

# New Jersey Department of Community Affairs

## SUPERSTORM SANDY COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER RECOVERY

Public Law 113-2, January 29, 2013

FR-5696-N-01; March 5, 2013

FR-5696-N-06; November 18, 2013

FR-5696-N-11; October 21, 2014



### ACTION PLAN AMENDMENT NUMBER 14

#### **NON-SUBSTANTIAL AMENDMENT FOR THE FOLLOWING:**

- Clarification to Section 4.3 Economic Revitalization related to Program Income
- Clarification to Section 4: Method of Distribution related to the definition of structures "not suitable for rehabilitation"

DATE SUBMITTED: February 5, 2015

Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

Richard E. Constable, III  
Commissioner



## **Non-Substantial Action Plan Amendment Number Fourteen to Superstorm Sandy Disaster Relief Appropriation, Public Law 113-2, 2013**

### I. OVERVIEW

The purpose of this **Action Plan Amendment (APA) Number 14** to the State's approved Action Plan and ensuing amendments, is to provide non-substantial clarifications to the identified program areas as detailed in the document. This amendment is considered non-substantial since these clarifications and additions do not involve a new allocation or transfer/re-allocation of approved funds from the HUD Sandy CDBG-DR allocation; do not create a new program; and do not change approved program benefits or eligibility criteria. The amendment process follows the guidance in the applicable Federal Register Notice related to non-substantial amendments and will be posted on the DCA website in accordance with HUD requirements.

### II. ACTION PLAN CLARIFICATION/MODIFICATION

#### **A. Clarification in Section 4.3 Economic Revitalization of the State's Action Plan**

The State is clarifying language in the approved Action Plan related to the *Section 4.3 Economic Revitalization*. This amendment is specifically related to the program income generated from economic revitalization programs and the State's intent to use that program income to further economic revitalization and other CDBG-eligible activities. The approved programs as defined in the Action Plan and ensuing Amendments remain unchanged.

As noted, the "economic revitalization activities are intended to enable a broad spectrum of activities to support the varied needs of communities recovering from the disaster," (*paragraph 4*). It is further stated that "eligible activities also may include infrastructure development for economic purposes as well as mitigation and resiliency to protect and strengthen investments" (*paragraph 6*).

The State would like to make the language consistent related to program income among the economic revitalization programs, in line with the original intent for promoting revitalization and resiliency. This amendment does not relate to the original allocated and approved program funds.

This clarification will allow the State to further meet its assessed priorities detailed in the second round of CDBG-DR funds. The State received approval from HUD on April 30, 2014 for Action Plan Amendment Number 7 for the second allocation of CDBG-DR funds to create the **Energy Resilience Bank** to support infrastructure for economic revitalization and resiliency. The clarification reflects that program income generated from the Economic Revitalization programs can be attributed to support eligible CDBG activities, including projects under the Energy Resilience Bank, which may include public entities as well as businesses.

The following amendment will make Section 4.3.2 consistent with Section 4.3.3, both under the 4.3 **Economic Revitalization** programs.

**Section 4.3.3 Neighborhood and Community Revitalization (Action Plan and Amendment #5)**

(Paragraph 3)

“Funding described above is intended to revolve for CDBG purposes once loans are repaid, unless administered by a CDFI designated as a Community Based Development Organization (CBDO) or as a 105(a)(15) nonprofit, as applicable.”

**Section 4.3.2 Direct Loans for Impacted Small Businesses (Action Plan and Amendment #8)**

(Paragraph 3)

“Repaid loans under this product are intended to be revolved as loans for CDBG uses ~~{delete}~~ ~~to continue to assist small businesses.~~” No repayment would be expected from the forgivable portion of the loans, provided that the conditions of loan forgiveness are satisfied.

**B Clarification in Section 4: Method of Distribution of the State’s Action Plan**

The State is adding clarifying language to the approved Action Plan related to *Section 4: Method of Distribution*. This amendment more specifically addresses the HUD requirement that the State define what would constitute a unit “not suitable for rehabilitation” that may be demolished or converted in connection with a CDBG-DR assisted activity without a replacement requirement, consistent with the waiver and allowances in FR-5696-N-01.

In **Section 4: Method of Distribution** insert the following as the final paragraphs prior to the **Housing** sub-section.

{insert} HUD requires that the State define what would constitute a unit “not suitable for rehabilitation” that may be demolished or converted in connection with CDBG-DR assisted activity without a replacement requirement, consistent with the waiver and allowances in Federal Register Notice FR-5696-N-01. For these purposes, “not suitable for rehabilitation” is defined as the following.

1. Substandard dwellings that cannot be brought into compliance with the New Jersey Sandy recovery programs housing rehabilitation standards and/or applicable state and local code requirements shall be deemed not suitable for rehabilitation, as determined by the program and consistent with program guidelines. The determination may be established based on the calculation that the cost of rehabilitation exceeds 75% of the market value of the property or that the property is deemed a blighted structure consistent with state or local ordinance; in which case the property would be a candidate for demolition and/or reconstruction and not subject to one-for one replacement.

OR

2. A “blighted structure” is any structure unfit for use, habitation, or dangerous to persons or other property. In addition, a structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a risk to human health, safety, and public welfare. This includes structures showing evidence of physical decay or neglect, or lack of maintenance. Characteristics may also include any nuisance conditions including but not limited to:

Any “Nuisance” as defined by law, or

- (a) Any residential property that poses a public nuisance, which may be detrimental to the health or safety whether in a building, on the premises of a building, or upon an unoccupied lot. This includes, but is not limited to: abandoned wells, shafts, basements, excavations, unclean swimming pools or spas, abandoned iceboxes, refrigerators, motor vehicles, and any structurally unsound fences or structures, lumber, trash, fences, or debris which may prove a hazard for inquisitive minors;
- (b) Unsanitary conditions or anything offensive to the senses or dangerous to health including, but not limited to, the emission of odors, sewage, human waste, liquids, gases, dust, smoke, vibration or noise, or whatever may render air, food, or drink detrimental to the health of human beings;
- (c) Physical conditions such as, but not limited to, old, dilapidated, abandoned: scrap or metal, paper, building materials and equipment, bottles, glass, appliances, furniture, rags, rubber, motor vehicles, and parts thereof; or
- (d) Physical conditions posing fire hazards,
- (e) Physical conditions posing a hazard such as but not limited to dead or damaged trees.

OR

3. Residential properties that have experienced repetitive losses under FEMA’s National Flood Insurance Program (NFIP).

Additional guidance and applicability related to the definition of “not suitable for rehabilitation” is determined by the applicable program and may be found in the guidelines for specific programs.