manual.

Specific to RCP, the following activities are ineligible:

- Costs associated with pre-award activities and project planning, including project design, project scoping, site plans, or environmental review elements undertaken prior to grant execution.
- Land use or comprehensive planning that does not explicitly contribute to the completion of the infrastructure project proposed, generally described under HCDA Section 105(a)(12).
- Upgrades beyond those determined to be necessary.
- Costs not directly attributable to the project's construction.
- Cost of supplies, equipment, or labor beyond the market rate or rates otherwise required by law.
- A change in scope beyond funding availability.

A fully detailed list of ineligible activities and their descriptions can be found in 24 CFR § 570.207, unless waived by HUD, and are applicable to this manual.

## 5.5 Duplication of Benefits Review

Section 312 of the Stafford Act prohibits any person, business, or other entity from receiving duplicative financial assistance for the same disaster recovery purpose from multiple sources of federal and other support (42 United States Code [U.S.C.] 5155(a) and (c)). Duplication occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular disaster recovery purpose. The amount of the duplication is the amount of assistance provided in excess of the need.

Per CDBG-DR regulations, the program's subrecipients are required to disclose all other benefits (e.g., cash, in-kind, grants, loans) received, or which will be received for the proposed project to ensure that federal funds do not duplicate funds received from other sources.

Subrecipients must also certify that CDBG-DR funds will supplement, not supplant, existing funds appropriated for the same purpose. Supplanting will be reviewed throughout the application, award, and monitoring process, and subrecipients may be required to demonstrate that any reduction in other funding is unrelated to the receipt or expectation of CDBG-DR funds.

Determination of the duplication of benefits (DOB) will be completed by RCP administrators following DCA's Duplication of Benefits Policy 2.10.73.

## 5.6 Subrogation

Applicants must agree to subrogate (commit to the State) any future payments they may receive after the award amount is determined from sources that represent a potential DOB. The subrogation agreement, included as part of the subrecipient agreement, requires the applicant to notify the State if additional funds are received. The State will conduct a DOB analysis to determine whether the funds received are duplicative. If the funds received are deemed duplicative, the applicant is required to return the funds to the State.

## 5.7 Cost Reasonableness Evaluation

Projects funded under RCP must be considered necessary and reasonable. Costs are considered reasonable if, in their nature and amount, they do not exceed that which would be incurred by a prudent person in the conduct of competitive business. DCA is responsible for determining what costs are considered necessary and reasonable. In doing so, DCA may use analytical techniques and procedures to ensure that the final costs are fair and reasonable, such as a cost analysis detailing the individual cost elements of projects to certify elements such as necessity, pricing, and consistency.

## 5.8 Subrecipient Agreement Terms and Conditions

A written subrecipient agreement will be provided to the subrecipient before any disbursement of CDBG-DR funds. At a minimum, the subrecipient agreement will



include a statement of work, schedule of activities and milestones, budget, record and reporting requirements, and recapture of funds guidance, among other provisions.

Prior to the execution of the subrecipient agreement, subrecipients will have time to review the terms and conditions for their project(s).

### 5.9 Execution of the Subrecipient Agreement

Applicants must execute the subrecipient agreement before any grant funds are released. The subrecipient agreement requires the applicant to certify that they understand and agree to all of the terms. DCA reserves the right to amend subrecipient agreements to ensure project completion and ensure that funds are being utilized compliantly.

### 5.10 CDBG-DR Infrastructure Subrecipient Manual

DCA has developed a CDBG-DR Infrastructure Subrecipient Manual which provides additional details and requirements Subrecipients must adopt and adhere to. This manual details requirements on the following chapters:

- Project Administration
- Environmental Review
- Acquisition and Relocation
- Procurement
- Duplication of Benefits
- Financial Management
- Fraud, Waste, and Abuse
- Accessibility, Equal Opportunity, and Fair Housing
- Contracting
- Labor Standards and Construction Management
- Monitoring
- Project Closeout

Subrecipients are required to acknowledge responsibility to comply with the procedures outlined in the chapters, including any future updates or modifications. This manual is to be used in conjunction with the RCP Policy and does not replace or supersede the requirements described therein.

### 5.11 Citizen Participation Plan

Subrecipients of the State's CDBG-DR grant are required to adhere to the requirements for local governments stated in the Citizen Participation Plan under Section V: Citizen Participation Requirements for Local Governments Participating in CDBG-DR Programs.<sup>2</sup> Subrecipients of RCP must develop a Citizen Participation Plan (CPP) that includes opportunities for citizens to learn about the project and provide

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<sup>2</sup> [https://nj.gov/dca/ddrm/pdf\\_docs/CDBG-DR%20Citizen%20Participation%20Plan.pdf](https://nj.gov/dca/ddrm/pdf_docs/CDBG-DR%20Citizen%20Participation%20Plan.pdf)

feedback. DCA has developed a standard CPP template that includes all requirements and can be adopted by subrecipients, if preferred. As stated, hearings and notices conducted as part of the application phase of this program may be used to fulfill the requirements of the CPP provided that they meet the criteria stated in the State Citizen Participation Plan.

### 5.12 Site Inspections

DCA will conduct a site inspection of the construction area to establish a baseline understanding of the site and anticipated scope of work. Throughout the course of the project, DCA will conduct regularly scheduled site inspections to assess project progress. Site inspections will take place either on a pre-determined frequency (i.e., monthly, quarterly, semi-annually, or annually) or at pre-determined project milestones based on the payment schedule submitted with the application. All projects will be inspected at project completion as part of closeout procedures.

### 5.13 Real Property Acquisition

Real property includes:

- Permanent and temporary easements necessary for the project
- Fee simple title/a parcel of land
- Long-term leases of 50 years or more
- Rights of way

Property can be acquired through a voluntary or involuntary (eminent domain) process.

While RCP Subrecipients may enter into a subrecipient agreement with the state prior to necessary acquisitions, Subrecipients cannot enter any construction contracts prior to completing the acquisition of all properties required for completion. If a property is in the process of being condemned (eminent domain), the action must be filed in court prior to execution of a construction contract. Further, following application to the Program, acquisition of property cannot be completed or finalized until after the Environmental Review Record is complete, as this would be considered a choice-limiting action.

### 5.14 Program Draw Request, Monitoring, and Reconciliation

DCA will use existing monitoring tools and, when needed, develop new review mechanisms to monitor reimbursement requests and reconcile any issues that may arise as a result. The verification process will involve the following:

- Documentation reviews and data collection during the reimbursement review process.
- Program monitoring to ensure that operations are within program guidelines.
- Program inspections to verify that work was completed in accordance with program standards.

- Site inspections to ensure that the subrecipient is making timely progress on the funded scope of work.
- Program expenditure and reimbursement request review for eligibility based on applicable laws, CDBG-DR requirements, and CDBG regulations.
- Follow-ups regarding identified compliance issues, initiation of corrective actions, and implementation of program controls, as necessary.

### 5.15 Timely Expenditures and Project Completion

To ensure that projects are completed within the required timeline, DCA will impose a period of performance of three (3) years for all projects funded under RCP.

The period of performance will commence upon the execution of a subrecipient agreement between DCA and the subrecipient. Should additional rounds of RCP funding be made available, DCA may, at its sole discretion, impose a shorter period of performance for those grants. DCA may approve extensions of the period of performance, contingent upon the overall grant timeline and HUD approval, provided that the subrecipient demonstrates that good cause exists.

### 5.16 Withdrawn Projects

If a subrecipient chooses to voluntarily withdraw or is administratively withdrawn from the program, the subrecipient is required to return **all** previously disbursed grant award funds to the program and the subrecipient agreement is terminated.

#### 5.16.1 Voluntary Withdrawals

Projects may be withdrawn by a subrecipient at any time. Subrecipients who wish to withdraw must clearly provide a written notice of their intent to voluntarily withdraw and return any CDBG-DR funds. DCA will send the subrecipient a written notice of acknowledgment of voluntary withdrawal.

#### 5.16.2 Administrative Withdrawals

At DCA's discretion, projects may be administratively withdrawn and subrecipient agreement terminated for the following reasons:

- A subrecipient fails to provide required documentation or information within the deadline described in a written request.
- A subrecipient is determined to have provided false or misleading information.
- A subrecipient fails to adhere to the conditions identified within the program policy.
- A subrecipient is determined to be out of compliance with the terms and conditions of the subrecipient agreement and has failed or is unable to take corrective actions.
- A subrecipient fails to demonstrate the ability to complete the project within the approved timeframe.
- A subrecipient becomes unresponsive.

## 5.17 Reporting Requirements

In order to meet the HUD requirement for submitting the DRGR Quarterly Performance Report, DCA will require subrecipients to provide quarterly progress update reports. This performance report shall be submitted to HUD within 2 weeks (14 days) after the close of the quarterly reporting period. These reports will provide updates on various elements of the award, including, but not limited to, the following:

- Progress narratives
- Current expenditures of federal funds
- Progress on performance metrics

### Section 3:

All contractors are required to maintain documentation demonstrating compliance with the Section 3 Final Rule established in 24 CFR Part 75 and must be made available to DCA upon request for monitoring. Documentation should report Section 3 labor hour requirements for the number of total labor hours, number of Section 3 labor hours, and the number of targeted Section 3 labor hours for all applicable construction activities. To facilitate compliance with all Section 3 requirements, each subrecipient will be required to identify a designated Section 3 liaison. This will be included as a term within the subrecipient agreement to ensure that the subrecipient remains compliant with this federal rule.

## 5.18 Resilience Performance Metrics

HUD is requiring the State to establish resilience performance metrics for each activity that constructs, reconstructs, or rehabilitates residential or non-residential structures. As part of the subrecipient agreement process, RCP awardees will work with DCA to develop resilience performance metrics for each activity for which this requirement applies.

The resilience performance metrics will include a description of the projected risk from natural hazards to the project/service area, identification of the mitigation measure that will address the risk, and an assessment of the quantifiable benefit of the project's resilience measures through verifiable data. Tracking and reporting resilience performance metrics will be a required activity included within the terms of the subrecipient agreement. The benefit of each activity should be a quantifiable metric that illustrates how the resilience measure is expected to improve outcomes compared with the conditions if the activity had not been implemented. Awardees will work with DCA to ensure that the metrics selected are feasible and meet HUD requirements.

## 5.19 Procurement

All awardees of CDBG-DR funds must follow DCA's Procurement Policy – CDBG-DR, No. 2.10.2., for specific steps and requirements, in compliance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards codified at 2 CFR Part 200 ("Uniform Guidance"). Existing contracts that have

not been procured in compliance with Uniform Guidance—that is, free and open competition—would not be eligible for federal funds.

Any entity that is listed as excluded, debarred, or suspended on the System for Award Management (<https://sam.gov/>), including affiliated businesses with the same employer identification number, is not eligible to receive RCP funds and may not be selected as a subrecipient, partner, subcontractor, or vendor.

### 5.20 Subrecipient Agreement Modifications and Extensions

Awardees may request a grant amendment to extend the period of performance and for scope changes that affect the grant award through the change order process identified in Section 6.8.1. DCA will review the submission and determine whether an amendment is warranted. DCA will review requests for modifications based on reasonableness, necessity, and available funding. The program's maximum award is \$5 million and cannot be exceeded. However, the DCA may increase the maximum award at its sole discretion if the public impact is critical.

Recipients must submit the request for a grant amendment as soon as the need is identified. Requests should be submitted at least ninety (90) days prior to the termination date of the subrecipient agreement.

If the subrecipient makes substantial changes to the project relating to purpose, scope, location, or beneficiaries, the subrecipient must provide citizens notice and an opportunity to comment on the changes prior to submission of a substantially changed application to the State for re-evaluation. Subrecipients must publish the updated application and solicit feedback from the citizens for no less than fourteen (14) days.

### 5.21 Financial Management

As per this program policy and other documentation, DCA will ensure that it has the policies and procedures for expending and accounting for all CDBG-DR funds received and to maintain adequate source documentation to demonstrate that CDBG-DR funds are used in compliance with all terms and conditions of the CDBG-DR award, only spent for reasonable and necessary costs, and not used for general expenses to carry out other responsibilities of State and local governments. DCA's financial policies also will ensure that the following are met:

1. DCA will only charge the CDBG-DR award to include allowable, reasonable, and allocable costs incurred during the period of performance.
2. DCA will minimize the time elapsing between the receipt of funds from the Federal Government and the reimbursement of funds to the subrecipients.
3. If applicable, DCA will disburse funds available from program income before requesting additional grant funding.
4. For any changes made to the approved budget, scope, or objectives, DCA will notify HUD about the changes and any substantial changes will be approved by HUD.



5. DCA will submit to HUD mandatory quarterly progress reports for HUD's review of program progress. See Reporting Requirements, Section 5.17.

### 5.22 Program Income

Program income is the gross income received by DCA or any of its subrecipients that is directly generated from the use of CDBG-DR funds. Information regarding how program income may be generated and used is available at 24 CFR §§ 570.489 and 570.504, and 87 FR 31636, as well as on HUD's website. DCA does not anticipate generating program income through RCP. If program income is generated, it will be subject to the applicable terms and conditions within the subrecipient agreement and managed by DCA in accordance with policy 2.10.6, Program Income. In general, program income is transferred from the subrecipient to DCA to pay the next CDBG-DR-eligible expense.

### 5.23 Recapture of Funds

During the implementation and ongoing monitoring of the RCP, files will be made available for review by program staff and State and federal auditors. In some instances, the review may identify a situation that would require the recapture of funds. Under the circumstances listed below, subrecipients may be required to repay all or a portion of the assistance received from RCP. The reasons for grant recapture include, but are not limited to, the following scenarios:

- A subrecipient is determined to have provided false or misleading information to the program.
- A subrecipient withdraws from the program prior to completion of the project (withdrawal from the program must be in writing or by email).
- The project is not completed due to non-cooperation by the subrecipient.
- A subrecipient did not comply with the approved scope of work in a manner that made the project eligible.
- A subrecipient failed to report the receipt of any additional funds received after a DOB analysis was conducted.

All subrecipients who have been identified for the recapture of program funding will not be able to close out of the program until all funds have been repaid to the program.

### 5.24 Retainage

The program will develop a retainage of at least 2% of each RCP subrecipient award. The amount withheld is to ensure that the subrecipient completes all of the work agreed upon within the subrecipient agreement. The release of retainage will be contingent upon the subrecipient providing all necessary documentation and certifications as required by the program.



6

# Construction Requirements

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## 6 CONSTRUCTION REQUIREMENTS

### 6.1 Flood Mitigation Standards

#### 6.1.1 Elevation of Non-Residential Structures

On April 23, 2024, HUD published a new Federal Flood Risk Management Standard (FFRMS) rule which modified HUD's floodplain regulations to better address flood risk. RCP subrecipients must follow the HUD FFRMS requirements described below and detailed in 24 CFR Part 55 unless the activity is otherwise excepted or exempted, or if state or local regulations are more stringent than federal requirements.

New construction and substantial improvement<sup>3</sup> of non-residential structures, including infrastructure, assisted with RCP funds must be elevated to the FFRMS floodplain or floodproofed in accordance with the FEMA floodproofing standards at 44 CFR § 60.3(c)(3)(ii) or a successor standard. For minor improvements of non-residential project activities elevation and floodproofing is not required.

All critical actions funded through RCP, as defined at 24 CFR § 55.2(b)(3), within the FFRMS floodplain must be elevated or floodproofed (in accordance with FEMA floodproofing standards at 44 CFR § 60.3(c)(2)–(3) or a successor standard) to 3 feet above the base flood elevation. Activities subject to elevation requirements must comply with applicable federal accessibility mandates. *Critical actions* are defined as “any activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property.” For example, critical actions involve hospitals, nursing homes, emergency shelters, police stations, fire stations, and principal utility lines.

For RCP, applicants must certify that they will not use CDBG-DR funds for any activity in an area identified as flood-prone for land use or hazard mitigation planning purposes by the State, local, or tribal government or delineated as a Special Flood Hazard Area (or 100-year floodplain) in FEMA's most current flood advisory maps, unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain, in accordance with Executive Order 11988 and 24 CFR Part 55.

The program will comply with the rules set by the applicable Federal Register Notices but also will follow the more stringent rules set by the New Jersey Department of Environmental Protection.<sup>4</sup> The rules go above what is expected by FEMA and HUD in that the rules would require a new design flood elevation that is determined by adding a minimum of 3 feet to FEMA's 100-year flood elevation and allow compliance with local ordinances that exceed FEMA's standard.

<sup>3</sup> As defined in 24 CFR 55.2(b)(12). Any other repairs, rehabilitation, etc. not meeting this definition are considered minor.

<sup>4</sup> [New Jersey Department of Environmental Protection – Watershed and Land Management](#)



## 6.1.2 Infrastructure Planning and Design

All newly constructed infrastructure that is assisted with CDBG-DR funds must be designed and constructed to withstand extreme weather events and the impacts of climate change. To satisfy this requirement, subrecipients will work with DCA to identify and implement resilience performance metrics that will protect the public, including members of protected classes, vulnerable populations, and underserved communities, from any risks identified in the Action Plan.

For the purposes of this requirement, an infrastructure activity includes any activity or group of activities (including acquisition or site or other improvements), whether carried out on public or private land, that assists the development of the physical assets that are designed to provide or support services to the general public in the following sectors: surface transportation, including roadways, bridges, railroads, and transit; aviation; ports, including navigational channels; water resources projects; energy production and generation, including from renewable, nuclear, and hydro sources; electricity transmission; broadband; pipelines; stormwater and sewer infrastructure; drinking water infrastructure; schools, hospitals, and housing shelters; and other sectors as may be determined by the Federal Permitting Improvement Steering Council.

Additionally, for the purposes of this requirement, an activity that falls within this definition is an infrastructure activity regardless of whether it is carried out under sections 105(a)(2), 105(a)(4), 105(a)(14), another section of the HCDA, or a waiver or alternative requirement established by HUD.

## 6.2 Flood Insurance

### 6.2.1 Prohibition on Assisting Properties That Failed to Comply with the Flood Insurance Mandate

Section 582 of the National Flood Insurance Reform Act of 1994, as amended (42 U.S.C. 5154a), prohibits recipients of this grant program from providing disaster assistance for the repair, replacement, or restoration of a property to a property owner who has failed to satisfy the federal requirement to obtain and maintain flood insurance following previous disaster assistance from the Federal Government. Subrecipients must develop and implement a process to verify and monitor for compliance with Section 582 and the requirement to obtain and maintain flood insurance.

### 6.2.2 Requirement to Purchase and Maintain Flood Insurance

Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires property owners located within a Special Flood Hazard Area assisted through CDBG-DR funds to purchase and maintain flood insurance protection for any HUD-assisted property (building or personal property). The requirement for purchasing flood insurance will be stated within the subrecipient agreement and proof of compliance

included within the closeout procedures. Subrecipients must develop and implement a process to ensure that property owners adhere to this requirement.

### 6.2.3 Responsibility to Inform Property Owners of the Requirement to Obtain and Maintain Flood Insurance

Section 582 of the National Flood Insurance Reform Act of 1994 mandates that property owners receiving disaster assistance that triggers the flood insurance purchase requirement have a statutory responsibility to notify any transferee about the requirement to obtain and maintain flood insurance and maintain such written notification in the documents evidencing the transfer of the property, and that the transferring owner may be liable if they fails to do so. A grantee or subrecipient receiving CDBG-DR funds must notify property owners of their responsibilities. Subrecipients must develop and implement a process to ensure that property owners adhere to this requirement.

## 6.3 Requirements for Flood Control Structures

Subrecipients that use CDBG-DR funds to assist flood control structures (i.e., dams and levees) are prohibited from using CDBG-DR funds to enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event without obtaining pre-approval from HUD and any federal agencies that HUD determines are necessary based on their involvement or potential involvement with the levee or dam.

Grantees that use CDBG-DR funds for levees and dams are required to:

1. Register and maintain entries regarding such structures with the United States Army Corps of Engineers (USACE) National Levee Database or National Inventory of Dams.
2. Ensure that the structure is admitted to the USACE Levee Rehabilitation and Inspection Program (Public Law 84-99).
3. Ensure that the structure is accredited under the FEMA National Flood Insurance Program.
4. Enter the exact location of the structure and the area served and protected by the structure into the DRGR system.
5. Maintain file documentation demonstrating that the grantee has conducted a risk assessment before funding the flood control structure and documentation that the investment includes risk reduction measures.

Subrecipients funding levees or dams will work with DCA to ensure that the project is compliant with these guidelines.

## 6.4 Section 3

Section 3 provides that economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low-income persons and contracting opportunities should be directed to Section 3 businesses that employ those individuals.

Under CDBG-DR, DCA is required to report Section 3 labor hour requirements for the number of total labor hours, number of Section 3 labor hours, and the number of targeted Section 3 labor hours for all applicable construction activities. HUD staff will review the data reported to analyze DCA's progress toward meeting Section 3 requirements and to inform on-site and remote monitoring engagements.

## 6.5 Davis-Bacon Labor Standards

Under Section 110(a) of the Housing and Community Development Act of 1974, laborers and mechanics employed by contractors and subcontractors on construction work "financed in whole or in part" with CDBG assistance must be paid not less than the wages determined to be prevailing on similar construction work in the locality by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 3141 et seq.). Davis-Bacon prevailing wage requirements do not apply to the rehabilitation, reconstruction, and demolition of residential property containing fewer than eight units, to prime contracts of \$2,000 or less, to bona fide volunteers where the procedures and requirements of 24 CFR Part 70 are met, or to demolition that is not followed by construction.

Davis-Bacon requirements do not apply to non-construction activities, such as storm debris removal.

For activities that are subject to the Davis-Bacon requirements, DCA will carry out implementation, monitoring, enforcement, and reporting activities that are specified in HUD Handbook 1344.1 Rev 2, Chapter 1, Section 1-5.B.

## 6.6 Environmental Review and Historic Preservation

The National Environmental Policy Act of 1969 (NEPA), as amended, established national policies, goals, and procedures for protecting, restoring, and enhancing environmental quality. It requires an evaluation of the environmental impacts of proposed federally funded projects and the identification of mitigation measures to minimize or prevent adverse impacts. All projects funded by HUD CDBG-DR funds will require an Environmental Review Record (ERR) to be completed in compliance with HUD 24 CFR Parts 50, 51, 55, and 58; and all applicable State and local regulations.

For the purpose of compliance with state and federal environmental regulations, DCA will act as the Responsible Entity for projects funded through RCP. DCA is responsible for decision-making, and actions that would otherwise apply to HUD under NEPA approvals, including reviews determining whether activities are exempt or categorically excluded from environmental rules and not subject to federal rules (CENST) and



providing notification of ER approval permitting subrecipients to enter into a subrecipient agreement with DCA to continue with the project.

Subrecipients will carry out and manage the tasks for the completion of environmental reviews including categorically excluded and subject to Federal rules (CEST), Environmental Assessments (EA), and Environmental Impact Statements (EIS), and demonstrating compliance with all applicable regulations. To facilitate this process, subrecipients will complete the Environmental Review of all project activities and submit them to DCA for approval, as Responsible Entity. **The ERR must be complete and approved by DCA prior to subrecipient executing a subrecipient agreement with the State.** Pre-grant expenditures, including those for the Environmental Review, cannot be reimbursed with RCP funds.

At the DCA's request, subrecipients may be required to use DCA's Construction Management Firm (CMF) to complete their Environmental Review. The subrecipient will work directly with DCA and the CMF to complete the Environmental Review.

Prior to the beginning of the Environmental Review process, subrecipients must first achieve 30% completion of the proposed project design, which is typically the level of design necessary to conduct an adequate Environmental Review. Before the Environmental Review can commence, Subrecipients will submit documentation demonstrating completion of 30% design to DCA, which DCA will review and assess the appropriate level of Environmental Review (e.g., environmental impact statement, environmental assessment, categorically excluded subject). The objective of the Environmental Review is to establish the ERR to support the following:

- Execution of a Subrecipient Agreement – The ERR must be approved prior to subrecipients formally entering into an agreement for funding with the State. The ER may result in modifications to scope of the project and budget. Subrecipients, in coordination with DCA, will adjust project budget as necessary prior to executing the agreement.
- Release of Funds from HUD to the Responsible Entity (DCA) – applies to categorically subject to 24 CFR Part 58 (CEST), Environmental Assessments (EA), and Environmental Impact Statements (EIS) levels of review.
- Funding disbursement from DCA to a subrecipient through the Authority to Use Grant Funds (in the form of reimbursement for qualifying expenses that are adequately documented by the subrecipient and approved by DCA).

Other previously performed environmental reviews may not satisfy all applicable HUD requirements for RCP but may be submitted for review if completed within the last five (5) years. It is the responsibility of the subrecipient to develop the scope of services needed for the development of the ERR and to include these costs within its project budget.<sup>5</sup> If an environmental condition identified on a proposed RCP activity site cannot be cleared or mitigated, the site may not be an eligible location for activities. The subrecipient shall ensure that its assessment efforts and compilation of documentation are in accordance with applicable local, state, and federal requirements. Once a subrecipient is awarded funds through a subrecipient

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<sup>5</sup> 30 percent design is needed to develop the ERR, but the scope of services cannot exceed 30 percent design until the ERR is complete.

agreement, it is the subrecipient's responsibility to conduct appropriate environmental compliance activities for awarded projects and to ensure that contractors and subcontractors are notified that work must comply with environmental mitigation and conditions and is subject to all local, state, and federal requirements.

Once an application is submitted for RCP funds, subrecipients are prohibited from initiating choice-limiting actions as defined at 24 CFR § 58.22<sup>6</sup> until the ERR is approved and the Authority to Use Grant Funds is provided by HUD via DCA. Choice-limiting actions include acquisition, demolition, rehabilitation, site clearance, bidding and construction, and execution of legally binding agreements where funds are committed without condition on successful completion of the environmental review (ER) process. Applicants will be permitted to continue planning and design efforts up to 30% of design in order to initiate an ERR.

Please note, RCP grant funds cannot be used to reimburse expenditures for pre-award activities, including project scoping or the environmental review record. Pre-grant expenditures resulting from planning, design, and the environmental review process cannot be reimbursed with RCP funds and must be funded using sources other than the anticipated RCP grant. DCA staff will oversee the environmental compliance process and provide guidance to subrecipients as needed.

### 6.7 Uniform Relocation Assistance

The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA), as amended, and its implementing regulations at 49 CFR Part 24 establish minimum standards for federally funded programs and projects requiring the acquisition of real property or the displacement of persons from their homes or businesses. The URA applies broadly to all planned or intended federally funded projects, funded in part or in whole, where acquisition, rehabilitation, or demolition occurs during any phase.

DCA must consider the potential impacts on tenants. If an identified project results in tenants leaving their homes involuntarily (being displaced), the tenants may be eligible for Tenant Relocation Assistance under the URA. These requirements apply to the relocation of any displaced person as defined at 49 CFR § 24.2(a)(9). Displaced persons under this definition must be fully informed about their right and entitlement to relocation assistance and payments provided by the URA and its implementing regulations. For more information, refer to 49 CFR Part 24, Subpart C.

### 6.8 Contractors

Contractors must comply with the Contract Work Hours and Safety Standards Act (CWHSSA) and the Copeland Anti-Kickback Act (Copeland Act). CWHSSA requires that, for any project in which the prime contract exceeds \$100,000, workers must be paid one-and-a-half times their normal hourly rate for any hours worked in excess of 40 hours weekly, based on a work week of 7 consecutive days. The Copeland Act prohibits any person from inducing a worker on a federally funded project to give up any part of the compensation to which the worker is entitled. No payroll deductions are

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<sup>6</sup> <https://www.ecfr.gov/current/title-24/subtitle-A/part-58/subpart-C/section-58.22>





permitted that are not specifically listed in the Copeland Act unless the contractor has obtained written permission from the employee as specified in 29 CFR § 3.5 for otherwise permissible payroll deductions.

### 6.8.1 Change Orders to Construction Contracts

Change orders to construction contracts executed by subrecipients of this program may be required to address unforeseen and/or unanticipated circumstances. Any changes that revise line items in the schedule of values or increase project costs due to unanticipated scope requirements must be submitted to DCA through a written change order with supporting documentation. The supporting documentation may include, but is not limited to, the contractor's estimate and schedule, a written justification for the change order, and evidence of cost reasonableness. DCA will review the change order and determine whether the change constitutes an amendment or a re-evaluation of the application. Any amount in excess of the grant award will be considered an overage and will be the responsibility of the applicant. Based on the circumstances and the availability of program funds, DCA may allow for an increase to the grant award in order to complete projects.



# 7 Compliance and Monitoring

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# 7 COMPLIANCE AND MONITORING

## 7.1 Program Monitoring and Oversight

As the grantee, the Division of Disaster Recovery and Mitigation is responsible for oversight of the activities and expenditures of authorized federal funds. DCA will perform monitoring and provide technical assistance on all program areas and files. DCA's monitoring priorities are determined by its risk assessments of the programs that it oversees, which include, but are not limited to, factors such as the level of expenditures, program progress, the number of beneficiaries, experience managing like programs, and policy changes.

This monitoring strategy is to ensure that all programs receiving CDBG-DR grants comply with applicable federal regulations and are effectively meeting their stated goals. All programs will be monitored at least once during the life of the activity. The results of monitoring and audit activities will be reported to the Deputy Commissioner of DCA.

## 7.2 Compliance Requirements

Each subrecipient will develop a written comprehensive compliance plan consistent with the requirements of State and federal laws, HUD Federal Register Notices, the HUD CDBG rules, CDBG-DR requirements, and the Action Plan. Examples of data points to include in the compliance plan include the following:

- A. The system for monitoring a general contractor's process for debarment verifications for subcontractors.
- B. The system for monitoring a general contractor's process for verification of Section 3 status and the required record-keeping.
- C. Third-party (or non-program staff) consistency reviews for all monitoring processes for the program representatives' oversight inspection and monitoring functions.
- D. The frequency and distribution of any reporting of the ongoing activities, as determined by DCA.

Each program subrecipient will cooperate fully with DCA, HUD, or HUD Office of the Inspector General monitors/auditors and assist them by providing all necessary access to databases and documents requested.

## 7.3 Monitoring Types and Methodology

Outside of ongoing monitoring and quality assurance practices, DRM will generally perform the following types of monitoring processes:

- **Fiscal Reviews**

Fiscal reviews assess whether the recipient's financial management aligns with the approved budget and complies with applicable federal cost principles. These reviews also evaluate whether expenditures drawn from grant funds are properly documented and reflect the intended use. Additionally, fiscal reviews examine internal controls, accounting systems, procurement procedures, inventory tracking, audit resolution processes, and record retention practices to support sound fiscal oversight.

- **Programmatic/Performance Reviews**

Programmatic reviews assess whether the recipient is effectively implementing the program in accordance with the goals and requirements outlined in the agreement with DCA. These reviews involve analysis of quarterly progress reports to determine if program objectives are being met and to evaluate the alignment between reported activities and grant expenditures. Applicable policies and procedures are also reviewed to ensure programmatic compliance.

- **Environmental Reviews**

Environmental reviews assess whether the recipient is complying with all applicable environmental laws, regulations, and Executive Orders. These reviews ensure that necessary permits and exemptions are obtained, and that the recipient has effective environmental management systems, policies, and procedures in place.

- **Focused Reviews**

Focused reviews may involve further inquiry, including more in-depth and a greater number of monitoring questions that are grounded in grant regulations, Uniform Guidance, and best practices rooted in experience. Construction activities, for example, would require this type of review.

- **Overall Management Reviews**

Overall management reviews assess all aspects of a recipient's grant administration, including strategic direction, financial oversight, programmatic performance, and environmental compliance. These comprehensive evaluations are designed to ensure that the recipient maintains effective systems and practices across all areas of grant management

At least 2 weeks prior to a monitoring review, written notification will be provided to the subrecipient or the contracted vendor about the type of review that will be conducted.

## 7.4 Monitoring Results and Reporting

One or more conclusions may result from a monitoring review that indicates the following, as detailed in the summary monitoring report:



- The performance complied with the requirements of the program.
- There are findings that require corrective actions by the subrecipient.
- There are concerns about the performance of the projects or activities.
- There are observations for efficiencies or items of note.
- Technical assistance is necessary.

It shall be the responsibility of the subrecipient to remedy any instances of non-compliance or deficiencies that result from the monitoring review.

### 7.5 Prevention of Fraud, Waste, and Abuse

As the grantee of the CDBG-DR funds, DCA oversees all activities and expenditures of the funds awarded for the Resilient Communities Program. All projects will be monitored at least once during the life of the activity. The results of the monitoring and audit activities will be reported to the Deputy Commissioner of DCA (DCA Policy No. 2.10.3, Prevention and Detection of Fraud, Waste, and Abuse).

### 7.6 Audit

As per the provisions of 2 CFR Part 200, Subpart F, Audit Requirements, grantees that expend \$750,000 or more during their fiscal year in federal awards must have a single or program-specific audit conducted for that year. Subrecipients also must have a single or program-specific audit if they meet the \$750,000 expenditure threshold.

If DCA is disbursing grant funds to subrecipients, DCA is required by 2 CFR § 200.332 to ensure that subrecipients comply with Subpart F. DCA will verify that subrecipients, if applicable, have prepared financial statements (including the schedule of expenditures of federal awards) that there are no significant findings in the single audit that impact the use of CDBG-DR funding and, if there are findings, the subrecipient has taken corrective action.

### 7.7 Conflict of Interest

No person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients who are receiving funds under this part who exercise or have exercised any functions or responsibilities with respect to CDBG-DR activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities may obtain a financial interest or benefit from a CDBG-DR-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-DR-assisted activity, or with respect to the proceeds of the CDBG-DR-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for 1 year thereafter.

## 7.8 Files, Record, and Reporting Requirements

### 7.8.1 File Management

Below is a list of supporting documentation that DCA staff may review to validate the disbursement of funds. This is not an exhaustive list and not all documentation will be required for a single request. Applicant-specific documentation will be pulled and reviewed when applicable.

- Project work (e.g., cost, scope, maps)
- Procurement files (e.g., bids, contracts)
- System for Award Management (SAM) active unique entity identification verification
- Payroll records, justification, and reports
- Memorandum of understanding or subrecipient agreement
- Award letter
- Eligibility of the activity
- Evidence of having met a national objective
- DOB assessment
- Budget, expenditure information, and CDBG-DR draw-down requests
- Source documentation (e.g., purchase orders, invoices, canceled checks)
- Applicable environmental review records
- Applicable monitoring and audit reports
- Evidence of compliance with cross-cutting requirements such as Section 3 and the Davis-Bacon Labor Standards

### 7.8.2 Record-Keeping

Accurate record keeping is crucial to the successful management of CDBG-DR-funded activities. Insufficient documentation is likely to lead to monitoring findings and those findings will be harder to resolve if records are missing, inaccurate, or inadequate. DCA and the subgrantees are required to maintain complete and accurate documentation, by project, for all disaster-related costs. DCA, through their individual management information systems, as applicable, retain relevant program files as electronic records for seven (7) years after final closeout.<sup>7</sup> Municipalities are required to retain records for at least seven (7) years. This policy is more stringent than 24 CFR § 570.490, which states that files should be retained for the greater of 3 years from the closeout of the grant. Full details of the records retention policy can be found in the New Jersey Policy for File Management and Record Keeping, No. 2.10.19.

As defined in the policy, records must be retained and audited after the end of the program. To assist compliance with these codes, DCA will work with the New Jersey Division of Revenue and Enterprise Services, Records Management Services, to submit and obtain electronic imaging system certification, if applicable. This will include documenting the retention schedule outlined by program policy, defining the

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<sup>7</sup> <https://www.nj.gov/treasury/revenue/rms/pdf/G100000-017.pdf>



system configuration, quality control, disaster prevention/recovery, scanning policy, and procedures and a data migration and retention plan.

Documentation must be available to DCA, the New Jersey Office of Emergency Management, or HUD for review and monitoring upon request. The Storm Integrated Recovery and Operations Management System (SIROMS) will hold documentation about program information, disbursements, justification for eligible activity, and national objectives. New Jersey Emergency Medical Services may only have the details required for FEMA reimbursement. Some project details may exist at the local level. Agreements will detail the record-keeping requirements for how documentation should be retained between DCA and its subrecipients.

### 7.8.3 Destruction of Records

In no case shall the record destruction date be less than seven (7) years from the time of final closeout for original copies of documents. All original records become property of the State of New Jersey. These original records shall be transferred to DCA for storage consistent with the migration and retention plan. All public agencies must submit a proposal to the State's record disposal system before disposing of retained records.

# 8 Closeout

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## 8 CLOSEOUT

The closeout process is designed to ensure that all CDBG-DR activities are completed, and funds are expended in accordance with the subrecipient agreement, program rules, and State and federal requirements. This means that any financial, administrative, and performance issues as stipulated in the subrecipient agreement have been resolved to the satisfaction of DCA, HUD, and the subrecipient.

The project will be ready for closeout when the following conditions are met:

- All eligible activities are completed in accordance with the scope of work agreed upon within the signed subrecipient agreement, as certified by an engineer.
- DCA has conducted a final closeout site inspection.
- All funds are expended in full, or the remaining funds are planned to be returned to HUD.
- All reporting requirements (e.g., Quarterly Performance Reports, HUD Monthly Status Reports, HUD Contract Reports, other internal reporting) were completed.
- Any specials conditions of the program were met.
- All audit and monitoring issues were resolved.

### 8.1 Closeout Documents

Subrecipients are required to submit the following to DCA to complete the closeout:

- Final request for funds.
- Documentation reporting the grant accomplishments and expenditures of each project to the residents of the jurisdiction, as well as the HUD national objective met.
- Documentation that funds were expended in full, or certification of the return of the remaining funds.
- Documentation describing the resolution of any outstanding audit or monitoring issues.
- Duplication of Benefits and Non-Supplanting Form.
- Certification of Completion from an engineer.
- Flood insurance documentation, where applicable.
- Final inspection documentation.
- Checklist for environmental review.
- Any additional Program requested documentation for closeout.

DCA will review the documentation and process the final request for funds if all provided documentation and the circumstances of the project warrant closeout. DCA will disencumber any remaining funds, if applicable, and enter all needed information in DRGR to show that the activities and projects have been completed.

Once all closeout documentation has been processed and DRGR has been updated, DCA will send a closeout letter to the subrecipient. Subrecipients are advised to sign



and return the closeout letter to DCA in order to receive retainage. Subrecipients are required to retain CDBG-DR records for at least seven (7) years after the final closeout in accordance with State and federal records retention requirements.

### 8.2 Flood Insurance

As mentioned in Section 6.2, subrecipients must obtain flood insurance for applicable RCP projects located in a Special Flood Hazard Area. Flood insurance monitoring will require the applicant to submit documentation meeting the compliance requirements of Section 102(a) of the Flood Disaster Protection Act of 1973. The standard documentation for compliance with Section 102(a) is either a paid receipt for the current annual flood insurance premium and a copy of the application for flood insurance or a copy of the current policy declarations form issued by the National Flood Insurance Program (NFIP) or issued by any property insurance company offering coverage under NFIP. The program may seek third-party verification of compliance as well. When applicable, DCA will review documentation of flood insurance as part of the closeout procedures. Applicants who cannot meet these requirements at the time of closeout may be determined to be non-compliant and may have to repay all or a portion of the assistance provided by the program.

### 8.3 Duplication of Benefits at Closeout

An agreement will be signed by the applicant to indicate that if there are any additional DOB funds disbursed after the grant calculation, the applicant is required to pay back these funds to DCA. DCA will conduct a final DOB analysis to ensure that the applicant has not received any additional funding. In accordance with HUD reporting requirements, following the completion of the compliance period, DCA will communicate to HUD that the file is formally closed.

9

# Abbreviations and Definitions

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## 9 ABBREVIATIONS AND DEFINITIONS

**Action Plan:** The State of New Jersey Action Plan for Disaster Recovery was submitted to and approved by HUD in fulfillment of Community Development Block Grant–Disaster Recovery Program requirements for recovery from Hurricane Ida, as amended.

**Appeal:** An appeal is a written request from an applicant submitted for review to change an unfavorable determination made by the program.

**Applicant:** An applicant is any entity or individual who submits an application to the program.

**Authorization to Release Funds:** An official form granting authority to use grant funds for entities who have submitted the Request to Release Funds.

**Base Flood Elevation:** The elevation of surface water resulting from a flood that has a one percent (1%) chance of equaling or exceeding that level in any given year.

**BRIC:** Building Resilient Infrastructure and Communities is a competitive Federal Emergency Management Agency grant program to support States, local communities, tribes, and territories. The panel reviews submitted sub applications for hazard mitigation projects that aim to reduce the risk from disasters and natural hazards.

**Buyout:** As referenced in the Federal Register Notice at [87 FR 31636](#), buyouts are acquisitions of properties located in a floodway, floodplain, or other disaster risk reduction area that reduce the risk from future flooding. Under the Blue Acres Buyout Program, buyout properties will be voluntarily sold to the New Jersey Department of Environmental Protection, or their designee, for the current fair market value (post-storm value) and must be converted to and maintained per open space, recreational or wetlands management, or other disaster risk reduction practices.

**Categorical Exclusions Subject To (CEST):** Refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see § 58.2(a)(3)) in which a normally excluded activity may have a significant impact.

**CDBG-DR:** Community Development Block Grant–Disaster Recovery.

**Change Order:** A change order is a written instrument that authorizes additions, deletions, and/or revisions in the contract work, contract amount, contract milestones, or contract time as originally defined by the contract documents.

**Choice-Limiting Action:** As related to environmental review procedures, choice-limited actions commit funding to future activities, including, but not limited to, acquisition, demolition, disposition, rehabilitation, repair, new construction, site preparation, and entering into construction contracts, leasing without environmental contingencies. Such activities are prohibited before a subrecipient receives the Authority to Use Grant Funds, which results from a compliant and approved Environmental Review Record.



**Contractor:** A company under contract to provide professional services to DCA and/or a subrecipient who is directly responsible for management of the State's Homeowner Assistance and Recovery Program.

**Current Fair Market Value:** The value of an eligible home, as determined by an appraisal conducted by the program.

**DCA:** New Jersey Department of Community Affairs.

**Demolition:** Clearance and proper disposal of dilapidated buildings and improvements.

**Design Flood Elevation:** The design flood elevation is measured in feet and set by the New Jersey Department of Environmental Protection in order to protect homeowner assets and protect those in high-risk areas.

**Disability:** For the purposes of the program, the definition of *disability* is consistent with federal law under the Social Security Act, as amended; 42 U.S.C. § 423(d); The Americans with Disabilities Act of 1990, as amended; 42 U.S.C. § 12102(1)–(3); and in accordance with HUD regulations at 24 CFR §§ 5.403 and 891.505.

**DRGR:** The Disaster Recovery Grant Reporting system was developed by HUD's Office of Community Planning and Development for the Disaster Recovery Community Development Block Grant Program and other special appropriations. It is primarily used by grantees to access grant funds and report performance accomplishments for grant-funded activities.

**Duplication of Benefits:** The Robert T. Stafford Disaster Assistance and Emergency Relief Act prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of a loss resulting from a major disaster and financial assistance where other sources have been provided (e.g., insurance, any other program).

**Environmental Impact Statements (EIS):** A detailed written statement required by section 102(2)(C) of NEPA for a proposed major Federal action significantly affecting the quality of the human environment.

**Elderly:** An elderly person at least 62 years of age (24 CFR § 5.100).

**Estimated Cost of Repair (ECR):** ECR is a documented line-item estimate of the repairs needed for an applicant's property that quantifies the materials and labor necessary to repair the property. The ECR is created during the initial site inspection.

**Environmental Assessment:** One of the five levels of environmental reviews listed in 24 CFR Part 58. Environmental assessments are essential in determining how a project may affect the environment and how the environment may affect the project.

**Environmental Review Record:** A written record containing all the environmental review documents, public notices and written determinations or environmental findings required as evidence of review, decision making and actions pertaining to a particular project of a recipient.

**Flood Insurance:** The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects located in an area identified by FEMA as being within a Special Flood Hazard Area be covered by flood insurance under the National Flood Insurance Program (NFIP) following the receipt of federal assistance. To be able to purchase flood insurance, the community must participate in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

**Floodway:** This is a FEMA designation for the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FR:** The Federal Register is a daily publication of the Federal Government that issues the proposed and final administrative regulations of federal agencies.

**Hazardous Materials:** Hazardous materials refer to any pollutant; contaminant; or hazardous, toxic, or dangerous waste, substance, or material (including, without limitation, petroleum products, asbestos-containing materials, and lead), the generation, handling, storage, transportation, disposal, treatment, release, discharge, or emission of which is subject to any environmental law.

**HUD:** U.S. Department of Housing and Urban Development.

**Ineligible Items:** These are items that are generally not allowed for inclusion within the work in place or the estimated cost of repairs and/or are not considered when determining the size of the damaged structure. Refer to the Guideline on Ineligible Costs for additional details.

**Limited English Proficiency (LEP):** LEP is a designation for a person who is unable to communicate effectively in English because his or her primary language is not English, and he or she has not developed fluency in the English language. A LEP person (1) may have difficulty speaking or reading English, (2) benefits from an interpreter who translates to and from the person's primary language, and (3) also may need documents written in English translated into his or her primary language so that the person can understand important documents related to health and human services.

**LMI Household:** A low- to moderate-income household has an income (including income derived from assets) at or below 80% of the area median income. All income is based on the area median income limits set annually by HUD for each county or metropolitan statistical area.

**LMI National Objective:** A low- to moderate-income national objective is one of three national objectives that any CDBG activity must meet. Activities that meet the LMI objective must benefit households whose total annual gross income does not exceed 80% of the area median income, adjusted for family size. Income eligibility will be determined and verified in accordance with HUD Guidance. The most current income limits, published annually by HUD, shall be used to verify the income eligibility of each household applying for assistance at the time that the assistance is provided.

**Major/Severe Damages:** A FEMA real property damage assessment of \$8,000 or greater, and/or flooding greater than 1 foot.

**Management Information System:** Program representatives' workflow, record storage, and interface tool.

**Mitigation:** A mitigation activity (e.g., elevation, shutters, elevated HVAC, strengthening doors, soil stabilization, roof ties) protects from future storm damage or other activities to maintain environmental compliance.

**NFIP:** The National Flood Insurance Program, in the context of eligibility or duplication of benefits, is a program referring to private and public flood insurance programs that cover structural repairs resulting from flood damage.

**Re-evaluation:** The process a responsible entity must take to determine if original findings are still valid. A Re-evaluation may be required if there are changes to the proposed action, affected environment, anticipated impacts, or applicable regulations; if new information or circumstances arise; or if there has been a certain lapse of time from the approval of the decision document.

**Request to Release Funds:** A form used by Responsible Entities and Recipients when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility.

**Responsible Entity –** The Department of Community Affairs responsible for the environmental reviews, decision making and actions that would otherwise apply to HUD under NEPA.

**RCP:** The Resilient Communities Program is designed to support resilient infrastructure activities designed to fortify New Jersey communities against severe weather events and damage from flooding.

**Scope of Work:** The scope of work describes the activities to be performed by the contractor in the rehabilitation or reconstruction of applicant homes.

**Section 3:** That portion of Section 3 of the HUD Act of 1968 related to the hiring of local low- and very-low-income populations to perform work on contracts that use federal funds. The State of New Jersey is reviewing and adopting a Section 3 plan for this program. At a minimum, it will require general contractors in the qualified contractor pool to meet the Section 3 policy to the “greatest extent feasible.” The term *greatest extent feasible* means that general contractors will make a substantial effort to comply with the regulatory requirements of Section 3.

**Section 504 of the Rehabilitation Act of 1973:** This national law protects qualified individuals from discrimination based on their disability. The non-discrimination requirements of the law apply to employers and organizations that receive financial assistance from any federal department or agency, including the U.S. Department of Health and Human Services. These organizations and employers include many hospitals, nursing homes, mental health centers, and human services programs.

**Section 582(a) of the National Flood Insurance Reform Act of 1994:** Compliance with the legal requirements of Section 582(a) mandates that HUD flood disaster assistance made available in Special Flood Hazard Areas may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for flood damage to any personal, residential, or commercial property if: (1) the person had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance, and (2) that person failed to obtain and maintain flood insurance as required under applicable federal law on such property.

**Special Flood Hazard Area (SFHA):** This is an area that has special flood, mudflow, or flood-related erosion hazards and is shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map, Zones A, AO, A1–A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1–A30, V1–V30, VE, or V. An SFHA is an area where the National Flood Insurance Program’s floodplain management regulations must be enforced and an area where the mandatory purchase of flood insurance applies.

**Subrecipient:** A subrecipient is a non-federal entity, unit of general local government, or a nonprofit organization in New Jersey that administers all or a portion of a CDBG-DR funded program.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its “before damaged” condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**Substantial Improvement:** A substantial improvement is any repair, reconstruction, modernization, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement determinations are made by local code enforcement, permitting, and/or building or floodplain officials. The program will abide by these determinations (24 CFR § 55.2(b)(10)).

**Urgent Need National Objective:** This national objective refers to an urgent need that exists because conditions pose serious and immediate threat to the health/welfare of a community, the existing conditions are recent or recently became urgent, and the recipient of the funds cannot finance the activities on their own because other funding sources are not available. Documentation must be maintained on how each program and/or activity funded under this category responds to a disaster-related impact.

**URA:** The Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended (Title 49 CFR Part 24; 42 U.S.C. 4601 et seq.). See the New Jersey URA Policy. Applies to all acquisitions of real property or displacement of persons resulting from federal or federally assisted programs or projects. URA’s objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects. For the purposes of these guidelines, URA mostly applies to residential displacements in involuntary (49 CFR Part 24, Subpart B) acquisition or multifamily damaged/occupied activities that require the relocation of the tenants.

