

## **Federal Cross Cutting Policies**

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# STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Office of Auditing

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**NU1\1BER:** 1.10.11

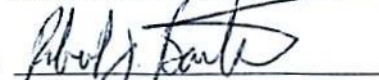
**EFFECTIVE:** September 1989

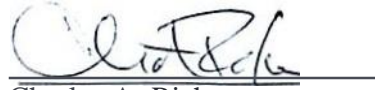
**REVISED:** June 22, 2016

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## OFFICE OF THE COMMISSIONER

APPROVAL:

  
Robert Bartolone  
Director, Office of Auditing

  
Charles A. Richman  
Commissioner

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## POLICY:

To state the objectives and functions of the Office of Auditing and provide organizational directive for management control.

It is the policy of this Department to establish and support the Office of Auditing as an independent appraisal body. The Office will examine and evaluate the Department's activities as a service to management and to the Office of the Commissioner. The Office of Auditing reports to the Deputy Commissioner. In carrying out their duties and responsibilities, staff of the Office of Auditing will have full, free, and unrestricted access to all Department activities, records, property and personnel.

## AUTHORITY:

Internal auditing examines and evaluates the adequacy and effectiveness of the system of internal management control. This system of control is provided by the Department to direct its activities towards the accomplishment of its objectives in accordance with Department policies and plans. The Deputy Commissioner, with the approval of the Commissioner, is authorized to direct a broad, comprehensive program of internal auditing within the Department of Community Affairs. Toward this end, all components of the Department shall cooperate in the sharing of information and providing necessary support for ongoing evaluation activities.

All audits and reviews performed will follow the Government Accountability Office Government Auditing Standards unless otherwise noted in the audit report

## CHAIN OF COMMAND:

1. Commissioner of the Department of Community Affairs
  2. Deputy Commissioner
  3. Director of the Office of Auditing
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SUBJECT: Office of Auditing

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NUMBER: 1.10.11

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OBJECTIVES:

- I. To conduct comprehensive appraisals of accounting, financial, and administrative controls within the Department as a basis for providing the Commissioner of the Department with reasonable assurance that:
  - Obligations and costs are in compliance with rules, regulations and applicable laws;
  - Funds, property and other assets are safeguarded;
  - Revenues and expenditures applicable to agency operations are properly and promptly recorded and accounted for; and
  - Programs and functions are efficiently and effectively carried out in accordance with applicable management policy and legal intent.
2. To assist the Office of the Commissioner and management in the effective execution of their responsibilities.

FUNCTIONS OF THE OFFICE OF AUDITING:

1. Coordinate the internal audit process within the Department.
  2. Determine the adequacy and effectiveness of the Department's systems of internal accounting and administrative controls.
  3. Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
  4. Review the established systems to ensure compliance with those policies, plans, procedures, laws, and regulations, which could have a significant impact on operations and reports, and determine whether the unit is in compliance.
  5. Appraise the economy and efficiency with which resources are employed, identify opportunities to improve operating performance and recommend solutions to problems where appropriate.
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6. Review operations and programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.
  7. Review the reliability and integrity of financial information and the means used to identify, measure, classify and report such information.
  8. Coordinate and monitor the efforts of external auditors (outside the Department) within the Department. This includes all auditors or investigators from Federal, State, or other outside agencies or firms.
  9. Report the results and recommendations of audits and reviews to the appropriate members of management responsible for taking corrective action.
  10. Evaluate any plans or actions taken to correct reported conditions for satisfactory disposition of audit findings. If the corrective action is considered unsatisfactory, hold further discussions to achieve acceptable disposition.
  11. Provide follow up to determine if adequate corrective action has been taken and that it is effective. It is the Office of Auditing's responsibility to report findings, however, it is management's responsibility to ensure that recommendations are implemented.
  12. Develop and prepare the Department's Annual Internal Control Report. The report is signed by the Commissioner and forwarded to the New Jersey Department of the Treasury, Office of Management and Budget.
  13. Perform special assignments at the request of the Commissioner and senior management.
  14. Provide support and technical assistance, when necessary, to divisions and offices. To provide technical assistance to other state departments and auditors.
  15. Ensure the Department complies with 2 CFR Part 200 and all applicable State of NJ requirements.
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STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Grant Recipients Audit Report

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**NUMBER:** 1.10.13


**EFFECTIVE:** June 2001

**REVISED:** June 2016

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**ADMINISTRATIVE SUPPORT**

APPROVAL:

  
Robert Bartolone  
Director, Office of Auditing

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**POLICY:**

Effective December 26, 2014, the federal Office of Management and Budget (OMB) published new requirements for federal programs entitled Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (also known as the Super Circular) codified at 2 CFR 200. The Super Circular guidance supercedes and consolidates the requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, A-133 and A-50.

In response to the issuance of the Super Circular on the Federal level, the State issued *Treasury Circular Letter 15-08-OMB, "Single Audit Policy for Recipients of Federal Grants, State Grants and State Aid"* to bring the State's policy regarding audits of financial assistance recipients in line with the revised federal requirements. State Circular Letter 15—08-OMB raises the single audit expenditure threshold to \$750,000 for recipients. The audit requirements under 15-08-OMB are effective for any fiscal year period beginning after December 26, 2014. Financial Statement audit requirement threshold remains at \$100,000 or greater of combined federal and State expenditures for recipients not meeting Single Audit threshold.

The Super Circular significantly reforms federal grant making. With this document, OMB's goals are to:

- Streamline guidance for federal awards to ease administrative burden.
- Provide a government-wide framework for grants management.
- Focus grants policies and resources on areas that emphasize improving performance and outcomes.
- Strengthen oversight over federal funds to reduce risks of waste, fraud, and abuse.

The Super Circular supersedes and combines the requirements of eight existing OMB Circulars from the following categories:

**Administrative Requirements**

1. Circular A-102, Grants and Cooperative Agreements with State and Local Governments
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2. Circular A-110, Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
3. Circular A-89, Catalog of Federal Domestic Assistance (CFDA)

Super Circular amendments to Administrative Requirements are focused in the following areas:

- Conflict of Interest Guidance
- Definition of Supplies
- Pre-Award Risk Assessment
- Procurement Standards
- Performance Measurement
- Greater focus on Internal Controls
- Cost Sharing
- Requirements for Pass-Through Entities
- Mandatory Disclosures

**Cost Principles**

4. Circular A-21, Cost Principles for Educational Institutions
5. Circular A-87, Cost Principles for State, Local and Indian Tribal Governments
6. Circular A-122, Cost Principles for Non-Profit Organizations

Super Circular amendments to Cost Principles are focused in the following areas:

- Provides guidance for classifying certain costs as either Direct or Indirect.
- Indirect Costs: Organizations will also be permitted to elect an automatic indirect cost rate of 10% of modified total direct costs, to be used indefinitely if they wish, or they may elect to negotiate a higher rate.
- Direct Costs: In certain circumstances, program administration costs can be reported as direct costs applicable to a specific program. Previously, grantees sometimes were required to pass these charges on via their indirect cost rates.

**Audit Requirements**

7. Circular A-133, Audits of States, Local Governments and Non-Profit Organizations
  8. Circular A-50, Audit Follow-up
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Super Circular amendments to Audit Requirements are focused in the following areas:

- Increased expenditure threshold for Single Audit requirement to \$750,000 from \$500,000
- Changes to the Risk Assessments and Major Program determination processes
- Reduction in the number of Compliance Requirements
- Modification to Reporting of Audit Findings and Questioned Costs
- Increased threshold for reporting Questioned Costs to \$25,000 from \$10,000

**PURPOSE:**

The purpose of this administrative procedure is to detail the State policy requirements and department procedures regarding audits of grant recipients.

**DEFINITIONS:** (Refer to State Circular Letter 15-08 OMB for complete listing of definitions.)

**Recipient:** A recipient is defined as any local government, school board, non-profit organization or for-profit organization that receives from a State agency any federal grant, State grant or State aid funds to carry out or administer a program.

**Note:** If any organization receives a federal grant, State grant or State aid funds to provide the State with goods or services (procurement) and does not carry out or administer a program, they are considered vendors. Vendors are not mandated by the State or Federal circular letter requirements listed above and outlined below.

**AUDIT REQUIREMENTS:**

A recipient's audit requirement is determined by the amount of federal and state financial assistance **expended during their 12-month fiscal year**. The new revised audit thresholds established are as follows:

1. **Federal Grant Awards Expended > \$750,000 -----> Single Audit Required**  
**OR**  
**State Grants and/or Aid Expended > \$750,000-----> Single Audit Required**
  2. **Expend < \$750,000 in Federal OR State assistance during their fiscal year, but expend \$100,000 or more in Federal AND/OR State financial assistance during their fiscal year -----> financial GAO "Yellow Book" Financial Statement Audit Required**
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# STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Grant Recipients Audit Report

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**Note:** Program-specific audits in accordance with the Super Circular can be elected when a recipient expends federal or state awards under only **one** federal or State program and the federal or State program's laws, regulations, or grant agreements do not require a financial statement audit of the grantee. **This applies to both #1 & #2 listed above.**

**3. Expend < \$100,000 in Federal and State Awards combined during the fiscal year. ---  
----> No Audit Required to be Submitted to the Cognizant Agency. (DCA)**

**Note:** An increased emphasis must be placed upon the monitoring of these grantees by funding divisions and program representatives as an audit report will not be received from organizations that fall below this expenditure threshold.

## **LIMITED SCOPE AUDITS:**

Funding divisions may also elect to have a "Limited Scope" audit performed on grantees whose expenditures fall below the thresholds that require an audit to be conducted. Limited scope audits only include "agreed-upon procedures engagements" conducted in accordance with either the AICPA's generally accepted auditing standards or attestation standards. These audits are paid for and arranged by the funding division/department and address only one or more of the following five types of compliance requirements: 1.) activities allowed or unallowed; 2.) allowable costs/cost principles; 3.) eligibility; 4.) matching, level of effort, earmarking; and 5.) reporting. **(Note: Funding divisions (pass-through entities) are not prohibited from charging federal awards for the costs of these limited scope audits to monitor their grant recipients. However, the federal government will not pay for a "single audit" for any recipient that expends less than \$750,000 of federal funds.)**

## **REPORTING PERIODS & SUBMISSION REQUIREMENTS:**

Although the Super Circular allows certain biennial audits, State of NJ policy continues to require that all audits be performed on an **annual** basis. The submissions of audit reports to DCA from recipients of state and/or federal financial assistance are due as follows:

**Non-profit Organizations ----- 9 months after their FYE.**

**Municipalities or Counties ----- 6 months after their FYE.**

**Local Authorities/Commissions & Fire Districts ----- 4 months after their FYE.**

All reports must be performed by a licensed Certified Public Accountant, Registered Municipal Accountant or a Public Accountant licensed prior to December 31, 1970.

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**MONITORING:**

Funding divisions should consider various risk factors in developing recipient monitoring procedures, such as: the relative size and complexity of federal and state awards administered by the recipients, prior experience with the recipient, and the cost-effectiveness of various monitoring procedures. Monitoring activities normally occur throughout the year and may take various forms, such as: reviewing financial & performance reports submitted by the recipient, performing site visits to review financial & programmatic records and observe operations, and other regular contacts with recipients and appropriate inquiries concerning program activities. In some instances a grant recipient may not be required to have an audit performed or a funding division may determine that a GAO “Yellow Book” financial statement audit will not provide adequate monitoring of their funds. The division is then charged with the responsibility of **performing additional or increased monitoring procedures.**

**DCA COGNIZANCE ASSIGNMENTS**

The **Division of Local Government Services** is the assigned “cognizant agency” for all municipalities, counties, fire districts & local authorities. The **Office of Auditing** is the assigned “cognizant agency” for all non-profit organizations that DCA has disbursed the most funds to, in relation to funding received from other State agencies, during a recipient’s fiscal year. Cognizance assignments are made by the NJ Department of the Treasury’s Office of Management and Budget. Each cognizant division/office is responsible for ensuring the timely receipt of quality audit reports from grant recipients that they are assigned cognizance for. They are also responsible for performing desk reviews of single audit reports, communicating audit results to funding divisions and Treasury-OMB, ensuring that audit findings and questioned costs are addressed and resolved by funding divisions, and confirming total state and federal grant expenditures upon completion of a recipient’s fiscal year.

**CORRECTIVE ACTION:**

For reports containing findings and conditions requiring corrective actions by the grantee, a coordination of the receipt, review, and approval of the corrective action plan should also be performed timely between the cognizant division and the division(s) who funded the grantee.

The cognizant division will request the corrective action plan from the grantee and notify all funding divisions of the request for such. When received, the plan is reviewed by the cognizant division and is then forwarded to the funding division for their review and approval.

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Once approved by the funding division, the audit is then accepted and funding divisions are advised to monitor the implementation of the corrective action plan.

**SANCTIONS:**

Sanctions may be imposed against grantees that do not comply with the audit requirements of their grant agreements or do not respond to requests for corrective action plans due to findings or conditions being noted during the review of their audit report. In cases of continued inability or unwillingness to have an audit conducted in accordance with the federal and state circulars previously noted, the department may take appropriate action using sanctions such as:

1. Withholding a percentage of a grant award until satisfactory audit is completed;
2. Withholding or disallowing overhead costs;
3. Suspending grant awards until the audit is conducted; or
4. Terminating a grant award.

A letter should initially be sent to the grantee by the funding division that states they are not in compliance with the mandated audit requirements and that funding may be affected if the audit requirement is not complied with. Continued non-compliance would then be addressed using the sanctions listed.

**COORDINATION OF EFFORT: Program Representatives & Cognizant Division/Office**

Due to the changes in the federal and state audit requirements, an increased emphasis must be placed on communicating audit requirements between the cognizant division/office and funding programs/divisions. In some cases, grantees may not be required to submit an audit due to the higher expenditure threshold, and thus may require additional monitoring procedures to be performed. Each program should coordinate with the cognizant division/office to determine the annual population of recipients that will need an audit and those who are exempt. Audit reports received by program representatives should be communicated to the appropriate cognizant division to verify that they have also received a copy of the report. This can be done through email, by telephone or through a memorandum.

The timely receipt of audit reports is necessary to insure that future funding is not delayed or withheld from grantees, that current financial, compliance and internal control issues are

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addressed in a timely manner, and that the department is in compliance with the annual “State Single Audit” requirements regarding the federally funded programs we administer.

**IMPORTANT NOTE:** Audit reports represent only one aspect of the overall monitoring process. They contain historical information that is provided, in many cases, after an award period has expired. Funding sources should not rely on an audit report to fulfill the monitoring responsibilities that should be conducted by funding divisions/programs “during-the-award” period. All monitoring activities should be designed to ensure that financial assistance provided to recipients is being used for its intended purpose or legislative intent, that prescribed outcomes are achieved, and that all terms and conditions outlined in the grant agreement have been met and complied with.

**AUDIT REPORT AVAILABILITY:**

All audit reports received by the assigned DCA cognizant division/office are placed on file and are available for review. The Office of Auditing is the custodian of all non-profit entity audit reports and the Division of Local Government Services is the custodian for all county, municipality, fire district, local authority and commission audit reports.

## STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Standards, Guidelines and Procedures for the Design, Creation and Maintenance of the DCA Internet (Website)

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**NUMBER:** 1.30.7

**EFFECTIVE:** January 2003

**REVISED:** June 2016

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### INFORMATION TECHNOLOGY

#### APPROVAL:

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Samuel R. Viavattine,  
Deputy Commissioner  
Sandy Recovery Division

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Joyce Paul  
Chief of Staff

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#### PURPOSE:

The purpose of this Policy is to establish consistent standards, guidelines, and procedures for the design, implementation, and maintenance of the Department's Internet and Intranet sites and any related Websites for Divisions serviced by DCA's Creative Services Team (CST).

#### SCOPE:

These standards, guidelines and procedures apply to all DCA Divisions and Affiliates that request Website services from the CST, either directly or through their designated Websters. Websters are a group consisting of one designee and a backup from within each Division responsible for the content and timeliness of their Division site. The CST oversees them by managing website production and providing technical support, templates, graphics, and other assistance required for Website creation and maintenance. Websters will work within and adhere to rules/regulations/procedures set forth by the CST and the NJ Office of Information Technology (OIT).

#### OBJECTIVE:

The objective of this Policy is to design, implement, maintain, and manage effective, informative, current, easy-to-navigate Internet and Intranet sites within the context of statewide directives.

#### STATE POLICIES:

DCA's Website Procedures adhere to all NJ OIT Web Policies and Procedures:

- Web Accessibility Policy  
[http://www.state.nj.us/it/ps/07-12-NJOIT\\_web\\_accessibility\\_policy.pdf](http://www.state.nj.us/it/ps/07-12-NJOIT_web_accessibility_policy.pdf)
- State of New Jersey Online Disclaimer Policy  
<http://www.state.nj.us/it/ps/06-06-NJOIT.pdf>
- State of New Jersey Online Privacy Policy  
<http://www.state.nj.us/it/ps/06-05-NJOIT.pdf>

## STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Standards, Guidelines and Procedures for the Design, Creation and Maintenance of the DCA Internet

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**NUMBER:** 1.30.7

**EFFECTIVE:** January 2003

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- Internet Proxy and Cache Policy  
<http://www.state.nj.us/it/ps/06-04-NJOIT.pdf>
- Internet & Statewide Intranet Presence & Web Site Dev for NJ State Government  
<http://www.state.nj.us/infobank/circular/cir0206s.htm>
- Web Site Standards and Guidelines  
[http://www.state.nj.us/it/ps/Web\\_Site\\_Standards\\_Guidelines.pdf](http://www.state.nj.us/it/ps/Web_Site_Standards_Guidelines.pdf)

### **INDIVIDUAL ROLES AND RESPONSIBILITIES:**

Roles and responsibilities that enable clear distinctions for task management have been assigned to specific DCA staff.

Refer to [DCA Website Roles and Responsibilities](#), page 5.

### **PROCEDURE:**

#### **Meetings**

The CST Webmaster schedules Webster meetings at regular intervals and notifies all Websters via Outlook Meeting Request. Meeting agendas may include discussions on Website management (Websters taking responsibility for their sites), OIT and Teamsite Issues, information and/or updates to design and implementation methods, group discussions, and troubleshooting. Follow-up to meetings includes distribution of meeting minutes and possible communication with OIT to resolve technical issues.

#### **Posting to the Internet or Intranet**

When design services must be performed to the DCA Internet site by the DCA Webmaster, the request is submitted via Email to the DCA Help Desk [helpdesk@dca.state.nj.us](mailto:helpdesk@dca.state.nj.us). A standard Email “Subject” for Website services has been established for each Division and Affiliate (see [Division and Affiliate Email Subject Fields](#), page 6). Content can be provided as an attachment in digital format. The Help Desk forwards the Email (which is automatically recorded in TrackIt) to the Webmaster, who determines if the content needs to be approved by DCA Communications & Policy. The Webmaster will begin creating or updating the page(s), (after Communications & Policy approval, if required).

Upon completion of the design work, the Webmaster posts the new information to OIT’s test server. The Webmaster informs the requesters and Communications & Policy (if required) to review the page(s) as they appear on the test server. When the requesters and Communications & Policy (if required) have approved the page, it is posted and is available to the public.

## STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Standards, Guidelines and Procedures for the Design, Creation and Maintenance of the DCA Internet

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**INFORMATION TECHNOLOGY**

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Staff members of Divisions and Affiliates with their own Websters submit their requests to the Webster, who performs the required design work in Teamsite and posts a test page on the Highpoint/Test server. When the page has been reviewed and approved in Teamsite, a system generated Email is sent to the Webmaster. The Webmaster tests the page and approves or rejects the request. When the Webmaster has approved the page, it is posted and is available to the public.

### Turnaround Time

Submittal deadlines are:

- Before 3:00 PM – Monday to Thursday
- Before 12:00 Noon – Friday and the day immediately preceding a holiday

Requests that ***do not*** need approval from Communications & Policy will be posted within 24 business hours. Delays in Division approval of the test page may prolong the time between the request and posting on the public site. Turnaround time for requests that ***do*** require approval from Communications & Policy will depend upon the timeliness of that approval process.

### Priority Requests

Critical information that must immediately be made available to the public will receive priority service at the discretion of the Webmaster, and will be posted within two hours. Requestors should mark the Email as “High Importance,” include the deadline for posting in the body of the Email, and copy the Webmaster.

Examples of critical information are:

- Requests that involve federal deadlines, i.e., posting a plan, public notice, etc. by a certain date per the federal government. Some must be posted immediately or the next day to meet the deadline
- Weather or disaster emergencies or building closings
- Requests directly from the Governor’s Office
- Requests directly from the DCA Commissioner
- Policy and/or operational changes made to key DCA program areas, i.e., registration deadline extension for the Low Income Home Energy Assistance Program (LIHEAP), or other critical issues

### Graphics

All web graphics (including clip art, photos, buttons, etc.) will be supplied by the CST. Special requests may be made via the Print Request system through your Division Print Coordinator to the CST as to size and type of graphic (see procedure 1.90.3, [Publication Design and Reproduction](#)).

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Standards, Guidelines and Procedures for the Design, Creation and Maintenance of the DCA Internet

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**NUMBER:** 1.30.7

**EFFECTIVE:** January 2003

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### **Sandy Recovery Division**

To provide timely public notifications, program information, reports, and contact information, DCA maintains a Superstorm Sandy website designated for the Sandy recovery programs funded with CDBG-DR monies, accessible from the DCA website. The link to the Sandy website is prominently placed on the DCA website's homepage for easy identification. Links to the Sandy website are also posted throughout the Sandy Recovery Division section of the DCA website.

The Superstorm Sandy CDBG-DR website will provide an up-to-date listing and link to critical CDBG-DR documents, including the following:

- CDBG-DR Action Plan
- Action Plan Substantial and Non-Substantial amendments
- Public Notices
- Quarterly Performance Reports (QPR)
- Citizen Participation Plan
- Program and project descriptions and information
- Fraud Prevention
- Sandy recovery data metrics
- Procurement documents, such as procurement policies and procedures, executed CDBG-DR contracts, and status of services or goods currently being procured by the grantee, etc.

The Action Plan and Substantial Amendments are posted the day public comment period begins. QPRs are posted within 3 days of submittal to the U.S. Department of Housing and Urban Development (HUD). Other reports, program and project information, and data metrics are updated as the information is available and monitored frequently to ensure it is current.

Changes to the Superstorm Sandy CDBG-DR website must be reviewed, approved and posted by the Sandy Recovery Division's Communications Office. Additionally, the Sandy Recovery website is linked to the *New Jersey Sandy Transparency Website*: <http://nj.gov/comptroller/sandytransparency/>.

### **EXTERNAL AGENCIES**

All content from external agencies must be approved by DCA Communications & Policy, whether for posting on the Department's Internet site or a related Website. Requests from outside DCA may be submitted via Email to the DCA Help Desk [helpdesk@dca.state.nj.us](mailto:helpdesk@dca.state.nj.us). The Email "Subject" should be "**WEB REQUEST – DEPARTMENT NAME.**" Complete instructions, including the

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name and phone number of the requestor, must be included in the body of the Email. Content can be provided as an attachment in digital format, including screen shots of current pages with modifications noted. The Help Desk will forward the Email to the Webmaster, who will then forward it to DCA Communications & Policy for review and approval. After approval by DCA Communications & Policy the Webmaster will begin creating or updating the page(s).

**SOFTWARE**

All software to be used with website creation must be approved by the DCA CIO. All web pages are created and updated through the Teamsite system.

**TECHNICAL SUPPORT**

Technical support will be provided as follows:

- Internal Server problems – refer to DCA Help Desk
- Web problems, such as bad links, missing pages, etc. – refer to CST via DCA Help Desk
- Access problems – refer to CST via DCA Help Desk

**DCA WEBSITE ROLES AND RESPONSIBILITIES**

<b>Roles</b>	<b>Responsibilities</b>	<b>Details</b>
Director, Information Technology	Project Oversight	<ul style="list-style-type: none"><li>• Ensures Department Web strategy and processes are in place and understood by Executive staff</li><li>• Reviews and oversees Department Web plans and delivery schedules consistent with strategy</li><li>• Communicates updates and needs to Commissioner/senior staff</li><li>• Reinforces processes and original needs</li></ul>
Director of Communications & Policy	Web Content Review & Approval	<ul style="list-style-type: none"><li>• Reviews and approves content, as needed</li></ul>

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Creative Services Team-Webmaster	Design and manage Website Provide Support Web Content Review and Approval	<ul style="list-style-type: none"><li>• Reviews and approves content</li><li>• Web design/branding decisions</li><li>• Graphic creation/artwork integration</li><li>• Material review</li><li>• Manages Websters</li><li>• Sets standards and operations</li><li>• Creates deadlines for completion of specific projects</li><li>• Ensures conformance to State directives</li></ul>
Division Webster	Create and modify Division web pages	<ul style="list-style-type: none"><li>• Manages Division priorities consistent with Department strategy</li><li>• Responsible for accuracy of Division content</li><li>• Maintains content updates</li><li>• Adds new content</li><li>• Manages links</li><li>• Conforms to Webmaster directives</li></ul>

**DIVISION AND AFFILIATE EMAIL SUBJECT FIELDS**

When sending a request for Website services to the Help Desk, use the appropriate “Subject” on the Email.

<b>Division/Affiliate</b>	<b>Email “Subject”</b>
Codes & Standards	WEB REQUEST – CODES
Fire Safety	WEB REQUEST – DFS
Housing & Community Resources	WEB REQUEST – HCR
Local Government Services	WEB REQUEST – LGS
Government Records Council	WEB REQUEST – GRC

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NJ Historic Trust	WEB REQUEST – HISTORIC TRUST
NJ Housing & Mortgage Finance Agency	WEB REQUEST – HMFA
NJ Meadowlands Commission	WEB REQUEST – NJ MEADOWLANDS
LUARCC	WEB REQUEST – LUARCC
Urban Enterprise Zone	WEB REQUEST – UEZ
Superstorm Sandy Recovery	WEB REQUEST – SANDY



SUBJECT: Federal Grant Reconciliation

NUMBER: 1.60.5

EFFECTIVE: October 2005


REVISED: June 2016


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**FISCAL SERVICES**

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**APPROVAL:**

  
Robert Bartolone, Director  
Office of Auditing

  
Cindy McDowell, Director  
Office of Fiscal Services

  
Joyce Paul  
Chief of Staff

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**POLICY:**

Agencies are required to reconcile their federal status reports to New Jersey Comprehensive Financial System (NJCFS) expenditures in accordance with the Office of Management and Budget (OMB) Circular Letter 05-02-OMB, Federal Funds. Reconciliations are to be performed within 60 days after the end of each quarter.

Agencies are also required to reconcile claims as reported on federal status reports to the annual OMB GN12 Federal Grant Analysis Report, which is used to create the Schedule of Expenditures of Federal Awards (SEFA) for the State Single Audit.

It is the conduit agency – the appropriation agency that receives funds directly from the federal government – that is responsible for performing reconciliations. Within DCA, Program and Division Fiscal staff are responsible for preparing quarterly grant reconciliations, certifying to OMB that reconciliations have been completed, and completing annual reconciliations as part of the State's Single Audit.

Division Directors are to provide the Director, Office of Auditing, with a list of staff responsible for reconciliations and certifications no later than July 1 of each year. The Office of Auditing must also be apprised of any additions or changes to the list made during the year.

Division Directors will be notified by the Director, Office of Auditing, when staff does not provide reconciliations and certifications within 30 days of the end of the quarter as required by this policy.

The Office of Fiscal Services prepares a monthly Business Objects report of open and active NJCFS Federal Masters, which is distributed to all division/programs administering federal funds as well as to the Director, Office of Auditing. This report can be used to determine the programs requiring quarterly reconciliation.

SUBJECT: Federal Grant Reconciliation

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NUMBER: 1.60.5

EFFECTIVE: October 2005

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OMB conducts random audits to ensure Department compliance with Circular Letter quarterly and annual reconciliation requirements. Similarly, the State Auditor, Single Audit Contractor, or other external auditing staff will request to review reconciliations. The Department must fulfill requests for reconciliations within two (2) business days of receipt.

**PROCEDURE:**

Quarterly Reconciliation

Quarterly reconciliation of expenditures made against federal grant awards is required by OMB circular letter regardless of the budget fiscal year of the federal grant award in NJCFS against which expenditures have been posted.

In order for the Department to comply with OMB policy, quarterly reconciliations must be completed and transmitted to the Office of Auditing within 30 days of the end of each quarter.

Adjustments identified during the reconciliation must be processed either in NJCFS or with the federal funding source within 15 working days to ensure data integrity.

State Single Audit

The State Single Audit requires that OMB create the SEFA report. To this end, OMB generates the GN12 Federal Grant Analysis Report. The report captures federal grant award transactions processed during the prior 12-month period (July 1 through June 30) and sorts them by Catalog of Federal Domestic Assistance number. Agencies are provided with the GN12 and instructed to reconcile it to their claims as reported on federal status reports. Further, agencies must certify to OMB that the reconciliation has been completed. Any differences from the claims to the GN12 must be provided to OMB.

Agencies must provide a report of fiscal year expenditures to OMB of federal grant funds received indirectly from a third party, such as another state, a local government, a non-profit entity, etc. This report is submitted to OMB together with the annual GN12 reconciliation and certification.

References:

Circular Letter 05-02-OMB, Federal Funds

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STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Drawdown of Federal Funds

---

**NUMBER:** 1.60.11

**EFFECTIVE:** October 2006

**REVISED:** June 2016

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**FISCAL SERVICES**

**APPROVAL:**

  
Cindy McDowell, Director  
Office of Fiscal Services

  
Joyce Paul  
Chief of Staff

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**DEFINITIONS:**

Federal Drawdown – The process of requesting reimbursement for expenditures made against a federal grant award from the federal funding agency. The drawdown method is dictated by the federal funding agency and may be a manual or automated process. The draw amount is based on expenditures posted to the New Jersey Comprehensive Financial System during a specified period of time.

Conduit Agency - Appropriation agency that directly applies for and receives funds from a federal government agency, controls authorized spending by a subgrantee, performs federal drawdowns, and has reporting requirements directly to the federal government. Additionally, the conduit agency is responsible for preparing quarterly reconciliation documents required by the Office of Management and Budget (see Administrative Procedure 1.60.5, Federal Grant Reconciliation).

Subgrantee Agency - Agency that assists the conduit agency with the programmatic needs of a federal grant award. The subgrantee is responsible for reporting expenditure and grant activity to the conduit agency, but is not responsible for submitting reimbursement requests to the federal funding agency. Subgrantee agencies do not prepare and submit federal drawdown requests.

**POLICY:**

The Office of Management and Budget (OMB) Circular Letter 05-02-OMB, Federal Funds, mandates that federal awards to a state agency be processed through the New Jersey Comprehensive Financial System (NJCFS) Grant Accounting Module. The Grant Accounting Module requires the collection of federal grant program funds to reimburse spending posted against the line of credit in the NJCFS federal program account.

Division personnel are to request the drawdown of funds from the federal funding agency *at least monthly* or in accordance with the program's Cash Management Improvement Act-approved draw pattern negotiated by OMB with the US Department of the Treasury. The drawdown amount shall equal the NJCFS expended amount for a specific time period.

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**SUBJECT:** Drawdown of Federal Funds

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The federal funding agency will reimburse the State either by direct deposit or direct payment via Automated Clearing House (ACH) transactions directly into the State's General Fund bank account, or by check made payable to the Treasurer, State of New Jersey.

Receipt of a federal grant program reimbursement processed as an ACH is evidenced by an ACH entry on the OMB General Fund depository bank validation system in an amount equal to the drawdown amount requested and verified by the federal grant program funding source.

Federal grant award expenditure reimbursements are recorded in NJCFS as revenue using a Cash Receipt document. The Cash Receipt *Description* field is to include the drawdown request identification number assigned by the federal drawdown system as well as any other information that is useful to the proper identification of the posting.

Divisions shall establish drawdown procedures that ensure adequate internal controls, including the identification of both a drawdown requestor and a drawdown approval officer.

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**PROCEDURE:**

Division Fiscal Office

- 1) Generates Business Objects report of NJCFS federal grant award expenditures for specific drawdown period.
  - 2) Reconciles Business Objects report to federal tables in NJCFS.
  - 3) Reconciles NJCFS information (federal aid encumbered and uncommitted balances) to the federal drawdown system "available to draw" balance.
  - 4) Drawdown Requestor enters drawdown information into the federal funding source automated drawdown system or on paper federal drawdown forms.
  - 5) Drawdown Approval Officer approves and submits the drawdown request in the federal drawdown system.
  - 6) Screen prints drawdown request confirmation page from the federal drawdown system.
  - 7) Confirms drawdown amount on the bank validation system by the federal funding source and amount or by receipt of check made payable to the Treasurer, State of New Jersey from the federal funding agency.
  - 8) Key enters NJCFS Cash Receipt document immediately upon confirmation of receipt of federal reimbursement and applies NJCFS Level 1 and 2 approvals.
  - 9) Screen prints two (2) copies of the Cash Receipt document.
-

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- 10) Prints two (2) copies of bank validation system screen on which the drawdown entry appears.
- 11) Prepares two (2) Cash Receipt packages to include Cash Receipt document, bank validation system screen, and NJCFS Business Objects report of drawdown period expenditures.
- 12) Forwards original Cash Receipt package to the Office of Fiscal Services and places copy in pending file.

Office of Fiscal Services

- 1) Receives and timestamps Cash Receipt package.
- 2) Audits NJCFS Cash Receipt document to confirm Business Objects expenditure report total and federal reimbursement amount are of equal amounts, deposit date is that on bank validation report, and description and all other required fields are populated.
- 3) If Cash Receipt package is not accurate or complete, completes and attaches blue rejection slip and returns to Division Fiscal via the Office of Fiscal Services mail bin.
- 4) Applies NJCFS Level 2 and 3 approvals and processes the Cash Receipt document.
- 5) Initials and dates Cash Receipt document and places Cash Receipt package in bin for filing.

Division Fiscal Office

- 1) Monitors NJCFS SUSF table to confirm Cash Receipt document approval and posting.
- 2) Verifies NJCFS federal tables have been updated and reflect accurate posting of revenue, specifically the collected amount field (Tables - AGFA, FBLT, GVFA).
- 3) Retrieves Cash Receipt package pending copy and notes approval date on Cash Receipt document.
- 4) Places approved Cash Receipt package in bin for filing.

Automatic Drawdown of Federal Funds:

The Division of Housing and Community Resources receives automatic spending reimbursement from the U.S. Department of Housing and Urban Development (HUD) for the Housing Choice Voucher and Moderate Rehabilitation programs.

- Upon approval of the Annual Contributions Contract (ACC), HUD develops an automatic disbursement schedule.
  - The disbursement schedule provides for the automatic deposit of 1/12<sup>th</sup> of the ACC amount to be credited to the State's General Fund bank account on the first bank day of each month. The actual reimbursement amount includes adjustments to the disbursement schedule amount based on program spending.
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- The Division of Housing and Community Resources is to review the ACH bank validation report to confirm receipt of federal program reimbursement, and to follow the steps outlined above to post the reimbursement specifically to the NJCFS Housing Choice Voucher or Moderate Rehabilitation Program account.

**References:**

Circular 05-02-OMB, Federal Funds

DCA Administrative Procedure 1.60.5, Federal Grant Reconciliation

DCA Administrative Procedure 1.60.13, Receipt, Deposit and Recording of Revenue

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STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Receipt, Deposit and Recording of Revenue in NJCFS

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**NUMBER:** 1.60.13

**EFFECTIVE:** May 2003

**REVISED:** June 2016

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**FISCAL SERVICES**

**APPROVAL:**

  
Cindy McDowell, Director  
Office of Fiscal Services

  
Joyce Paul  
Chief of Staff

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**POLICY:**

Revenue is to be deposited on the same day it is received in accordance with the Office of Management and Budget (OMB) Circular 12-02-OMB, Deposits by State Agencies.

Revenue can be in the form of personal check, cashier's check, or money order. US currency cannot be accepted.

Checks and money orders are to be made payable to the **Treasurer, State of New Jersey**.

Bank deposits are to be made using specially-purchased embroidered cloth bags with a locking feature. Bank bags delivered by the Division to the DCA Mail Room, 101 South Broad Street, 1<sup>st</sup> Floor, Trenton, by 9 a.m. will be delivered on the same day to the bank. Once deposits have been processed by the bank, the DCA Mail Room will retrieve the bank bags from the bank and return them to the appropriate Division.

Deposits are to be posted to the New Jersey Comprehensive Financial System (NJCFS) using a Cash Receipt document.

Validated deposit tickets are to be stapled to the back, bottom portion of the Cash Receipt document to minimize the risk of separation caused by filing and re-filing.

The Office of Fiscal Services will contact OMB Cash Accounting for assistance with resolving bank deposit discrepancies, i.e., deposit ticket not validated, missing checks, incorrect deposit amount, etc. To this end, Divisions are to email their requests for assistance to the Office of Fiscal Services. The email string resulting from the resolution process is to be attached to the Cash Receipt package.

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**PROCEDURE:**

Division Fiscal Office

- 1) Receive revenue.
- 2) Enter revenue items on cash transmittal; sign and date.
- 3) Verify cash transmittal total and total of revenue items are of equal amounts.
- 4) Apply endorsement stamp to back of checks/money orders.
- 5) Complete bank deposit slip.
- 6) Prepare bank deposit and place in bank bag.
- 7) Deliver bank bag to DCA Mail Room for delivery to bank.
- 8) Place copy of cash transmittal in pending file.

DCA Mail Room

- 1) Retrieve bank bag from bank deposit drop off area.
- 2) Deliver bank bag to bank.

**Bank Processing**

DCA Mail Room

- 1) Retrieve bank bag from bank and return to appropriate Division.

Division Fiscal Office

- 1) Receive bank bag.
- 2) Remove validated deposit slip from bank bag.
- 3) Retrieve cash transmittal from pending file.
- 4) Examine deposit ticket for validation stamp.
  - a) E-mail Office of Fiscal Services if there are deposit discrepancies, including bank account code, deposit date, deposit amount, and incorrect validation amount.
- 5) Key enter Cash Receipt document into NJCFS.
- 6) Assemble Cash Receipt package to include:
  - a) Cash Receipt screen print,
  - b) Validated deposit ticket,
  - c) Cash transmittal, and
  - d) Office of Fiscal Services e-mail correspondence, if applicable.
- 7) Apply NJCFS Levels 1 and 2 approvals to Cash Receipt document.



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- 8) Forward original Cash Receipt package to the Office of Fiscal Services.
- 9) Place copy of Cash Receipt package in pending file.
- 10) Monitor NJCFS SUSF table to confirm Cash Receipt package approval and posting.

Office of Fiscal Services

- 1) Timestamp Cash Receipt package.
- 2) Review Cash Receipt package for accuracy and completeness.
- 3) Apply NJCFS Level 2 and 3 approvals to Cash Receipt document.
- 4) Place approved Cash Receipt package in bin for filing.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Grant Payments

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**NUMBER:** 1.60.19

**EFFECTIVE:** September 2003

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**FISCAL SERVICES**

**APPROVAL:**

  
Cindy McDowell, Director  
Office of Fiscal Services

  
Joyce Paul  
Chief of Staff

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**POLICY:**

Grant funds are released in accordance with the terms of a grant contract agreement.

Upon receipt of an original, properly executed State of New Jersey Payment Voucher, a Financial Status Report/Payment/Advance request generated by the System for Administering Grants Electronically (SAGE), or a Community Development Block Grant – Disaster Recovery (CDBG-DR) Superstorm Sandy payments Funds Request generated through the Sandy Integrated Recovery Operations and Management System (SIROMS), the Office of Fiscal Services will process payment to a grantee. A grantee payment is effectuated through the processing of document type A1 in the New Jersey Comprehensive Financial System (NJCFS), the State's accounting system.

A properly executed payment voucher must include the following:

- Program Name
- Grantee Name
- Grant Agreement Number
- Vendor Identification Number, including location code
- Grant Obligation (NJCFS "GO" document number, budget fiscal year, and line number)
- Dollar Amount of Payment Request
- Grant Award Term
- Reporting Period
- Grantee Signature (not required for initial advance or lump-sum payments made at time of grant execution)
- Program Signature
- Division Fiscal Signature
- IDIS or DRGR activity number, where applicable

Division Fiscal will provide the Office of Fiscal Services with a current list of those individuals authorized to sign the "Certification of Receiving Agency" field on grant payment vouchers. An invoice will be returned without processing if signed by someone other than an individual authorized by the Division to certify grant payment vouchers.

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STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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Each correction on a payment voucher made by either the grantee or program staff must be initialed by program staff. Division Fiscal must initial corrections it makes to payment vouchers. A correction is made by lining out, taping, or whiting out original entries.

Refer to DCA Administrative Procedures Manual, procedure 1.60.10, Priority and Hold Check Processing, for procedures on requesting priority and/or hold check processing.

The Office of Fiscal Services files serve as the Department's central files for audit purposes. For grant payments processed outside of an electronic Department grant system, only original payment vouchers with original signatures will be accepted and used to support the release of grant funds to a grantee. Payments processed through SAGE and SIROMS are electronically signed; therefore, no hard-copy payment request exists. The Department's central files will only contain the A1, NJCFS encumbrance print screen, and IDIS/DRGR activity funding print screens for SAGE payments. Financial Status Report (FSR) supporting documentation is housed within SAGE. SIROMS payments are electronically processed; therefore, all supporting documentation is housed in SIROMS.

Original expenditure reports and other documentation supporting the release of grant funds are to be maintained at the program level. Auditors will be directed to program staff for responses to program-specific questions, e.g., grantee compliance with grant award terms, conditions, scope, etc.

The Program/Division is responsible for maintaining individual grant files, processing appropriate and necessary SAGE or SIROMS transactions, and establishing the grant/project in the federal drawdown system in the case of federal grant awards.

The Office of Fiscal Services will provide those Divisions that do not key NJCFS A1 transactions with a copy of the approved A1. CDBG-DR Superstorm Sandy A1 transactions are housed in SIROMS.

Program/Division

For grant programs administered outside of a DCA electronic grant system, a program will accept a hard copy of a payment request from a grantee, review for accuracy, assign the appropriated NJCFS encumbrance number, apply the required certifications, and submit to the Office of Fiscal Services for A1 processing.

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**PROCEDURE:**

SAGE programs receive an FSR or advance request from a grantee. Requests are reviewed for completeness, accuracy, and compliance with the terms, conditions, and scope of the grant agreement. After being electronically approved in SAGE, payments move to Division Fiscal's task list for SAGE approval. Division Fiscal selects the appropriate NJCFS encumbrance, checks availability of funds in NJCFS and, if a federal program, in the appropriate federal system, and approves the payment. Division Fiscal keys in the appropriate A1, affixes NJCFS OPOH/OPOL screens and IDIS/DRGR print screens, and forwards hard copies to the Office of Fiscal Services.

CDBG-DR Superstorm Sandy programs receive funding requests from grantees or from DCA Division-administered Sandy programs. The Sandy Recovery Division reviews the requests for accuracy, checks for availability of funds in NJCFS and the federal drawdown system (DRGR), approves the payment, and electronically forwards it to the Office of Fiscal Services for processing.

Office of Fiscal Services

For grant programs administered outside of a DCA electronic grant system, the Office of Fiscal Services will review the payment request for fiscal completeness, check availability of funds in NJCFS, key in the A1 document, and apply all NJCFS approval levels. In the event of errors or an omission, a payment request is returned to the Division with a rejection slip. A copy of the approved A1 is returned to the Division.

For SAGE payments, hard copy payment requests (A1 and attachments) received are matched with the corresponding payment request on the Office of Fiscal Services' SAGE task list. Payments are reviewed for fiscal accuracy, including availability of NJCFS funds, and final approval is applied in SAGE and NJCFS.

SIROMS (CDBG-DR Superstorm Sandy) payment requests on the Office of Fiscal Services' task list are reviewed for fiscal accuracy and availability of NJCFS funds. Approved A1 files are electronically transferred to the State's Office of Management and Budget for A1 document creation. A1s will subsequently be approved overnight for selected Superstorm Sandy programs or will be manually approved by Division Fiscal and the Office of Fiscal Services.

**References:** New Jersey Comprehensive Financial System – User Manual  
Department of Community Affairs Grants Procedures

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**SUBJECT:** Grant/Loan Agreements and Advances

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**NUMBER:** 1.60.22

**EFFECTIVE:** September 2003

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**FISCAL SERVICES**

**APPROVAL:**

  
Cindy McDowell, Director  
Office of Fiscal Services

  
Joyce Paul  
Chief of Staff

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**POLICY:**

The signature of the Chief Fiscal Officer, or his/her designee, is required on a grant/loan agreement as an attestation to the availability of funds. Amendments that increase the grant amount or add an additional funding source also require the signature of the Chief Fiscal Officer.

The Chief Fiscal Officer, or his/her designee, encumbers grant funds upon Department approval of an application or an amendment providing additional funds or a new funding source and after funds have been assigned by the responsible Division Fiscal office.

Grant/Loan agreements and amendments are electronically prepared and housed in the System for Administering Grants Electronically (SAGE). Throughout the SAGE approval process, the agreement is visible to the grantee and to those processing the approval at DCA. For the grantee, only those individuals authorized by resolution can sign the agreement. Should Section A, Specific Terms and Conditions, Item 2, "Method of Payment," authorize an advance payment of grant funds, the payment voucher will be processed only after the agreement has been executed.

Refer to Administrative Procedures Manual 1.60.19, Grant Payments, for the procedures for processing grant payments, including advances.

For SAGE agreements, the Office of Fiscal Services generates New Jersey Comprehensive Financial System (NJCFS) encumbrance documents after Division Fiscal selects the appropriate funding source. Encumbrances for grant/loan agreements and amendments are approved prior to agreement execution.

The Office of Fiscal Services will provide Division Fiscal with copies of approved NJCFS GO (encumbrance) and A1 (advance) payment documents.

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**SUBJECT:** Grant/Loan Agreements and Advances

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**PROCEDURE:**

Division/Program Fiscal

- 1) Approve grant/loan applications and any subsequent amendments submitted by a grantee in SAGE. IDIS and DRGR activities are created prior to agreement execution. Copies of IDIS and DRGR setup screens are sent to the Office of Fiscal Services. Applications and amendments are funded before they are forwarded to the Office of Fiscal Services for encumbrance preparation.

Office of Fiscal Services

- 1) Receive notification of GO setup on SAGE task list.
- 2) Verify funding for IDIS or DRGR activity, as applicable (review IDIS or DRGR activity screen provided by Division Fiscal).
- 3) Key enter NJCFS GO (encumbrance) document referencing the appropriate NJCFS RA (pre-encumbrance). Applications incorrectly funded by Division Fiscal will be rolled back in SAGE for Division Fiscal correction. Amendments incorrectly funded, however, cannot be rolled back; they must be executed and amended again to correct the error. A Division may request to have the SAGE system development vendor correct an amendment to avoid executing the incorrectly funded amendment.
- 4) Apply NJCFS Levels 1-3 approvals and process GO document.
- 5) Screen print two copies of the approved GO document, initial and date.
- 6) Forward one copy of the GO to Division Fiscal through the Office of Fiscal Services mail bin.
- 7) File the remaining copy in the Office of Fiscal Services file (with IDIS or DRGR screen if applicable).
- 8) Indicate GO "Complete" in SAGE.

**\*\*Upon notification on SAGE task list of a grant/loan agreement or amendment awaiting Office of Fiscal Services approval \*\***

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**STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS**

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**SUBJECT:** Grant/Loan Agreements and Advances

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**NUMBER:** 1.60.22

**EFFECTIVE:** September 2003

**REVISED:** June 2016

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**FISCAL SERVICES**

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- 1) Review electronic version of grant/loan agreement or amendment for fiscal completeness. Ensure agreement datasheet agrees with NJCFS encumbrance. Apply “Department Fiscal Officer” approval in SAGE.

**References:** New Jersey Comprehensive Financial System (NJCFS) – User Manual

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STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Vendor Payments

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**NUMBER:** 1.60.31

**EFFECTIVE:** October 2012

**REVISED:** June 2016

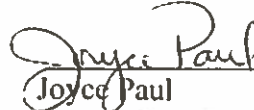
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**FISCAL SERVICES**

**APPROVAL:**



Cindy McDowell, Director  
Office of Fiscal Services



Joyce Paul  
Chief of Staff

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**DEFINITIONS:**

Business Concern – Any person engaged in a business or trade, including a private non-profit entity operating as an independent contractor, who provides goods and services directly to a using agency or to a designated third party, and operates pursuant to a State contract that requires single or multiple payment(s).

Prompt Payment Act – PL 1987, Chapter 184, requires that a business concern be paid interest on payments not received within 60 days from the date the State a) received the goods or services, or b) received a properly executed vendor invoice, whichever is later. Public utilities, as defined under Section 1 of PL 1946, c. 219, are exempt from receiving interest under the Prompt Payment Act. Governmental entities, State employees, and third-party contractors are also exempt. No interest charge required by the Prompt Payment Act shall become a debt of the State until it exceeds \$5.00.

Discount Period – The number of days specified by a vendor during which a customer can deduct the discount from the net amount of an invoice. The discount start date is the date from which the calculation of the discount period begins and is the latter of a) the next business day after the date the agency receives a properly signed and executed vendor invoice, or b) the date the goods or services are accepted by the agency. Delivery dates of all goods received must be routinely recorded. The discount period start date should be delayed in those instances where disputes exist with vendors as a result of dissatisfaction with goods or services. The discount start date should be re-set once the dispute has been resolved.

In cases where a single payment is to be paid for multiple deliveries, the discount start date should be set as the date on which the last installment of the deliveries has been accepted. If a signed and executed vendor invoice is received after the last delivery in a series of multiple deliveries, then the date of that invoice should be recorded, and the next business day after the recorded date of that invoice should be used as the discount start date. In those instances where each segment of a contract has a delivery and a vendor invoice, the discount start date should be set based on each segment's delivery date and invoice.

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## STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Vendor Payments

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**NUMBER:** 1.60.31

**EFFECTIVE:** October 2012

**REVISED:** June 2016

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**FISCAL SERVICES**

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**POLICY:**

Vendor payments processed in the State's procurement system (MACS-E) and the New Jersey Comprehensive Financial System (NJCFS) require a minimum of two staff to process and approve.

Vendor invoices and completed/signed State of New Jersey payment vouchers must be immediately timestamped and forwarded to the Office of Fiscal Services for processing.

Vendor payments are to be processed timely to take advantage of payment discounts and to avoid prompt payment interest charges. State of New Jersey sales tax included as part of a vendor invoice is to be excluded from payment.

A vendor payment can be initiated once it has been determined that the vendor has furnished the goods and services requested both in specification and quantity. To that end, the requestor must confirm that the requested items or services as described on the referenced purchase order are those listed on the vendor invoice and/or packing slip and received by the requestor in the quantity specified. This process of confirming that the order has been accurately fulfilled must be evidenced on the vendor invoice by the requestor's initials and date on the vendor invoice.

Supporting documentation must accompany all vendor invoices evidencing that the work or goods for which payment is sought has been satisfactorily completed or delivered. For contracts providing commodities, the invoice, together with the original Bill of Lading, express receipt, or other related documents, must be provided by the vendor for each delivery/order. For services contracts, invoices must reference the tasks or subtasks detailed in the Scope of Work section of the Request for Proposal (RFP) and must be in strict accordance with the firm, fixed prices submitted for each task or subtask on the RFP pricing sheets. When applicable, invoices should reference the appropriate RFP price sheet line number from the contractor's bid proposal.

For time and materials contracts, the State Contract Manager or designee shall monitor and document the approval of hours and the work accomplished by the contractor. Payment shall not be made without such documentation.

The State of New Jersey Purchasing Card Program was established to provide governmental agencies a convenient method to purchase goods and services. The Department of Community Affairs has opted to participate in the program. Payments for purchases made using the State's Purchasing Card are processed to the program vendor/card provider – generally a financial institution – and not to the vendor from whom goods and services were purchased.

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STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Vendor Payments

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Special circumstances may warrant the processing of payment in advance of the delivery of materials or services by certain vendors. Advance payments are the exception to the rule and are not to be routinely processed. Only in cases where materials or services cannot be obtained from any other source at comparable prices will use of the prepayment procedure be considered.

Vendor payments shall not be processed against billing statements.

The vendor invoice number or other unique descriptive information is to be entered into the payment transaction payee reference field to facilitate payment identification by the vendor. This information will appear on the payment stub.

The Office of Fiscal Services will maintain a file of open purchase orders and monitor the status of those orders at least weekly. All actions taken to learn the status of order fulfillment are to be documented by staff on the purchase order pending copy marked with staff initials and the date .

Order deliveries are to be maintained in a secure area until released to the requestor.

**References:** Circular Letter 11-23-OMB, Payments to Vendors  
Circular Letter 14-04-DPP, State of New Jersey Purchasing Card Program  
State of New Jersey Standard Terms and Conditions  
(<http://www.state.nj.us/treasury/purchase/forms/pbst.pdf>)  
NJ Division of Taxation, Tax Topic: New Jersey Sales Tax Guide,  
Bulletin S&U-4.  
DCA Administrative Procedure 1.60.23, Purchasing Card Program

**SUBJECT:** Grant Funds Internal Controls

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**NUMBER:** 1.70.5

**EFFECTIVE:** April 2006


**REVISED:** June 2016

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**GRANTS ADMINISTRATION**

**APPROVAL:**

  
Cindy McDowell, Director  
Office of Fiscal Services

  
Joyce Paul  
Chief of Staff

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**POLICY:**

A strong internal control system is required to ensure the efficiency, economy, and effectiveness of any operation. Circular 03-08-OMB, Annual Internal Control Reporting, defines internal control as:

A process, affected by the entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Once objectives are established by management, it must also establish a process that encourages employees to follow and meet the established objectives.

Furthermore,

- Agency heads are responsible for adhering to the statewide internal control policies and adapting them to their Agency objectives;
- Division heads are responsible for aligning Division objectives with Agency policy; and
- Financial officers track and analyze Agency performance from a financial perspective.

An internal control system must also specify and communicate control activities that ensure that necessary actions are undertaken in a timely and effective manner so as to achieve Agency objectives. These activities include approvals, authorizations, verifications, reconciliations, reviews of operating performance, security of assets, and segregation of duties.

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**SUBJECT:** Grant Funds Internal Controls

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**NUMBER:** 1.70.5

**EFFECTIVE:** April 2006

**REVISED:** June 2016

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**GRANTS ADMINISTRATION**

**PAGE 2 OF 3**

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**PROCEDURE:**

Internal controls pertinent to the processing of grant funds are established as a collaborative effort between Division and Department management.

The Department provides for strategy, objectives, systems, practices, and general policy guidance to be uniformly applied to the administration of grant funds. These systems include the automated System for Administering Grants Electronically (SAGE), the Department of the Treasury's New Jersey Comprehensive Financial System (NJCFS), and the Sandy Integrated Recovery Operations and Management System (SIROMS). These automated systems require adherence to standardized practices that enforce internal control principles and consistency in the administration of grant funds.

Division management establishes Division-level systems of internal controls for administering grant funds and grant agreements in compliance and congruence with State and Departmental guidelines as well as Division resources; administrative structures; and funding source programmatic, financial, or administrative regulations.

The Divisions' internal control systems must be designed so as to guard against waste, fraud, error, and improper use of assets. The systems must clearly define the Divisional structure's roles, responsibilities, and authority. The systems should also provide for:

- The selection of grant applications for approval recommendation from organizations with adequate and qualified personnel that present proposed action plans that are likely to have significant and discernible/measurable outcomes positively impacting the need or problem to be addressed;
  - Well-planned and written grant agreements that specify accountability and clearly assign objectively detailed and monitorable responsibilities to the grant recipient;
  - The assignment of a Program Manager for each grant program category with overall responsibility for financial, administrative, and programmatic compliance and reporting;
  - The assignment of a Grant Manager with direct line responsibility for oversight and administration of each grant agreement undertaken by the Department;
  - Program Managers who enforce oversight and who review performance, processes, and procedures for compliance with internal control and grant agreement requirements; and
  - Site visitations to the recipient or grant activity location for the purpose of programmatic/fiscal monitoring and verification of reported activities/expenditures.
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**SUBJECT:** Grant Funds Internal Controls

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**NUMBER:** 1.70.5                      **EFFECTIVE:** April 2006  
**REVISED:** June 2016

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**GRANTS ADMINISTRATION**                      **PAGE 3 OF 3**

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The Office of Fiscal Services will identify the Departmental funding streams subject to the requirements of the grants process and this internal control policy.

Funds will be assigned to existing program categories in the SAGE system, assigned new program categories in SAGE, or be assigned to existing or new programs in SIROMS, in consultation with Division Management, to accept initial funding for new programmatic initiatives. Once funding is assigned to a program category, the Division assumes primary responsibility for grant program operations, regulatory and reporting compliance, and adherence to the standards and practices of internal control.

**SUBJECT:** Timely Expenditure of Funds

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**NUMBER:** 2.10.1

**EFFECTIVE:** March 2013

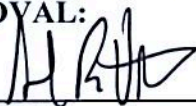
**REVISED:** June 2016

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**SANDY CDBG-DR**

**PAGE 1 OF 2**

**APPROVAL:**



Samuel R. Viavattine  
Deputy Commissioner  
Sandy Recovery Division



Laura Shea  
Assistant Commissioner  
Sandy Recovery Division

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**PURPOSE:**

This policy sets forth the system and processes that ensure the tracking and reporting of timely expenditure of CDBG-DR grant funds received in the aftermath of Superstorm Sandy. Effective reporting and grant management systems track projects and programs against budgets and milestones established within programs and contracts.

**OBJECTIVE:**

DCA has instituted the Sandy Integrated Recovery Operations & Management System (SIROMS) to manage and track CDBG funds and other federal and state programs administered by DCA. The SIROMS system provides standards and a process to review, approve and track grant applicants and funding, direct program activities and program delivery expenditures. It is a comprehensive system that supports the management of SRD programs, including grant management services, applicant progress, quarterly budgets and forecasts as well as direct program, program delivery and national objective information.

The SIROMS system serves as a tool for program managers. It tracks financial and performance metrics, and captures and maintains the information and data required to:

- Streamline applicant data and workflow review;
- Track program/project progress via dashboards and reports;
- Email notifications to keep program staff, subcontractors or sub-recipients up to date on applicant status, program progress, as well as funds flow;
- Monitor the expenditures of sub-recipients and contractors;
- Collect and synchronize data for the HUD Disaster Recovery Grant Reporting (DRGR) system; and
- Provide the accounting and budgetary controls on projects, accumulate all relevant data (including performance measures) needed for programs and sub-recipients as required reporting to HUD.

DCA requires that each program noted in the State's Action Plan update its forecast (on a quarterly basis) regarding funds to be expended over the expected life of the program.

The SIROMS system provides numerous monthly reports for Program Management staff to review and assist in managing their respective programs. These reports include high level dashboards as well as a variety of financial and performance updates on program funding progress.



**SUBJECT:** Timely Expenditure of Funds

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**NUMBER:** 2.10.1

**EFFECTIVE:** March 2013

**REVISED:** June 2016

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**SANDY CDBG-DR**

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DCA's Sandy Fund Request process (within SIROMS system) provides a systematic process under which requests for funding are managed and monitored to ensure the timely expenditure of program funds. The Funds Request process ensures appropriate levels of review and scrutiny via SIROMS 4-step approval process, whereby approvals from personnel overseeing Program, Contract, Policy, and Financial matters are required before the funding process can continue.

The SIROMS system allows DCA and other Program personnel to analyze their "Obligated" and "Expended" funds by Program along with their associated performance metrics. Program specific funding is continually reviewed for timeliness, and analyzed quarterly with regards to HUDs required two-year expenditure deadline. For projects that fail to meet their obligated expenditure timeline and/or performance metrics, DCA will review to determine whether another round of funding should be established to provide additional time or a reallocation of funds is in order.

Ultimately, if the sub-recipient contractor or beneficiary fails to perform, DCA may determine termination. In cases where agreements with recipients are terminated for failure to meet timelines, DCA will reprogram funding into other activities.

#### **RESPONSIBILITIES:**

The SIROMS system was established through the DCA Director of Information Technology. Its assigned Director and divisional staff maintain responsibility for operational management, utilization and functionalities to ensure it is meeting the measurements for timeliness and effectiveness.

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**SUBJECT:** Procurement Policy – CDBG-DR

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**NUMBER:** 2.10.2**EFFECTIVE:** March 2013**REVISED:** July 2015**REVISED:** June 2016

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**SANDY CDBG-DR****PAGE 1 OF 24****APPROVAL:**

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Samuel R. Viavattine  
Deputy Commissioner

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Laura Shea  
Assistant Commissioner

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**OVERVIEW:**

The State of New Jersey (hereinafter referred to as “N.J.”, “State” or “Grantee”) is a recipient of CDBG-DR funds made available pursuant to the Disaster Relief Appropriations Act of 2013, Public Law 113-2 (“Appropriations Act”) and distributed by the U.S. Department of Housing and Urban Development (“HUD”). HUD published Federal Register Notice 78 FR 14329-14349 on March 5, 2013 detailing certain requirements the State was required to meet before HUD would fully obligate the CDBG-DR funds. The Notice requires State Grantee procurement processes to be equivalent to the procurement standards at 24 C.F.R. §85.36.

HUD’s procurement standards codified at 24 C.F.R. § 85.36(a) provide that “a State will follow the same policies and procedures it uses for procurements from its non-Federal funds.” *See also* 24 C.F.R. § 570.489(g) (when procuring goods and services using CDBG funds, “the state *shall* follow its procurement policies and procedures”). Pursuant to Federal Register Notice 78 FR 14329-14349 (Mar. 5, 2013), the State submitted a written procurement policy to HUD, noting that all procurements using CDBG-DR funds would be processed through the Division of Purchase and Property (“DPP”), and certified that those procedures were equivalent to the federal procurement requirements set forth in 24 C.F.R. § 85.36 (attached for reference as Appendix A). By Memorandum dated April 29, 2013, HUD indicated that it had “reviewed the financial control materials submitted by the State” and “the State of New Jersey has demonstrated adequate financial controls, procedures and processes,” and certified that “the State of New Jersey has in place proficient financial controls and procurement processes.” On February 17, 2015, the State inquired and HUD confirmed that the State can procure goods and services through other State agencies with procurement authority (e.g., Division of Property Management & Construction (“DPMC”)) so long as applicable procurement processes are substantially similar to those certified by HUD. DPMC’s procurement processes are substantially similar to those utilized by DPP.



**SUBJECT:** Procurement Policy – CDBG-DR

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Effective December 26, 2014, HUD amended 24 C.F.R. Parts 84 & 85 and adopted the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, set forth in 2 C.F.R. Part 200, which apply to Federal awards made on or after December 26, 2014. *See* 2 C.F.R. § 2400.101. Despite these changes, the State was awarded Superstorm Sandy CDBG-DR funds prior to December 26, 2014, and “Federal awards made prior to December 26, 2014 will continue to be governed by the regulations in effect and codified in 24 C.F.R. part 85 (2013 edition) or as provided by the terms of the Federal award. . . .” 24 C.F.R. §85.1.

Pursuant to 24 C.F.R. §85.1, HUD Transition Notice SD-2015-01, and HUD’s April 29, 2013 certification as to the proficiency of the State’s procurement procedures, the State continues to follow 24 C.F.R. §85.36(a) and use State procurement standards when procuring CDBG-DR funded contracts.

All other non-Federal entities, including subgrantees of the State who are not State entities, will follow 24 C.F.R. §§ 85.36(b) – (i). At least once every twelve (12) months, the Sandy Recovery Division (“SRD”) Monitoring Unit monitors each program in receipt of Sandy CDBG-DR funding (the DCA Internal Audit team monitors the programs pertaining to homeownership). This review includes documents related to subgrantee procurements.

All procurement activities shall adhere to the principles and standards governing federal grant distribution or their equivalent in State law, and all applicable State procurement laws, including but not limited to Executive Order 125 (Christie 2013) (“EO 125”).

N.J. Department of the Treasury Circular 13-15-DPP, *Purchases from Federal Supply Schedules or Schedules of Other Federal Procurement Programs* (effective February 5, 2013 or as may be amended), sets forth the procedure for establishing a State contract based on the pricing offered through a federal procurement program, including but not limited to the U.S. General Services Administration (“GSA”), the Department of Veterans Affairs (“VA”), and the Defense Logistics Agency (“DLA”). DPP, within the N.J. Department of the Treasury, is the State’s central procurement agency and is the entity responsible for Circular 13-15-DPP, as well as other procurement-related circulars and guidance at N.J.A.C. 17:12. Although DCA and other State agencies may possess their own statutory procurement authority, all procurements using CDBG- DR funds will be processed through DPP to ensure compliance with 24 C.F.R. §85.36(a) and fair and open competition.

To be clear, New Jersey does *not* purchase *through* GSA eBuy or other federal procurement schedules; rather, State law authorizes the Director of DPP to “promulgate the

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Federal Supply Schedules of the Federal General Services Administration or schedules from other federal procurement programs . . . **as an alternate price guide** for the purchase of goods and services,” which in turn permits DPP to create a State contract based upon the federal pricing. (N.J.S.A. 52:34-6.1) The overarching purpose of this process is to obtain goods and services that are most advantageous to the State, price and other factors considered, while maintaining a level playing field for all vendors through competition and transparency.

For reference, DPP statutes are found at N.J.S.A. 52:34-6 *et seq.*, and administrative regulations pertaining to DPP operations are found at N.J.A.C. 17:12 *et seq.*

**The following outlines how the State’s procurement processes are equivalent to the procurement standards set forth in 24 C.F.R. §85.36:**

**§85.35 Subawards to debarred and suspended parties.**

**§85.35:** *“The State must not make any award or permit any award at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, ‘Debarment and Suspension’.”* Before awarding a contract using CDBG funds, DCA consults the Federal System for Award Management (“SAM”) for listings of contractors suspended or debarred. DPP maintains a central debarment list and its causes for debarment are set forth at N.J.A.C. 17:12-6.3, Causes for debarment of a person(s). In addition, Section 2.10 of the State’s Standard Terms and Conditions, which are applicable to all contracts entered into by the State, requires that “[t]he contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.” SAM notwithstanding, the State’s administrative regulations, coupled with the State’s Standard Terms and Conditions, will effectively eliminate any debarred or suspended entity from consideration for a disaster recovery contract award.

**§85.36(a) States.**

**§85.36(a):** *“When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds.”* With respect to GSA procurements, Circular 13-15-DPP is the source of guidance for navigating this process, regardless of funding source.

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**§85.36(b) Procurement standards.**

**§85.36(b)(1):** *“Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law...”* Circular 13-15-DPP was crafted in accordance with State law and DPP regulations. The procurements conducted pursuant to this procedure also comply with applicable Federal law. DPP is copying the DOD GSA procurement process to ensure full and open competition. DPP procurement specialists review procurements on a case-by-case basis to ensure compliance with subject-specific Federal laws (e.g. Davis-Bacon Act for public works procurements). Procurement specialists also monitor State and federal debarment lists as well as political contribution databases for “Pay to Play” conflicts prior to awarding contracts.

**§85.36(b)(2):** *“Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions and specifications of their contracts...”* DPP maintains a Contract Compliance and Audit Unit, which is authorized by N.J.A.C. 17:12-4 to request and audit records related to State procurements, either as discovery related to a complaint or for any other reason to ensure that contractors are performing in compliance with contract terms and conditions. In addition, vendors and agencies are required to submit reports to DPP on a regular basis to ensure that the contracts are performed in accordance with the specified terms.

Additionally, the independent Office of the State Comptroller is responsible for auditing and monitoring the solicitation of proposals and the awarding of State contracts that involve “a significant consideration or expenditure of funds or are comprised of complex or unique components. . . .” See N.J.S.A. §§ 52:15C-7 and 52:15C-10. Pursuant to EO 125, the State Comptroller reviews all Sandy-related procurements and contract amendments.

**§85.36(b)(3):** *“Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts...”* All State employees are bound by the Uniform Ethics Code, which outlines the code of conduct for all employees and is borne from New Jersey’s Conflict of Interests Law. The State Ethics Commission administers and enforces the Conflicts of Interest Law, N.J.S.A. 52:13D-12, et seq. The Commission consists of seven (7) members, four (4) public members appointed by the Governor to staggered terms and three (3) Executive Branch employees who are appointed by and serve at the pleasure of the Governor. Additionally, the New Jersey Code of Local Government Ethics Law (N.J.S.A. 40A:9-22.1)

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provides a written code of standards of conduct which governs the performance of employees engaged in the award and administration of contracts.

The State also maintains a *Plain Language Guide to Ethical Business Conduct for Companies Transacting Business with the State of New Jersey* (“Guide”). The Guide covers a wide range of business practices and procedures, setting forth basic principles to guide all employees, officers, and directors of companies transacting business with the State of New Jersey. The Guide is publicly available on the Department’s website at [http://www.state.nj.us/treasury/purchase/ethics\\_guide.shtml](http://www.state.nj.us/treasury/purchase/ethics_guide.shtml).

In addition, the Department of the Treasury requires that all employees involved in the “drafting, reviewing, evaluating or making contract awards, or substantively assisting in any of those tasks, or authorizing payments under those contracts” must complete a *Personal and Business Relationships Disclosure Form*, which is reviewed and approved by the Department’s Ethics Liaison Officer. These forms must be completed annually and employees are subject to discipline and/or prosecution for submitting false information. In addition, DPP requires all employees that serve on Evaluation Committees to complete a form that requires committee participants to maintain confidentiality and screen participants for potential conflicts of interest. This process is documented in a Divisional Standard Operating Procedure.

**§85.36(b)(4):** *“Grantees and subgrantees will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase...”* With respect to GSA procurements, DPP regulations at N.J.A.C. 17:12-1A.5 mandate that Federal supply schedule-based contracts shall only be promulgated when the following conditions have been met:

1. The price of the good and/or service being procured is no greater than the price offered to Federal agencies;
2. The State receives the benefit of any contract price reductions, whether statutory, regulatory or contractual in nature, during the term of the contract; and
3. The price of the good and/or service under consideration for purchase via a Federal supply schedule contract is not equal to or greater than the State contract price for the same or equivalent goods or services, unless the Director determines that the best interests of the State are served by use of the proposed Federal supply schedule-based contract.

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Goods and services obtained through these contracts must be procured in a way that is most advantageous to the State, price and other factors considered.

**§85.36(b)(5):** *“To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.”* To further leverage the economy of scale provided by the Federal supply schedules, DPP regulations permit local use of State contracts based on Federal supply schedules pursuant to N.J.A.C. 17:12-2.3.

**§85.36(b)(6):** *“Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property...”* The State makes every effort to utilize Federal excess and surplus property when doing so is consistent with State law and Department policy.

**§85.36(b)(7):** *“Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size...”* The State makes every effort to utilize value engineering clauses for applicable construction projects when doing so is consistent with State law and Department policy.

**§85.36(b)(8):** *“Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.”* Procurement specialists and evaluation committee members carefully and thoroughly review proposals and mandatory forms to ensure that procurements are awarded to responsible bidders. State law requires that bidders provide evidence of ownership disclosure, political contributions and disclosure of investments in Iran. In addition, Department policy mandates that bidders provide disclosure of investigations or other adverse actions prior to award. Proposals are evaluated based on a number of factors, including the bidder’s ability to successfully perform the contract. Procurement specialists are also responsible for monitoring State and federal debarment lists as well as political contribution databases for “Pay to Play” conflicts prior to awarding contracts.

DPP maintains a central debarment list and its causes for debarment are set forth at N.J.A.C.17:12-6.3, Causes for debarment of a person(s). In addition, Section 2.10 of the State’s Standard Terms and Conditions, which are applicable to all contracts entered into by the State, requires that “[t]he contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.” The administrative regulations, coupled with the Standard Terms and Conditions, will effectively eliminate any debarred or suspended entity from consideration for a disaster recovery contract award.

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Additionally, the independent Office of the State Comptroller is responsible for auditing and monitoring the solicitation of proposals and the awarding of State contracts that involve “a significant consideration or expenditure of funds or are comprised of complex or unique components. . . .” See N.J.S.A. §§ 52:15C-7 and 52:15C-10. Pursuant to EO 125, the State Comptroller reviews all Sandy-related procurements and contract amendments.

**§85.36(b)(9): “Grantees and subgrantees will maintain records sufficient to detail the significant history of procurement...”** As part of DPP’s pre-approval process, agencies are required to research the various federal program schedules to identify vendors that sell the desired goods or services and must obtain price quotes from at least three viable vendors by giving all solicited vendors the same opportunity to provide a price quote and the same information regarding work to be performed as well as the conditions of the proposed Federally- based contract to ensure that all vendors are on a level playing field. If agency due diligence reveals that fewer than three vendors offer the required good or service, the agency must document this fact. All research, vendor selection determination and supporting documentation are provided to DPP which is made part of the permanent file and retained by DPP for a minimum of 7 years.

**§85.36(b)(10): “Grantees and subgrantees will use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at his own risk.”** Every effort is made to avoid the use of time and material contracts. In the limited instances where these contracts are used, the contract complies with the conditions set forth in this subsection. All contracts awarded for recovery efforts will require a task-order process on firm fixed price or a not-to-exceed basis before any expenditure of funds under that contract.

**§85.36(b)(11): “Grantees and subgrantees alone will be responsible...for the settlement of all contractual and administrative issues arising out of procurements...”** All issues arising out of and pertaining to procurements are handled either by the State Contract Manager or DPP. Protests are handled by DPP Hearing Officers, pursuant to procedures set forth at N.J.A.C. 17:12-3. Complaints are handled by DPP’s CCAU unit pursuant to procedures set forth at N.J.A.C. 17:12-4. With regard to protest procedures, the State Contract Manager is also empowered to deal with various administrative procurement issues. Awards through a GSA RFQ are made by the Procurement Bureau within DPP. All protests of Procurement Bureau awards to the Director are handled by DPP Hearing Officers, pursuant to procedures set forth in N.J.A.C. 17:12-3. Protests handled by DPP Hearing Officers are then appealable to the Appellate Division of the New Jersey Superior Court.

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**§85.36(b)(12):** *“Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements...”* Awards through a GSA RFQ are made by the Procurement Bureau within DPP. All protests of Procurement Bureau awards to the Director are handled by DPP Hearing Officers, pursuant to procedures set forth at N.J.A.C. 17:12-3. Protests handled by DPP Hearing Officers are then appealable to the Appellate Division of the New Jersey Superior Court.

**§85.36(c) Competition.**

**§85.36(c) (1):** *“All procurement transactions will be conducted in a manner providing full and open competition...”* The overarching purpose of the State’s procurement process is to obtain goods and services that are most advantageous to the State, price and other factors considered, while maintaining a level playing field for all vendors through competition and transparency. DPP, through its previous interactions with FEMA in the development of the debris removal contracts, is fully aware of the need to maintain full and open competition and a level playing field for all participants in the procurement process. Specifications, requirements, scopes of work, and requests for proposal are developed by the using agencies in concert with DPP and are developed in such a way as to ensure fair and open competition. In the event that a procurement is so complex or technical that development of a specification requires the assistance or engagement of a contractor by the State, that contractor would be excluded from competing for that procurement or participating as a subcontractor in any resultant contracts.

**§85.36(c) (2):** *“Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals...”* To combat the perception of local favoritism that can be inferred from such local preference laws, many states have promulgated statutes and regulations to enforce reciprocal action against states and localities. New Jersey is no exception. N.J.A.C. 17:12-2.13, *Preference laws; out-of-State vendors*, states in part that “. . . the Director shall apply on a reciprocal basis against an out-of-State bidder any in-State preference which is applied in favor of that bidder by the state or locality in which the bidder maintains its principal place of business.”

**§85.36(c)(3):** *“Grantees and subgrantees will have written selection procedures for procurement transactions . . .”* DPP advises bidders of the criteria to be used in the evaluation of proposals and these criteria are clearly described and outlined in the procurement documents. The criteria are weighted by the procurement specialist prior to the proposal submission date and these weights are not disclosed to the bidders until an award has been made. The procurement document sets forth a written description of the technical requirements

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necessary for bidders to submit a responsive proposal, including but not limited to, delivery and submission requirements, forms and certifications to be included with the proposal, and submittals comprising the technical and price proposals. The procurement documents further set forth the general evaluation criteria to be used in the technical evaluation of the proposal. In addition, a pricing evaluation model is generally set forth in the procurement documents which serve as the basis for the ranking of bidder submitted price proposals.

**§85.36(c)(4):** *“Grantees and subgrantees will ensure that all prequalified lists of persons, firms or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition...”*

Currently, DPP does not maintain any prequalification lists for vendors or otherwise related to the procurement of goods or services administered through DPP. In the event that DPP adopts a prequalification procedure in the future, this process will be developed with an eye toward maximizing full and open competition. At times, DPP may procure a multiple award contract to a pool of contractors that have succeeded our advertised competitive process. In those instances both a task-order based process and a “mini-bid” process will occur before any work is performed under that type of contract.

**§85.36(d) Methods of procurement to be followed.**

It is difficult to align each specific standard in this subsection with specific State policies; however, the process set forth in Circular 13-15-DPP is equivalent to the intent of Federal standards set forth in this subsection by ensuring full and open competition and a level playing field for all bidders by requiring quotes from at least three viable sources, publication of evaluation criteria, clearly written scope of services, a thorough technical evaluation of proposals, and awards to responsible vendors whose proposals are most advantageous to the State, price and other factors considered. When the Procurement Bureau within DPP conducts an RFQ posted through GSA, the regular procurement lifecycle is completed, albeit in a condensed timeframe. After the RFQ is posted, a question and answer period is conducted. The RFQ contains standard terms and conditions and Best and Final Offers (similar to Final Proposal Revisions) are requested from bidders determined to be in the competitive range. After the intent to award is issued, unsuccessful bidders may request a debriefing and if necessary, may submit a protest to the Director. Protests are heard in accordance with N.J.A.C. 17:12-3. It is the State’s intention to use the Procurement Bureau to the maximum extent practicable for all HUD grant funded procurements.

Pursuant to Circular Number 16-02-DPP, Delegated Purchase Authority, DPP established thresholds for simplified procurement methods for purchases that do not exceed \$36,000. Micro-purchases, or those valued at less than \$1,000, can be issued without price competition.



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Purchases between \$1,000 and \$17,500 are may be accomplished by soliciting three (3) telephone quotations, internet quotations, or signed facsimile quotations. To assure fair competition, the agency provides all vendors with the same information about the good or service to be acquired, along with the same terms and conditions. The date and time that each quote is received is noted and the quote is retained. For purchases valued at more than \$17,500 but less than \$40,000, an agency must solicit a minimum of three (3) sealed quotes. The Agency Request for Proposal, which includes the deadline for submissions, is distributed to all vendors at the same time. The agency establishes internal control procedures for acceptance, security, review and evaluation of the sealed quotes. Generally, the vendor with the lowest price is entitled to award, provided that the vendor's proposal fully conforms to the terms and conditions of the agency's specifications and the State's Terms and Conditions.

**§85.36(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.**

State law prohibits the establishment of set-aside goals based on race or gender. The State has adopted a goal that 25% of contracts (by dollar value) should be awarded to small businesses, however, and when appropriate, DPP will designate certain contracts or subcontracting opportunities as "Small Business Set Asides." DPP strongly encourages the use of small, minority, women and veteran-owned New Jersey businesses and invites the successful bidders to utilize these resources.

**§85.36(f) Contract cost and price.**

It is difficult to align each specific standard in this subsection with specific State policies; however, the State's policy overall is equivalent to the intent of the standards set forth in this subsection with respect to GSA procurements as DPP regulations at N.J.A.C. 17:12-1A.5 mandate that Federal supply schedule-based contracts shall only be promulgated when the following conditions have been met:

1. The price of the good and/or service being procured is no greater than the price offered to Federal agencies;
2. The State receives the benefit of any contract price reductions, whether statutory, regulatory or contractual in nature, during the term of the contract; and
3. The price of the good and/or service under consideration for purchase via a Federal supply schedule contract is not equal to or greater than the State contract price for the same or equivalent goods or services, unless the Director determines that

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the best interests of the State are served by use of the proposed Federal supply schedule-based contract.

Therefore, this cost analysis must be undertaken by the agency prior to submission to DPP as part of the pre-approval process outlined in the Circular. Goods and services obtained through these contracts must be procured in a way that is most advantageous to the State, price and other factors considered. When the Procurement Bureau itself conducts an RFQ posted through GSA, the regular procurement lifecycle is completed, albeit in a condensed timeframe. After the RFQ is posted, a question and answer period is conducted. The RFQ contains standard terms and conditions and Best-and-Final Offers (“BAFOs”) are requested from bidders determined to be in the competitive range. Depending on the dollar value of the procurement, a DPP pricing analyst will also review the reasonableness of the pricing prior to award. After the intent to award is issued, unsuccessful bidders may request a debriefing and if necessary, may submit a protest to the Director. Protests are heard in accordance with N.J.A.C. 17:12-3.

**§85.36(g) Awarding agency review.**

It is difficult to compare each specific standard in this subsection with specific State policies; however, the State’s practice is equivalent to the intent of the standards set forth in this subsection as agencies must submit to DPP a pre-approval package, including among other items, the specification, Federal supply schedule, proposed vendor(s), and cost analysis. Prior to contract creation, DPP will thoroughly review the package and conduct a pre-award review with the agencies to ensure that a level playing field and full and open competition were maintained. When the Procurement Bureau itself conducts an RFQ posted through GSA, the regular procurement lifecycle is completed, albeit in a condensed timeframe. After the RFQ is posted, a question and answer period is conducted. The RFQ contains standard terms and conditions and BAFOs are requested from bidders determined to be in the competitive range. Depending on the dollar value of the procurement, a DPP pricing analyst will also review the reasonableness of the pricing prior to award. After the intent to award is issued, unsuccessful bidders may request a debriefing and if necessary, may submit a protest to the Director. Protests are heard in accordance with N.J.A.C. 17:12-3.

**§85.36(h) Bonding requirements.**

This section is largely inapplicable to procurements based on Federal supply schedule pricing. If the service being procured requires bonding to protect the State’s interests, the Procurement Bureau will include applicable bonding in accordance with the provisions of this subsection.

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**§85.36(i) Contract provisions.**

The general provisions enumerated in this subsection are included in the State's Standard Terms and Conditions. Section 2.10 of the State's Standard Terms and Conditions, which are applicable to all contracts entered into by the State, requires that "[t]he contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder." The Federal provisions are incorporated into contracts where they are applicable, (e.g. Davis-Bacon Act is only applicable to public works projects).

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**Appendix A**

**§ 85.36(a) States.**

When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

**§ 85.36(b) Procurement standards.**

1. Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
2. Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
3. Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
  - i. The employee, officer or agent,
  - ii. Any member of his immediate family,
  - iii. His or her partner, or
  - iv. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic

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value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

4. Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
5. To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.
6. Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
7. Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
8. Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
9. Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

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10. Grantees and subgrantees will use time and material type contracts only

- i. After a determination that no other contract is suitable, and
- ii. If the contract includes a ceiling price that the contractor exceeds at its own risk.

11. Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

12. Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

- i. Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and
- ii. Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

**§ 85.36(c) Competition.**

1. All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:

- i. Placing unreasonable requirements on firms in order for them to qualify to do business,

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- ii. Requiring unnecessary experience and excessive bonding,
  - iii. Noncompetitive pricing practices between firms or between affiliated companies,
  - iv. Noncompetitive awards to consultants that are on retainer contracts,
  - v. Organizational conflicts of interest,
  - vi. Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and
  - vii. Any arbitrary action in the procurement process.
2. Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
3. Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:
- i. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or equal description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

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- ii. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- 4. Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

**§ 85.36(d) Methods of procurement to be followed.**

- 1. Procurement by **small purchase procedures**. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.
- 2. Procurement by **sealed bids** (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 85.36(d)(2)(i) apply.
  - i. In order for sealed bidding to be feasible, the following conditions should be present:
    - A. A complete, adequate, and realistic specification or purchase description is available;
    - B. Two or more responsible bidders are willing and able to compete effectively and for the business; and
    - C. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
  - ii. If sealed bids are used, the following requirements apply:
    - A. The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;



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- B. The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
  - C. All bids will be publicly opened at the time and place prescribed in the invitation for bids;
  - D. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
  - E. Any or all bids may be rejected if there is a sound documented reason.
3. Procurement by **competitive proposals**. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
- i. Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
  - ii. Proposals will be solicited from an adequate number of qualified sources;
  - iii. Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
  - iv. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
  - v. Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

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4. Procurement by **noncompetitive proposals** is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.
  - i. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:
    - A. The item is available only from a single source;
    - B. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
    - C. The awarding agency authorizes noncompetitive proposals; or
    - D. After solicitation of a number of sources, competition is determined inadequate.
  - ii. Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.
  - iii. Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre- award review in accordance with paragraph (g) of this section.

**§ 85.36(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.**

1. The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
2. Affirmative steps shall include:
  - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

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- iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- v. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

**§ 85.36(f) Contract cost and price.**

1. Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
2. Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
3. Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 85.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

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4. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

**§ 85.36(g) Awarding agency review.**

1. Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
2. Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:
  - i. A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or
  - ii. The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or
  - iii. The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or
  - iv. The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
  - v. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.
3. A grantee or subgrantee will be exempt from the pre- award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

**SUBJECT:** Procurement Policy – CDBG-DR

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**NUMBER:** 2.10.2

**EFFECTIVE:** March 2013

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**REVISED:** June 2016

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**SANDY CDBG-DR**

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- i. A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.
- ii. A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

**§ 85.36(h) Bonding requirements.**

For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

1. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
2. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
3. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

**SUBJECT:** Procurement Policy – CDBG-DR

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**NUMBER:** 2.10.2

**EFFECTIVE:** March 2013

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**§ 85.36(i) Contract provisions.**

A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

1. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)
2. Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
3. Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)
4. Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)
5. Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)
6. Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327A 330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
7. Notice of awarding agency requirements and regulations pertaining to reporting.

**SUBJECT:** Procurement Policy – CDBG-DR

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8. Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
9. Awarding agency requirements and regulations pertaining to copyrights and rights in data.
10. Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
11. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
12. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).
13. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, 89 Stat. 871).

[53 FR 8068, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19642, Apr. 19, 1995]

**SUBJECT:** Detection of Fraud, Waste and Abuse

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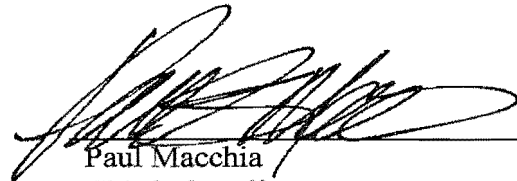
**NUMBER:** 2.10.3

**EFFECTIVE:** March 2013

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**SANDY CDBG-DR**

**APPROVAL:**

  
Paul Macchia  
Chief of Staff

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Program Monitoring

The State of New Jersey Department of Community Affairs (DCA) will oversee all activities and expenditures of the CDBG-DR funds. Existing State employees will be utilized and additional personnel and contractors will be hired to augment DCA staff, according to need, to perform monitoring of funded DR projects in accordance to the DCA CDBG-DR Monitoring Plan.

DCA will maintain a high level of transparency and accountability using a combination of risk analysis of programs and activities, desk reviews, site visits, and using monitoring checklists modeled after HUD's Disaster Recovery Monitoring Checklists and existing monitoring checklists used in monitoring regular CDBG program activities. DCA will determine appropriate monitoring of grants, taking into account prior CDBG grant administration and performance, audit findings, as well as factors such as the complexity of the project.

The primary purpose of the State's monitoring strategy is to ensure that all projects comply with applicable federal regulations and are effectively meeting their stated goals. The frequency and program components monitored will be determined by a risk analysis. All projects will be monitored at least once on-site during the life of the activity. The results of monitoring and audit activities will be reported to the Commissioner of DCA.

The monitoring will address program compliance with contract provisions, including but not limited to environmental reviews, procurement, fair housing, Section 3, Davis-Bacon Act and other labor standard provisions, URA, equal opportunity requirements, OMB Circular A-87, program income and other CDBG financial requirements. These policies and procedures are consistent with those used by HUD to monitor state administered programs. All necessary environmental reviews shall be performed on each project prior to funding.

Procedures for verification of the accuracy of information provided by applicants for assistance are provided in the individual program policies and procedures. DCA's oversight and monitoring shall include procedures to ensure the veracity of the information being provided by applicants. DCA's existing staff and contractors will test program staff's adherence to the verification procedures by testing applicant files using judgmental sampling techniques and by utilizing analytics software designed to identify anomalies and irregularities. Further, DCA shall embed quality assurance monitors into the intake process who will be charged with ensuring adherence to prescribed applicant verification procedures.

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**SUBJECT:** Detection of Fraud, Waste and Abuse

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**NUMBER:** 2.10.3

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**SANDY CDBG-DR**

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Detection of Fraud, Waste and Abuse

On February 8, 2013, Governor Christie signed Executive Order (EO) No. 125 concerning the monitoring and oversight of federal construction funds. Accordingly, EO 125 directed all Executive Branch departments administering federal reconstruction resources to follow a framework that will provide comprehensive and stringent safeguards to make certain all federal resources are utilized through an ethical and transparent process. Among other things, such safeguards are to include:

- Each principal department of the State shall submit all potential State procurements involving expenditure of federal reconstruction resources to the New Jersey Office of the State Comptroller for review prior to commencement of the procurement process. The State Comptroller shall determine whether the proposed procurement process complies with applicable public contracting laws, rules and regulations. Pursuant to its enabling legislation, the State Comptroller's Office is an independent office that is charged with evaluating the efficiency, effectiveness, and transparency of all government entities and to identify and eliminate fraud, waste and abuse throughout state and local government.
- Each principal department and agency of the State is directed to appoint an "Accountability Officer" to oversee the responsible disbursement and utilization of federal reconstruction resources allocated by or through that department or agency. Each Accountability Officer shall serve as a liaison to the Governor's Office of Recovery and Rebuilding and the State Comptroller.

The New Jersey Department of Community Affairs has designated the Director of Auditing, to serve as the department's Accountability Officer. The attached "Role of the Internal Auditor" document affirms and describes this role in detecting fraud, waste, and abuse.

To establish an effective system of internal control and a program of audit and evaluation which will provide assurances and safeguards concerning DCA's disbursement of federal reconstruction funds, DCA's Office of Auditing, in conjunction with other departmental personnel, will conduct a thorough and comprehensive enterprise-wide risk assessment related to federal reconstruction funds every six months.

**SUBJECT:** Detection of Fraud, Waste and Abuse

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**NUMBER:** 2.10.3

**EFFECTIVE:** March 2013

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The risk-assessment will serve as the basis for the audit and compliance plans which will address the following:

1. Audit of paper application files for anomalies through risk-based sampling.
  2. Evaluate and test selected internal controls, including IT-related controls.
  3. Deliver training to all staff responsible for monitoring or administering federal reconstruction funds that will focus on identification of risk factors, identification of fraud indicators, and the implementation a system of internal control that provides reasonable assurances that funds are being administered in accordance with law, code and policy. The training sessions will emphasize that sound internal controls require the efforts of all departmental personnel, not only auditors and compliance staff.
  4. Ensure that anti-fraud brochures and posters that include a fraud tip-line to the State Comptroller's Office are distributed and prominently displayed throughout the department, satellite offices and construction sites.
  5. Liaise with applicable Federal, State and Local law enforcement authorities concerning the disbursement of federal reconstruction funds.
  6. Implement a comprehensive and effective compliance program that includes: investigative protocols, whistleblower procedures, and a process to refer matters to local, state and federal authorities.
  7. Ensure that DCA's auditing, monitoring and evaluation process effectively mitigates the risk of fraud, waste and abuse and the disbursement of reconstruction funds is transparent to all stakeholders.
  8. Establish a Quality Assurance mechanism to ensure all federal reporting of CDBG-DR funds are accurate and timely.
  9. Development and implementation of policies and procedures to assist in ensuring that program requirements are met, including preventing a duplication of benefits, and measures to detect and prevent fraud, waste abuse and mismanagement of funds.
  10. Compliance with Federal and State laws, and DRGR requirements.
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**SUBJECT:** Detection of Fraud, Waste and Abuse

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**NUMBER:** 2.10.3

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In addition, the State intends to hire additional contractors to assist the State in its efforts to prevent and detect fraud, waste, and mismanagement of recovery funds. The State intends to maintain a selection of monitoring contractors through the following solicitation issued in March 2013: *RFQ for Program and Process Management Auditing, Financial Auditing and Grant Management, and Integrity Monitoring/Anti-Fraud Services for Disaster Recovery Assistance.*

**SUBJECT:** Investigation Protocol Policy

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**NUMBER:** 2.10.4

**EFFECTIVE:** March 2013

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**SANDY CDBG-DR**

**APPROVAL:**



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Paul Macchia  
Chief of Staff

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**PURPOSE:**

The Department of Community Affairs (Department) is committed to conducting its affairs in accordance with State Ethics policies and as required by federal and state laws, regulations, and policies. To achieve such compliance, the Office of Auditing and the Office of Legal and Regulatory Affairs strive to prevent, detect and in a timely manner assist management to correct violations of law or policy, which may result from mistake, inadvertence, lack of information or deliberate misconduct. In addition, the Department has a zero-tolerance policy concerning the commission or concealment of acts of fraud, waste or abuse. This protocol establishes an administrative process for dealing with and addressing allegations of misconduct so that the integrity of the conduct of operations at the Department may be preserved.

Reporting Concerns

Department employees are expected to report good faith concerns about possible or potential violations of federal and state law, regulations and policies or any known or potential instances of fraud, waste or abuse. Although employees are encouraged to resolve issues by reporting concerns to the appropriate contact person in his/her department, employees may not feel that adequate steps will be taken to resolve his/her concerns or the issue may be of a complex nature that requires the assistance of a specialist. Therefore, employees may report such concerns to the Office of Auditing or the Office of Legal/Regulatory Affairs.

All employees are expected to fully cooperate and be truthful in the Department's investigation of allegations. The Office of Audit and the Office of Legal and Regulatory Affairs shall keep the Commissioner and other executive staff appropriately informed of any potential serious or significant compliance concerns. Retaliation against employees for making good faith reports is strictly prohibited. Any individual made aware of the allegation shall also be asked to keep the investigation confidential and not disclose the identity of the subject or issues raised, unless otherwise required by law.

Investigation Steps:

1. Ensure Fair Treatment: Any person assisting in the investigation shall be reminded about the Department's policy against retaliation and if the identity of the employee making the allegation is known or becomes known, such identity shall be protected to the extent possible under the law. Individuals who are subjects of a report shall be notified, as long
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**SUBJECT:** Investigation Protocol Policy

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**NUMBER:** 2.10.4

**EFFECTIVE:** March 2013

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**SANDY CDBG-DR**

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as it will not risk the integrity of the investigation. There is no assumption of wrongdoing in the investigative process. Rather, the investigation shall be a fact-finding function in order to determine appropriate follow-up measures.

2. The Office of Auditing and/or the Office of Legal and Regulatory Affairs shall evaluate the issues raised and, if necessary, refer the matter to the most appropriate Department official for review.
  3. If the reported concern is minor and the solution is straightforward without the need for an extensive investigation, the Office of Auditing and/or the Office of Legal and Regulatory Affairs may ask that the appropriate administrator promptly take corrective action to resolve the concern. Proper documentation of the resolution of the allegation shall be maintained by the Director of Auditing and/or the Director of Legal and Regulatory Affairs.
  4. After appropriate fact-finding is concluded, the Director of Auditing and/or the Director of Legal and Regulatory Affairs shall consider whether any notification or report should be directed to an outside entity. Such entities may include: New Jersey Office of the Attorney General, New Jersey Office of the Comptroller, Federal Office of the Inspector General, or other appropriate federal or state regulatory or law enforcement agency. In all referral cases, the DCA Commissioner and the Office of the Attorney General shall be notified before the referral is made.
  5. At the conclusion of the fact-finding, as appropriate, the Director of Auditing and/or the Director of Legal and Regulatory Affairs shall also refer the matter to the proper internal division of the Department for disposition.
  6. Documentation: In all cases, appropriate records shall be maintained that document the nature of the allegation, the investigation, the findings and any corrective action to be taken. Documents related to inquiries/reviews will be retained in accordance with relevant federal and state statutes, regulations and policy.
  7. All reasonable efforts will be made to complete inquiries/reviews expeditiously yet thoroughly.
  8. In order to implement this Investigation Protocol, the Director of Audit, in consultation with the Director of Legal and Regulatory Affairs, shall create an Internal Investigation/Inquiry Procedural Guidelines to be followed by all audit and compliance staff in reviewing allegations.
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**STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS**

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**SUBJECT:** Investigation Protocol Policy – Collaboration with Sub-Grantees

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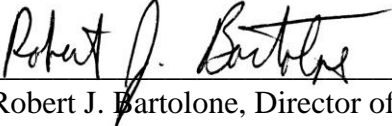
**NUMBER:** 2.10.4A

**EFFECTIVE:** November 5, 2015

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**SANDY CDBG-DR**

**APPROVAL:**

  
Robert J. Bartolone, Director of Audit

  
David Reiner, Deputy Commissioner

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**PURPOSE:**

The Department of Community Affairs (Department) is committed to conducting its affairs in accordance with State Ethics policies and as required by federal and state laws, regulations, and policies that are applicable to the administration of CDBG-DR funds. To achieve such compliance, the Department's Office of Auditing, in conjunction with other departmental compliance professionals, strive to prevent, detect and, in a timely manner, assist management to correct violations of law or policy, which may result from mistake, inadvertence, lack of information or deliberate misconduct. In addition, the Department has a zero-tolerance policy concerning the commission or concealment of acts of fraud, waste or abuse.

This protocol establishes an administrative process for collaborating and sharing information with the Department's CDBG-DR subgrantees when the Department institutes a recoupment action or a compliance hold against an individual or individuals in connection with any of the Department's CDBG-DR programs.

**PROCEDURE:**

In the event the Department of Community Affairs initiates a recoupment action or institutes a compliance hold against an individual or individuals in connection with any of its CDBG-DR programs, it should provide that information to all of its subgrantees and all State Agencies that administer recovery funds. Absent extraordinary circumstances and subject to the State's debarment/disqualification policies, the recoupment action or compliance investigation against the individual(s) may not adversely affect the ability of DCA's subgrantees to provide CDBG-DR funding to a small business entity in which the individual(s) that are subject of the recoupment action or compliance investigation is/are principal(s) unless there is a determination of fraud in connection with the small business application for assistance.

**SUBJECT:** Program Income

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**NUMBER:** 2.10.6

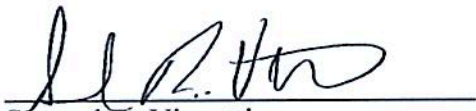
**EFFECTIVE:** March 2013

**REVISED:** May 2016

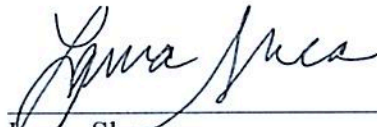
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## **SANDY CDBG-DR-DR**

### **APPROVAL:**



Samuel R. Viavattine  
Deputy Commissioner



Laura Shea  
Assistant Commissioner

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## **PROGRAM INCOME**

### **Overview**

Under the CDBG-DR Grant allocated by HUD to support New Jersey recovery efforts following Superstorm Sandy, funds received back to a recipient or subrecipient as a result of a CDBG-DR funded activity are generally referred to as program income. For the purposes of this guidance, the CDBG-DR recipient is the State of New Jersey Department of Community Affairs (DCA). Subrecipients are separate public or nonprofit organizations that administer a CDBG-DR-assisted program on behalf of the recipient. This general policy applies to CDBG-DR-Disaster Recovery allocations, including the specific alternative requirements related to disaster CDBG-DR, as per the Federal Register guidance for Sandy CDBG-DR-DR (FR-5696-N-01).

Program income funds are subject to all CDBG and other Federal requirements. For CDBG-DR, HUD has waived applicable program income rules at 2 CFR Part 200.307, 570.504, and 570.489(e) to the extent necessary to provide additional flexibility, per the Sandy disaster Federal Register Notice.

Program income is defined in detail below. Funds not considered program income (also referred to as miscellaneous revenue) are not subject to the federal requirements. Accounting for program income is conducted on a subrecipient basis rather than a project basis, applicable where the grantee has the ability to generate income from more than a single project.

### **Program Income Definition**

Program income is defined as gross income received by a recipient or subrecipient of CDBG-DR funds that was generated from the repayment through programs implemented with New Jersey's allocation of CDBG-DR funds. Program income includes, but is not limited to, the following as relates to programs implemented with New Jersey CDBG-DR allocation.

- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG-DR funds;
- Proceeds from the disposition of equipment purchased with CDBG-DR funds;



**SUBJECT:** Program Income

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**NUMBER:** 2.10.6

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- Gross income from the use or rental of real or personal property acquired by the recipient\* with CDBG-DR funds, less the costs incidental to the generation of the income;
- Net income from the use or rental of real property owned by recipient, that was constructed or improved with CDBG-DR funds, less the costs incidental to the generation of the income;
- Payments of principal and interest on loans made using CDBG-DR funds;
- Proceeds from the sale of loans made with CDBG-DR funds;
- Proceeds from the sale of obligations secured by loans made with CDBG-DR funds;
- Interest on program income pending disposition of the income, but excluding interest earned on funds held in a revolving fund account;
- Funds collected through special assessments made against properties owned and occupied by households not low- and moderate-income, where the special assessments are used to recover all or part of the CDBG-DR portion of public improvements; and
- Gross income paid to a recipient from the ownership interest in a for-profit entity acquired in return for the provision of CDBG-DR assistance.

Program Income received by a recipient both before and after close-out of the grant that generated such income is treated as additional CDBG-DR funds and is subject to all applicable Title I and other Federal regulations and state policies governing the CDBG-DR allocation, Federal Register notices, waivers and alternative requirements. Funds earned by subrecipients but repaid to the recipient (DCA) are considered to be program income. The table below provides the definition of CDBG-DR program income taken from the March 5, 2013 Federal Register Notice.

#### **Pro-Rating Program Income**

When income is generated by an activity that is only partially assisted by CDBG-DR funds, the income shall be pro-rated to reflect the percentage of CDBG-DR funds used (24 CFR Part 570.489(e) (1) (ix)). For example, if a parcel of land were purchased with 50 percent CDBG-DR funds and 50 percent other funds, 50 percent of any program income from the sale or long-term lease of that property would be considered CDBG-DR program income subject to CDBG-DR rules and requirements.

#### **Program Income Funds and Close-Out**

Any program income must be substantially expended, to the extent practical, before drawing additional CDBG-DR funds from the U.S. Treasury for any activity in any CDBG-DR project that the grantee has open; except that if such program income are used to establish a Revolving Fund (RF), it is not required to be expended for non-revolving fund activities.



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**NUMBER:** 2.10.6

**EFFECTIVE:** March 2013

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Program income can be generated before and after grant close out. For CDBG-DR, program income received before and after close out of the grant that generated the program income, as a priority will be used to continue disaster recovery efforts, and will therefore be treated as additional CDBG-DR funds subject to the specific rules and requirements of CDBG-DR and consistent with the State's Action Plan. Before close out of the CDBG-DR grant that generated the program income, the DCA Commissioner may determine that the CDBG-DR program income funds will go to the state's regular CDBG program. These funds, if transferred, no longer carry the alternative requirements of CDBG-DR and are treated as regular CDBG funds.

The accounting provisions and use of funds as described within this policy are applicable as long as funds are received or distributed. Appropriate documentation regarding the use of funds must be maintained along with the appropriate accounting documents.

#### **Use of Program Income**

Program income must be used for eligible CDBG-DR activities as listed in Title 42, Chapter 69, Section 5305(a). As noted above, CDBG-DR funds retain their CDBG-DR rules as long as they are used to continue disaster recovery activities. Program income is subject to all of the rules and regulations governing CDBG-DR funds including, but not limited to, compliance with: national objective, procurement, equal opportunity, environmental, labor standards, lead-based paint hazard treatment, etc. As stated previously, miscellaneous revenue funds are not subject to these rules.

The grantee can expend up to 5 percent of the total program income received for administration. As allowed by HUD, no more than 20 percent of the Program Income can be used for administration, planning and technical assistance activities.

#### **Procedure for Processing Program Income by DCA and Subrecipients**

All program income received by all subrecipients is to be transferred back to DCA as quickly as feasible. This program income will be receipted in DRGR and used before additional funds from the CDBG-DR allocation are drawn from the U.S. Treasury for any purpose.

The procedure for implementing this policy is as follows:

1. The Program Income should be sent back to DCA /SRD once a month through an ACH transfer or a check payable to the "State of New Jersey."
2. Supporting documentation regarding the source of the program income, activity generating program, and reason for program income must be attached.
3. Program Managers will enter this information to SIROMS which will notify DCA/SRD to expect the transfer or the check.



**SUBJECT:** Program Income

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**NUMBER:** 2.10.6

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4. DCA Fiscal will record and deposit the checks into a Program Income account, and will approve in SIROMS the receipt.
5. Receipt of program income will be noted in DRGR.
6. Program budgets of subrecipient programs will not necessarily be increased requiring subrecipients to spend the program income.
7. Disbursement of funds once received by DCA/SRD will be done by NJCFS on a “first in first out” (FIFO) basis. The funds will be used to pay the next fund request received, regardless of the program requesting funds. This disbursement will reduce in total, the amount of CDBG-DR funding requested from HUD for that specific funds request.
8. The Fund request approved and paid in NJCFS will be excluded from the A1 file to avoid duplication, The FBLT will be attached to supporting documentation to request funding in DRGR.
9. At the closeout of each activation, budget reconciliation will be done to ensure that all program income received and disbursed is accounted for.

#### **Accounting Systems for Program Income and Miscellaneous Revenue**

DCA will maintain and require subrecipients to maintain a program income/miscellaneous revenue accounting system that will:

- Record program income/miscellaneous revenue appropriately in the recipient’s accounting records;
- Ensure that all program income/miscellaneous revenue is collected and properly classified; and
- Ensure that the handling of program income/miscellaneous revenue complies with applicable Federal and state requirements.

Any accounting system used must be detailed enough to provide the necessary information for completing quarterly DRGR reporting DCA’s semi-annual Repayment Report—Program Income/Miscellaneous Revenue Report and comply with the requirements of 24 CFR Part 85. A separate interest-bearing account must be maintained for a revolving fund.

DCA and its subrecipients must maintain files that accurately account for all funds received and disbursed. This documentation must include bank statements and canceled checks (copies are acceptable if both sides of canceled checks. DCA and its subrecipients must also maintain documentation that shows program income funds were spent in compliance with Title I requirements. This includes documentation that the funds were spent on eligible activities, that a national objective was met, and that all other requirements such as environmental review, fair housing, relocation and citizen participation are in compliance.

**SUBJECT:** Program Income

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**NUMBER:** 2.10.6

**EFFECTIVE:** March 2013

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**SANDY CDBG-DR-DR**

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**Waiver of Requirements**

DCA may waive or modify the requirements of this policy when it determines that, in so doing, it will promote the more efficient administration of the program and/or further the accomplishment of objectives. However, DCA cannot waive HUD or other Federal regulatory requirements concerning the use of program income.

**SUBJECT:** Citizen Complaint Response and Appeal Process

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**NUMBER:** 2.10.8

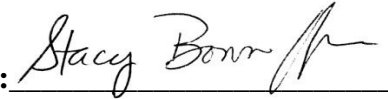
**EFFECTIVE:** May 2013

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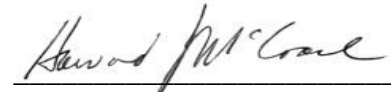
**SANDY CDBG-DR**

**PAGE 1 OF 2**

**APPROVAL:**



Stacy Bonaffons  
Assistant Commissioner



Howard McCoach  
Director, Sandy Recovery Division

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**PURPOSE:**

The Department of Community Affairs has established a procedure to provide a timely written response to every citizen complaint.

**POLICY:**

The State, sub-grantees and recipients, if any, will establish procedures for responding to citizens' complaints regarding activities carried out utilizing these CDBG-DR funds. Citizens will be provided with an appropriate address, phone number, and times during which they may submit such complaints. The State and sub-grantees will provide a written response to every citizen complaint within 15 working days of the complaint.

In addition, the Department of Community Affairs establishes a process for ruling on appeals of programmatic decisions regarding eligibility and other matters.

**PROCEDURE:**

The State will accept written citizen complaints from citizens related to the disaster recovery programs, the Action Plan, substantial amendments, or quarterly performance reports. Written complaints should be submitted via email to [Sandy.Recovery@dca.state.nj.us](mailto:Sandy.Recovery@dca.state.nj.us) or be mailed to:

**SUBJECT:** Citizen Complaint Response and Appeal Process

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**NUMBER:** 2.10.8

**EFFECTIVE:** May 2013

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New Jersey Department of Community Affairs,  
Post Office Box 800,  
Trenton, New Jersey 08625-0800  
Attention: Commissioner

The State will make every effort to provide a timely written response to every citizen complaint within fifteen (15) working days of the receipt of the complaint, where practicable.

The State will require that its Subrecipients follow a Citizen Complaint procedure reflective of the goals of the Citizen Participation Plan. A copy and/or summary of the citizen complaints received by subrecipients will be forwarded to the Department of Community Affairs. The complainant must be made aware by the subrecipient that if she or he is not satisfied with the response, a written complaint may be filed with the Department of Community Affairs.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**APPROVAL**

\_\_\_\_\_  
Samuel R. Viavattine  
Deputy Commissioner  
Sandy Recovery Division

\_\_\_\_\_  
Laura Shea  
Assistant Commissioner  
Sandy Recovery Division

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**PURPOSE:**

To outline the policies and procedures for the Department of Community Affairs to document compliance with Conflict of Interest requirements and HUD's implementing regulations found at 24 CFR 570.611 (CDBG Other Program Requirements: Conflict of Interest), 24 CFR 570.489(h) (CDBG Program Administrative Requirements for States), and 2 CFR 200 (c) (1) and (2).

**POLICY:**

An organizational conflict of interest means that, because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advise the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

Conflicts of interest in the award and/or administration of contracts must be avoided.

*No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract."*(2 CFR 200.318 (c) (1).

Other federal regulations with which the grantee must comply are the conflict of interest requirements in 24 CFR 570.611.

In some cases certain CPD programs contain waivers and alternative requirements, relevant statutory provisions for grants provided under the Federal Notice issued for that program. In order to meet the requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) Program (Robert T. Stafford Disaster Relief and Emergency Assistance act of 1974 commonly referred to the "Stafford Act") as well as the Disaster Relief Appropriations Act of 2013 (78 FR 14329 – published March 5, 2013 and the clarifying guidance published on April 19, 2013) the following section has been added to describe any waivers or alternative

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requirements for this crosscutting element. Note that wherever a conflict occurs between the crosscutting requirements and the special requirements as noted in the Stafford Act and the Disaster Relief Appropriations Act of 2013, the latter shall take precedence.

**DISASTER RECOVERY WAIVERS OR ALTERNATE REQUIREMENTS:**

None.

**I. CONFLICT OF INTEREST APPLICABILITY**

In the procurement of supplies, equipment, construction, and services by recipients and sub recipients, the conflict of interest provisions in 2 CFR 200.317- 2 CFR 200.326, and the provisions of 24 CFR 570.611 apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient, by its sub recipients, or to individuals, businesses or other private entities under eligible activities which authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to § 570.202, or grants, loans and other assistance to businesses, individuals and other private entities pursuant to § 570.203, § 570.204 or § 570.455).

**II. CONFLICT OF INTEREST REQUIREMENTS**

Except for the use of CDBG funds to pay salaries and other related administrative or personnel costs, the general rule is that no persons<sup>1</sup> who exercise or have exercised any functions or responsibilities with respect to CDBG-funded activities, or who are in a position to participate in a decision making process or to gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with who they have family or business ties, during their tenure or for one year thereafter.

Further, no employee, officer or agent of the grantee or sub grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest,

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<sup>1</sup> Applies to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or sub recipients which are receiving federal funds.



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real or apparent, would be involved. Such a conflict would arise when there is a financial or other interest in the firm selected for award by:

- the employee, officer or agent of the grantee or sub grantee,
- any member of his or her immediate family,
- his or her partner, or
- an organization which employs, or is about to employ, any of the above

In addition, the Department of the Treasury (“Treasury”) requires that all employees involved in the “drafting, reviewing, evaluating or making contract awards, or substantively assisting in any of those tasks, or authorizing payments under those contracts” must complete a *Personal and Business Relationships Disclosure Form*, which is reviewed and approved by Treasury’s Ethics Liaison Officer. These forms must be completed annually and employees are subject to discipline and/or prosecution for submitting false information. Moreover, the Division of Purchase and Property (DPP) requires all employees who serve on Evaluation Committees for contract proposal submissions to complete a form that requires committee participants to maintain confidentiality and that screens participants for potential conflicts of interest. This process is documented in a DPP Standard Operating Procedure.

### **III. SOLICITATION OF GRATUITIES**

The State’s or sub grantee’s officers, employees or agents shall not solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub agreements.

The State and its sub grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct must provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the State’s and its sub grantee’s officers, employees, or agents, or by contractors or their agents. HUD may provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

### **IV. EXCEPTIONS**

Upon the written request of the recipient, HUD may grant an exception to the conflict of interest prohibition on a case-by-case basis when it determines that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient’s program or project. An exception may be considered only after the recipient has provided the



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following:

- A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
- An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

In determining whether to grant a requested exception after the recipient has satisfactorily met these requirements of paragraph, HUD shall consider the cumulative effect of the following factors, where applicable:

- Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- Whether an opportunity was provided for open competitive bidding or negotiation;
- Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
- Whether the interest or benefit was present before the affected person was an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or sub recipients which are receiving federal funds;
- Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- Any other relevant considerations.

## **V. WRITTEN STANDARDS**

The State must maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. These specific written

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standards were addressed in Provision II of this Policy, “Conflict of Interest Requirements.”

The State of New Jersey State Ethics Commission administers and enforces the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq. Pursuant to section 21(k) of the Conflicts Law, the Commission is authorized to promulgate, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., such rules and regulations as may be necessary to effectuate the purposes of the statute.

Section 21(o) of the Conflicts Law directs the Commission to prepare, and ensure distribution to each State officer and employee and special State officer and employee in the Executive Branch, a plain language ethics guide designed to provide a clear and concise summary of the laws, regulations, codes, orders, procedures, advisory opinions and rulings concerning applicable ethical standards. The goal of the guide is to promote ethical day-to-day decision making, to give general advice regarding conduct and situations, to provide easy reference to sources, and to explain the role, activities and jurisdiction of the Commission. Each State officer and employee and special State officer and employee must certify that he or she has received the guide, reviewed it and understands its provisions.

## **VI. STATE CONFLICT OF INTEREST GUIDELINES**

The following is contained in the “State of New Jersey Plain Language Guide to New Jersey’s Executive Branch Ethics Standards”:

*As a State officer or employee or special State officer or employee, you are prohibited from acting in your official capacity in any matter in which you have a direct or indirect personal or financial interest that might be expected to impair your objectivity or independence of judgment. As a practical matter, this means that you should not participate, even informally, on a matter in which you have a personal or financial interest.*

- *You could have an incompatible personal or financial interest through such things as:*
- *A purchase, sale, lease, contract, option, or other transaction;*
- *Property or services; and*
- *Employment or negotiations for prospective employment.*

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*Your relationship to a party involved in the matter, such as a relative, cohabitant, or person who is providing funds, goods or services to you.*

*The Conflicts Law contains an exception that permits you to represent yourself in negotiations or proceedings concerning your own interest in real property.*

***Prohibitions on Contracts with a State Agency***

***Special State Officers and Employees.*** You may not knowingly undertake or execute any contract, agreement, sale or purchase valued at \$25 or more with the State agency with which you are affiliated if you have any duties or responsibilities in connection with the purchase or acquisition of property or services. This prohibition also applies to your partners and to any corporation that you control, or in which you own or control more than 1% of the stock. The prohibition does not extend to other State agencies.

***State Officers and Employees.*** You, along with your partners or any corporation you control or in which you own or control more than 1% of the stock, may not knowingly undertake or execute any contract, agreement, sale or purchase valued at \$25 or more with any State agency, whether or not it is the agency for which you work.

***Limited Exceptions to these Prohibitions.*** Three categories of contracts are exempt from the general prohibition on contracting with the State. However, before entering into a contract falling within any of these categories, approval must first be obtained from the Commission. The three categories are:

- *Those purchases, contracts, agreements, or sales that are made after public notice and competitive bidding. The Commission typically approves such contracts unless the contract in question is with the State employee's own agency. In these situations, the Commission has determined that such contracts raise the issue of an appearance of impropriety under section 23(e) (7) of the Conflicts Law.*
- *Those contracts that may be awarded without public advertising and competitive bidding pursuant to N.J.S.A. 52:34-9 and N.J.S.A. 52:34-10. (See attached.)*
- *Any contract of insurance entered into by the Director of the Division of Purchase and Property, Department of Treasury, pursuant to N.J.S.A. 52: 27B-62.*

*In addition, there are two statutory exemptions that do not require advance approval by the*

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*Commission:*

- *Contracts for the development of scientific or technological discoveries or innovations: Section 19.1 of the Conflicts Law excepts contracts for the development of scientific or technological discoveries or innovations in which the State agency has a property right, if the State agency has a procedure in its supplemental code of ethics authorizing these contracts that minimizes actual conflicts of interest, and the contract complies with the code procedure.*
- *Certain rental agreements with State agencies: Section 19.2 of the Conflicts Law excepts rental agreements with a State agency that operates a facility which rents space or provides services to assist small businesses employing fifty people or less, pursuant to the same terms and conditions as those offered to members of the public generally.*

***Prohibitions on Representing Parties other than the State.*** *There are severe restrictions on your ability (and that of any partnership, corporation, or firm in which you have an interest) to represent, appear for, or negotiate on behalf of a person other than the State in connection with any cause, proceeding, application, or other matter, including a negotiation concerning the acquisition or sale of property of any sort, pending before any State agency. See N.J.S.A. 52:13D-15 and 16.*

*Representation does not only involve personally appearing before a State agency on behalf of an individual or entity. Under Commission precedent, representational activities also include:*

- *correspondence to a State agency on behalf of a third party;*
- *telephone calls to a State agency on behalf of a third party; and*
- *A State employee's signature on an application or other document submitted to a State agency on behalf of a third party (e.g., an engineering report).*

*You should carefully review these restrictions or consult with your ELO if you are considering taking any action on behalf of another person or entity that might be considered representing, appearing for, or negotiating on behalf of that person or entity in opposition to the State or before a State agency.*

*For special State officers or employees, the restriction on representing parties other than the State is limited to their own agencies.*

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*Advisory Opinions. If you think that you may have a conflict of interest, you should ask your ELO or the Commission for an opinion. These cases are frequently very fact-sensitive, and the Commission decides each individually. See Advisory Opinions, below, for information on how to find advisory opinions that the Commission has issued on this topic and on how to request an advisory opinion concerning your particular circumstances.*

Please refer to the attached Exhibits for additional detail:

**EXHIBIT 1: New Jersey State Ethics Commission Outside Activity Questionnaire**

**EXHIBIT 2: Plain Language Guide to New Jersey's Executive Branch Ethics Standards**













**PLAIN LANGUAGE GUIDE TO  
NEW JERSEY'S EXECUTIVE BRANCH  
ETHICS STANDARDS**

**Revised June 2014**

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## INTRODUCTION

This is a Guide for State officers and employees and special State officers and employees in the Executive Branch of New Jersey State Government. If you are one of these persons, you should read this Guide carefully. It explains the ethics rules and laws found in the New Jersey Conflicts of Interest Law (“Conflicts Law”), *N.J.S.A. 52:13D-12 et seq.*, and in the rules of the State Ethics Commission, *N.J.A.C. 19:61-1.1 et seq.* In addition to those laws and rules, you are also bound by the Uniform Ethics Code and any supplemental ethics code adopted by the agency for which you work. You are responsible for knowing the laws and rules described in this Guide, as well as the specific policies and procedures of your particular agency.

As we in State government do our work, it is important that the public have the highest degree of confidence in our conduct. Our fellow employees depend on us to make lawful, ethical decisions. This Guide provides general information on the minimum ethical standards and does not have the force and effect of law. It does not replace any actual laws or rules, and it does not address every ethical restriction contained in the laws and rules it summarizes. It does not cover the requirements contained in your agency’s supplemental ethics code, to which you are also subject if your agency has adopted such a code. Ethical issues may also be addressed in procurement, personnel, and travel rules, as well as in open meetings, open records, and criminal laws. The statutes creating your agency may also contain ethical prohibitions. In addition, members of particular professions (such as lawyers and accountants) are subject to their own codes of professional responsibility.

Information in this Guide derives from detailed statutes, regulations, and executive orders. There are, however, simple principles that will guide you through the details.

## PRINCIPLES OF ETHICAL CONDUCT

- **Exploitation of Official Position.** You may not use your position to secure a job, contract, governmental approval or special benefit for yourself, a friend or family member.
- **Compensation for Official Duties.** Your paycheck is your only permitted compensation. You may not accept any other compensation for performing your State job.
- **Gifts and Favors.** You may not accept any gift of more than nominal value related in any way to your official duties.
- **Attendance at Events: Honoraria, Activities, and Expenses.** You may not be “wined and dined” by people with whom your agency conducts business. You may not accept honoraria. Official travel reimbursements require prior approval from your agency or the Ethics Commission.
- **Outside Employment, Business Interests and Political Activity.** You must disclose to your agency any outside employment, business interests and political activities, compensated or uncompensated, in which you engage. You must obtain prior approval before commencing any secondary employment or business activity.
- **Conflicts of Interest.** You may not act in any official matter in which you, your family, or your close friends have a direct or indirect personal or financial interest. Rather, you should recuse yourself and ask someone else to perform the State task.
- **Prior Business Relationships.** You may not have any involvement in official matters that involve any private sector individual or entity that employed you or did business with you during the one year prior to the commencement of your State employment.

- **Prohibition on Use of Confidential Information.** You may not disclose confidential information acquired through your position to any unauthorized person.
- **Nepotism.** You may not hire, promote, or supervise a relative.
- **Post-Employment Lifetime Restrictions.** After you leave public employment, you may not represent or assist a person concerning a particular matter if you were substantially and directly involved in that particular matter while in State employ. Further, you may not use or disclose any information not generally available to members of the public, gained during the course of your employment.
- **When in Doubt, Ask!** If you think you have a conflict of interest or are unsure of any of these rules, ask your Ethics Liaison Officer (“ELO”) or the Commission. If you suspect any wrongdoing, report your suspicion. Complaints may be made anonymously to the Commission and are kept confidential.

If you have questions (and most of us do, from time to time), you should contact your supervisor, Department Head or ELO. Most of the reporting requirements discussed in this Guide refer you to your agency’s ELO. A list of ELOs is available at [www.nj.gov/ethics/agency](http://www.nj.gov/ethics/agency). You may also address questions directly to the State Ethics Commission (which we refer to in this Guide as the “Commission”).

To obtain more information, call the Commission at (609) 292-1892 or 1-888-223-1355. You may also visit our web site at [www.nj.gov/ethics](http://www.nj.gov/ethics).

## GENERAL STANDARDS OF CONDUCT

These rules promote the principle that public office is a public trust. Where government is based upon the consent of its citizens, the public is entitled to have complete confidence in the integrity of government. The business of New Jersey must be conducted in a manner intended to assure the citizens of our State that the character and conduct of its officials and employees are above reproach. To achieve this result, the State has ethics rules that are general in nature, as well as rules that deal with very specific situations. Under the general rules, you must **not**:

- have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of your duties in the public interest;
- use or attempt to use your official position to secure privileges or advantages for yourself or others;
- act in your official capacity in any matter in which you have a direct or indirect personal financial interest that might reasonably be expected to impair your objectivity or independence of judgment; or
- knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of your acts that you may be engaged in conduct violative of your trust as an officer or employee of the State.

These rules apply if you are a State officer or employee (holding office or employment in a State agency or a full-time New Jersey member of an interstate agency) or a special State officer or employee (holding office or employment in a State agency for which you receive no compensation, except possibly reimbursement of expenses, a part-time employee or a New Jersey member of an interstate agency if your duties are not full-time).

## GIFTS, FAVORS, SERVICES AND OTHER THINGS OF VALUE

Upon the recommendation of the Special Counsel for Ethics Review and Compliance, the Commission has adopted a zero tolerance policy for acceptance of gifts offered to you, your spouse, immediate family member, partner or associate, that are related in any way to your official duties. Unless you are permitted to receive the gift or thing of value in accordance with the Commission's rules on attendance at events, you, your spouse, immediate family member, partner or associate shall not accept, either directly or indirectly, any gift, favor, service or other thing of value related in any way to your official public duties. Some things of value are obvious, such as money, stock, debt forgiveness, real estate, or automobiles. But less obvious things also have value, including offers of employment, loans, labor, rebates, price discounts, entertainment, and meals.

**Reporting Requirement.** You are required to disclose and remit to your ELO any offer or receipt of a thing of value from any person or entity.

**Unsolicited Gifts of Nominal Value.** Unsolicited gifts or benefits of trivial or nominal value, such as complimentary articles offered to the public in general, and gifts received as a result of mass advertising mailings to the general business public may be retained by the recipient or the recipient's department for general use if such use does not create an impression of a conflict of interest or a violation of the public trust. The receipt of such complimentary articles is not required to be reported to the ELO.

**Caution Against Inappropriate Uses.** An item that is otherwise permissible to accept might be impermissible if it is used or displayed in an inappropriate manner. For instance, an official in a regulatory agency should not use a pocket calendar conspicuously marked with the name of a company that is regulated by the agency, as this might create the impression of favoritism. A State agency should not display in any of its offices a wall calendar from a vendor, as this might create the impression of an endorsement.

**Gifts in the Workplace.** A State employee is permitted to give or receive a gift from a co-worker, a supervisor or a subordinate. The gift should not be excessive or inappropriate for a business environment. Such gift shall not be reported to the ELO.

**Other Resources.** For a more complete discussion of this subject, see *Guidelines Governing Receipt of Gifts and Favors by State Officers and Employees*, [www.nj.gov/ethics/statutes/guide/giftcode.html](http://www.nj.gov/ethics/statutes/guide/giftcode.html), and N.J.A.C. 19:61-6.9, [www.nj.gov/ethics/statutes/rules/](http://www.nj.gov/ethics/statutes/rules/).

## COMPENSATION FOR OFFICIAL DUTIES

**Your State Paycheck is Your Only Permitted Compensation.** The only compensation or other thing of value that you are allowed to accept for doing your State duties is your State paycheck. Payment or reimbursement of your expenses for attending events is not compensation, and is addressed below under the heading “Attendance at Events: Honoraria, Activities, and Expenses.”

**Other Resources.** For a more complete discussion of this subject, see the Commission's guidelines on various topics, at [www.nj.gov/ethics/statutes/guide/](http://www.nj.gov/ethics/statutes/guide/).

## ATTENDANCE AT EVENTS: HONORARIA, ACTIVITIES, AND EXPENSES

An *event* is any meeting, conference, seminar, speaking engagement, symposium, training course, ground-breaking, ribbon-cutting, meal, open house, cocktail party, fundraiser, holiday party, social function, or similar event that takes place away from your work location, is sponsored or co-sponsored by a supplier or a non-State government source and the invitation for which is extended to you because of your official position.

Meetings that you attend at other State agencies in the course of your official duties are not *events*.

- You must obtain prior approval from your ELO to attend any event.
- You are not allowed to accept an honorarium or fee for a speech or presentation at an event.
- You are not allowed to use your official title for the purpose of fundraising for a private organization (whether at an event or elsewhere).
- Regardless of the sponsor or the purpose of the event, you are permitted to accept nominal refreshments such as nonalcoholic beverages and snacks (doughnuts, pastries and cookies).

***If the Event is Not Sponsored by an Interested Party*** (See definition below)

The State may pay your reasonable expenses associated with attending the event or it may permit you to accept (but not from an interested party) travel, meals, accommodation, waiver of conference or event fees or any other costs associated with attending the event, or reimbursement for such costs.

You are prohibited from accepting entertainment that is collateral to the event, such as a golf outing, or meals taken other than in a group setting with all attendees, or reimbursement for such items.

**Examples:** An employee of the Office of Economic Growth has been invited, by the Mexican Tourist Bureau, an agency of the Mexican government, to attend a series of meetings on promoting tourism in both countries. The employee will be giving a speech at a dinner on the final day of the meetings and has been offered a \$500 honorarium. The employee may attend the meetings, but is not permitted to accept an honorarium in connection with his speech. He may accept, directly or by reimbursement, actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State, not to exceed the statutory limit of \$500.

A local non-profit organization would like to hold a dinner/fundraiser honoring a Technical Assistant from the Department of Banking and Insurance who has been a long-time supporter of the organization. The organization plans to use the Technical Assistant's picture, name, and official title on the promotional literature. The Technical Assistant may attend the event, but is prohibited from allowing the use of his official title for fundraising purposes.

***If the Event is Sponsored by an Interested Party***

***An interested party is:***

- *a person or entity that is or may reasonably be anticipated to be subject to the regulatory, licensing, or supervisory authority of your agency, or any employee, representative or agent of that person or entity;*
- *a supplier to your agency (meaning any person or entity that is providing or is seeking to provide or may reasonably be expected to provide goods and/or services to your agency) or any employee, representative, or agent of a supplier;*
- *an organization that advocates or represents the positions of its members to your agency; or*
- *an organization a majority of whose members are interested parties.*
- *In general, an interested party is any person or entity that you or your agency deal with, contact, or regulate in the course of official business.*



You or the State must pay your reasonable expenses associated with attending the event, and neither you nor the State can receive travel, meals, accommodation, waiver of conference or event fees or any other costs associated with attending the event, or reimbursement for such costs, from any source. There may be an exception to this rule if you take an active role in the event (see below).

***If You Take an Active Role in the Event.*** If an event is designed to provide training, dissemination of information, or the exchange of ideas, and you will be making a speech, participating in a panel at the event, or acting as an accompanying resource person for the speaker and/or participant, you must seek approval from your ELO. If he or she determines that doing so will not create a conflict or the appearance of one, your ELO can permit you to attend the event and permit the interested party sponsor to reimburse or pay for the following expenses associated with attending the event, if those expenses are not paid for by the State:

- ***Allowable Entertainment Expenses*** -The costs for a guest speaker, incidental music, and other ancillary entertainment at any meal at an event, provided they are moderate and not elaborate or excessive; but not the costs of personal recreation, such as being a spectator at or engaging in a sporting or athletic activity which may be offered as part of that event.
- ***Actual and Reasonable Expenditures for Travel or Subsistence*** – Includes commercial travel rates directly to and from the event and food and lodging expenses which are moderate and neither elaborate nor excessive. For an event outside New Jersey, this amount must not exceed \$500 per trip, for expenditures for travel or subsistence and entertainment expenses that are not paid for by the State of New Jersey. The \$500 per trip limitation does not apply if the reimbursement or payment is made by:
  - a nonprofit organization and you are an active member of the organization because the State pays a membership fee or charge;
  - a nonprofit organization that does not contract with any State agency to provide goods, materials, equipment, or services;
  - any agency of the federal government or a private sector entity with a contract with a federal agency to provide meeting, conference, travel or related services;
  - any agency of another state or of two or more states; or
  - any political subdivision of another state.

**Examples:** An employee of the Department of Environmental Protection has been invited to attend a conference of the Association of Environmental Authorities and has been asked to present a short program to explain a new series of forms being proposed by the Department. The Association has offered to waive the \$200 conference fee; the conference program includes morning and afternoon refreshments and lunch. If the ELO approves the employee's attendance and participation in the conference, the employee may accept the waiver of the fee and the refreshments and meal included in the program. A copy of the ELO's approval must be forwarded to the Commission.

The Motor Vehicles Commission is considering the purchase of new pollution-testing equipment. One of the companies that plans to submit a bid invites several MVC employees to a demonstration of the equipment to be held at a hotel conference center. A seafood buffet will be served after the demonstration. With proper approval, the employees may attend the demonstration, but because the company plans to submit a bid to provide this equipment, and is therefore an interested party with respect to the MVC, the employees may not partake of the seafood buffet at the expense of the vendor. The employees may, however, pay the cost of the buffet personally.

Three employees from different units of the Department of Transportation are responsible for weekly monitoring of a construction project. Each Friday morning, they meet with the contractor's representative at the site field office to review the week's progress and to assess projected schedules. The meetings generally last one to two hours; coffee is available, but no other refreshments or meals are served or

offered. Because no direct or indirect benefits are offered or provided, and because the meetings are part of the employees' job responsibilities, the meetings are not considered "events" for the purposes of this Guide.

***Considerations in Granting Approval.*** Your ELO must determine whether a legitimate State purpose will be served by your attendance at an event, and must consider applicable laws, regulations, the Uniform Ethics Code, any agency supplemental ethics code, guidelines, departmental administrative policies, and any other relevant considerations. These might include the identity of the sponsor and the other participants, the purpose of the event, whether the event will assist you in carrying out your official duties and support your agency's mission, and the value and character of the costs, and/or benefits provided by the sponsor (including whether they are comparable to those offered to or purchased by other attendees). In some instances, the ELO is required to forward the approval to the Commission for review.

***Scholarly Capacity.*** Special rules apply to State officials acting in a scholarly capacity, as that term is defined in *N.J.A.C. 19: 61-6.2*. State officials acting in a scholarly capacity may accept honoraria related to their scholarly activities, and must complete an annual disclosure form that discloses reimbursement for any travel, subsistence or entertainment expenses, honoraria, academic prizes, or other things of value related to activities performed in a scholarly capacity that were received during the prior calendar year.

***Other Resources.*** For a more complete discussion of this subject, see *N.J.A.C. 19:61-6.1 to -6.8*, at [www.nj.gov/ethics/statutes/rules/](http://www.nj.gov/ethics/statutes/rules/).

## **POLITICAL ACTIVITY**

You are permitted to be involved in partisan political activities, provided there is no provision in your agency's supplemental code of ethics prohibiting those activities. The supplemental ethics codes of the Election Law Enforcement Commission, the State Ethics Commission, and several other agencies have specific provisions prohibiting such activities. Under no circumstances may you use State time or State resources in pursuit of political activities. You should notify your ELO prior to engaging in partisan political activities so that your situation can be reviewed to determine what, if any, restrictions apply.

The restrictions on your soliciting or accepting things of value do not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office. However, you cannot accept a campaign contribution if you know it is being given in lieu of a payment that you would otherwise be prohibited from accepting.

***Federal Hatch Act.*** On December 19, 2012, Congress passed the Hatch Act Modernization Act of 2012. The Act allows State and local government employees to run for partisan political office unless the employee's salary is paid for entirely by federal loans or grants. Prior to this change, State and local government employees were prohibited from running for partisan office if they worked in connection with programs financed in whole or in part by federal loans or grants. The Hatch Act continues to prohibit covered State or local government employees from engaging in coercive political conduct or misusing their official authority for partisan purposes.

### ***Covered State and Local Employees May:***

- run for public office in partisan elections;
- actively campaign for candidates for public office in partisan and nonpartisan elections; and
- contribute money to political organizations and attend political fundraising functions.

### ***Covered State and Local Employees May Not:***

- use official authority or influence to interfere with or affect the results of an election or nomination; or
- directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

The Hatch Act is a federal statute, not under the jurisdiction of the Commission. An interested party may request an advisory opinion from the Office of Special Counsel, Hatch Act Unit, 1730 M Street, N.W., Suite 300, Washington, D.C. 20036-4505. Telephone: 800-85-HATCH (800-854-2824) or 202-254-3650. You may also visit the website of the United States Office of Special Counsel, at [www.osc.gov](http://www.osc.gov).

**Other Resources.** For a more complete discussion of this subject, see “State Employees’ participation in Political Activities,” [www.nj.gov/ethics/statutes/guide/political\\_activities.html](http://www.nj.gov/ethics/statutes/guide/political_activities.html).

## OUTSIDE EMPLOYMENT/ACTIVITIES

**Special Rules Applicable to Designated State Officers.** The Governor, the Attorney General, Commissioners of State agencies, heads of the other Executive Branch departments, specified members of the Governor’s staff, and certain other persons are identified in *N.J.S.A. 52:13D-24(d)* as **designated State officers**. These persons are subject to stricter rules which generally prohibit them from receiving any compensation, salary, honoraria, and other forms of income from any source other than their State paycheck.

Unless you are a **designated State officer**, you may have a second job or personal business interest and engage in an outside volunteer activity, but only if it is compatible with your agency rules and your State responsibilities. You must **not**:

- undertake any employment or service which might reasonably be expected to impair your objectivity and independence of judgment in the exercise of your official duties;
- engage in any business, profession, trade, or occupation that is subject to licensing or regulation by a specific agency of State Government, without promptly filing notice of that activity with the Commission;
- engage in any business, transaction, or professional activity that is in substantial conflict with the proper discharge of your duties in the public interest; or
- use State time, personnel, or other State resources for the other job or activity.

Neither you nor your immediate family members can hold employment with a holder of or applicant for a casino license unless the Commission grants a waiver. To ask for a waiver, contact the Commission. Neither you nor your immediate family members can hold an interest in, or represent, appear for, or negotiate on behalf of a holder of or an applicant for a casino license.

Prior to engaging in any outside employment or other activity, you must obtain approval from your agency. Ask your ELO.

If you are not certain whether you are permitted to take on a job or other outside activity according to these rules, you should ask the Commission for an advisory opinion. These cases are frequently very fact-sensitive, and the Commission decides each individually.

**Other Resources.** For a more complete discussion of this subject, see *Guidelines Governing Outside Activities*, at [www.nj.gov/ethics/statutes/guide/outsideact\\_guide.html](http://www.nj.gov/ethics/statutes/guide/outsideact_guide.html). See also, *Outside Activity Questionnaire*, at [www.nj.gov/ethics/statutes/guide/outsideact.html](http://www.nj.gov/ethics/statutes/guide/outsideact.html).

## CONFLICTS OF INTEREST

As a State officer or employee or special State officer or employee, you are prohibited from acting in your official capacity in any matter in which you have a direct or indirect personal or financial interest that might be expected to impair your objectivity or independence of judgment. As a practical matter, this means that you should not participate, even informally, on a matter in which you have a personal or financial interest.

***You could have an incompatible personal or financial interest through such things as:***

- A purchase, sale, lease, contract, option, or other transaction;
- Property or services;
- Employment or negotiations for prospective employment; and
- Your relationship to a party involved in the matter, such as a relative, cohabitant, or person who is providing funds, goods or services to you.

The Conflicts Law contains an exception that permits you to represent yourself in negotiations or proceedings concerning your own interest in real property.

### ***Prohibitions on Contracts with a State Agency***

***Special State Officers and Employees.*** You may not knowingly undertake or execute any contract, agreement, sale or purchase valued at \$25 or more with the State agency with which you are affiliated if you have any duties or responsibilities in connection with the purchase or acquisition of property or services. This prohibition also applies to your partners and to any corporation that you control, or in which you own or control more than 1% of the stock. The prohibition does not extend to other State agencies.

***State Officers and Employees.*** You, along with your partners or any corporation you control or in which you own or control more than 1% of the stock, may not knowingly undertake or execute any contract, agreement, sale or purchase valued at \$25 or more with any State agency, *whether or not* it is the agency for which you work.

***Limited Exceptions to these Prohibitions.*** Three categories of contracts are exempt from the general prohibition on contracting with the State. However, before entering into a contract falling within any of these categories, approval must first be obtained from the Commission. The three categories are:

- Those purchases, contracts, agreements, or sales that are made after public notice and competitive bidding. The Commission typically approves such contracts unless the contract in question is with the State employee's own agency. In these situations, the Commission has determined that such contracts raise the issue of an appearance of impropriety under section 23(e)(7) of the Conflicts Law.
- Those contracts that may be awarded without public advertising and competitive bidding pursuant to *N.J.S.A. 52:34-10*.
- Any contract of insurance entered into by the Director of the Division of Purchase and Property, Department of Treasury, pursuant to *N.J.S.A. 52: 27B-62*.

In addition, there are two statutory exemptions that do not require advance approval by the Commission:

- Contracts for the development of scientific or technological discoveries or innovations: Section 19.1 of the Conflicts Law excepts contracts for the development of scientific or technological discoveries or innovations in which the State agency has a property right, if the State agency has a procedure in its supplemental code of ethics authorizing these contracts that minimizes actual conflicts of interest, and the contract complies with the code procedure.
- Certain rental agreements with State agencies: Section 19.2 of the Conflicts Law excepts rental agreements with a State agency that operates a facility which rents space or provides services to assist small businesses employing fifty people or less, pursuant to the same terms and conditions as those offered to members of the public generally.

***Prohibitions on Representing Parties other than the State.*** There are severe restrictions on your ability (and that of any partnership, corporation, or firm in which you have an interest) to represent, appear for, or negotiate on behalf of a person other than the State in connection with any cause, proceeding, application, or other matter, including a negotiation concerning the acquisition or sale of property of any sort, pending before any State agency. See *N.J.S.A. 52:13D-15* and 16.

Representation does not only involve personally appearing before a State agency on behalf of an individual or entity. Under Commission precedent, representational activities also include:

- correspondence to a State agency on behalf of a third party;
- telephone calls to a State agency on behalf of a third party; and
- a State employee's signature on an application or other document submitted to a State agency on behalf of a third party (e.g., an engineering report).

You should carefully review these restrictions or consult with your ELO if you are considering taking any action on behalf of another person or entity that might be considered representing, appearing for, or negotiating on behalf of that person or entity in opposition to the State or before a State agency.

For special State officers or employees, the restriction on representing parties other than the State is limited to their own agencies.

***Advisory Opinions.*** If you think that you may have a conflict of interest, you should ask your ELO or the Commission for an opinion. These cases are frequently very fact-sensitive, and the Commission decides each individually. See *Advisory Opinions*, below, for information on how to find advisory opinions that the Commission has issued on this topic and on how to request an advisory opinion concerning your particular circumstances.

## **RULES REGARDING PUBLISHED WORKS**

The Commission staff frequently receives inquiries concerning State employees' activities in connection with authoring and publishing research papers, articles, and books. Based on applicable rules and Commission precedent, you may accept compensation for published works only if you meet all of these conditions:

- There is no prohibition governing that activity in the Uniform Ethics Code or your department's enabling legislation or supplemental code of ethics;
- You obtain prior approval from your ELO;
- The published work does not use or disclose information that is not generally available to the public;

- You do not use State time or resources in connection with the published work;
- You do not use your official title in connection with publication or promotion of the published work;
- You do not promote, advertise, or solicit sales of the published work to co-workers or individuals or entities with whom you have official dealings;
- You do not contract to sell the published work to the State, except in compliance with section 19 of the Conflicts Law; and
- The published work is not prepared as part of your official duties.

Note that the term ***published work*** includes not only research papers, articles, and books, but also any tangible mediums of expression, such as literary, pictorial, graphic and sculptural matter, sound recordings, and software.

**Examples:** As part of his official duties, a Department of Transportation employee evaluates surveying equipment and trains Department employees on its use. The employee recently completed an in-depth evaluation of ten different types of surveying instruments and made a recommendation to the purchasing unit. The employee would like to publish the entire report in Transportation Magazine. He has been offered \$500 for the article. The Department must make a policy decision as to whether the article may be published. The employee is prohibited from accepting compensation for the article, even if the Department grants permission for the publication, since it was created as part of his official duties prepared on State time and utilizing State resources.

An Environmental Technician at the Department of Environmental Protection has been asked to write an article for an environmental journal on how New Jersey's automobile emission standards differ from those of Pennsylvania. He has been offered \$500 for the article. The Environmental Technician is permitted to publish the article and receive compensation since it is on a subject matter related to, but not part of, his official duties, so long as he prepares the article at home, on his own time, without using any State resources.

**Other Resources.** For a more complete discussion of this subject, see *Guidelines Governing Outside Activities*, at [www.nj.gov/ethics/statutes/guide/outsideact\\_guide.html](http://www.nj.gov/ethics/statutes/guide/outsideact_guide.html), *Guidelines Governing Published Works*, at [www.nj.gov/ethics/statutes/guide/published\\_works.html](http://www.nj.gov/ethics/statutes/guide/published_works.html), and *N.J.A.C. 19:61-6.7*, at [www.nj.gov/ethics/statutes/rules/recusal.html](http://www.nj.gov/ethics/statutes/rules/recusal.html).

## CONFIDENTIAL INFORMATION

You may not divulge any information that you obtain in the course of your official duties that is not generally available to members of the public. You may not use any such confidential information for your own benefit, whether direct or indirect. These restrictions continue even after you are no longer a State employee.

## USE OF OFFICIAL STATIONERY

Agency stationery can only be used for agency purposes. Use of official stationery for personal purposes will result in disciplinary action by the agency or administrative action by the Commission.

For additional information, see *Guidelines Governing the Use of Official Stationery*. The Guidelines can be found at [www.nj.gov/ethics/statutes/guide/stationery.html](http://www.nj.gov/ethics/statutes/guide/stationery.html).

## SEEKING FUTURE EMPLOYMENT/POST-EMPLOYMENT RESTRICTIONS

***Seeking Future Employment.*** If you have direct and substantial contact with any interested parties, you must refrain from circulating resumes or in any manner seeking employment with those individuals or entities while you are still in State service. If you are solicited for potential employment by an entity with which you have direct and substantial contact, that solicitation must be disclosed immediately to your management and to your ELO to avoid a situation where you may appear to be using your official position to gain an unwarranted advantage. If you do not have direct and substantial contact with interested parties, you may circulate your resume and enter into discussions concerning potential employment with those individuals or entities, so long as you avoid any situation that may give rise to an unwarranted advantage. Your discussions, interviews, and negotiations should not take place on State time.

***Dealing with the State after your Departure.*** As a former employee, you will be prohibited from representing or assisting a person concerning a particular matter if you were *substantially and directly involved in that particular matter while in State employment*. This prohibition does not extend to “determinations of general applicability or to the preparation or review of legislation that is no longer pending before the Legislature or the Governor.” The statute, rules, and precedent governing these prohibitions are complex. Questions about the nature of matters with which you had involvement during the course of your official duties should be directed to the Commission, for determination on a case-by-case basis.

***Certain State Officials – One-Year Ban – Former Agency.*** A one-year post-employment ban applies to any head, deputy head or assistant head of any principal department, board, commission or authority, the Superintendent of State Police, the Governor’s Chief of Staff, Chief of Management and Operations, Chief of Policy and Communications, Chief Counsel, Director of Communications, Policy Counselor, and any deputy or principal administrative assistant to any of the aforementioned members of the staff of the Office of the Governor. If you hold one of the enumerated positions, you are not permitted to represent, appear for, or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of any person or party other than the State with or before any officer or employee of the State agency in which you served for a period of one year following your State service.

***Special Rules for the Casino Industry and for Lawyers.*** Additional and more stringent rules will apply to your post-employment activities if you file a Financial Disclosure Statement pursuant to law or executive order, or have responsibility for matters affecting casino activity, or are engaged in the practice of law. Questions concerning post-employment casino-related activities should be directed to the Commission. Lawyers may request advice on the application of the Rules of Professional Conduct from the Supreme Court Advisory Committee on Professional Ethics.

***Contracting with your Former Agency.*** Nothing in the Ethics Laws prevents an agency from contracting directly with a former employee.

***Other Resources.*** For a more complete discussion of this subject, see *Post-Employment Restrictions for State Employees*, at [www.nj.gov/ethics/statutes/guide/empl\\_restrictions.html](http://www.nj.gov/ethics/statutes/guide/empl_restrictions.html).

## NEPOTISM

The Commission staff frequently receives inquiries concerning the propriety of State officials interacting in the course of their official duties with family members. The majority of inquiries concern relatives employed by the same State agency, or interactions with family members employed in the private sector. Prior to 2006, the Conflicts Law did not contain a nepotism provision. However, the statute was amended, effective March 15, 2006, to prohibit certain relatives of certain State officials from



holding particular government positions and also to prohibit State officials from supervising, or exercising authority with regard to personnel actions over, a relative of the State official.

If a relative (defined as an individual's spouse or the individual's or spouse's parent, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother or half sister, whether the relative is related to the individual or the individual's spouse by blood, marriage or adoption) is employed by or is an applicant for an unclassified position with the agency where you are employed, please contact your ELO to determine if you or your relative are affected by the statutory restrictions.

***Family Members Working for the Same Agency.*** In the case of relatives who work for the same agency, direct supervisor/subordinate relationships are not permitted.

***Hiring Family Members.*** With respect to the hiring of family members, the Commission looks at the totality of circumstances surrounding the hire to determine whether any unwarranted privilege has been afforded the family member. Note that the Conflicts Law prohibits hiring in some circumstances. See N.J.S.A. 52:13D-21.2.

***Interacting with Family Members in the Private Sector.*** With respect to interactions with family members or their private sector employers, the Commission generally recommends recusal from matters involving the relative and/or the relative's employer, in order to eliminate any appearance of impropriety.

***Dating and Other Relationships.*** The Commission's policy concerning spouses who work in the same agency is also applicable to non-related individuals who share the same household with the same financial interdependence that the Commission views as creating a conflict in spousal situations. In the case of individuals involved in a dating relationship, the Commission has found violations of the unwarranted privilege and appearance sections of the statute in situations where the State employee had official involvement in a matter affecting the individual with whom he/she had a dating relationship.

***Casino-Related Conflict Issues.*** Only the casino-related provisions of the Conflicts Law contain prohibitions that specifically apply to a State official's immediate family members (defined as the person's spouse, child, parent, or sibling residing in the same household). Waivers of these prohibitions may be requested by contacting the Commission. A waiver of the casino employment restriction will be granted if, in the Commission's judgment, the employment will not interfere with the responsibilities of the State officer or employee and will not create a conflict of interest or reasonable risk of the public perception of a conflict of interest.

***Other Resources.*** For a more complete discussion of this subject, see *Official Interactions with Family Members/Cohabitants and Dating Relationships*, at [www.nj.gov/ethics/statutes/guide/famcode.html](http://www.nj.gov/ethics/statutes/guide/famcode.html).

## RECUSAL

***Prior Business Relationships.*** You are required to recuse yourself, for one year after commencing State service, on an official matter that involves any private sector individual, association, corporation or other entity that employed or did business with you during the year prior to your commencement of State service.

***Prior Involvement in Matter.*** You are required to recuse yourself on an official matter if you had any involvement in that matter, other than on behalf of the State, prior to commencement of your State service.

***Personal or Financial Interest.*** Sometimes, conflicts situations occur because of your personal relationships or financial circumstances. For example, you may be involved in reviewing vendor qualifications for a contract your agency is preparing to issue, and discover that your sibling's company



has submitted a proposal. To avoid that inherent conflict of interest, you must formally recuse yourself from the review by assigning another individual to handle the matter (or advising your supervisor of the need to do so), and by ensuring that you are screened from any communications about the review. See the Commission's rule on recusal, at *N.J.A.C. 19:61-7.1 et seq.* for more information about when and how to recuse yourself.

## **FINANCIAL DISCLOSURE**

Some State officers and employees and special State officers and employees are required by statute, executive order, or other law to file annual financial disclosure statements with the Commission. Information about financial disclosure requirements, forms, and instructions is available on the Commission's website at [www.nj.gov/ethics](http://www.nj.gov/ethics). The Commission is empowered to impose a civil penalty of \$50 per day for failure to file a required disclosure.

State officers and employees who must file financial disclosure statements, and their immediate family members, are subject to a two-year casino-related post-employment restriction. See *N.J.S.A. 52:13D-17.2(c)*. This restriction does not apply to most of the special State officers and employees who are required to file financial disclosure statements.

## **THE COMMISSION**

The Commission is responsible for providing advice and investigating matters pertaining to ethics and related rules governing the official conduct of State officers and employees and special State officers and employees. You are encouraged to seek guidance from the Commission or your ELO whenever you have questions about what you should do.

## **COMPLAINTS AND INVESTIGATIONS**

Allegations come to the Commission from various sources and can be made orally or in writing. The complainant may remain anonymous. If the complainant does identify him/herself, that information remains confidential.

Allegations may also be filed with the State agency employing the State officer or employee, in accordance with the procedures established by the agency. Upon receipt of an allegation, the State agency is required to file a copy with the Commission. It is within the discretion of the Commission to direct the State agency to transfer the matter to it.

Investigations of violations alleged to have occurred during State service must be commenced within two (2) years of the individual's termination of State service.

When the Commission receives an allegation, the staff first reviews it for an initial determination as to whether the alleged conduct falls within the jurisdiction of the Commission. Once it has been determined that the Commission has jurisdiction, the staff initiates a preliminary investigation which may include interviews of the complainant, the State officer or employee involved, and any other individuals who possess knowledge of the circumstances surrounding the alleged conduct. Interviews are conducted under oath and are tape-recorded. An attorney or a union representative may accompany the interviewee, if he/she so desires, but such representation is not required. It is not appropriate for an interviewee to be accompanied by the agency's ELO. A copy of the taped interview will be provided to the interviewee upon his/her request, after the Commission has reviewed the matter. Interviews are occasionally conducted via telephone. Investigations also frequently involve the review of documents.

If the Commission determines that the testimony of any person is required, and that person refuses to appear, a subpoena may be issued.

During the course of a preliminary investigation, no information concerning an allegation is made public. Upon the conclusion of the preliminary investigation, a written report is presented to the entire Commission. The Commission's meeting is not a formal hearing. No witnesses appear. A full due process hearing is held at the Office of Administrative Law ("OAL"), if and when the Commission determines that indications of a violation exist. The Commission meeting dates are posted on the Commission's website, at [www.nj.gov/ethics](http://www.nj.gov/ethics). Its meetings are open to the public. Reports of the Commission's preliminary investigations are privileged communications between the staff and Commission members, and are considered in closed session.

If the Commission finds that there has been no violation of the Conflicts Law, the Uniform Ethics Code or the relevant agency's supplemental code of ethics, as alleged, it will dismiss the allegation. This occurs in an open public session. If the Commission determines that there are indications of a violation warranting further proceedings, a complaint is issued and the matter is transferred to the Office of Administrative Law for a hearing, pursuant to the requirements of the Administrative Procedure Act, *N.J.S.A. 52:14B-1 et seq.*, and the Uniform Administrative Procedure Rules, *N.J.A.C. 1:1 et seq.* Although the Commission is also authorized to hold hearings, they are not normally done due to time constraints. Prior to an OAL hearing, witnesses may be interviewed by the investigative staff. After the OAL hearing is concluded, a decision is issued in accordance with the time frame set forth in the Administrative Procedure Act.

In the past, the Commission has permitted individuals to enter into consent agreements with the Commission, either prior to or after the issuance of a complaint. Consent orders are included in the individual's personnel file. Consent orders and complaints are public records.

**Other Resources.** For a more complete discussion of this subject, see *Investigative Process*, at [www.nj.gov/ethics/procedures/investigative/](http://www.nj.gov/ethics/procedures/investigative/).

## PENALTIES

When a person is found to have violated the Conflicts Law, the Uniform Ethics Code or an agency's supplemental code of ethics, the Commission can levy fines ranging from \$500 to \$10,000 and may order restitution, demotion, censure or reprimand. The Commission is also authorized to order that the violator be suspended from office or employment for a period of one year. If the person willfully and continuously disregarded the provisions of the Conflicts Law, the Uniform Ethics Code or an agency's supplemental code of ethics, the Commission may order that the person be barred from holding any public office or employment in this State, in any capacity whatsoever, for a period of up to five years.

## ADVISORY OPINIONS

Most of us working for the public will, at some point, find ourselves facing an ethics dilemma. It might concern whether we can accept a favor or gift from an agency contractor or vendor. Perhaps it will arise in connection with a second job or volunteer work. Maybe a spouse's business will want to do business with your agency.

One of the primary functions of the Commission is to respond to questions from State employees and others concerning how a particular situation might be analyzed under State ethics rules and to offer advice.

This can happen in a number of ways, ranging from very informal advice, to official written opinions. In many cases, questions can be answered with a telephone call or a visit with Commission staff. In other

cases, employees might want to get a written opinion from the staff that is “unofficial,” but documents the advice sought and received.

An “official” advisory opinion is one that is presented to the full Commission at a public meeting. Such an opinion is given in situations that are less clear, or for which there is little precedent. If you receive and follow formal advice and guidance from the Commission, you will be immune from charges of violations of the provisions of the Conflicts Law. The Commission cannot grant immunity from the provisions of the Code of Criminal Justice governing crimes such as bribery.

***If You Want to Request an Advisory Opinion Concerning Your Situation.*** To obtain an official advisory opinion from the Commission, you should write to the Executive Director of the Commission. You should provide as much information as possible concerning the request, and include any relevant documentation. In the event that additional information is required, a Commission investigator will contact the appropriate individuals or organizations. Requests for advisory opinions and replies to requests for advisory opinions may be made available to the public, after consideration by the Commission at a public meeting. For further information, see *Requests for Advice*, at [www.nj.gov/ethics/procedures/requests/](http://www.nj.gov/ethics/procedures/requests/). If you are unsure which level of response is most appropriate in your situation, give the Commission a call at (609) 292-1892. The most important thing is that you seek advice before engaging in a potentially questionable activity.

***If You Want to Review Existing Advisory Opinions.*** To review official advisory opinions issued in the past by the Commission, contact the Commission’s staff at (609) 292-1892 or 1-888-223-1355, or visit the Commission offices between 9:00 a.m. and 4:00 p.m. on business days. While a review of prior opinions may be useful, bear in mind that every situation is unique, and that responses to one person may not necessarily apply to another, due to subtle factual differences between situations or to subsequent changes in the applicable laws or rules. Also, bear in mind that advisory opinions are only binding with respect to the facts and circumstances reviewed and considered in the specific request. Summaries of many of the Commission’s opinions are available in the Commission’s newsletters, which can be found at [www.nj.gov/ethics/publications/newsletters](http://www.nj.gov/ethics/publications/newsletters).

## INFORMATION ON RELATED OFFICES

### ***Legislative Ethics***

Joint Legislative Committee on Ethical Standards  
Office of Legislative Services  
P.O. Box 068  
Trenton, NJ 08625-0068  
Phone: (609) 847-3901  
Toll Free: (800) 792-8630  
TDD: (609) 777-2744  
Fax: (609) 943-3557

### ***School Ethics***

School Ethics Commission  
P.O. Box 500  
Trenton, NJ 08625-0500  
Phone: (609) 984-6941

### ***Local Government Ethics***

Local Finance Board  
Department of Community Affairs  
P.O. Box 803  
Trenton, NJ 08625-0803  
Phone: (609) 292-0479  
Fax: (609) 292-9073

### ***Lobbyist Registration and Disclosure***

Election Law Enforcement  
Commission  
P.O. Box 185  
Trenton, NJ 08625-0185  
Phone: (609) 777-1457

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

**SUBJECT:** Government wide Debarment and Suspension – Excluded Parties Verification

**NUMBER:** 2.10.10

**EFFECTIVE:** June 2013

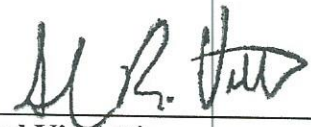
**REVISED:** March 2016

**SANDY CDBG-DR**

**PAGE 1 of 10**

**APPROVAL:**

  
Laura Shea  
Assistant Commissioner

  
Samuel Viavattine  
Director, Sandy Recovery Division

(Note: Is further clarification of DCA Policy Number: 1.10.15, adopted April 2004, and Revised October 2007 as it relates specifically to Government Debarment and Suspension Policies for CDBG-DR funded programs and activities.)

**PURPOSE:**

To outline the policies and procedures required by the Department of Community Affairs to document compliance with the administrative requirements at 2 CFR Part 200<sup>1</sup>. This policy pertains to:

- grantees,
- sub grantees and
- non-federal entities receiving contracts under federal award (including beneficiaries, vendors, contractors)

<sup>1</sup> 2 CFR 200.213 Suspension and debarment. : Nonfederal entities are subject to the nonprocurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

2 CFR 200.318 (h): The nonfederal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.213 Suspension and debarment.

Appendix II to Part 200 Contract Provisions for Non-federal Entity Contracts Under Federal Awards

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.



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**This policy expressly prohibits making any award or permitting any award (sub grant or contract) at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.**

**POLICY:**

This policy states the requirements for Government-wide Debarment Screening and for verification that someone to whom federal funds will be awarded is not on the Excluded Parties list. Each program that administers federal funds **must document** that Recipient Organizations and their Principals have not been Suspended or Debarred. In addition, prior to entering into any HUD-funded agreement, the recipients of CDBG-DR funding must check all contractors, subcontractors (including sub-tier contractors), consultants, and sub recipients against the System for Award Management (SAM), found at <https://www.sam.gov> as well as the State of New Jersey Debarment website found at <http://www.nj.gov/treasury/debarred>. The searches must be printed, initialed by the program administrator, dated and kept in the official project file (see page 9 of this document for step by step instructions on how to maintain compliance with this policy). The purpose of this process is to protect the public interest and ensure the integrity of Federal and State programs by conducting business only with responsible persons. The Department of Community Affairs requires **all of its sub recipients to verify** that no contractors who have been debarred by either the State or Federal government are receiving contracts utilizing CDBG-DR funds.

**I. GENERAL REQUIREMENTS**

Federal funds granted by the US Department of Housing and Urban Development may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor or sub recipient during any period of debarment, suspension, or placement of ineligibility status. Prior to entering into any HUD-funded agreement, the grantee must check all contractors, subcontractors (including sub-tier contractors), consultants, and sub recipients against the System for Award Management (SAM), found at [www.sam.gov](http://www.sam.gov) and the State of New Jersey Debarment website found at <http://www.nj.gov/treasury/debarred>.

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A debarment sanction means that an individual, organization and its affiliates are excluded from conducting business with any Federal Agency government-wide. Depending upon the outcome of an investigation or legal proceeding, a suspension may lead to debarment. Debarment is the most serious compliance sanction and is generally imposed for a three-year period. However, debarment can be imposed for a longer period of time, if determined to be necessary to protect the public interest.

## II. PROCEDURES FOR FEDERAL DEBARMENT AND SUSPENSION CHECK

In general, the grantee must check the eligibility of every entity (beneficiary, contractor, vendor, sub grantee, consultant, etc.), and the principals and/or owners of those entities, prior to entering into an agreement and dispersing funds. The grantee must also document that eligibly and debarment status was checked, including the date the check was made.

To check the suspension and debarment status of a firm and/or individual, the grantee must search the SAM. The following steps outline the process for checking the debarment or suspension status of a company or individual:

1. Go to <https://www.sam.gov> and select "Search Records".

**SAM**  
SYSTEM FOR AWARD MANAGEMENT

USER NAME:  PASSWORD:  **LOG IN**  
Forgot Username? Forgot Password? [Create an Account](#)

**HOME SEARCH RECORDS DATA ACCESS GENERAL INFO HELP**

<p><b>CREATE USER ACCOUNT</b></p> <p>Your CCR username will not work in SAM. You will need a new SAM User Account to register or update your entity records. You will also need to create a SAM User Account if you are a government official and need to create Exclusions or search for FOUO information.</p> <p><a href="#">Create User Account</a></p>	<p><b>REGISTER/UPDATE ENTITY</b></p> <p>You can register your Entity (business, individual, or government agency) to do business with the Federal Government. If you are interested in registering or updating your Entity, you must first create a user account.</p> <p><a href="#">Register/Update Entity</a></p>	<p><b>SEARCH RECORDS</b></p> <p>All entity records from CCR/FedReg and ORCA and exclusion records from EPLS, active or expired, were moved to SAM. You can search these records and new ones created in SAM. If you are a government user logged in with your SAM user account, you will automatically have access to FOUO information.</p> <p><a href="#">Search Records</a></p>
--	---	---

**WHAT IS SAM?** [Need Help?](#)

The System for Award Management (SAM) is a Federal Government owned and operated free web site that consolidates the capabilities in CCR/FedReg, ORCA, and EPLS. Future phases of SAM will add the capabilities of other systems used in Federal procurement and awards processes.

<p><b>NEWS AND ANNOUNCEMENTS</b></p> <p><b>SAM Management Moves to GSA FAS and CIO</b></p> <p>Click on General Info and go to the News and Announcements section for the full story.</p> <p>Can I use my CCR username in SAM? Click <a href="#">HERE</a> to find answers to this and other top questions.</p>	<p><b>USER GUIDES/HELPFUL HINTS</b></p> <p>Additional information, such as a full User Guide, Quick Start Guides, Helpful Hints, and Webinars are available on the HELP tab.</p> <p><b>Service Desk</b></p> <p>URL: <a href="http://www.FSD.gov">http://www.FSD.gov</a></p>	<p><b>FORMER CCR REGISTRANTS</b></p> <p>If you had an active record in CCR, you have an active record in SAM. You do not need to do anything in SAM at this time, unless a change in your business circumstances requires updates to your Entity record(s) in order for you to be paid or to receive an award or you need to renew your Entity(s) prior to its expiration. SAM will send notifications to the registered user via email 60, 30, and 15 days prior to expiration of the Entity. To update or renew your Entity record(s) in SAM you will need to create a SAM User Account and link it to your migrated Entity records. You do not need a user account to search for registered entities in SAM by typing EIN number or business name into the search box.</p>
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2. In the search box, type the name of the company or individual you are looking for.
3. In the event that a company is registered in the CCR system, you will get a result with a company name. If the “Has Active Exclusion” indicates “No”, the company is not excluded from Federal participation. If “Yes”, do not proceed with the proposed transaction with the excluded company. In the event that a company is not registered in the CCR system, you will receive a message indicating “No records found for current search”.

The screenshot shows the SAM (System for Award Management) website. At the top left is the SAM logo with the text 'SYSTEM FOR AWARD MANAGEMENT'. To the right are fields for 'USER NAME' and 'PASSWORD', a 'LOG IN' button, and links for 'Forgot Username?' and 'Forgot Password?'. Below these is a 'Create an Account' link. A navigation bar contains links for 'HOME', 'SEARCH RECORDS', 'DATA ACCESS', 'GENERAL INFO', and 'HELP'. The main section is titled 'Search Records' and contains instructions: 'You can enter a DUNS number, CAGE code or Business Name to search for the entities that you are interested in reviewing. You can also enter exclusion search terms to search for exclusion records. Once a search has returned results, use the filters provided to narrow results.' It also states: 'Government employees must create a SAM user account with their government email address. Log in before searching in order to see FOUO information and those registrants who selected to opt out of the public search.' There is a search box with the placeholder text 'Enter your specific search term' and a 'SEARCH' button. Below the search box, it says '(Examples of search terms include the entity's DUNS number, name, etc.)'. A 'Need Help?' link is also present. At the bottom, there is a footer with 'SAM | System for Award Management 1.0', 'IBM v1.513.20121222-2220', 'WWW4', a 'Note to all Users: This is a Federal Government computer system. Use of this system constitutes consent to monitoring at all times.', and logos for 'GS', 'USA.gov', and 'Government Made Easy'.

4. Print, date and initial the web page search results documenting that the proposed recipient is not on the SAMS list and place copies in the grant agreement legal file.

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5. The same search procedure should be followed for individual names. Once you search the company/organization name, repeat the process for all principals, owners, and partners affiliated with the company.

Example of individual who **IS** excluded.

The screenshot shows the SAM (System for Award Management) search results page. At the top, there is a header with the SAM logo and navigation links: HOME, SEARCH, REPORTS, and SAM HELP. Below the header, the search results are displayed for the search term 'Anthony T. Rizzo'. The results show one entry with the status 'Exclusion' and 'Status: Active'. A red arrow points to the 'Exclusion' status. The page also includes a 'Filter Results' section on the left with options for 'By Record Status' (Active, Inactive) and 'By Functional Area' (Entity Management, Performance Information). The search results are sorted by 'Relevance' and the order is 'Normal'.

USAM  
SYSTEM FOR AWARD MANAGEMENT

USERNAME:  PASSWORD:  LOGIN  
Forgot Username? Forgot Password? Create an Account

HOME SEARCH REPORTS SAM HELP

Search Results

You can refine your search by entering new search criteria in the search box and using the Search In Results button. If you wish to perform a new search use the Clear Search button. Using the Save Search button will allow you to run this search at a later time.  
[Important message regarding exclusion searches.](#)

Clear Search

Current Search Terms: Anthony T. Rizzo

Showing page 1 of 1

SAVE PDF EXPORT RESULTS PRINT  
Sort by: Relevance Order: Normal

FILTER RESULTS Your search for "Anthony T. Rizzo" returned the following results...

By Record Status  
☒ Active  
☐ Inactive

By Functional Area  
☐ Entity Management  
☐ Performance Information  
Apply Filters

Note: Filters are case sensitive

Exclusion Anthony T. Rizzo Status: Active ☐  
DUNS: -4- CAGE Code: View Detail  
Classification: Individual



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Example of individual who **IS NOT** excluded and is not in CCR:

The screenshot displays the SAM (System for Award Management) interface. At the top, there is a header with the SAM logo and navigation links: HOME, SEARCH, REPORTS, and SAM HELP. Below the header, the search results section is titled "Search Results". It includes a "Clear Search" button and a "Current Search Terms: linda\* benedetti-leal" field. The results show "Showing page 0 of 0" and "No records found for current search." Below this, there are filter options: "By Record Status" (Active, Inactive) and "By Functional Area" (Entity Management, Performance Information). An "Apply Filters" button is present. At the bottom, there is a note: "Note: Filters are case sensitive". The page also includes a "Showing page 0 of 0" indicator and buttons for "SAVE PDF", "EXPORT RESULTS", and "PRINT".

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Example of Organization that **IS** excluded:

**SAM**  
SYSTEM FOR AWARD MANAGEMENT

[Forgot Username?](#) [Forgot Password?](#) [Create an Account](#)

HOME SEARCH REPORTS SAM HELP

### Search Results

You can refine your search by entering new search criteria in the search box and using the Search In Results button. If you wish to perform a new search use the Clear Search button. Using the Save Search button will allow you to run this search at a later time.  
[Important message regarding exclusion searches.](#)

Current Search Terms: skipworth\* plumbing\*

[Clear Search](#)

Showing page 1 of 1 [SAVE PDF](#) [EXPORT RESULTS](#) [PRINT](#)  
Sort by **Relevance** Order **Ascending**

**FILTER RESULTS** Your search for "Skipworth\* Plumbing\*" returned the following results..

**By Record Status**

☒ Active  
☐ Inactive

**By Functional Area**

☐ Entity Management  
☐ Performance Information

[Apply Filters](#)  
Note: Filters are case sensitive

Exclusion	Skipworth Plumbing, Inc.	Status: Active
DUNS: -4: Classification: Special Entity Designation		<a href="#">View Detail</a>

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Example of Organization that **IS NOT** excluded:

The screenshot displays the SAM (System for Award Management) website interface. At the top, there is a header with the SAM logo and navigation links: HOME, SEARCH RECORDS, DATA ACCESS, GENERAL INFO, and HELP. A search bar is visible with the text 'Current Search Terms: City\* of Santa\* Maria\*'. Below the search bar, there are buttons for 'Clear Search', 'SAVE PDF', and 'EXPORT RESULT'. The search results are displayed under the heading 'FILTER RESULTS' and show two results for the search term 'City of Santa Maria\*'. The first result is for 'SANTA MARIA, CITY OF' with a status of 'Active'. The second result is for 'PACIFICA, CITY OF' with a status of 'Active'. A red arrow points from the text 'Example of Organization that IS NOT excluded:' to the 'SANTA MARIA, CITY OF' result.

By Record Status	Entity	Status
<input checked="" type="checkbox"/> Active	SANTA MARIA, CITY OF	Active
<input type="checkbox"/> Inactive		

By Functional Area	Entity	Status
<input type="checkbox"/> Entity Management	PACIFICA, CITY OF	Active
<input type="checkbox"/> Performance Information		



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**STEP BY STEP STATE AND FEDERAL DEBARMENT AND SUSPENSION PROCEDURES**

Any contractor or subcontractor hired by a subrecipient or state agency will be required to be reviewed for determination if they are an “excluded party”. Ultimately, DCA must ensure that this done, each and every time a contract is awarded, whether it is for “contract administration” or it’s a builder hired to reconstruct or rehabilitate a residential property. If sub recipients have contractors receiving CDBG-DR funds in for any activity, project or program, then they will need to review for “excluded parties”.

A standard protocol for DCA Sandy Recovery Division monitoring of all program partners (whether its internal or external – EDA, NJRA, NJ MHFA) will be the determination if the review for “excluded parties” was conducted prior to award and execution of contract.

In order to maintain compliance, the following must be completed:

1. Prior to entering into any HUD-funded agreement, recipients of CDBG-DR funding must check all contractors, subcontractors (including principals and sub-tier contractors), consultants, and sub recipients against the System for Award Management (SAM), found at <https://www.sam.gov> as well as the State of New Jersey Debarment website found at <http://www.nj.gov/treasury/debarred>.
2. **Print, initial and date the web page search results documenting that the proposed recipient is not on the Federal or State debarment list and place copies in the grant agreement legal file.**
3. Include a signed and dated **Certification** form (Exhibit 1 of this document, page 10) regarding debarment and suspension in each contract that is funded with Federal dollars.

## EXHIBIT 1

### Debarment and Suspension Certification

GRANT/LOAN AGREEMENT NUMBER \_\_\_\_\_  
DEBARMENT AND SUSPENSION CERTIFICATION FOR FEDERALLY FUNDED  
CONTRACTS, GRANTS, LOANS AND COOPERATIVE AGREEMENTS

The undersigned (authorized official signing for the applicant organization) certifies to the best of his or her knowledge and belief, that the applicant, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any State of NJ or Federal Department or agency;
- (b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

RECIPIENT: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

DATE: \_\_\_\_\_



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**APPROVAL:**



Samuel R. Viavattine  
Deputy Commissioner  
Sandy Recovery Division



Laura Shea  
Assistant Commissioner  
Sandy Recovery Division

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**PURPOSE:**

The purpose of this policy is to ensure that Federal regulations are followed by the grantee and subrecipients whenever CDBG-DR-DR funds are used to purchase any real or personal property. Further this policy details the requirements for use, tracking and disposition of property acquired with CDBG-DR-DR funds.

This policy is consistent with State of New Jersey policy regarding property management and disposition

**POLICY:**

The following guidelines apply to any real or personal property purchased with CDBG-DR-DR funds:

- Property can only be acquired with CDBG-DR-DR funds for a *specific purpose* that must be approved by the grantee and should be made a part of the Subrecipient Agreement.
- 
- The subrecipient is responsible for controlling *the use* of the property (in accordance with its intended purpose) and *take good care* of it (that is, take adequate steps to prevent its damage, theft, or loss).
- If the property is no longer needed, the subrecipient can dispose of it but only according to specific rules (such as paying back the grantee, accounting for program income, etc.).
- The use of that property for the *approved purpose must continue*; in the case of personal **property**, generally for if the subrecipient owns it and the property is needed for the CDBG-DR-DR activity, and in the case of real **property** (acquired or improved with CDBG-DR funds in excess of \$25,000), generally for at least 5 years following the expiration of the Subrecipient Agreement.

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- Property can only be acquired with CDBG-DR funds for a *specific purpose* that must be approved by the grantee and should be made a part of the Subrecipient Agreement.
- The use of that property for the *approved purpose must continue*; in the case of personal **property**, generally for if the subrecipient owns it and the property is needed for the CDBG-DR-DR activity, and in the case of real **property** (acquired or improved with CDBG-DR funds in excess of \$25,000), generally for at least 5 years following the expiration of the Subrecipient Agreement.
- For any property purchased with CDBG-DR-DR funds, the subrecipient is required to *keep accurate records* for it (e.g., purchase date, price, location, physical description, maintenance history and condition, original and current use, and other inventory types of data).
- The subrecipient is responsible for controlling *the use* of the property (in accordance with its intended purpose) and *take good care* of it (that is, take adequate steps to prevent its damage, theft, or loss).
- If the property is no longer needed, the subrecipient can dispose of it but only according to specific rules (such as paying back the grantee, accounting for program income, etc.).

#### **I. Definitions**

For the purposes of these Federal regulations, “property” is classified according to the following distinct categories:

- **Real property:** “real property” means land, including any improvements to and structures located on the land, but excluding any movable machinery or equipment.
- **Personal property:** “personal property” is basically any kind of property other than real property. Personal property can be *tangible* (such as supplies, furniture, and equipment), or *intangible* (such as copyrights, patents, and inventions).

Further distinctions can be made between:



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- **Non-expendable personal property**, which generally is considered to include *tangible* personal property having a useful life of more than 1 year and an acquisition cost of \$300 or more per unit.
- **Expendable personal property**, which includes all *tangible* personal property other than non-expendable personal property.

The Federal requirements relating to property are organized according to title (ownership), use, and disposition. In general, a subrecipient's property management system must provide for **accurate records, the conduct of regular inventories, adequate maintenance and control, and proper sales procedures**. Subrecipients must follow sales procedures that provide for competition, to the extent practicable, and that result in the highest possible return.

#### **A. Real Property**

For *grantees*, the use of real property is governed by 24 CFR 570.505. For real property acquired or improved in whole or in part with CDBG-DR funds in excess of \$25,000, the grantee cannot change the use or planned use of the property (including the beneficiaries of such use) without first providing affected citizens notice and opportunity to comment, and determining that either:

- 1) The contemplated new use meets one of the National Objectives and is not a building for the general conduct of government.
- 2) The contemplated new use is deemed appropriate (after consultation with affected citizens) but will not meet a National Objective. In this latter case, the grantee must reimburse the CDBG-DR program in the amount of the current fair market value of the property, less the value attributable to the non-CDBG-DR portion of the acquisition or improvements.

The *Subrecipient Agreement* must be **explicit** about the use of any real property under the subrecipient's control that was acquired or improved in whole or in part with CDBG-DR funds in excess of \$ 25,000. For such instances, **24 CFR 570.503(b) (7)** mandates that such real property either:

- Must be used by the subrecipient to continue to meet one of the CDBG-DR program's National Objectives **for at least 5 years after the expiration of the Subrecipient Agreement** (or a longer time as specified by the grantee in the Subrecipient Agreement); or



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- If a National Objective is not met during this time period, the grantee must be **reimbursed for the current fair market value**, less any portion of the value attributable to non-CDBG-DR funds.

**B. Personal Property — Equipment**

For **governmental subrecipients**

- **Title:** Title to equipment acquired with CDBG-DR funds is vested in the subrecipient, subject to the conditions described in the following section.
- **Use:** Equipment purchased with CDBG-DR funds or other forms of Federal assistance must be used by the subrecipient in the program or project for which it was acquired, and **as long as needed, whether or not the program or project continues to be supported by Federal funds.**
  - When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.
  - The subrecipient also must make the acquired equipment **available for use on other projects or programs** currently or previously supported by the Federal Government **provided that such use will not interfere with the work on the project or program for which the equipment was originally acquired.**
  - A subrecipient is **prohibited** from using CDBG-DR-acquired equipment **to provide services for a fee to compete unfairly** with private companies that provide equivalent services unless specifically authorized by Federal statute.
  - With the approval of the grantee, equipment acquired with CDBG-DR funds may be used as **a trade-in on replacement property.**
  - For depreciation purposes, and IRS depreciation schedule is acceptable.
- **Management requirements:** For equipment (including replacement equipment) acquired in whole or in part with CDBG-DR funds, the subrecipient must have procedures and control systems in place to:

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- Keep **adequate equipment records**, which must include information on:
  - Property description.
  - Identification.
  - Funding source (grant number).
  - Title holder.
  - Acquisition date and cost.
  - Federal share of cost.
  - Location, use, and condition.
  - Unit acquisition cost.
  - Disposition data.
- **Conduct a physical inventory** of the property no less often than every 2 years, with a reconciliation of the inventory results with the equipment records.
  - Ensure adequate **safeguards for preventing loss, damage, or theft** of property.
  - Maintain the equipment in **good condition**.
- **Disposition:** When original or replacement equipment acquired with CDBG-DR funds is no longer needed for the original project or program or for other activities currently or previously assisted with Federal funds, the following rules of disposition will apply **to governmental subrecipients**:
  - 1) Equipment with a **current per-unit fair market value of less than \$5,000** may be retained, sold, or otherwise disposed of by the subrecipient *after notice to the grantee*, subject to the conditions in 3) in the following section.



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- 2) Equipment with a **current per-unit fair market value of \$5,000 or more** may *after notice to the grantee* be retained or sold by the subrecipient with the grantee having the right to compensation in an amount equal to multiplying the current fair market value *or* the proceeds from sale by the Federal share (percentage) in the original acquisition price of the equipment.
- 3) The grantee may reserve **the right to transfer title of the equipment** to the Federal Government or a third party

In addition, per 24 CFR 570.502(a) (8), in all cases when equipment purchased with CDBG-DR funds is sold, the net proceeds are considered **program income**.

Should there be **non-profit subrecipients** the following applies:

- **Title:** Title to personal property acquired with CDBG-DR funds is vested with the subrecipient, subject to the following conditions:
  - 1) **In all cases** in which personal property is no longer needed by the subrecipient for CDBG-DR activities, it must be transferred to the grantee for the CDBG-DR program or can be retained by the subrecipient after compensation to the grantee (per 24 CFR 570.502(b)(3)(vi)(B)).
  - 2) The grantee may reserve **the right to transfer title of the equipment** to the Federal Government or a third party.
  - 3) In all cases in which personal property is sold, the proceeds will be considered **program income** (24 CFR 570.502(b)(3)(vi)(A)).

#### **C. Personal Property — Supplies**

For **governmental subrecipients**:

- Upon termination of the subrecipient's agreement with or award from the grantee, **if there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value, and if such supplies are not needed for any other Federally sponsored programs or project, the**

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subrecipient must compensate the grantee for the share of such supplies which were acquired with CDBG-DR funds.

For **non-profit subrecipients**:

- The residual inventory of unused supplies exceeding \$5,000 not needed by the subrecipient for CDBG-DR activities must be transferred to the grantee for the CDBG-DR program or can be retained after compensating the grantee.
- **In all cases** in which the residual inventory of supplies is sold, the proceeds are considered **program income**.

**D. Personal Property — Copyrights and Intangible Property**

For **governmental subrecipients** and for **non-profit subrecipients**:

- The Federal Government **reserves a royalty-free, nonexclusive, and irrevocable license** to reproduce, publish, or otherwise use and to authorize others to use, for Federal Government purposes:
  - The copyright to any work developed with CDBG-DR funds.
  - Any rights of copyright which a subrecipient or a contractor purchases with CDBG-DR support.

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**APPROVAL:**



Stacy Bonaffons  
Assistant Commissioner



Howard McCoach  
Director, Sandy Recovery Division

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**PURPOSE:**

The Department of Community Affairs (DCA) is receiving CDBG-DR grant funds from the U.S. Department of Housing and Urban Development (HUD). DCA is the Responsible Entity in terms of compliance with HUD's Environmental Review Regulations at 24 CFR Part 58. These regulations provide instructions and guidance to recipients of HUD grant funds, where the recipient assumes the responsibility for compliance with the National Environmental Policy Act (NEPA) and other related Federal laws and authorities.

This document outlines the policies and procedures for DCA to document compliance with the HUD Environmental Review Regulations at 24 CFR Part 58.

**POLICY:**

It is DCA's policy as Responsible Entity to comply fully with the requirements of 24 CFR Part 58 and all related Federal laws and authorities for the CDBG-DR grant funds. DCA will maintain Environmental Review Records that cover all funded applications under the approved Action Plan programs.

**IMPLEMENTATION:**

DCA has executed a Memorandum of Agreement (MOA) with the New Jersey Department of Environmental Protection (DEP) that delegates preparation of Environmental Review Records associated with the CDBG-DR grant to DEP.

The Environmental Review Record (ERR) for the CDBG-DR grant must be organized to document compliance with all regulatory requirements. These requirements, including laws, regulations and links to other resources, may be found by clicking on:

<http://www.hud.gov/offices/cpd/energyenviro/environmen/index.cfm>

In order to meet the requirements for CDBG-DR Program (Robert T. Stafford Disaster Relief

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and Emergency Assistance Act of 1974 commonly referred to the “Stafford Act”) as well as the Disaster Relief Appropriations Act of 2013 (78 FR 14329 – published March 5, 2013 and the clarifying guidance published on April 19, 2013) the following section has been added to describe any waivers or alternate requirements. Note that wherever a conflict occurs between the special requirements as noted in the Stafford Act and the Disaster Relief Appropriations Act of 2013, the later shall take precedence.

**DISASTER RECOVERY WAIVERS OR ALTERNATE REQUIREMENTS:**

**1. Exemptions Covered under 24 CFR 58.34(a)(10):**

The U.S. Department of Housing and Urban Development (HUD) issued a Memorandum on May 16, 2008 titled [Exemptions for Disasters and Imminent Threats](#) which provides guidance for the use of the exemption at 24 CFR 58.34(a)(10). To be eligible for the exemption, the responsible entity must be able to document the presence of certain conditions that meet the intent of the exemption.

**2. Release of Funds When State Carries out Activity:**

In the regular CDBG program, the State distributes CDBG funds to units of general local government (“UGLGs” or “local government”) and takes on HUD’s role in receiving environmental certifications from the grant recipients and approving releases of funds. Under the Disaster Relief Appropriations Act Notice, the State is assuming the role of compliance with Federal laws and authorities and distributing funds directly to subrecipients and/or subgrantees. Therefore when the State plans to carry out an activity directly, the State must submit the certification and request for release of funds, where applicable, to HUD for approval per 24 CFR 58.4.

**3. Adoption of Another Agency’s Environmental Review Record:**

In accordance with the Disaster Relief Appropriations Act, recipients of Federal funds that use such funds to supplement Federal assistance provided under sections 402, 403, 404, 406, 407, or 502 of the Stafford Act may adopt, without public comment, any environmental review, approval, or permit performed by a Federal agency for the same project, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit that is required by HUD. The State must notify HUD in writing of its decision to adopt another agency’s environmental review. The State must retain a copy of the review in its environmental records. HUD issued a memorandum on March 4, 2013 entitled *Adoption of FEMA and other Federal Environmental Reviews and Processing for Hurricane Sandy*

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*Supplemental Appropriation* that provides guidance on adopting the reviews prepared by other Federal agencies.

**4. Release of Funds:**

In accordance with the Appropriations Act, and notwithstanding 42 U.S.C. 5304(g)(2), the Secretary may, upon receipt of a request for release of funds and certification, immediately approve the release of funds for an activity or project assisted with allocations under the Disaster Relief Appropriations Act Notice if the recipient has adopted an environmental review, approval or permit under section 3, above, or the activity or project is categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**5. Historic Preservation Reviews:**

To facilitate expedited historic preservation reviews under Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), a Programmatic Agreement has been executed between FEMA, the New Jersey State Historic Preservation Officer, New Jersey State Office of Emergency Management, Advisory Council on Historic Preservation, and five Tribes. DCA and DEP will follow the stipulations in the Programmatic Agreement to ensure an efficient process of meeting Section 106 requirements.

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**APPROVAL:** \_\_\_\_\_  
Laura Shea  
Director, Sandy Recovery Division

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**PURPOSE:**

To permit a more streamlined process, and to ensure disaster recovery grants are awarded in a timely manner, provisions of 42 U.S.C. 5304(a) (2) and (3), 42 U.S.C. 12707.24 CR 570.486, 91.105 (b) and (c), and 91.115 (b) and (c) with respect to citizen participation requirements are waived and replaced by the following requirements.

**POLICY:**

The primary goal of the New Jersey Citizen Participation Plan is to provide all New Jersey citizens with an opportunity to participate in the planning, implementation, and assessment of the State's CDBG-DR\* Sandy recovery program(s). The Plan sets forth policies and procedures for citizen participation, which are designed to maximize the opportunity for citizen involvement in the community development process. The State will provide all citizens with the opportunity to participate, with emphasis on low and moderate income individuals, and access by non-English speaking or those requiring special options due to disabilities, and in CDBG-DR targeted communities.

New Jersey has developed a specific Citizen Participation Plan to meet the requirements of the CDBG Disaster Recovery (CDBG-DR) funding for Superstorm Sandy. The Plan reflects the alternative requirements as specified by the U.S. Department of Housing and Urban Development (HUD) in the Federal Register (FR-5696-N-01) and notice of specific waivers. The State will ensure that any local governments or subrecipients who receive funds will adhere to the CDBG-DR regulations taking into consideration the waivers and alternatives made available under CDBG-DR funding.



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The New Jersey Citizen Participation Plan for CDBG-DR Sandy Recovery will be placed on official website of the Department of Community Affairs at [www.state.nj.us/dca/](http://www.state.nj.us/dca/).

The primary goal of the New Jersey Citizen Participation Plan is to provide all New Jersey citizens with an opportunity to participate in the planning, implementation, and assessment of the State's CDBG-DR\* Sandy recovery program(s). The Plan sets forth policies and procedures for citizen participation, which are designed to maximize the opportunity for citizen involvement in the community development process. The State will provide all citizens with the opportunity to participate, with emphasis on low and moderate income individuals, and access by non-English speaking or those requiring special options due to disabilities, and in CDBG-DR targeted communities.

New Jersey has developed a specific Citizen Participation Plan to meet the requirements of the CDBG Disaster Recovery (CDBG-DR) funding for Superstorm Sandy. The Plan reflects the alternative requirements as specified by the U.S. Department of Housing and Urban Development (HUD) in the Federal Register (FR-5696-N-01) and notice of specific waivers. The State will ensure that any local governments or subrecipients who receive funds will have a citizen participation plan that meets the CDBG-DR regulations and takes into consideration the waivers and alternatives made available under CDBG-DR funding.

The New Jersey Citizen Participation Plan for CDBG-DR Sandy Recovery will be placed on official website of the Department of Community Affairs at [www.state.nj.us/dca/](http://www.state.nj.us/dca/).

In order to facilitate citizen participation requirements and to maximize citizen interaction in the development of the New Jersey Disaster Recovery Action Plan, substantial amendments to the Action Plan, and the quarterly performance reports, the State has laid out targeted actions to encourage participation and allow equal access to information about programs by all citizens, especially those of low and moderate income, those living in slum and blighted areas and in areas where Community Development Block Grant Disaster Recovery (CDBG-DR) funds are proposed to be used, non- English speaking persons, minorities, and those with disabilities. The State also encourages the participation of statewide and regional institutions and other

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organizations (including businesses, developers, and community and faith-based organizations) that are involved with or affected by the programs or activities covered by the Action Plan.

### **I. Public Notices and Comment Period**

While the citizen participation waivers provided by HUD permit a more streamlined public process, the State Citizen Participation Plan will ensure that there is reasonable and timely access for public notice, appraisal, examination, and comment on the activities proposed for the use of CDBG-DR grant funds. Although the waiver removes the requirement that a grant applicant must hold public hearings or meetings to disseminate information and collect citizen comments, the State has and will continue to coordinate outreach meeting with state entities, local governments, non-profits, private sector and involved associations. The State will also invite public comment to the New Jersey Disaster Recovery Action Plan and Substantial Amendments for a minimum seven (7) days, posted prominently and accessed on the Department of Community Affairs' official website. The State will use means such as press releases, posting notices on the Governor's website and links on other agency websites as appropriate, to maximize access of program information to the impacted citizens and businesses.

#### ***A. New Jersey Disaster Recovery Action Plan***

The State will prominently post a notice and the proposed Disaster Recovery Action Plan ("Action Plan") on the official website of the Department of Community Affairs. The Action Plan includes the following:

1. The amount of assistance expected to be received, based on projected amounts provided by HUD;
2. The range of activities that can be undertaken including the estimated amount that will benefit persons of low and moderate income;
3. Plans to minimize displacement of persons and assist any persons displaced;

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4. An anticipated time schedule for submission of the Action Plan to the Department of Housing and Urban Development; and
5. Incorporation of and response to public comments received during the public comment period.

The Action Plan (as proposed and then when approved) will be made available for public review at [www.state.nj.us/dca/](http://www.state.nj.us/dca/). It will be made available in English and Spanish.

For those that otherwise cannot obtain a copy of the Action Plan, DCA will make copies available upon request at the Department of Community Affairs.

New Jersey Department of Community Affairs  
1st Floor Information Desk  
101 South Broad Street  
Trenton, New Jersey, 08625

The State will consider any comments or views received in writing or via email on the proposed Disaster Recovery Action Plan. The State will identify a deadline for the submittal of written comments on the proposed Plan; the period for the submittal of comments will be no less than seven (7) days. Written comments may be submitted to the Department of Community Affairs via email at [Sandy.Recovery@dca.state.nj.us](mailto:Sandy.Recovery@dca.state.nj.us), or to Post Office Box 800, Trenton, New Jersey 08625-0800. A summary of all comments received and responses will be included in the final Action Plan.

***B. Substantial Amendments to the Action Plan***

The State has defined Substantial Amendments to the Action Plan as those proposed changes that require the following decisions:

- ☐ Addition or deletion of any allowable activity described in the approved application
- ☐ The allocation or re-allocation of more than \$1 million
- ☐ Change in the planned beneficiaries

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Those amendments which meet the definition of a Substantial Amendment are subject to public notification and public comment procedures. Citizens and units of local government will be provided with reasonable notice and an opportunity to comment on proposed Substantial Amendments to the Action Plan. A notice and copy of the proposed Substantial Amendment will be posted on the New Jersey Department of Community Affairs' official website. Copies will be provided upon request at DCA, if otherwise not accessible for review by any residents. Citizens will be provided with no less than seven (7) days to review and comment on the proposed amendment. Written comments may be submitted to the Department of Community Affairs via email at [Sandy.Recovery@dca.state.nj.us](mailto:Sandy.Recovery@dca.state.nj.us), or to Post Office Box 800, Trenton, New Jersey 08625-0800. A summary of all comments received responses will be included in the Substantial Amendment that is submitted to HUD for approval and posted to the Department of Community Affairs' official website.

Non-substantial Amendments to the Action Plan will be posted on the Department of Community Affairs' official website after notification is sent to HUD and the amendment becomes effective. Every Amendment to the Action Plan (substantial and non-substantial) will be numbered sequentially and posted on the website.

### ***C. Performance Reports***

The State must submit a Quarterly Performance Report (QPR) through HUD's Disaster Recovery Grant Reporting (DRGR) system no later than thirty (30) days following the end of each calendar quarter. Within three (3) days of submission to HUD, each QPR must be posted on the Department of Community Affairs' official website for public review and comment. The State's first QPR is due after the first full calendar quarter after the grant award. QPR's will be posted on a quarterly basis until all funds have been expended and all expenditures have been reported.

Each QPR will include information about the uses of funds in activities identified in the Action Plan as entered in the DRGR reporting system. This includes, but is not limited to: project name, activity, location, and national objective; funds budgeted, obligated, drawn down, and expended; the funding source and total amount of any non-CDBG-DR funds to be expended on each activity; beginning and actual completion dates of completed activities; achieved performance

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outcomes such as number of housing units complete or number of low and moderate income persons benefiting; and the race and ethnicity of persons assisted under direct-benefit activities. The State must also record the amount of funding expended for each contractor identified in the Action Plan. Efforts made by the State to affirmatively further fair housing will also be included in the QPR.

During the term of the grant, the grantee will provide citizens, affected local governments, and other interested parties with reasonable and timely access to information and records relating to the approved program and to the grantee's use of grant funds as well as contracts procured with CDBG-DR funding. This information shall be posted on the grantee's official website [www.nj.gov/dca/](http://www.nj.gov/dca/), and provided on request.

## **II. Technical Assistance**

The State will provide technical assistance to facilitate citizen participation where requested, particularly to groups representative of persons of low and moderate income. The level and type of technical assistance shall be determined by the applicant/recipient based upon the specific need of the community's citizens.

## **III. Citizen Complaint Procedures**

The State will accept written citizen complaints from citizens related to the disaster recovery programs, the Action Plan, substantial amendments, or quarterly performance reports. Written complaints should be submitted via email to [Sandy.Recovery@dca.state.nj.us](mailto:Sandy.Recovery@dca.state.nj.us) or be mailed to:

New Jersey Department of Community Affairs,  
Post Office Box 800,  
Trenton, New Jersey 08625-0800  
Attention: Commissioner

The State will make every effort to provide a timely written response to every citizen complaint within fifteen (15) working days of the receipt of the complaint, where practicable.

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The State will require that its Subrecipients follow a Citizen Complaint procedure reflective of the goals of the Citizen Participation Plan. A copy and/or summary of the citizen complaints received by subrecipients will be forwarded to the Department of Community Affairs. The complainant must be made aware by the subrecipient that if she or he is not satisfied with the response, a written complaint may be filed with the Department of Community Affairs.

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**APPROVAL:**   
Stacy Bonaffons  
Assistant Commissioner

  
Howard McCoach  
Director, Sandy Recovery Division

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**PURPOSE:**

To outline the policies and procedures for the Department of Community Affairs to document compliance with Labor Standards Provisions of the Davis-Bacon Act and “Related Acts”.

**POLICY:**

The Davis-Bacon Act (DBA) was first enacted in 1931 and amended in 1935 and 1964. Its purpose is to protect communities and workers from the economic disruption caused by competition arising from non-local contractors coming into an area and obtaining federal construction contracts by underbidding local wage levels. However, since its inception in 1931, the reach of the DBA requirements has been extended by Congress through what are called “Related Acts”. A partial list, including 60 “Related Acts” (DBRA), is published in Part 5 of the 2011 version of Title 29 Code of Federal Regulations (CFR). These “Related Acts” often involve the award of grants, loans, loan guarantees or insurance from federal agencies to units of local government such as states, counties, cities and joint powers authorities.

In some cases certain CPD programs contain waivers and alternative requirements, relevant statutory provisions for grants provided under the Federal Notice issued for that program. In order to meet the requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) Program (Robert T. Stafford Disaster Relief and Emergency Assistance act of 1974 commonly referred to the “Stafford Act”) as well as the Disaster Relief Appropriations Act of 2013 (78 FR 14329 – published March 5, 2013 and the clarifying guidance published on April 19, 2013) the following section has been added to describe any waivers or alternate requirements for this crosscutting element. Note that wherever a conflict occurs between the crosscutting requirements and the special requirements as noted in the Stafford Act and the Disaster Relief Appropriations Act of 2013, the latter shall take precedence.

**DISASTER RECOVERY WAIVERS OR ALTERNATE REQUIREMENTS:**

None.

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## **I. DAVIS BACON AND RELATED ACTS (DBRA) OVERVIEW**

The Davis-Bacon Act (DBA) was first enacted in 1931 and amended in 1935 and 1964. Its purpose is to protect communities and workers from the economic disruption caused by competition arising from non-local contractors coming into an area and obtaining federal construction contracts by underbidding local wage levels. Originally DBA applied only to contracts awarded directly by a unit of the federal government, such as the U.S. Department of Housing and Urban Development (HUD) or the U.S. Department of Energy (DOE). However, since its inception in 1931, the reach of the DBA requirements has been extended by Congress through what are called “Related Acts” such as:

- Housing and Community Development Act of 1974, which includes the Community Development Block Grant (CDBG) program and the Section 108 Loan Guarantee;
- Cranston-Gonzalez National Affordable Housing Act, which includes the HOME Investment Partnerships (HOME) program;
- Housing and Economic Recovery Act of 2008 (HERA), which includes the Neighborhood Stabilization Program (NSP1);
- Economic Development Initiative (EDI);
- Brownfields Economic Development Initiative (BEDI); and
- American Recovery and Reinvestment Act of 2009 (ARRA), which includes the Community Development Block Grant-Recovery (CDBG-R) and the Neighborhood Stabilization Program (NSP2) programs.

A partial list, including 60 “Related Acts” (DBRA), is published in Part 5 of the 2011 version of Title 29 Code of Federal Regulations (CFR). These “Related Acts” often involve the award of grants, loans, loan guarantees or insurance from federal agencies to units of local government such as states, counties, cities and joint powers authorities. These units of local government will then award contracts for the construction, demolition, alteration or repair of housing, infrastructure, public and private facilities using federal funds pursuant to the related Act of Congress appropriating those funds. Those “Related Acts” awarding funds through HUD will be



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discussed throughout this chapter to build the expertise of program staff charged with implementing projects funded in whole or in part with federal grants, loans and loan guarantees.

Pursuant to the U.S. Department of Labor (DOL) regulations found at 29 CFR Part 5, the term “Labor Standards” includes the following:

- Prevailing wage requirements of DBRA;
- The Fair Labor Standards Act of 1938, as amended (FLSA), which includes minimum wage, overtime pay, recordkeeping and child labor standards affecting most workers;
- Contract Work Hours and Safety Standards Act (CWHSSA), which provides for overtime for all hours over 40 in a week; and
- Copeland Anti-Kickback Act which prohibits of kickbacks of wages and back wages from employees to employers.

## **II. DBRA PREVAILING WAGE REQUIREMENTS**

DBRA requires the payment of prevailing wage rates to all laborers and mechanics working on Federally-assisted construction projects. The specific Davis-Bacon requirements are included in the Federal Labor Standards Provisions (HUD-4010) which, in summary, obligates the contractor to:

- Pay all laborers and mechanics who are employed or working upon the site of the work, unconditionally and not less often than once a week (bi-weekly and semi-monthly pay intervals are not permitted on DBRA projects);
- Pay all laborers and mechanics the full amount of hourly wages and bona fide fringe benefits prescribed for their work classification as shown in the wage determination applicable to the contract;
- Not withhold or otherwise deduct or rebate any part of wages due except as permitted by the Copeland Anti-Kickback Act (29 CFR Part 3);
- Provide the grantee with Certified Payroll Reports (CPR) that accurately set forth certain information, including the employee’s name and identifying number, hours (or fractions thereof) worked by each employee in each respective work classification by day, date,

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regular and overtime, the total regular and overtime hours worked, the prevailing wage rate, gross pay for “this job” and “all jobs,” authorized payroll deductions, net pay, and attach a properly executed Statement of Compliance; and

- Retain all records for a period of three (3) years subsequent to the last day that laborers or mechanics perform work at the site of construction.

The Federal Labor Standards Provisions include clauses that provide for remedies in the event of a violation, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages which may be found due. These clauses enable the grantee to enforce the DBRA requirements.

**A. Fair Labor Standards Act of 1938** - The FLSA affects most employment in the United States, regardless of DBRA or any other applicable statute. FLSA contains the federal minimum wage rates, overtime and child labor requirements.

- **Minimum Wage:** Effective July 24, 2009, the federal minimum wage is \$7.25 per hour, but in many cases, employees are subject to a higher minimum wage by virtue of a state or local statute requiring the payment of a higher minimum wage rate.
- **Overtime:** Covered nonexempt<sup>1</sup> employees must receive overtime pay for hours worked over 40 per workweek.<sup>2</sup> Hours may not be averaged over two (2) or more weeks. The rate of pay for overtime is one and one-half times an employee’s regular rate of pay over 40 hours in a workweek.
- **Hours Worked:** Hours worked includes all time during which an employee is required to be on the employer’s premises, on duty, or at a prescribed workplace.
- **Recordkeeping:** Employers must display an official poster outlining the requirements of the FLSA. Employers must also keep employee time and pay records.
- **Child Labor:** The child labor provisions of FLSA are designed to protect the educational opportunities of minors and to prohibit their employment in jobs and under conditions detrimental to their health or well-being.

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<sup>1</sup> An exempt employee pursuant to Section 13(a)(1) of FLSA is a bona fide executive, administrative, professional or outside sales employee, as determined by certain tests related to job duties. Exempt employees do not receive overtime but must be paid a minimum salary of \$455 per week, regardless of actual hours worked.

<sup>2</sup> A workweek is defined as any fixed and regularly recurring period of 168 hours, which is seven (7) consecutive 24-hour periods. It need not coincide with the calendar week, but may begin on any day and at any hour of the day.

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**B. Contract Work Hours and Safety Standards Act** - The CWHSSA applies to federally-assisted construction contracts over \$100,000, providing most workers on federally-assisted contracts the right to receive time and one-half for overtime hours worked. There are certain exemptions to this requirement as prescribed in the Act. CWHSSA also prohibits unsanitary, hazardous, or dangerous working conditions on federally-assisted and federally-financed and assisted construction projects.

**C. Copeland Anti-Kickback Act – Prohibits Kickbacks of Wages to Employers** - The Copeland Anti-Kickback Act makes it a federal crime for anyone to require any laborer or mechanic employed on a federal or federally-assisted<sup>3</sup> project to kickback (i.e. give up or pay back) any part of their wages. This law requires every employer to submit weekly CPRs and regulates permissible payroll deductions. According to 29 CFR §3.5, the following payroll deductions are permissible without application to or approval of the Secretary of Labor:

- Any deduction made in compliance with the requirements of Federal, State, or local law, such as Federal or State withholding income taxes and Federal social security taxes.
- Any deduction of sums previously paid to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A bona fide prepayment of wages is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him complete freedom of disposition of the advanced funds.
- Any deduction of amounts required by court process to be paid to another, unless the deduction is in favor of the contractor, subcontractor, or any affiliated person, or when collusion or collaboration exists.
- Any deduction constituting a contribution on behalf of the person employed to funds established by the employer or representatives of employees, or both, for the purpose of providing either from principal or income, or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employees, their families and dependents: Provided, however, that the following

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<sup>3</sup> Except contracts for which the only federal assistance is a loan guarantee.

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standards are met:

- The deduction is not otherwise prohibited by law;
- It is either:
  - Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuation of employment, or
  - Provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees;
- No profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise; and
- The deductions shall serve the convenience and interest of the employee.
- Any deduction contributing toward the purchase of United States Defense Stamps and Bonds when voluntarily authorized by the employee.
- Any deduction requested by the employee to enable him to repay loans to or to purchase shares in credit unions organized and operated in accordance with Federal and State credit union statutes.
- Any deduction voluntarily authorized by the employee for the making of contributions to governmental or quasi-governmental agencies, such as the American Red Cross.
- Any deduction voluntarily authorized by the employee for the making of contributions to Community Chests, United Givers Funds, and similar charitable organizations.
- Any deductions to pay regular union initiation fees and membership dues, not including fines or special assessments: Provided, however, that a collective bargaining agreement between the contractor or subcontractor and representatives of its employees provides for such deductions and the deductions are not otherwise prohibited by law.
- Any deduction not more than for the “reasonable cost” of board, lodging, or other facilities meeting the requirements of section 3(m) of the Fair Labor Standards Act of

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1938, as amended, and Part 531. When such a deduction is made the additional records required under 29 CFR 516.25(a) shall be kept.

- Any deduction for the cost of safety equipment of nominal value purchased by the employee as his own property for his personal protection in his work, such as safety shoes, safety glasses, safety gloves, and hard hats, if such equipment is not required by law to be furnished by the employer, if such deduction is not violative of the Fair Labor Standards Act or prohibited by other law, if the cost on which the deduction is based does not exceed the actual cost to the employer where the equipment is purchased from him and does not include any direct or indirect monetary return to the employer where the equipment is purchased from a third person, and if the deduction is either:
  - Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of employment or its continuance; or
  - Provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees.

According to the DOL website, [www.dol.gov](http://www.dol.gov), “Any contractor or subcontractor who induces an employee working on a covered contract to give up any part of the compensation to which he or she is entitled is subject to a \$5,000 fine, or imprisonment for up to five years, or both. Willful falsification of the statement of compliance may subject the employer to civil or criminal prosecution and may be cause for contract termination or debarment. Contractors may challenge determinations on debarment before an Administrative Law Judge. Decisions of Administrative Law Judges may be appealed to the Administrative Review Board. Final Board determinations on debarment may be appealed to and are enforceable through the federal courts. Civil and criminal sanctions are pursued through the federal courts.”

Department of Community Affairs, Sandy Recovery Division policy on “Debarment and Suspension” provides additional guidance with regard to policy and procedures required by grantee and subrecipients on this topic.

### **III. APPLICABILITY TO CDBG-DR PROJECTS**

The Davis-Bacon Act requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government construction projects in excess of \$2,000. Specifically for CDBG-DR program projects, Davis-Bacon Related Acts will apply when CDBG-DR pays in whole or in part for any direct costs of construction;

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**AND** the project meets one of the following thresholds:

–Residential (housing): Property has 8 or more units

–Non-residential: Any construction work valued at more than \$2,000

Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works.

#### **IV. SUBRECIPIENT AND OTHER FUNDED ENTITY RESPONSIBILITY**

Each Subrecipient, as well as other Funded Entities shall be required to administer and enforce the labor standards requirements set forth in Section 570.605 of the regulations of the Housing and Community Development Act of 1974. Each Subrecipient or other Funded Entity shall comply with process steps and procedures as detailed in the “[Labor Standards Flowchart](#)”.

#### **V. APPOINT LABOR STANDARDS COMPLIANCE OFFICER**

The Grantee will designate a Labor Standards Compliance Officer to ensure compliance with all applicable labor standard requirements. The Labor Standards Compliance Officer will be appointed prior to the start of any construction activity and his/her name specified in Subrecipient and other Funded Entity program guidelines, policy and procedures and contracts, agreements or memorandum of understandings for use of CDBG-DR funds.

#### **VI. LABOR STANDARDS ENFORCEMENT FILE**

The Subrecipient or other Funded Entity shall establish and maintain a "Labor Standards Enforcement" file for each construction project subject to labor standards provisions. All documentation must be available for the CDBG-DR DCA review. Such documentation shall include requests for wage decisions, bid documents containing applicable wage decisions and labor standards provisions, verification of contractor eligibility, executed construction contracts containing applicable wage and labor standards provisions, pre-construction conference minutes, notification of start of construction, weekly payrolls, apprentice registration records, on-site employee interviews and copies of correspondence, memoranda and forms relating to the administration and enforcement of labor standards provisions.

#### **VII. SECURE WAGE RATE DETERMINATIONS**

Grantees awarding any construction contract in excess of \$2000 shall obtain current Federal and

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State prevailing wage rates. The higher of the two wage rates shall be the wage rate used. Nothing, however, shall prohibit the payment of more than the prevailing wage rate to any workman employed on the construction project.

**A. Wage Determinations** - Federal prevailing wage rates shall be obtained from the Wage Determinations Online system: <http://www.wdol.gov/>

State prevailing wage rates may be obtained from the New Jersey Department of Labor, Office of Wage and Hour Compliance at:

[http://lwd.dol.state.nj.us/labor/wagehour/wagerate/prevailing\\_wage\\_determinations.html](http://lwd.dol.state.nj.us/labor/wagehour/wagerate/prevailing_wage_determinations.html)

Applicable prevailing wage rates are those wages and fringe benefits in effect on the date the contract is awarded. All pre-determined rate increases listed at the time the contract is awarded must also be paid, beginning on the dates specified.

Rates may change between the time of issuance of the determination and the award of the contract. Therefore, verification must be made to insure that the rates contained in the determination are prevailing rates in effect for the specific location the work is being performed prior to the award of the contract.

**B. Wage Determination Posting** - Contractors and sub-contractors shall post the prevailing wage rates for each craft and classification in a prominent and easily accessible place at the site of the work, or at such places as are used by them to pay workers.

**A. Force Account Labor** - Laborers and mechanics employed by a Subrecipient (State agency or unit of local government) will not be considered laborers and mechanics employed by a contractor or sub-contractor when performing construction work financed by the CDBG-DR Program and shall not be subject to prevailing wage requirements which are otherwise applicable.

## **VIII. PREPARE BID DOCUMENTS**

The Subrecipient or other Funded Entity are required to ensure that all bid specifications include all applicable [Federal](#) and [State](#) wage rate determinations and the required [labor standards provisions](#)).

## **IX. VERIFY CONTRACTOR ELIGIBILITY**



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The Subrecipient or other Funded Entity prior to award of any contract, review the current eligibility status of all contractors **and** sub-contractors to be used on any construction project to ensure that they are “not excluded” from participation in Federally funded projects. Subrecipients or other Funded Entities must use the Federal System for Awards Management (SAM) to review and verify contractor and subcontractor eligibility. The SAM system is accessed at the following location: <https://www.sam.gov/portal/public/SAM/>

#### **X. EXECUTE CONSTRUCTION CONTRACT**

The Subrecipient or other Funded Entity will ensure that construction contract documents include all applicable wage determinations and labor standards provisions. Applicable wage rates are those in effect ten (10) days prior to bid opening, provided the construction contract is awarded within ninety (90) days of bid opening. All predetermined State labor rate increases listed at time of contract award must also be paid, beginning on the dates specified.

The “[Federal Labor Standards Provisions](#)” **must** be made part of all construction contracts.

#### **XI. CONDUCT PRE-CONSTRUCTION CONFERENCE**

The Subrecipient and other Funded Entities shall hold a pre-construction conference with the principal contractor and all available sub-contractors prior to the start of construction. At the pre-construction conference responsibilities and obligations regarding the Federal labor standards provisions contained in the contract documents will be discussed. Meeting minutes shall be prepared and retained in the Subrecipient or other Funded Entity’s files for each pre-construction conference. The pre-construction conference meeting minutes report will contain:

- Project name, location, and description
- Name of Contractor(s)
- Contract amount
- Date and place of conference
- Conference attendees
- Summary of items covered

(See Pre-Construction Checklist for Contractors)

#### **XII. NOTIFICATION TO DCA OF START OF CONSTRUCTION**

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The Subrecipient and other Funded Entities shall notify the designated DCA Disaster Recovery Division program representative of start of construction for any covered project. Start of construction means the beginning of initial site clearance and preparation; provided those activities are pursued diligently and are followed without appreciable delay by other construction activities.

### **XIII. USE OF APPRENTICES AND TRAINEES**

**A. Apprentices** - Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with the US Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, or are employed in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program.

Any employee listed on the payroll at an apprentice wage rate, who is not a trainee as defined in subdivision (b) of this subparagraph or is not registered or otherwise employed as stated above, shall be paid the wage rate determined for the classification of work s/he actually performed. The contractor or sub-contractor will be required to furnish to the Labor Standards Compliance Officer of the Subrecipient or other Funded Entity written evidence of the registration program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates), for the area of construction prior to using any apprentices on the contract work.

The wage rate paid apprentices shall not be less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination. Written evidence of apprentice registration shall consist of a copy of an Apprenticeship Standards/Apprenticeship Agreement Joint Approval form.

**B. Trainees** - Trainees (Except as provided in 29 CFR Part 5.16) will not be permitted to work at less than the predetermined rate for the work performed; unless they are employed pursuant to and individually registered in a program which has received prior approval from the US Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training. The

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ratio of trainees to journeyman shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined for the classification of work s/he actually performed.

The contractor or sub-contractor will be required to furnish the Labor Standards Compliance Officer of the Subrecipient or other Funded Entity written evidence of certification of his/her program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**C. Equal Employment Opportunity** - The utilization of apprentices, trainees and journeyman under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

#### **XIV. COMPLIANCE MONITORING - CONSTRUCTION SITE VISITS**

Visits to the construction site by the Labor Standards Compliance Officer are an integral part of the compliance monitoring process. Careful observation of on-going construction work and asking questions of the workers involved may help to determine whether or not it is necessary to make a more detailed audit of payrolls and time-sheets. Progress reports, contractors' apprenticeship agreements and similar data, together with [interviews of employees](http://www.gsa.gov/Portal/gsa/ep/formslibrary.do?formId=12BF5D0E2DC4484685256CBC0062F375&viewType=DETAIL) (recorded) (<http://www.gsa.gov/Portal/gsa/ep/formslibrary.do?formId=12BF5D0E2DC4484685256CBC0062F375&viewType=DETAIL>) may be sufficient to develop information as to whether there is compliance with the Federal labor standards provisions.

The Labor Standards Officer will be required to ensure that wage determination decisions and other required material pertaining to the required labor standards provisions are posted by the contractor at the worksite in a prominent and accessible place. The Labor Standards Officer will be required to have **photographic evidence** that the required Department of Labor [poster](http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf) (<http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>). and the prevailing wage determination for each project is conspicuously displayed which informs employees of their rights.

#### **XV. COMPLIANCE MONITORING – WEEKLY PAYROLL REVIEW**

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It is the responsibility of each contractor and sub-contractor to submit [weekly certified payrolls](http://www.dol.gov/whd/forms/wh347.pdf) for project work (<http://www.dol.gov/whd/forms/wh347.pdf>). . If no work is performed by a contractor or sub-contractor during a given work week, weekly payrolls need not be submitted. Initial and final payrolls must be so marked by each contractor and sub-contractor. Payrolls shall be completed and submitted no later than seven (7) work days following completion of the work week. The Subrecipient or other Funded Entity are required to “date stamp” weekly certified payroll submissions to evidence prompt submission.

It is the responsibility of the Grantee's Labor Standards Officer to verify that proper wage and fringe benefit rates are being paid by all contractors and sub-contractors. The proper wage and fringe benefit rate for a particular job classification must be equal to or greater than the highest of the corresponding Federal or State prevailing wage rate and fringe benefit rate. Fringe benefits paid to approved plans, funds or programs must be verified by the Labor Standards Officer.

HUD policy affords prevailing wage protection for all laborers and mechanics regardless of contractual relationship. There is no exception to this protection for self-employed sub-contractors. The most frequent occurrence of self-employed workers involves mechanic/trade classifications. These mechanics may be represented as sole proprietors, self-employed mechanics, partners or corporate officers - all with no direct employees engaged in covered work. Certified payrolls reporting single or multiple owners (e.g., partners) certifying that they have paid to themselves the prevailing wage for their craft may not be accepted. These mechanics must be carried on the certified payroll of the contractor for whom they are working.

Owners of businesses working with their crew on the same job site may certify to the payment of their own prevailing wages in conjunction with the prevailing wages paid to their employees. This exception to reporting standards does not suggest that such owners are not likewise entitled to prevailing wages for their labor. Rather, it accepts the wage payment certification on weekly payroll reports by the owner for his/her own wages as that certification accompanies the certification offered for the payment of prevailing wages to his/her employees. Such owners need only list their name, work classification including “owner”, and the daily and total hours worked. Such owners do not need to list a rate of pay or amounts earned.

Contractor weekly payrolls and other basic records will be reviewed by the Labor Compliance Officer of the Subrecipient or other Funded Entity as part of the established compliance enforcement activity on every construction project. Submitted payrolls shall be examined to assure compliance with labor standards to establish that only classifications appearing on the wage determination are used. Additionally, the Labor Compliance Officer has check for disproportionate employment of laborers, helpers, apprentices or trainees in relation to the entire

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workforce of a contractor or subcontractor. All certified payrolls, employee interviews, photographs and any other materials shall be maintained and provided for review and monitoring at the request of the DCA Sandy Recovery Division, HUD of the Department of Labor at any time during the normal three (3) year term in which records must be maintained.

**A. Payroll Forms** - Contractors shall be required to use Department of Labor [Form WH-347](#), Payroll Form and [instructions on completing Form WH-347](#). If a contractor requests to use an alternative payroll of his/her own choice, such requests must be submitted to the Labor Compliance Officer and approved in writing by DCA Sandy Recovery Division.

**B. Fringe Benefits** - The required weekly statement of compliance, [Form WH-347, page 2](#), includes statements concerning the payment of the basic hourly wage rates.

*Grantees and contractors are urged to obtain HUD publication “A Contractor’s guide to Prevailing Wage Requirements for Federally Assisted Construction”. The guide may be downloaded from the following HUD web site:*

<http://www.hud.gov/offices/adm/hudclips/guidebooks/HUD-LR-4812/4812-LR.pdf>

**C. Payrolls Must Be Obtained and Examined Promptly - Payroll Retention** - The Subrecipient or other Funded Entity’s Labor Compliance Officer shall require the submission of all payrolls each week. The payrolls shall be examined upon receipt so that all necessary corrective action may be initiated before the problem multiplies, and may be accomplished while the workers are still available. Payrolls must be retained for three (3) years by the Subrecipient or other Funded Entity following completion of the project and then may be destroyed unless an investigation, disputed compliance action, or appeal remains outstanding. Clearance shall be obtained from the DCA Sandy Recovery Division prior to such destruction. Contractors and sub-contractors must retain their basic payroll records (payroll register, individual earning cards, etc.) for the same three (3) year period.

**D. Employee Information** - Effective January 18, 2009, payrolls shall not report employee addresses or full Social Security Numbers (SSNs). Instead, the first payroll on which each employee appears shall include the employee’s name and an individually identifying number, usually the last 4 digits of the employee’s SSN. Afterward, the identifying number does not need to be reported unless it is necessary to distinguish between employees, e.g., if two employees have the same name.

Employers (prime contractors and subcontractors) must maintain the current address and full SSN for each employee and must provide this information upon request to the contracting

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agency or other authorized representative responsible for federal labor standards compliance monitoring. Prime contractors may require a subcontractor(s) to provide this information for the prime contractor’s records. DOL has modified form WH- 347, Payroll, to accommodate these reporting requirements.

**E. Incomplete Payrolls** - Except where falsification is suspected, an incomplete payroll shall be returned to the prime contractor for completion. In most cases it will be better to require the prime contractor to supply the missing information by means of a new or supplemental payroll or a supplemental statement. If a payroll is false, it shall not be returned to the contractor. A report of such findings shall be referred to the DCA Sandy Recovery Division.

**F. “No work” payrolls.** “No work” payrolls may be submitted whenever there is a temporary break in work on the project, for example, if a contractor or subcontractor is not needed on the project right now but will be returning to the job in a couple of weeks.

However, if a contractor or subcontractor will not be working on the project for an extended period of time, they should inform Labor Compliance Officer about the break in work and provide an approximate date of return to the project. If payrolls are numbered consecutively or if notice has been provided to the Labor Compliance Officer, “no work” payrolls will not be required.

**G. Classification and Wage Rates.** Classification and wage rates reported on the payroll shall be compared with the corresponding items on the applicable wage determination decision to determine whether the rate reported is at least equal to the rate required by the decision. If a lesser wage rate is found, the Subrecipient or other Funded Entity must request in writing the contractor to begin paying the required wage rate immediately and to make restitution to workers for past underpayments.

**H. Deductions** - Deductions shall be reviewed for any non-permissible deductions. Permissible deductions include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life pay, defraying costs of apprenticeship or similar programs. Questions regarding permissible fringe benefits must be referred to the Labor Compliance Officer for determination. All benefits not paid in cash must be documented with written verification from the contractor or sub-contractor.

**I. Piece-work.** Some employees are hired on a piece-work basis. The employee’s earnings are determined by a factor of work produced. Employers may calculate weekly earnings based upon piece rates provided the weekly earnings are sufficient to satisfy the wage rate requirement based upon actual hours, including any overtime, worked. Accurate time records must be maintained for any piece-work employees. If the weekly piece rate earnings are not sufficient, the employer must re-compute weekly earnings based upon the actual hours worked and the rate on the wage decision for

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the work classification(s) involved.

**J. Signature** - The statement of compliance must be signed by the owner, officer, or designated employee of the contractor. Written authority must be furnished by the owner or officer of the contractor when a designated employee signs the payrolls.

**K. Requests by Outside Parties for Payrolls** - In order to protect the personal privacy interests of employees, copies of weekly payrolls containing the individual's salary, work hours, claimed exemptions and tax status, and address shall not be released to outside parties and may be withheld under Exemption 6 of the Freedom of Information Act unless any identifiers are first deleted.

## **XVI. COMPLIANCE MONITORING – EMPLOYEE INTERVIEWS**

The Labor Compliance Officer shall be responsible for employee interviews. Employee interviews shall be sufficient in number to establish the degree of accuracy of the records and the nature and extent of violations, if any. They shall also be representative of all classifications of employees on the project. Employees shall be encouraged to produce pay stubs or pay envelopes which document the wages received.

**A. Confidentiality** - The employee shall be informed that the information given is confidential, and that his/her identity will be disclosed to the employer only with the employee's written permission, and that s/he is being interviewed by an employee of the grantee.

**B. Place of Interview** - Employees currently employed may be interviewed during working hours on the job, provided that the interview can be properly and privately conducted on the premises. In cases of falsification of records, fear of reprisals, or intimidation, it may be advisable to conduct the interview elsewhere, such as in the employee's home, at the Subrecipient or other Funded Entity's office, or other suitable place where it may be arranged.

**C. Initiating the Interview** - The Labor Compliance Officer shall begin the interview by introducing himself or herself to the worker and shall confirm their identity by showing the worker proper credentials. The Labor Compliance Officer shall explain that the project is being constructed with the assistance of the Federal government, that the payment of prevailing wages on Federally-assisted construction projects is required by law, and that the purpose of the interview is to obtain information for use in determining whether the required wages are being paid. The Labor Compliance Officer shall inform the worker of the specific location at which the applicable wage determination decision is posted at the project site.



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**D. Mail Interviews** - Employees and former employees may be interviewed by mail.

**E. Interview Time** - If the interview is conducted on the job site it shall be arranged to cause the least inconvenience to contractors and subcontractors.

**F. Oral Interview Statements** - An employee interview need not be recorded in a signed statement when it serves merely to confirm what the records reveal, and it is not otherwise indicative of a violation, assuming no violation has been alleged and the records are adequate.

**G. Interview Form** - Employee interviews are to be recorded on [Form HUD-11](#), Record of Employee Interview.

**H. Comparison of Payrolls and Interviews** - Grantees must ensure that:

1. Construction contractors designate the job classification of employees listed on the payroll.
2. The hourly rate includes the fringe amount as listed in the wage determination governing the project. Fringe benefits paid to approved plans, funds or programs must be verified in writing.

## **XVII. COMPLIANCE MONITORING – VIOLATIONS AND CORRECTIVE ACTION**

When any violation of labor standards requirements results in an underpayment of wages to employees, the Subrecipient or other Funded Entities must take corrective action. Where wage adjustments become necessary, the Labor Compliance Officer must notify the prime contractor (the one responsible for the correction of all violations) in writing to make such adjustments. Should the violations not be corrected within thirty (30) calendar days of notification, the Labor Compliance Officer upon written notice to the contractor may withhold amounts due the contractor as may be necessary to ensure payment of laborers and mechanics the rate of pay which should have been received by such laborers and mechanics and to cover liquidated damages under the Contract Work Hours and Safety Act (CWHSSA), if any and if applicable. Only an amount necessary to ensure payment of back wages and/or liquidated damages shall be withheld.

Failure to ensure that proper wages are paid during the course of the project will result in the Subrecipient or other Funded Entity bearing the burden of restitution whether or not sufficient funds remain in the grant budget.

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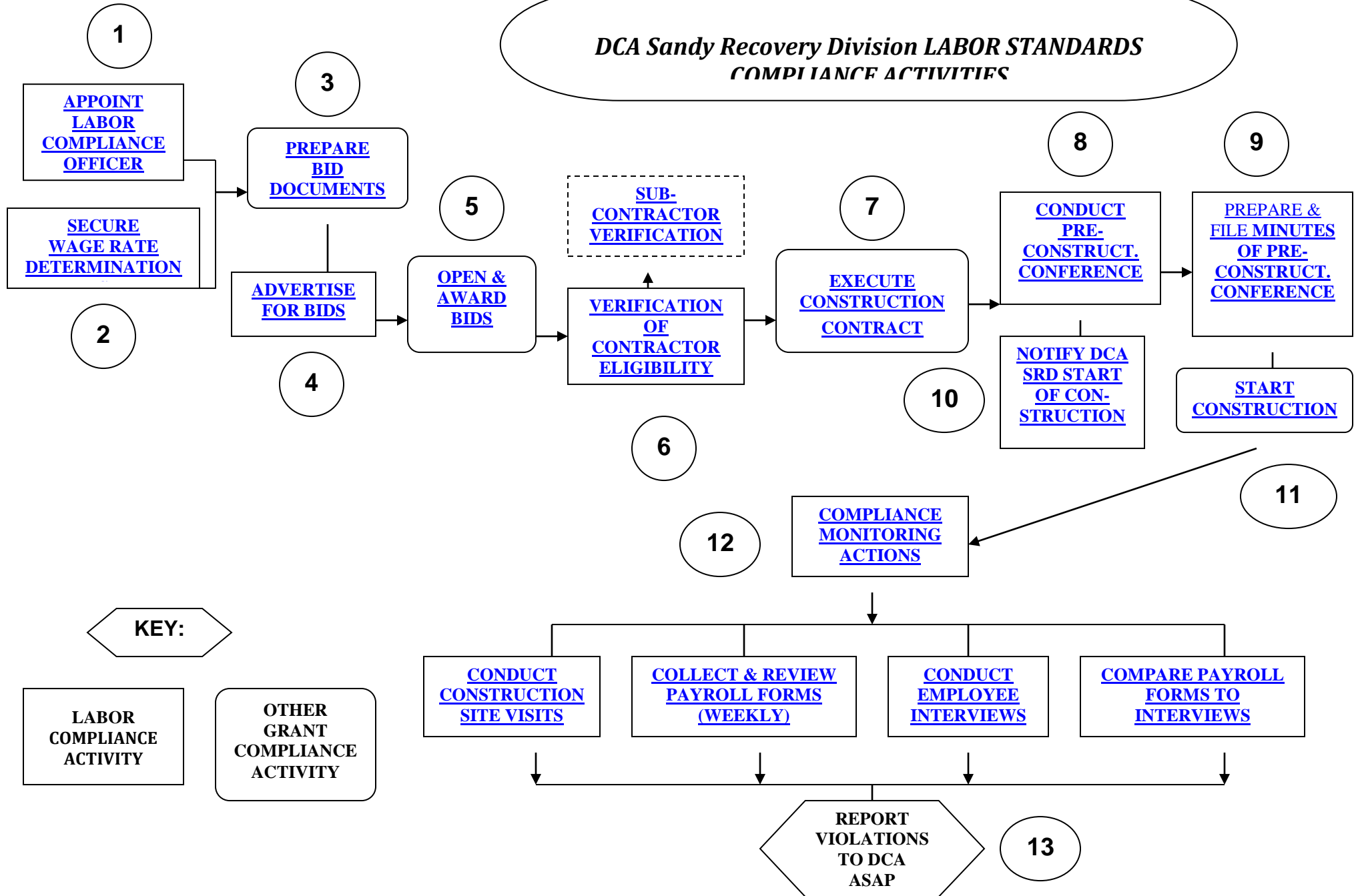
#### **XVIII. MONITORING VISITS**

During the monitoring visit the DCA Representative will:

- A.** Meet with the Subrecipient or other Funded Entity’s Labor Compliance Officer.
- B.** Review the Subrecipient or other Funded Entity’s Labor Standards Enforcement file and complete the [Labor Standards Monitoring Checklist](#).

# EXHIBIT 1

## DCA Sandy Recovery Division LABOR STANDARDS COMPLIANCE ACTIVITIES



**EXHIBIT 2**  
**CDBG-DR Program**  
**Labor Standards Monitoring Checklist**

*Subrecipient/Funded Entity*  
**Agreement #: «Agreement»**

*Date: «Date»*  
**Program Representative: «ProgramRep»**

1. Contract Identification

**Project Name** \_\_\_\_\_

Name of Contractor \_\_\_\_\_

Description of Work \_\_\_\_\_

Bid Opening Date \_\_\_\_\_

Contract Award Date \_\_\_\_\_

Contract Amount \_\_\_\_\_

Start of Construction \_\_\_\_\_

Force Account Used \_\_\_\_\_

2. Contract Documents And Administration

Yes    No    N/A    N/R

A.    Prevailing wage rates in bid specification?    \_\_\_\_\_

B.    Notification of contractor eligibility in the file?    \_\_\_\_\_

C.    Prevailing wage rates in contract?

Date of State decision

Date of Federal decision

D.    Are minutes of pre-construction conference in the file?    \_\_\_\_\_

3. Payroll Review

A.    Payrolls submitted weekly?    \_\_\_\_\_

B.    Payrolls numbered consecutively? (initial, second, etc., final)    \_\_\_\_\_

**EXHIBIT 2**  
**CDBG-DR Program**  
**Labor Standards Monitoring Checklist**

	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>N/R</u>
C. Payrolls signed by employer or authorized representative?	_____	_____	_____	_____
D. Statement of Compliance prepared for each payroll?				
E. Proper wages paid based upon a random sample of listed job classifications?	_____	_____	_____	_____
F. Were proper fringe benefits paid?	_____	_____	_____	_____
G. Were fringe benefits paid to approved plans or programs verified?	_____	_____	_____	_____
H. Apprenticeship/Trainee registration certification from US Dept. of Labor?	_____	_____	_____	_____
I. If not, are journeyman rates being paid?	_____	_____	_____	_____
J. Record of additional classifications? (not covered in wage decisions)	_____	_____	_____	_____
K. Is payroll review correspondence in file?	_____	_____	_____	_____
4. <u>Employee Interviews</u>				
A. Were employee interviews conducted by the grantee?	_____	_____	_____	_____
B. Were a representative number of trades covered?	_____	_____	_____	_____

**EXHIBIT 2**  
**CDBG-DR Program**  
**Labor Standards Monitoring Checklist**

5. Assessment Of Subrecipient/Funded Entity Labor Standards Administration

A. Has the Subrecipient or Funded Entity have designated a Labor Compliance Officer? \_\_\_\_\_

Name: \_\_\_\_\_

B. Does the Subrecipient/Funded Entity maintain full documentation attesting to the administration and enforcement of labor standards as indicated below:

	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>N/R</u>
a. Labor standards enforcement file for each construction project?	_____	_____	_____	_____
b. Is the labor standards enforcement file organized to enable review based on chronological events?	_____	_____	_____	_____
c. Is all labor standards enforcement documentation maintained at the same location?	_____	_____	_____	_____
C. Is there a need for technical assistance?	_____	_____	_____	_____

Comments And Findings

## EXHIBIT 3

### Federal Labor Standards Provisions

#### Federal Labor Standards Provisions

#### U.S. Department of Housing and Urban Development Office of Labor Relations

#### Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part



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of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Website at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

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(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and Trainees.**

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

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the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

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**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

**(3)** The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

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**EFFECTIVE:** June 2013

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**APPROVAL:**   
Stacy Bonaffons  
Assistant Commissioner

  
Howard McCoach  
Director, Sandy Recovery Division

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**PURPOSE:**

To outline the policies and procedures for the Department of Community Affairs to document compliance with The Drug-Free Workplace Act of 1988 (the “Act”) and HUD’s implementing regulations found at 2 CFR Part 2429.

**POLICY:**

The Drug-Free Workplace Act of 1988 (the “Act”) was enacted on November 18, 1988, as part of the 1988 Omnibus Drug Act. The Act requires that recipients of federal grants and parties to cooperative agreements provide a drug-free workplace. In June 2009, OMB issued final guidance for drug-free workplace requirements at 2 CFR Part 182, which directed each federal agency to replace the existing drug-free workplace common rule with a brief regulation in 2 CFR adopting the governmentwide drug-free workplace policies and procedures. In July 2011, HUD replaced the existing drug-free workplace common rule at 24 CFR Part 21 with the new regulations at 2 CFR Part 2429. In doing so, HUD supplemented and adopted the governmentwide policies and procedures on drug-free workplaces at 2 CFR Part 182.

In some cases certain CPD programs contain waivers and alternative requirements, relevant statutory provisions for grants provided under the Federal Notice issued for that program. In order to meet the requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) Program (Robert T. Stafford Disaster Relief and Emergency Assistance act of 1974 commonly referred to the “Stafford Act”) as well as the Disaster Relief Appropriations Act of 2013 (78 FR 14329 – published March 5, 2013 and the clarifying guidance published on April 19, 2013) the following section has been added to describe any waivers or alternate requirements for this crosscutting element. Note that wherever a conflict occurs between the crosscutting requirements and the special requirements as noted in the Stafford Act and the Disaster Relief Appropriations Act of 2013, the latter shall take precedence.

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**DISASTER RECOVERY WAIVERS OR ALTERNATE REQUIREMENTS:**

None.

**I. DRUG FREE WORK PLACE OVERVIEW**

The Drug-Free Workplace Act of 1988 (the “Act”) was enacted on November 18, 1988, as part of the 1988 Omnibus Drug Act. The Act requires that recipients of federal grants and parties to cooperative agreements provide a drug-free workplace. Federal agencies issued the first final common rule on May 25, 1990 implementing the Act’s provisions. In January 2002, federal agencies proposed substantive changes to the drug-free workplace common rule, and on November 26, 2003, HUD supplemented and codified the updated drug-free workplace common rule at 24 CFR Part 21.

In May 2004, the Office of Management and Budget (OMB) established Title 2 of the Code of Federal Regulations (CFR) as the new, central location for OMB guidance and agency implementing regulations concerning grants and cooperative agreements, including the drug-free workplace common rule. In June 2009, OMB issued final guidance for drug-free workplace requirements at 2 CFR Part 182, which directed each federal agency to replace the existing drug-free workplace common rule with a brief regulation in 2 CFR adopting the government wide drug-free workplace policies and procedures.

In July 2011, HUD replaced the existing drug-free workplace common rule at 24 CFR Part 21 with the new regulations at 2 CFR Part 2429. In doing so, HUD supplemented and adopted the government wide policies and procedures on drug-free workplaces at 2 CFR Part 182. HUD’s regulations at 2 CFR Part 2429 fully adopt OMB’s regulations at 2 CFR Part 182, except for the following four (4) sections where HUD provides supplemental regulations:

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<b>Section of Part 182 Guidance</b>	<b>Supplemented Section in Part 2429</b>	<b>What the Supplementation Clarifies</b>
2 CFR 182.225(a) (Subpart B)	2 CFR 2429.225	A recipient other than an individual who is required under 2 CFR 182.225(a) to notify Federal agencies about an employee's conviction for a criminal drug offense must notify each HUD office with which it currently has an award.
2 CFR 182.300(b) (Subpart C)	2 CFR 2429.300	A recipient who is an individual and is required fewer than 2 CFR 182.300(b) to notify Federal agencies about a conviction for a criminal drug offense must notify each HUD office with which he or she currently has an award.
2 CFR 182.500 (Subpart E)	2 CFR 2429.500	The Secretary or designee is the official authorized to make the determination under 2 CFR 182.500.
2 CFR 182.505 (Subpart E)	2 CFR 2429.505	The Secretary or designee is the official authorized to make the determination under 2 CFR 182.505.

## **II. APPLICABILITY**

The regulations at 2 CFR Part 182 and Part 2429 apply to federal agencies (including HUD) and recipients of federal awards (i.e. the State). The following subparts are contained in 2 CFR 182 and supplemented by 2 CFR 2429:

- Subpart A – Purpose and Coverage
- Subpart B – Requirements for Recipients Other Than Individuals (i.e. the State)
- Subpart C – Requirements for Recipients Who Are Individuals
- Subpart D – Responsibilities of Agency Awarding Officials (i.e. HUD)
- Subpart E – Violations of This Part and Consequences
- Subpart F – Definitions

As a recipient of a federal award, the State must comply with the regulations passed down by HUD and contained in 2 CRF Part 182 and Part 2429 Subparts A, B, and E.

## **III. IMPLEMENTATION PROCEDURES: COMPLYING WITH THE ACT**

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In order for the State to comply with Act and its implementing regulations, the State must:

- Make a good faith effort, on a continuing basis, to maintain a drug-free workplace, by:
  - Agreeing to do so as a condition for receiving any covered federal award;
  - Publishing a drug-free workplace statement and establishing a drug-free awareness program for the State's employees; and
  - Taking actions concerning employees who are convicted of violating drug statutes in the workplace.
- Identify all known workplaces covered by the State's federal award(s).

The policy statement and program must in place within 30 days after HUD awards the grant. If the State believes there are extraordinary circumstances that will require more than 30 days for the State to publish the policy statement and establish the awareness program, the State may ask HUD to grant the State more time to comply with the requirements. The amount of additional time, if any, to be given is at the discretion of HUD.

#### **IV. DRUG FREE WORKPLACE POLICY STATEMENT**

The State must publish a statement that:

- Informs the State's employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the State's workplace;
- Specifies the actions the State will take against employees for violating the prohibition; and
- Informs each employee that, as a condition of employment under any award, he or she:
  - Will abide by the terms of the statement; and
  - Must notify the State in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace and must do so no more than five calendar days after the conviction.



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This statement must be given to each employee who will be engaged in the performance of any Federal award. All employees are required to sign a form acknowledging that they have received and reviewed a copy of the policy. (See Acknowledgment Form at the end of this policy.)

#### **V. DRUG FREE AWARENESS PROGRAM**

The State must establish an ongoing drug free awareness program to inform employees about:

- The dangers of drug abuse in the workplace;
- The State's policy of maintaining a drug-free workplace;
- Any available drug counseling, rehabilitation, and employee assistance programs; and
- The penalties that the State may impose upon them for drug abuse violations occurring in the workplace.

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## **VI. EMPLOYEES CONVICTED OF A DRUG VIOLATION**

There are two actions the State must take if an employee is convicted of a drug violation in the workplace:

- The State must notify HUD if an employee who is engaged in the performance of an award informs the State about a conviction, or if the State otherwise learns of the conviction. The notification to HUD must:
  - Be in writing;
  - Include the employee's position title;
  - Include the identification number(s) of each affected award;
  - Be sent within ten calendar days after the State learns of the conviction; and
  - Be sent to every Federal agency on whose award the convicted employee was working. It must be sent to every awarding official or his or her official designee, unless the Federal agency has specified a central point for the receipt of the notices.
- Within 30 calendar days of learning about an employee's conviction, the State must:
  - Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended; or
  - Require the employee to participate satisfactorily in drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

## **VII. KNOWN WORKPLACES**

The State must identify all known workplaces under each agency award. A failure to do so is a violation of the State's drug-free workplace requirements. The State may identify the workplaces:

- To the agency official that is making the award, either at the time of application or upon award; or

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- In documents that the State keeps on file in your offices during the performance of the award, in which case you must make the information available for inspection upon request by agency officials or their designated representatives.

The workplace identification for an award must include the actual address of buildings (or parts of buildings) or other sites where work under the award takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, etc.).

If the State identified workplaces to the agency awarding official at the time of application or award, and any workplace that you identified changes during the performance of the award, the State must inform the agency awarding official.

## **VIII. VIOLATIONS**

The State can be found in violation of the requirements of 24 CFR Part 182 and Part 2429 if HUD determines, in writing, that:

- The State has violated the requirements of Subpart B (described in the Implementation Procedures above); or
- The number of convictions of the State's employees for violating criminal drug statutes in the workplace is large enough to indicate that the recipient has failed to make a good faith effort to provide a drug-free workplace.

If the State is determined to have violated 24 CFR Part 182 and Part 2429, HUD may take one or more of the following actions:

- Suspension of payments under the award;
- Suspension or termination of the award; and/or
- Suspension or debarment of the State under HUD's regulation implementing the OMB guidance on nonprocurement debarment and suspension (2 CFR part 180), for a period not to exceed five years.

HUD may waive with respect to a particular award, in writing, a suspension of payments under an award, suspension or termination of an award, or suspension or debarment of the State if HUD determines that such a waiver would be in the public interest.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**APPROVAL:**   
Stacy Bonaffons  
Assistant Commissioner

  
Howard McCoach  
Director, Sandy Recovery Division

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**PURPOSE:**

To outline the policies and procedures for the Department of Community Affairs to comply with the Administration Cap, Public Service Cap, Low-Income Targeting Requirements, and other related requirements in accordance with the HUD State CDBG Program (24 CFR 570, Subpart I) and the Hurricane Sandy HUD Notice (Federal Register FR-5696-N-01).

**POLICY:**

Congress amended the Housing and Community Development Act of 1974 (HCD Act) in 1981 to give each State the opportunity to administer CDBG funds for non-entitlement areas. Non-entitlement areas include those units of general local government which do not receive CDBG funds directly from HUD as part of the entitlement program (Entitlement Cities and Urban Counties). Regulations for the State CDBG Program are found at 24 CFR 570, Subpart I - State Community Development Block Grant Program.

In some cases certain CPD programs contain waivers and alternative requirements, relevant statutory provisions for grants provided under the Federal Notice issued for that program. In order to meet the requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) Program (Robert T. Stafford Disaster Relief and Emergency Assistance act of 1974 commonly referred to the "Stafford Act") as well as the Disaster Relief Appropriations Act of 2013 (78 FR 14329 – published March 5, 2013 and the clarifying guidance published on April 19, 2013) the following section has been added to describe any waivers or alternate requirements for this crosscutting element. Note that wherever a conflict occurs between the crosscutting requirements and the special requirements as noted in the Stafford Act and the Disaster Relief Appropriations Act of 2013, the latter shall take precedence.

**DISASTER RECOVERY WAIVERS OR ALTERNATE REQUIREMENTS:**

**Administration Cap**

**A. General Administration Cap.** The annual CDBG program administration requirements were modified to be consistent with the Hurricane Sandy Appropriations Act, which allows up to 5

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percent of the grant to be used for general administration costs, by the grantee, by UGLGs, or by subrecipients. Thus, the total of all costs charged to the grant and classified as general administration must be less than or equal to the 5 percent cap.

The provisions of 42 U.S.C. 5306(d) and 24 CFR 570.489(a)(1)(i), (ii), and (iii) do not apply to the extent that they cap general administration and technical assistance expenditures, limit a State's ability to charge a nominal application fee for grant applications for activities the State carries out directly, and require a dollar-for-dollar match of State funds for administrative costs exceeding \$100,000.

42 U.S.C. 5306(d)(5) and (6) are waived and replaced with the alternative requirement that the aggregate total for general administrative and technical assistance expenditures must not exceed 5 percent. States remain limited to spending a maximum of 20 percent of their total grant amount on a combination of planning and general administration costs. Planning costs subject to the 20 percent cap are those defined in 42 U.S.C. 5305(a)(12).

**B. Planning-Only Activities.** The annual State CDBG program requires that local government grant recipients for planning-only grants must document that the use of funds meets a national objective. In the State CDBG program, these planning grants are typically used for individual project plans. By contrast, planning activities carried out by entitlement communities are more likely to include non-project specific plans such as functional land-use plans, master plans, historic preservation plans, comprehensive plans, community recovery plans, development of housing codes, zoning ordinances, and neighborhood plans. These plans may guide long-term community development efforts comprising multiple activities funded by multiple sources. In the entitlement program, these general planning activities are presumed to meet a national objective under the requirements at 24 CFR 570.208(d)(4).

HUD noted that effective CDBG disaster recoveries have relied on some form of area-wide or comprehensive planning activity to guide overall redevelopment independent of the ultimate source of implementation funds. Therefore, the eligibility requirements at 24 CFR 570.483(b)(5) or (c)(3) were removed. Instead, States must comply with 570.208(d)(4) when funding disaster recovery-assisted planning-only grants, or directly administering planning activities that guide recovery in accordance with the Hurricane Sandy Appropriations Act. In addition, the types of planning activities that States may fund or administer are expanded to be consistent with those of entitlement communities identified at 24 CFR 570.205.

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### **Low-Income Targeting and National Objectives**

**A. Overall benefit waiver and alternative requirement.** The primary objective of the HCD Act is the “development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income” 42 U.S.C. 5301(c). To carry out this objective, the statute requires that 70 percent of the aggregate of a regular CDBG program’s funds be used to support activities benefitting low- and moderate-income persons. This target could be difficult to reach, and perhaps even impossible, for many grantees affected by Superstorm Sandy. The State of New Jersey experienced disaster impacts that affected entire communities—regardless of income, and the existing requirement may prevent the State from providing assistance to damaged areas of need. Therefore, the requirements at 42 U.S.C. 5301(c), 42 U.S.C. 5304(b)(3)(A), 24 CFR 570.484, and 570.200(a)(3), that 70 percent of funds be used for activities that benefit low- and moderate-income persons, were waived. Instead, 50 percent of funds must benefit low- and moderate-income persons. This provides the State with greater flexibility to carry out recovery activities by allowing up to 50 percent of the grant to assist activities under the urgent need or prevention or elimination of slums or blight national objectives.

The State may seek to reduce the overall benefit requirement below 50 percent of the total grant, but must submit a justification that, at a minimum: (a) Identifies the planned activities that meet the needs of its low and moderate-income population; (b) describes proposed activity(ies) and/or program(s) that will be affected by the alternative requirement, including their proposed location(s) and role(s) in the grantee’s long-term disaster recovery plan; (c) describes how the activities/ programs identified in (b) prevent the grantee from meeting the 50 percent requirement; and (d) demonstrates that the needs of non-low and moderate-income persons or areas are disproportionately greater, and that the jurisdiction lacks other resources to serve them. Upon request, a sample justification can be provided by HUD. Note that the 50 percent overall benefit requirement will not be reduced unless the Secretary specifically finds that there is a compelling need to further reduce the threshold.

**B. Use of the urgent need national objective.** The certification requirements for the documentation of urgent need, located at 24 CFR 570.208(c) and 24 CFR 570.483(d), are waived until two years after the date HUD obligates funds to a grantee for the activity. In the context of disaster recovery, these standard requirements may prove burdensome and redundant. Since

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HUD only provides CDBG-DR awards to grantees with documented disaster related impacts (as supported by data provided by FEMA, SBA, and other sources), and each grantee is limited to spending funds only in counties with a Presidential disaster declaration of recent origin respective to each appropriation, the following temporary, streamlined alternative requirement recognizes the inherent urgency in addressing the serious threat to community welfare following a major disaster.

The State is not required to issue formal certification statements to qualify an activity as meeting the urgent need national objective. Instead, the State must document how all programs and/or activities funded under the urgent need national objective respond to a disaster-related impact identified by the State. This waiver and alternative requirement allows the State to more effectively and quickly implement disaster recovery programs. The State must reference in the Action Plan the type, scale, and location of the disaster-related impacts that each program and/or activity is addressing. The State must identify these disaster related impacts in their Action Plan needs assessment. The needs assessment must be updated as new or more detailed/accurate disaster-related impacts are known.

### **Other Related Requirements**

**A. Most Impacted and Distressed Counties.** Federal Register (FR-5696-N-01) requires the State to expend at least 80% of its allocation in the most impacted and distressed counties. For New Jersey, HUD identified those counties to be Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean and Union Counties.

**B. Duplication of benefits.** Section 312 of the Stafford Act, as amended, generally prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which he has received financial assistance under any other program or from insurance or any other source. To comply with this law and provisions of the Hurricane Sandy Appropriations Act, the State must ensure that each activity provides assistance to a person or entity only to the extent that the person or entity has a disaster recovery need that has not been fully met. Given the often complex nature of this issue, HUD has published a separate Notice explaining the duplication of benefit requirements applicable to CDBG-DR grantees, which can be found at 76 FR 71060 (published November 16, 2011). The State is thereby subject to this notice.

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**C. Waiver and alternative requirement for distribution to CDBG metropolitan cities and urban counties.** Section 5302(a)(7) of title 42, U.S.C. (definition of “non-entitlement area”) and provisions of 24 CFR part 570 that would prohibit or restrict a State from distributing CDBG funds to entitlement communities and Indian tribes under the CDBG program, are waived, including 24 CFR 570.480(a) and 570.486(c) (revised April 23, 2012). Instead, the State may distribute funds to UGLGs and Indian tribes.

**D. Use of subrecipients.** The State CDBG program rule does not make specific provision for the treatment of entities that the CDBG Entitlement program calls “subrecipients.” The waiver allowing the State to directly carry out activities creates a situation in which the State may use subrecipients to carry out activities in a manner similar to an entitlement community. Therefore, for States taking advantage of the waiver to carry out activities directly, the requirements at 24 CFR 570.502, 570.503, and 570.500(c) apply, except the requirements that specific references to 24 CFR parts 84 and 85 must be included in subrecipient agreements. Pursuant to 24 CFR 570.489(n) (revised April 23, 2012) and 570.502, State grantees must ensure that its costs and those of its state recipients and subrecipients are in conformance with 2 CFR part 225 (OMB Circular A–87), whether carrying out activities directly or through the use of a subrecipient.



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**APPROVAL:**   
Stacy Bonaffons  
Assistant Commissioner

  
Howard McCoach  
Director, Sandy Recovery Division

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**PURPOSE:**

To outline the policies and procedures for the Department of Community Affairs to document compliance with a range of Fair Housing and Equal Opportunity (FHEO) requirements, including but not limited to:

- Affirmative steps to promote fair and equal access to housing;
- The affordance of equal opportunities to all persons;
- The prohibition against persons being excluded or denied program benefits on the basis of race, color, religion, sex, national origin, age or disability;
- The inclusion of and outreach to minority and female-owned businesses; and
- Section 3 resident and business employment, training, and contracting opportunities.

**POLICY:**

The HUD Office of Fair Housing and Equal Opportunity (FHEO) administers federal laws and establishes national policies that make sure all persons have equal access to the housing of their choice. In general, no person shall on the grounds of race, color, national origin, religion or sex be excluded, denied benefits or subjected to discrimination under any program funded in whole or in part by HUD funds. During program design and project implementation, the grantee must take measures to ensure non-discriminatory treatment, outreach and access to program resources.

In some cases certain CPD programs contain waivers and alternative requirements, relevant statutory provisions for grants provided under the Federal Notice issued for that program. In order to meet the requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) Program (Robert T. Stafford Disaster Relief and Emergency Assistance act of 1974 commonly referred to the “Stafford Act”) as well as the Disaster Relief Appropriations Act of 2013 (78 FR 14329 – published March 5, 2013 and the clarifying guidance published on April 19, 2013) the following section has been added to describe any waivers or alternate requirements

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for this crosscutting element.

Note that wherever a conflict occurs between the crosscutting requirements and the special requirements as noted in the Stafford Act and the Disaster Relief Appropriations Act of 2013, the latter shall take precedence.

**DISASTER RECOVERY WAIVERS OR ALTERNATE REQUIREMENTS:**

None.

**I. APPLICABLE LAWS AND REQUIREMENTS**

The following list of federal laws and executive orders apply to all CDBG-DR funded contracts. Copies of these laws and their implementing regulations can be found online at <http://www.hudclips.org>. Some requirements, such as Section 3 and Section 504 requirements, are covered in other Chapters.

**II. EQUAL OPPORTUNITY**

**A. Title VI of the Civil Rights Act of 1964, as Amended (42 U.S.C. 2000d)** - This Act states that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, or national origin. Regulation citation: 24 CFR Part 1.

**B. Title VIII of the Civil Rights Act Of 1968, as Amended** - This Act prohibits discrimination in the sale or rental of units in the private housing market against any person on the basis of race, color, religion, sex, national origin, familial status or handicap. Regulation citation: 24 CFR Parts: 105,108,109,110 and 115; Part 200 subpart M.

**C. Section 109 of the Housing And Urban Development Act of 1974, as Amended** - This Act requires that no person be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity funded under the CDBG Program on the basis of race, color, age, disability, religion, national origin or sex. Regulation citation: 24 CFR 570.602.

**D. Age Discrimination Act of 1975, as Amended** - This Act states that programs receiving federal assistance may not discriminate on the basis of age, unless an age distinction is necessary to accomplish the objective of the program. Regulation citation: 45 CFR Part 91. Section 504 of the Rehabilitation Act of 1973, as Amended: This Act states that no otherwise qualified

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individual may be excluded, solely because of his/her handicap, from participation in, the benefits of, or subject to discrimination under any program or activity receiving federal financial assistance. Regulation citation: 24 CFR Part 8. Section 104 of the Housing and Community Development Act of 1974, as Amended.

### **III. HANDICAPPED ACCESSIBILITY**

**A. Section 504 of the Rehabilitation Act of 1973, as Amended** - This Act states that no otherwise qualified individual may be excluded, solely because of his/her handicap, from participation in, the benefits of, or subject to discrimination under any program or activity receiving federal financial assistance. Regulation citation: 24 CFR Part 8.

**B. Architectural Barriers Act of 1968, as Amended (42 U.S.C. 4151-4157)** - This Act requires that certain federally funded buildings or facilities be designed, constructed or altered to ensure accessibility to, and use by, physically handicapped persons. Buildings or facilities allocated or reallocated GLO-DR funds after December 11, 1995, that meet the definition of “residential structure” (as defined in 24 CFR 40.2) or the definition of “building” [as defined in 41 CFR 101-19.602(a)] are subject to the Architectural Barriers Act and must comply with the Uniform Federal Accessibility Standards. Regulation citation: Appendix A to 24 CFR Part 40 for “residential structures” and Appendix A to 41 CFR Part 101-19 for “general buildings”.

**C. Americans with Disabilities Act (“ADA”)** - This Act provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. The ADA also states that discrimination includes the failure to design and construct facilities (built for first occupancy after January 26, 1993) that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable and able to be carried out without much difficulty or expense. Regulation citation: 42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225. Title II of the ADA, 28 CFR 35 102-104, extends the prohibitions of discrimination on the basis of disability established by Section 504 of the Rehabilitation Act of 1973 to include all activities of state and local governments whether or not they receive federal funds.

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#### **IV. EMPLOYMENT AND CONTRACTING**

**A. Equal Employment Opportunity, Executive Order 11246, as Amended** - This Executive Order prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin. Provisions to effectuate this prohibition must be included in all construction contracts exceeding \$10,000. Regulation citation: 41 CFR Part 60.

**B. Section 3 of the Housing and Urban Development Act of 1968, as Amended** - This Section provides for training and employment opportunities, to the extent possible, to lower-income residents of the project area and to provide contracts associated with CDBG-DR funded projects to businesses located in the project area or to businesses owned, in substantial part, by residents of the project area. Regulation citation: 24 CFR Part 135.

**C. Section 109 of the Housing And Urban Development Act of 1974, as Amended** - This Act requires that no person be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity funded under the CDBG-DR programs on the basis of race, color, age, disability, religion, national origin or sex. Regulation citation: 24 CFR 570.602.

**D. Section 504 of the Rehabilitation Act of 1973, as Amended** - This Act states that no otherwise qualified individual may be excluded, solely because of his/her handicap, from participation in, the benefits of, or subject to discrimination under any program or activity receiving federal financial assistance. Regulation citation: 24 CFR Part 8.

#### **V. EXCESSIVE FORCE**

**A. 24 CFR Part 91, Section 225 (b) 5** - The Consolidated Plan for Community Planning and Development Programs require that in order for a state or local government to receive CDBG-DR funds, it must certify that it has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations<sup>1</sup>. In addition, and in the case where there is no local police department, the local government also must certify that it has adopted and is enforcing a policy against physically barring entrance to or exit from, a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.

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<sup>1</sup> New Jersey State Police Policy in place.

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## **VI. FAIR HOUSING**

**A. The Fair Housing Act (42 U.S.C. 3601-3620)** - This Act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. Furthermore, Section 104(b)(2) of the Act requires that each recipient certify that it is affirmatively furthering fair housing. Regulation citation: 24 CFR Part 100-115.

**B. Equal Opportunity in Housing (Executive Order 11063, as Amended by Executive Order 12259)** - This Act prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with federal funds. Additionally, it provides the Secretary of HUD with the leadership role in the administration of all federal programs and activities relating to housing and urban development in order to further fair housing throughout the United States. Regulation Citation: 24 CFR Part 107.

**C. Section 104 of the Housing and Community Development Act of 1974, as Amended.**

## **VII. DISPLACEMENT / RELOCATION**

**A. Title VI of the Civil Rights Act of 1964, as Amended (42 U.S.C. 2000d)** - This Act states that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, or national origin. Regulation citation: 24 CFR Part 1. Section 109 of the Housing And Urban Development Act of 1974, as Amended: This Act requires that no person be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity funded under the CDBG-DR program on the basis of race, color, age, disability, religion, national origin or sex. Regulation citation: 24 CFR 570.602. Title VIII of The Civil Rights Act Of 1968, as Amended: This Act prohibits discrimination in the sale or rental of units in the private housing market against any person on the basis of race, color, religion, sex, national origin, familial status or handicap. Regulation citation: 24 CFR Parts: 105, 108, 109, 110 and 115; Part 200 Subpart M. Section 104 of the Housing and Community Development Act of 1974, as Amended.

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## **VIII. STATE OF NEW JERSEY CIVIL RIGHTS REQUIREMENTS - OVERVIEW**

This section of the Handbook provides information regarding the civil rights requirements of the CDBG-DR. Compliance with these requirements is the Grantee's responsibility. Your program representative can assist you in this task and will review your files to determine if compliance is documented satisfactorily.

The [checklists](#) found at the end of this section will be used by the Program Representative when monitoring your project files. Please use the appropriate checklists as a guide in setting up your files and in maintaining the information necessary to document compliance.

Included in this section are instructions for completing the [Statement of Actions to Affirmatively Further Fair Housing](#). Each grantee must submit this Statement for the Department's approval before any funds can be disbursed.

Also included in this section are instructions for complying with requirements to include minority and women's business enterprises in the contract bidding process, [equal employment opportunity requirements](#), [equal employment requirements](#), and general standards for [record keeping](#).

Please contact your program representative if you have any questions.

## **IX. FAIR HOUSING REQUIREMENTS - STATEMENT OF ACTIONS**

Before CDBG-DR funds may be disbursed, each grantee must obtain the Department's approval of its Statement of Actions to Affirmatively Further Fair Housing. The purpose of the statement is to identify actions the grantee has taken and will take to assure ongoing compliance with State and federal fair housing laws. The requirements regarding this statement are found in federal regulations (24 C.F.R. Part 570.904).

For information concerning federal and New Jersey State fair housing laws, and how to file a housing discrimination complaint with either federal or State enforcement agencies, the Department of Community Affairs Fair Housing web site should be consulted at:

<http://www.state.nj.us/dca/dhcr/fairhousing>

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**A. Actions to Affirmatively Further Fair Housing:** The following list of actions, some required and some suggested, are presented to assist with preparing an acceptable Statement of Actions to Affirmatively Further Fair Housing for entities receiving funding from CDBG-DR for housing programs.

**Please note that the first four actions are required:**

- *(Required)* Adopt a Statement of Actions to Affirmatively Further Fair Housing and Appoint a Fair Housing Officer as relevant to the funded program. The appointed officer must be a resident of the community to be served. ([See sample resolution](#))
- *(Required)* Contact the HUD Regional Office of Housing and Equal Employment and the N.J. Division on Civil Rights and request Fair Housing information. (See attached form letters to [HUD](#) and [NJ Division on Civil Rights](#) and/or obtain information through the [Department's fair housing web site](#).)
- *(Required)* Implement a local fair housing counseling program including a referral service to appropriate State and federal enforcement agencies for enforcement of fair housing laws.
- *(Required)* Include a statement regarding its affirmative marketing policy and procedures in all media releases and reports informing the public about the program.
  - ☐ Include a description of applicable fair housing laws in the information provided to the homeowners and renters.
  - ☐ Include the Equal Housing Opportunity logo, slogan or statement in all newspaper and other media announcements regarding the program.
  - ☐ Discuss its affirmative marketing policy and procedures and the fair housing laws directly with the homeowners and renters.

The State will require all grantees to solicit applications from persons not likely to apply for housing without special outreach. Outreach efforts will include notifying the following groups about available housing units: community-based organizations, churches, public housing authorities, employment centers, fair

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housing groups and housing counseling agencies.<sup>2</sup>

- Develop and implement a public information campaign including publicizing the grantee's counseling and referral services, collection and distribution of fair housing literature to relevant organizations and individuals in the community, and/or performing other public relations activities designed to inform the community about this issue.
- Organize a fair housing committee to oversee the fair housing program and to advise the community's housing and community development programs.
- Participate in voluntary partnerships with public and private organizations, locally and/or regionally, to promote fair housing choice and affirmative marketing plans.
- Design and perform other actions to promote fair housing. Be creative. Display Equal Housing posters at the site office and common areas, and the logo on all marketing literature.

## **X. MINORITY & WOMEN'S BUSINESS ENTERPRISE REQUIREMENTS**

CDBG-DR Grantees and subrecipients are required to take all necessary steps to assure that minority owned firms and women's business enterprises are used to perform CDBG funded activities whenever possible. Executive Orders 11625, 12432, 12138 and regulations contained in 24 CFR 85.36(e) mandate that such affirmative efforts be made.

### **A. Required Affirmative Contracting Efforts**

- Placing qualified minority and women owned business enterprises on a solicitation list for CDBG-DR contracts;
- Assuring that these firms are solicited whenever they are potential sources;
- Dividing total requirements, whenever feasible, into smaller units, to encourage participation of minority and women owned firms;
- Establishing delivery schedules, whenever possible, that encourage minority and women owned businesses to participate;

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<sup>2</sup> Pursuant to State of New Jersey Consolidated Plan, 2010-2014.



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- Requiring the prime contractor, if sub-contracts are to be let, to take the affirmative steps listed here.

## **XI. EQUAL OPPORTUNITY REQUIREMENTS**

CDBG-DR grantees are required to administer CDBG-DR funded activities in conformance with the civil rights provisions of the Community Development Act of 1974 (Section 106). This law mandates equal opportunity in accordance with the Civil Rights Law of 1964, the Age Discrimination Act of 1974, Section 504 of the Rehabilitation Act of 1974, and the Americans with Disabilities Act of 1990. These statutes provide that no person may be denied participation in, or be denied the benefits of, or be subjected to discrimination under any federally funded program or activity. Specifically, discrimination is prohibited on the basis of race, color, national origin, sex, age, and/or disability.

**A. Direct Benefit Activity** - All CDBG-DR grantees are required to maintain data on the extent to which persons have participated or benefited from any program or activity funded in whole or in part with CDBG funds. Records must be kept indicating race, ethnicity, disability status, and gender of all heads of household. A form, entitled “Beneficiaries of Program” ([FR-1](#)), has been included in this section for use in collecting this information.

**B. Area-Wide Activities** - Data on the characteristics of those benefiting from an improvement or service that has an area-wide impact should be reported on the “Beneficiaries of Program” form ([FR-1](#)). The easiest way to meet this requirement is to attach appropriate information from the grant application to “Beneficiaries of Program” form.

**C. Relocation** - If CDBG-DR activities result in the dislocation and relocation of households, data must be collected as to the race, ethnicity, and disability status of those affected. If displacement of businesses occurs due to CDBG-DR activity, data indicating the impact on minority and woman owned businesses must be collected.

**D. Prior Discrimination** - If the CDBG-DR recipient has been determined through a formal compliance review or court proceedings to have previously discriminated, the recipient must document the affirmative actions the jurisdiction has taken to overcome the effects of past discrimination.

## **XII. EQUAL EMPLOYMENT REQUIREMENTS**

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CDBG-DR grantees, subrecipients and contractors are required to comply with Federal Executive Orders which mandate that "no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of federal or federally assisted construction contracts." Further, contractors and subcontractors are required to "take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship." (Executive Orders 11246 and 12086).

- A. Compile and update as necessary equal employment data as described in the record keeping section of this chapter on the "Equal Employment Opportunity Grantee Employee Characteristics" form ([FR-2](#)) provided on the following page or, for municipal and county governments with 50 or more employees, you may substitute the Equal Employment Opportunity Commission's EEO-4 form.
- B. If the grantee intends to hire staff to carry out CDBG-DR funded activities, equal opportunity guidelines must be used in advertising and hiring. Documentation of this must include personnel and hiring guidelines consistent with federal equal opportunity employment law and regulations.
- C. All Grantees must display the blue and white Equal Employment Opportunity poster prominently within the office used in administering your program and at appropriate work sites. Posters in English (and many other languages) may be ordered from the Equal Employment Opportunity Commission (EEOC) web site:  
<http://www.eeoc.gov/publications.html>

### **XIII.RECORD KEEPING REQUIREMENTS**

The following items should be kept in the Grantee's Civil Rights File:

#### **A. Fair Housing**

- A copy of the [Fair Housing Resolution](#) adopted by the Grantee's ruling body.
- Copies of internet requests or letters written to the [N.J. Department of Law and Public Safety](#) and the [U.S. Department of Housing and Urban Development](#) requesting fair housing information and copies of fair housing materials received.

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- A copy of the [Public Notice](#) (with proof of publication) announcing the Fair Housing Program.
- Supporting documentation of any other actions taken regarding fair housing. Such documentation may include records on funds provided, if any, for such actions; list of places where notices were posted; list of places where fair housing literature was distributed; written discrimination complaint procedures; and minutes of fair housing meetings.

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## **B. Minority and Women's Business Enterprise**

- Documentation of all efforts made to inform and contract with minority and women-owned businesses. (e.g., copy of advertisements, list of minority and women's business enterprises contacted.)

## **C. Equal Employment**

- Employment data indicating the racial/ethnic characteristics and sex of the Grantee's employees. The data may be reported on the "Equal Employment Opportunity Grantee Employee Characteristics" [\(FR-2\)](#) form provided or on the Equal Opportunity Commission's EEO-4 form. The data should be compiled at the beginning of the grant period and updated during the term of the agreement as necessary.
- If the Grantee hires staff to implement the CDBG-DR program, written personnel policies, advertisements, and other documentation consistent with equal opportunity employment law and regulations must be on file.

## **D. Equal Opportunity**

- FOR DIRECT BENEFIT ACTIVITIES - Data documenting the extent to which persons participated in or benefited from any program or activity funded in whole or in part with CDBG-DR funds. Records must be kept by race, ethnicity, disability status and gender of heads of household (Use the "Beneficiaries of Program" [\(FR-1\)](#) form provided).
- FOR AREA-WIDE ACTIVITIES - Data on the characteristics of those benefiting from CDBG-DR funded activities (Use the "Beneficiaries of Program" [\(FR-1\)](#) form provided and attachments from the grant application.
- Data indicating the race and ethnicity of households, and disability status of persons displaced as a result of CDBG-DR activities, including the address to which each displaced household relocated. Where activities cause a significant level of displacement of businesses, data indicating the impact on businesses owned by women and minorities must also be provided.

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- Documentation of the affirmative actions the municipality/county has taken to overcome the effects of prior discrimination as determined through a formal compliance review or court proceedings (if applicable).

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**EXHIBIT 1**

***FAIR HOUSING - STATEMENT OF ACTIONS***  
**SAMPLE RESOLUTION**

**WHEREAS**, (Name of Grantee) has entered into a grant agreement #\_\_\_\_\_ with the New Jersey Department of Community Affairs (hereafter NJDCA) for (describe activity) within (target area, neighborhood, location etc.); and

**WHEREAS**, (Name of Grantee) must make efforts to affirmatively further fair and maintain an Affirmative Fair Housing Marketing Plan; and

**WHEREAS**, (Name of Grantee) has reviewed various actions that would be acceptable to the NJDCA and the U.S. Department of Housing and Urban Development (hereafter HUD) and

**WHEREAS**, (Name of Grantee) has made assurances that:

- (1) It will comply with the Housing and Community Development Act of 1974, as amended, and regulations issued thereto; and
- (2) It will comply with the Civil Rights Act of 1964, and the regulations issued thereto it; and
- (3) It will comply with the Fair Housing Act of 1968 and will affirmatively further fair housing; and
- (4) It will comply with the Age Discrimination Act of 1975 and with the Rehabilitation Act of 1973.

**NOW, THEREFORE, BE IT RESOLVED** that, (Name and title of designate) shall be designated as the Fair Housing Officer for (Name of Grantee); and

**BE IT FURTHER RESOLVED** that the Fair Housing Officer shall contact the HUD Regional Office of Housing and Equal Opportunity and the NJ Division on Civil Rights, inform those agencies of his/her appointment as Fair Housing Officer and request Fair Housing Information; and

**BE IT FURTHER RESOLVED** that the Fair Housing Officer shall provide fair housing

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advisory services and assistance and referral advice to persons requesting such assistance from (Name of Applicant); and

**BE IT FURTHER RESOLVED** that (Name of Grantee) will publish in the local newspaper of record and post at the municipal hall (or county administration building) a public notice announcing the appointment of the Fair Housing Officer and the availability of local fair housing advisory services.

ATTEST:

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(Municipal or County Clerk)

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**EXHIBIT 2**

(Sample Letter Requesting Information)

(Address of Sender)

(Date)

U.S. Department of Housing &  
Urban Development  
Fair Housing & Equal Opportunity Division  
New Jersey State Office  
One Newark Center  
Newark, New Jersey 07102

Dear Sir or Madam:

I have been appointed Fair Housing Officer by (Name of Municipality/County). My responsibilities in this position include counseling individuals with fair housing questions and/or problems and publicizing fair housing laws and remedies to the public.

I would appreciate any information you may have regarding fair housing including pamphlets, newsletters, conference and training workshop schedules to use in our program. I would also like to request information on referring complainants and how your complaint process operates. Thank you for your cooperation in helping us implement an effective fair housing program.

Sincerely,

Fair Housing Officer



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**EXHIBIT 3**

(Sample Letter Requesting Information)

(Address of Sender)

(Date)

N.J. Department of Law and Public Safety  
Division on Civil Rights  
See list of Regional Satellite Offices on the Internet at:  
<http://www.state.nj.us/dca/dhcr/fairhousing>

Dear Sir or Madam:

I have been appointed Fair Housing Officer by (Name of Municipality/County). My responsibilities in this position include counseling individuals with fair housing questions and/or problems and publicizing fair housing laws and remedies to the public.

I would appreciate any information you may have regarding fair housing including pamphlets, newsletters, conference and training workshop schedules to use in our program. I would also like to request information on referring complainants and how your complaint process operates. Thank you for your cooperation in helping us implement an effective fair housing program.

Sincerely,

Fair Housing Officer

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**EXHIBIT 4**

(Sample Notice for Publication and Posting)

**Notice to Residents of (Name of Municipality/County)**

**Fair Housing Program**

The (Name of Municipality/County) fully endorses state and federal law regarding housing discrimination and actively promotes full access to housing opportunity, both rental and ownership, regardless of race, creed, color, religion, national origin, disability and/or familial status.

In order to affirmatively further fair housing, the (Name of Municipality/County) has established a Fair Housing Program and appointed a Fair Housing Officer. Any person desiring information concerning fair housing or persons who believe they have been discriminated against in any housing related matter may contact the program for counseling and referral to State and federal enforcement agencies.

The Fair Housing Program may be contacted at the following address:

(Name, address and phone number of program)

(Name of Fair Housing Officer)

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**EXHIBIT 5**

**CDBG-DR Program  
Civil Rights Monitoring Checklist**

Grantee: \_\_\_\_\_ Grant #: \_\_\_\_\_

Names and titles of staff interviewed:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
CDBG-DR Monitor

\_\_\_\_\_  
Date

**Fair Housing – Part A**

1. Copy of "Fair Housing – Statement of Actions Resolution on file?
  - a. Are Equal Opportunity Housing posters displayed at site office and common areas? \_\_YES \_\_NO
  - b. Does Grantee have a HUD required Tenant Selection Plan? \_\_YES \_\_NO
  - c. Who was appointed Fair Housing Officer? \_\_\_\_\_
2. Evidence that grantee has contacted and obtained fair housing information from HUD and NJ Division of Civil Rights? \_\_YES \_\_NO
3. Copy of public notice of Fair Housing Program and Affirmative Fair Housing Marketing Plan on file including proof of publication and copies of all marketing literature? \_\_YES \_\_NO
4. Did Fair Housing Office Receive any complaints? \_\_YES \_\_NO  
(If yes, describe how complaint(s) were handled/final disposition.)

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5. Other evidence of fair housing actions on file? ☐ YES ☐ NO  
(If yes, List the specific evidence in the file)

**Grantee Employment – Part B**

1. Does the grantee maintain an equal opportunity information file? ☐ YES ☐ NO
2. Does the grantee maintain required employment data?  
(EEO-4 or FR-2) ☐ YES ☐ NO
3. Was staff hired to carry out the CDBG Program? ☐ YES ☐ NO
- a. If Yes, were equal opportunity guidelines used in advertising? ☐ YES ☐ NO
- b. If Yes, were written employment & personnel guidelines available? ☐ YES ☐ NO
4. Have any equal opportunity complaints been filed against the Grantee? ☐ YES ☐ NO
5. Is there a blue & white EEO poster displayed in the grantee's building? ☐ YES ☐ NO
6. Did any of the employment data indicate possible deficiencies  
in providing employment opportunities to anyone? ☐ YES ☐ NO  
(Describe any complaints received and their disposition as of this review.)

**Minority Contracting Efforts – Part C**

Describe efforts made to include minority contractors in the bidding process for all CDBG funded activities (e.g. list of minority contractors used, advertisements, publications advertised in, etc.)

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**Housing Rehabilitation - Part D**

1. Does the file include an FR-1 (CDBG-DR Beneficiaries)? ☐ YES ☐ NO
2. Does the file include a written description of the project area including demographics of the residents? ☐ YES ☐ NO
3. Does the above information suggest any possible deficiencies in providing services to any group? ☐ YES ☐ NO

(Describe any possible deficiencies below)

4. Does the grantee have valid reasons for the deficiencies noted? ☐ YES ☐ NO

(Describe below)

**Economic Development – Part E**

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This checklist must be filled out for each company that received funds or which agreed to generate new employment as a consequence of Small Cities assisted activity.

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| 1. Does the company maintain a file containing equal opportunity information?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 2. Does the company have written employment and personnel policies & practices with equal opportunity guidelines available for review? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 3. Does the company have equal opportunity guidelines which it follows in advertising vacancies?                                       | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 4. Do employment records provide sufficiently detailed data to allow assessment of the company's workforce?                            | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Were employment records available?   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Is employment data sufficient to assess the composition of the work force:   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| * Sex?   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| * Race?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| * Disability status?   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| * National Origin?   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Is employment and salary data sufficiently detailed to assess practices regarding hiring, training, promotion & compensation?          | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Does any of the employment data indicate possible deficiencies in providing employment opportunities to any group?                     | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Have any equal employment opportunity complaints been filed against the company?   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

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Does the company maintain data on the number & characteristics (e.g. race, sex, income) of new employees?

☐ YES

☐ NO

For each negative comment indicated above, specify corrective action(s) the grantee must take to resolve any findings and indicate follow-up actions to be taken by the Program Representative and/or the Administrator.

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**EXHIBIT 6**

**FR-1**

**CDBG-DR BENEFICIARIES**

**Name of Grantee:**

**Grant Number:**

<b>Name of Beneficiary</b>	<b>Ethnicity</b> (See Below)	<b>Race</b> (See Below)	<b>Gender</b> (M or F)	<b>Elderly</b> (62 & Older)	<b>Disabled</b> (Yes or No)

**Ethnicity:** Hispanic or Latino, Not Hispanic or Latino (Select Only *One*)

**Race:** American Indian or Alaska Native, Asian, Black or African

American, Native Hawaiian or Other Pacific Islander, White (select *one or more*)

**Attach additional sheets as needed.**



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**EXHIBIT 7**  
**FR-2**  
**Equal Employment Opportunity Employee Characteristics**

**Grantee:**

**Grant Number:**

		Male					Female				
JOB CATEGORY	Total Employee	White	Black	Hispanic	American Indian	Disabled	White	Black	Hispanic	American Indian	Disabled
Admin/Officials											
Professionals											
Technicians											
Para- Professionals											
Office/Clerical											
Police Dept.											
Water/Sewer Dept.											
Road Dept.											
Other:											

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**APPROVAL**



Stacy Bonaffons  
Assistant Commissioner



Howard McCoach  
Director, Sandy Recovery Division

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**PURPOSE:**

To outline the policies and procedures for the Department of Community Affairs to comply with Recordkeeping and File Management requirements in accordance with the HUD State CDBG Program (24 CFR 570, Subpart I) and the Federal Register Notice FR-5696-N-01).

**POLICY:**

HUD State CDBG Program Recordkeeping requirements can be found at 24 CFR 570.490. In addition, record keeping requirements are found in nearly every aspect of CDBG program implementation as it is necessary to document compliance with a variety of applicable laws and requirements including meeting a national objective, financial management, and the environmental review processes, to name a few.

In the State of New Jersey, the Destruction of Public Records Act (1953) created the State Records Committee and gave it the final authority involving public records. The State Records Committee consists of representatives of the State Attorney General, State Auditor, State Treasurer, Director of Local Government Services, and the Director of the Division of Archives and Records Management (DARM).

Effective July 1, 2012, the records management, records storage, imaging and micrographic functions of the Division of Archives and Records Management have been transferred to the Division of Revenue and Enterprise Services (DRES) in the Department of the Treasury. The New Jersey State Archives will remain in the Department of State.

In some cases, certain CPD programs contain waivers and alternative requirements and relevant statutory provisions for grants provided under the Federal Notice issued for that program. In order to meet the requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) Program (Robert T. Stafford Disaster Relief and Emergency Assistance act of 1974 commonly referred to the “Stafford Act”) as well as the Disaster Relief Appropriations Act of 2013 (78 FR 14329 – published March 5, 2013 and the clarifying guidance published on April 19, 2013) the following section has been added to describe any waivers or alternative requirements for this crosscutting element. Note that wherever a conflict occurs between the

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crosscutting requirements and the special requirements as noted in the Stafford Act and the Disaster Relief Appropriations Act of 2013, the latter shall take precedence.

**DISASTER RECOVERY WAIVERS OR ALTERNATE REQUIREMENTS:**

**A. Recordkeeping.** When the State carries out activities directly, 24 CFR 570.490(b) is waived and the following alternative provision will apply: the State shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the State's administration of CDBG-DR funds under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other Federal requirements, the content of records maintained by the State will be sufficient to: enable HUD to make the applicable determinations described at 24 CFR 570.493; make compliance determinations for activities carried out directly by the State; and show how activities funded are consistent with the descriptions of activities proposed for funding in the Action Plan and/or DRGR system. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.

**I. RECORDKEEPING OVERVIEW**

Accurate recordkeeping will be essential to the successful management of CDBG-DR funded activities. Insufficient documentation is likely to lead to monitoring findings, and these findings will be more difficult to resolve if records are missing, inadequate or inaccurate. To assess strengths and weaknesses in this area, the State will ensure that:

- There is a clearly defined process for acquiring, organizing, storing, retrieving, and reporting information for all CDBG-DR funded activities;
- Documentation and reporting systems will meet HUD requirements;
- All staff responsible for recordkeeping and reporting are properly trained and supported;
- The requirement for the removal of duplicative records to streamline the recordkeeping and reporting process is incorporated into all standardized procedures; and
- To the extent feasible, records and reports will be automated (i.e., computerized) to make recordkeeping processes more efficient and easily retrievable.

The State is required to keep records for the CDBG-DR program documenting their compliance

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and that of their funded entities, including subrecipients, contractors/subcontractors, recipient and units of local government. However, HUD is charged with negotiating the recordkeeping requirements with the State, therefore the following records will maintained for the CDBG-DR program:

1. General Administrative Recordkeeping
2. Financial Recordkeeping
3. Project/Activity Recordkeeping

## **II. GENERAL ADMINISTRATIVE RECORDKEEPING**

The State will maintain files and records that relate to the overall administration of the CDBG-DR program. These records include the following:

- Disaster Recovery (DR) Action Plan submission to HUD, which includes the application, program descriptions, certifications, and any amendments to the DR Action Plan etc.;
- Executed grant agreement or memorandum of understanding;
- Description, geographic location, and budget of each funded activity;
- Eligibility and national objective determinations for each activity;
- Personnel files;
- Property management files;
- HUD monitoring correspondence;
- Citizen participation compliance documentation;
- Fair Housing and Equal Opportunity records;
- Environmental review records; and
- Documentation of compliance with other Federal requirements, including but not limited to: Davis-Bacon Prevailing Wage requirements; Uniform Relocation Act, Section 3, and

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Lead-Based Paint; Employment/Economic Opportunity for Lower Income Persons (Section 3); Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act; and Employment and Contracting (Minority and Women's Business Enterprise).

### **III. FINANCIAL RECORDKEEPING**

Financial recordkeeping is one of the primary areas subject to HUD reviews and one in which inadequate recordkeeping can lead to serious problems. Financial records to be maintained may include, but are not limited to:

- Chart of accounts;
- Manual on accounting procedures;
- Accounting journals and ledgers;
- Source documentation (purchase orders, invoices, canceled checks, etc.);
- Procurement files (including bids, contracts, etc.);
- Real property inventory;
- Bank account records (including revolving loan fund records, if applicable);
- Draw down requests;
- Payroll records and reports;
- Financial reports;
- Audit files; and
- Relevant financial correspondence.

The financial functions of the State CDBG-DR program operations will be handled by staff with accounting skills, but not necessarily with a CDBG-DR or HUD program background, or will be shared with staff from other funded entities outside of the administering agency. To ensure proper financial recordkeeping and reporting, the State will assist that their financial staff

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understand:

- What information needs to be kept and why;
- When that information should be collected and how often;
- How the information should be acquired, organized and stored;
- How the information should be reported; and
- How long the records must be kept.

#### **IV. PROJECT/ACTIVITY RECORDKEEPING**

For each type of activity undertaken, the State will determine what data must be maintained in individual case files and establish CDBG-DR requirements for ensuring that every file contains the necessary information. The list will vary from activity to activity, but each project/activity file will, at a minimum, include the following types of documentation:

- Eligibility of the activity;
- Evidence of having met a national objective (see below);
- Subrecipient agreement or Memorandum of Understanding if applicable;
- Procurement documentation, including any bids or contracts;
- Characteristics and locations of the beneficiaries;
- Compliance with special program requirements, including environmental review records;
- Budget and expenditure information (including draw requests); and
- Status of the project/activity.

**A. National Objectives LMI Area Benefit.** The State will maintain the following records regarding LMI areas qualifying under the area benefit national objective:

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- Boundaries of the service area; and
- Income characteristics of residents of the entire service area.

**B. LMI Limited Clientele.** The State or its respective funded entity will maintain the following records regarding limited clientele activities:

- Documentation showing that the activity is designed for and used by a segment of the population presumed by HUD to be LMI persons; or
- Documentation describing how the nature and if applicable, the location of the activity establishes use predominantly by LMI persons; or
- Data showing the size and annual income of the family for each person receiving the benefit, and data showing that at least 51% of those served are LMI; or
- Data showing that the activity is a special project removing accessibility barriers in the limited cases described above.

**C. LMI Housing.** The State or its respective funded entity will maintain the following records on housing activities:

- A copy of the written agreement with each landlord or developer receiving CDBG-DR assistance indicating the total number of dwelling units in each multi-unit structure assisted and the number of those units to be occupied by LMI households after assistance.
- The total cost of the activity, including both CDBG-DR and non-CDBG-DR funds;
- For each unit occupied by a LMI household, the size, ethnicity and income of the household.
- For rental housing only:
  - Rent charged (or to be charged) for each dwelling unit in each structure assisted; and
  - Information as necessary to show the affordability of units occupied (or to be

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occupied) by LMI households pursuant to criteria established and made public by the State.

- Evidence of commitments ensuring that the criteria in §570.483(a)(3) will be met when structures are built on each property acquired with no structures.
- Records documenting that the activity qualified under the exception criteria for new construction of non-elderly, multi-unit housing when applicable.

**D. LMI Job Creation/Retention.** For the purposes qualifying low and moderate income jobs benefit CDBG-DR program will use consider the person “income-qualified” if the annual wages or salary of the job created or retained is at or below the HUD-established income limit for a one-person family for the urban county in which the business is located.<sup>1</sup> Records to be maintained for job creation activities must identify for each person employed the following:

- The name of the business
- Address of the business
- Type of job
- Number of hours (full-time or part-time)
- The annual wages or salary of the job

Additionally, an entity funded with CDBG-DR will maintain documentation showing documentation on the following:

- Creation and retention of total jobs.
- The number of jobs within certain salary ranges
- The average amount of assistance provided per job by activity or program
- The North American Industry Classification System (NAICS) code for each business assisted; and
- The type of jobs

Documentation for each assisted business shall include a copy of a written agreement, containing:

- A written commitment from the business that it will make at least 51 percent of full-time

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<sup>1</sup> Pursuant to the Federal Register Notice.



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equivalent (FTE) jobs available to LMI persons and will provide training for jobs requiring special skills or education;

- A listing organized by job title and annual salary or wage for the permanent jobs to be created. The listing will indicate which jobs are available to LMI persons, which jobs require special skills or education, and which jobs are part-time;
- A description of the actions to be taken by the business to ensure that LMI persons receive first consideration for these jobs; and
- A listing, organized by job title, of the permanent jobs filled, the jobs available to LMI persons, and a description of how first consideration for jobs was given to LMI persons. The description should include the type of hiring process used; names of LMI persons interviewed for a particular job; and the names of LMI interviewees hired.

For a CDBG-DR funded entity where at least 51 percent of the jobs are held by LMI persons, documentation for each assisted business should include a copy of a written agreement containing:

- A commitment by the business that at least 51 percent of permanent jobs on a full-time equivalent (FTE) basis will be held by LMI persons;
- A listing organized by job title and annual salary or wage of the permanent jobs to be created (identifying which are part-time, if any); and
- A listing organized by job title and annual salary or wage of the permanent jobs filled, indicating which jobs were initially held by LMI persons.

For benefit based on job retention, the following documentation will be maintained:

- Evidence that, in the absence of CDBG-DR assistance, the jobs would be lost;
- A listing organized by job title and salary or wage of permanent jobs retained, indicating which of those jobs are part-time and (where it is known) which are held by LMI persons at the time the assistance is provided to each business;
- When applicable, identification of any retained jobs (other than those known to be held by LMI persons) projected to be made available to LMI persons through job turnover

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within two years of the date CDBG-DR assistance is provided. This will include information on how the turnover projections were calculated; and

- For jobs claimed to be available to LMI persons based on job turnover, documentation will include a description of items required for the "available to" jobs identified above; a listing of each job turned over to date, including which jobs were either taken by, or made available to LMI persons; and a description of how "first consideration" for those jobs was given to LMI persons.

**G. Urgent Need.** Records to be maintained for urgent need activities include:

- Documentation concerning the nature and degree of seriousness of the condition requiring assistance;
- Evidence of the State certifying that the CDBG-DR activity was designed to address the urgent need;
- Information regarding the timing over which the serious condition developed; and
- Evidence confirming that other financial resources to alleviate the need were not available.

## **V. DETERMINING AND DOCUMENTING INCOME**

Under the CDBG-DR program, the State selected the following definition of income:

- Annual income as defined under the Section 8 Housing Assistance Payments Program (24 CFR 5.609).

The State will determine annual income for a person, family or a household for direct benefit activities only. Direct benefit activities include activities such as homeownership assistance, resettlement incentive, or receipt of public services. Please note that income documentation should be collected for these activities, but they do not require third party verification (e.g., verification of employment); however, obtaining third party verification may be a best practice. Income verification forms can be used to document income.

Documentation requirements for a family and a household are listed below:

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- Family: the State needs documentation for all national objectives except for LMI housing.
- Household: the State needs documentation necessary for LMI housing.

The State does not need to determine income eligibility for the following national objectives:

- Area benefit,
- Presumed limited clientele,
- Urgent need.

The State must ensure equitable treatment of program applicants. For this reason, the same income definition will be used for each specific program and activity.

To determine whether program applicants are income-eligible, the State will utilize the following methods:

- Obtain evidence that the household/person assisted qualified under another program (such as Job Training Partnership ACT or welfare programs) to have income qualification criteria at least as restrictive as that used in the definitions of LMI household/person; or
- Obtain evidence that the assisted person is homeless; or
- Obtain a verifiable certification from the assisted person that his/her family income does not exceed the applicable income limit; or
- Obtain a referral from a state, county or local employment agency or other entity agreeing to a) refer individuals determined to be LMI persons according to HUD's criteria and b) maintain documentation supporting these determinations.

## **VI. RECORDS FOR FUNDED ENTITIES**

The State is responsible for ensuring that a) funded entities document compliance with all applicable program requirements for each program activity and b) the performance of the CDBG-DR funded activities comply with objectives set forth by the State.

The following is an overview of records the State will require funded entities maintain for each

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CDBG-DR funded activity:

- Program or activity application;
- Written agreement;
- Financial statements and records;
- Audits;
- Progress reports;
- Draw down requests (with source documentation, including invoices, purchaser orders, etc.); and
- Monitoring reports and correspondence.

While the State maintains certain records pertaining to CDBG-DR activities, funded entities carrying out specific programs must also maintain detailed records describing their organizations, financial and administrative systems, and their funded projects or activities.

## **VII. RECORDS: STATES V. FUNDED ENTITIES**

The State and HUD will jointly agree upon which of the required State records provide sufficient data for HUD to carry out annual review responsibilities. The State is responsible for developing and maintaining such records. The State will establish recordkeeping requirements for its funded entities so that data collected are sufficient for HUD and the State to carry out review responsibilities. The State and its funded activities must also keep Financial Management records.

Below is a list of cross-cutting records that must be kept by both the State and its funded entities:

- Civil Rights
- Labor Standards
- Relocation, Replacement Housing, and Real Property
- Acquisition

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- Environment

Records kept by the State and its funded entities will include data on the racial, ethnic, and gender characteristics of applicants, participants, and beneficiaries of the program.

## **VIII. RECORD RETENTION PERIOD**

According to the uniform administrative requirements outlined in the CDBG-DR regulations, the State and its funded entities are required to retain CDBG records for a period of no less than five (5) years following the fiscal year their program or activity is closed out by the State.

## **IX. ACCESS TO RECORDS**

HUD and the Comptroller General of the United States, or their authorized representatives, have the right to access program records from the State and its funded entities. This right is not limited to the retention period discussed above. Requirements regarding public access to records include the following:

- The State is required to provide citizens with reasonable access to records concerning past use of CDBG-DR funds, consistent with applicable state and local laws regarding privacy and confidentiality; and
- The Consolidated Plan regulations require that states provide citizens, public agencies and, other interested parties with reasonable and timely access to information and records relating to the jurisdiction's Consolidated Plan and any Substantial Amendments related to CDBG-DR thereto and the use of assistance under the programs covered by the Consolidated Plan and any Substantial Amendments related to CDBG-DR. (NOTE: This requirement is hereby a part of the State's Citizen Participation Plans.)

## **X. STATE OF NEW JERSEY RECORDKEEPING OBJECTIVES**

The objectives of a records management program are to ensure that records serve their intended purpose as efficiently and economically as possible and to provide for proper disposal of records having served their purposes. A records management program provides the means of controlling records beginning with creation or receipt, continuing through organization and maintenance, and concluding with disposition. The coordination of the records management process for state, county, and municipal governments in New Jersey is the work of the Bureau of Records

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Management.

The destruction of departmental records and files requires approval from the Department Records Retention Coordinator prior to destruction.

## **XI. STATE OF NEW JERSEY RECORDS MANAGEMENT PROCESS**

**A. Records Inventory.** Record holdings must be inventoried before appropriate controls can be instituted. An inventory is a complete listing of records by record series, together with necessary descriptions and supporting information. A record series is a group of identical or related records that normally filed together and can be evaluated as a unit to determine how long they should be maintained. Examples of record series can be found in the “State Agency General Retention Schedule (including Financial; Personnel; General Administrative; Agency Related Policy, Legislation, and Operating Procedures; & Reporting and Publications) on file with the Department Records Retention Coordinator or at DRES’s website:

<http://www.nj.gov/treasury/revenue/rms/recman.shtml>.

The inventory should describe the general function and overall contents of records. It should also identify the record medium (e.g., paper, magnetic tape or floppy disk), size filing method, reference rate current volume, and annual accumulation. All of this information should be noted on a records series inventory form.

Although inventory data is used primarily for retention scheduling, it plays a crucial role in other aspects of record management. Issues to be addressed when considering protocols for retention scheduling (notwithstanding State record retention requirements) include:

- Accumulation rates to be used when deciding whether to microfilm a record series.
- Filing methods may illustrate problems with retrieval.
- Frequency of use will determine when to place records in semi-current storage.

Given the frequency at which data collection and processing requirements change, inventories and schedules should be reviewed every one to five years.

DRES analysts usually conduct records inventories throughout state agencies on a periodic basis and are available to aid departments in reviewing their record holdings, adding or deleting items

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from existing retention schedules, or instituting records inventories for the first time.

**B. Records Retention Schedules.** After records are inventoried, they are placed on “records retention schedules.” Every record series on a schedule is assigned:

- An item number.
- A title and brief description of function and content, including appropriate form numbers or applicable statutory references.
- A retention period – the length of time the record must be maintained and, in some cases, how long it may be kept in semi-current storage at the New Jersey Records Storage Center (RSC).
- A final disposition – destruction, permanent maintenance by the office of origin, or transfer to the State Archives. Records become eligible for disposition as of ***December 31<sup>st</sup>*** of the year indicated in the Records Retention Disposition Table.

The scheduling process is ongoing and involves close cooperation between DRES and the Department Records Retention Coordinator. Most state agency and authority records have already been placed on retention schedules by DRES analysts.

These schedules include:

- Specific schedules that list record series unique to a particular, discrete subdivision of state government.
- The “General Records Schedule for All State Agencies,” which lists records common to most offices (e.g., correspondence, invoices, personnel files and records) and are retained in an electronic and/or paper format.

**Note:** The general schedule applies to all state agencies that are administered fiscally through the State Treasury. Authorities and other fiscally independent organizations can elect to use the general schedule, or to have general schedule items listed in their specific schedules.

Preliminary determinations of the length of time needed to retain records are based on these requirements. A DRES analyst submits a proposed schedule for review to the office maintaining the records as well as to offices whose authority and responsibilities bear on the matter.

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After a schedule is reviewed and agreed upon by officials, it is submitted for approval to the State Records Committee. This body has final authority on matters involving public records regardless of the record's medium (e.g., paper microfilm, magnetic tape, floppy disks, optical disks, etc.).

The State Records Committee reviews proposed retention schedules at their regularly scheduled meetings. Meetings are attended by DRES analysts as well as representatives from state agencies and authorities and are held in compliance with the Open Public Meetings Act.

Approval from the State Records Committee ensures that retention periods satisfy all legal, fiscal, administrative, and historical obligations, thereby protecting the public interest. The Committee either approves a schedule as presented, records changes and approves schedule with changes, or withholds approval pending further information.

Once a proposed schedule has been approved, it is signed by the secretary of the State Records Committee and becomes a legal, enforceable document that specifies the minimum amount of time a given record series must be held and indicates the manner of disposition after such period has elapsed.

**C. Records Storage.** As part of a comprehensive records management program for state agencies and authorities, the New Jersey Records Storage Center provides orderly periodic transfer and storage of records that must be retained for limited retention period but have low references rates; standards for indexing, transferring and controlling semi current records; and fast, efficient retrieval services, generally with a turnaround time of twenty-four hours or less from receipt of reference request to arranging the pick-up of requested records.

**D. Electronic Records.** The medium in which information is stored does not eliminate the statutory or regulatory requirements for scheduling, maintaining, and disposing of public records.

- UETA Guidance: Record Management Guidance for Agencies Implementing Electronic Signature Technologies, Circular Letter 01-01-ST
- Managing Electronic Mail: Guidelines & Best Practices, Circular Letter 03-01-ST

**E. Records Transfer.** To transfer records to the Records Storage Center, records must:

- Appear on an approved records retention schedule



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- Be scheduled for a minimum of one year and a maximum of ten years of storage
- Be properly identified and documented for transfer and reference by using the “Records Transfer Request” form (see attachment)
- Be properly packed in Records Storage Center [archive] boxes (see attachment)
- Have a specific date (month and year) when disposition will take place

The “Records Storage Center Criteria and Instructions for Transfer of Records” form contains this and other information, including an item-by-item guide for completing an actual records transfer request form (see attachment.)

The Department’s Records Retention Coordinator will schedule deliveries to the Records Storage Center as required. The Department of Treasury, Division of Property Management and Construction arranges the records transfer and an Intra Governmental Payment Voucher will be processed for reimbursement for the moving services.

**Note:** The Division of Revenue and Enterprise Services may require an analysis of records targeted for transfer to the RSC to determine whether microfilming should be used instead of semi current storage. Factors included in such an analysis are: 1) length of retention period, 2) volume and access rates, 3) security and preservation, and 4) cost effectiveness.

In all cases, division analysts are available to analyze potential storage or filming applications.

Because their storage requirements are considerably more complex, permanent records are never eligible for transfer to the Records Storage Center. Permanent records may be transferred to the New Jersey State Archives as soon as they become inactive in the agency of origin.

**F. Preparation for Transfer.** Semi current record series are packed in standard records cartons in the order in which they were filed in their office of origin. To make reference easier, approximately 1½ inches of space should be left in every box. All of the records, whether letter or legal size, should be packed parallel to the long (15-inch) side of the carton and perpendicular to the front of the shelf when stored. In case of fire, this packing method prevents records from falling out of the boxes and feeding the flames (see attached Records Storage Box Packing Instructions). Additionally, the records that are packed correctly may survive a fire with only minimal singeing of edges.

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At the time of packing, a “Records Transfer Request” form (see attached sample) should be used to itemize the contents of each box. This serves as both documentation of the transfer to the RSC and later as an index for physically locating specific records for reference. All records transfer request forms must be filed electronically and emailed to the Department Record Retention Coordinator for final processing.

Each storage box must be labeled by the originating agency. The RSC requires that the Records Transfer Request form be submitted prior to the physical transfer of the records to permit processing.

**G. Records Storage Center.** The Department Records Retention Coordinator will arrange for the actual records transfer to the Records Storage Center. Once the records arrived at the RSC, the staff checks the contents and disposition dates against the records transfer list. RSC staff re-labels each box with an assigned physical location in the records center along with the disposition date, enters this data on the RSC’s automated storage system, and places the boxes in the appropriate shelf spaces. RSC personnel then add records center location numbers to the records transfer list for each box and returns a copy of this amended list to the agency. Once the agency receives the list, it uses it as a receipt of the successful transfer, as well as an index for locating specific records.

**H. Reference Services.** The Records Storage Center provides reference services that include retrieval of records to authorized officials who request them and the Department Records Retention Coordinator will process the request, which typically requires 24-hours (see the attached Records Request Form). Additionally, the staff will relay information by telephone or mail or fax photocopies of a few pages. Patrons may also use the RSC’s reference room to examine records in person.

**I. Records Disposition.** Defined as:

- Physical destruction – by shredding, burning, discarding, or recycling.
- Transfer of ownership – by awarding custody to the State Archives.

**J. Authorization Process.** In order to legally dispose of records, offices must fill out a “Request and Authorization for Records Disposal” form. The following information should be included on the form: record series title, item number, inclusive dates, retention period, and volume by cubic feet, boxes, or file cabinets.

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This form is legally required to document an official request for destruction. By signing and countersigning this form, officials indicate their awareness of what they wish to discard. This process ensures that the records earmarked for destruction have outlived their value to the public.

All requests submitted to DRES by the Department's Records Retention Coordinator are checked against current records retention schedules. Each record series appearing on the schedule is keyed to an item number with corresponding title, description, and retention and disposition requirements.

Unusual or unique situations, such as unscheduled records, are resolved through the monthly cycle of State Records Committee meetings. Officials who discover an unscheduled records series should notify DRES to begin the scheduling process. This is critical if an agency or authority wishes to either store the records at the State Records Center or to dispose of them.

DRES checks, approves, and returns a majority of disposal requests within a week of their receipt. For the remaining fraction, DRES withholds authorization pending further clarification. Some common errors that result in approval delays are:

- Omission of necessary signatures – All requests for records disposal must be signed by the Department Records Retention Coordinator. Additionally, verification is required to acknowledge that fiscal records are not needed for future audits. For state agencies, the State Auditor will review all fiscal records. Other authorities will have their fiscal records reviewed by internal auditors.
- Omission of microfilm certification letter – For requests to destroy paper copies of microfilmed records, the law requires inclusion of a guarantee that microfilming has been conducted according to minimum quality and documentation standards.
- Incomplete information – Inclusive dates, volume of material, or record series titles are not stated on request.
- Incorrect information – Item numbers, record series titles, and retention periods listed do not correspond to the appropriate retention schedule.

Remedying these errors is most often accomplished by telephone or by mailing omitted materials. In all cases where necessary signatures are missing from request forms, DRES returns forms to the agency.

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The “Request and Authorization for Records Disposal” form is printed in quadruplicate. After reviewing and granting a request, DRES detaches the white “original” and keeps it permanently, while returning the pink “agency copy” to the requesting office, also to be kept. Records Retention Coordinator schedules pickup of the approved records disposal boxes with a State contracted vendor. Once the records are actually disposed of, the Retention Coordinator mails the yellow or “follow up” copy back to DRES. The “follow up” copy documents should be dated, include the method of disposition, and attached to the “original” held by DRES. This process is required of all state, county, and municipal government agencies and authorities.

DRES’s review process quickly corrects minor errors, prevents loss of valuable documents, and avoids potential legal and fiscal predicaments. Without this standard central authorization process, every agency would develop its own records destruction policy and procedure.

By complying with the statewide destruction authorization process, individual agencies avoid liability for inconsistent or illegal records destruction. DRES is able to ensure the legal disposal of records on a statewide basis using a single procedure and form, allowing for a quick approval.

**K. Inactive Records Center Storage.** In 2005 Acting Governor Richard J. Codey signed Executive Order No. 49 ordering the Division of Archive and Records Management to undertake and direct a global review of State agency records retention schedules, practices and procedures. DRES implemented a new program that resulted in cost savings to all State agencies. An important component of the program is the new state-wide records storage contract awarded to DocuSafe, a commercial records storage contractor with facilities in Robbinsville and Parsippany, NJ. In reviewing the fees charged by DRES and those included in the DocuSafe contract, DRES determined that records housed at the Records Storage Center which are never or very rarely referenced should be transferred to DocuSafe since few reference charges are incurred. DRES also reviews and approves all subsequent agency requests for the transfer of additional files to and the removal of all records from DocuSafe.

Once an account has been set up, division staff can access the DocuSafe system online. The online program is user-friendly and offers various features which include ordering labels for storage boxes. DocuSafe will transport the archive boxes to their NJ facility and schedule the actual disposal of records once the request has been approved by DRES. In addition, DocuSafe will issue billing on a monthly basis after being reviewed for accuracy by DRES.

Attached are the Inactive Records Center Procedures for transferring records to the commercial records center and a copy of the Records Transfer Request form for DocuSafe, which must be e-mailed to [globalreview@sos.state.nj.us](mailto:globalreview@sos.state.nj.us) to be verified for completeness and compliance with the State Retention Schedule. At the same time, a copy of the e-mailed Records Transfer Request

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form(s) must be forwarded to the Department's Records Retention Coordinator. Both the instructions and form are available on the DCA Intranet, DCA Forms under Building Services & Office Services.

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**APPROVAL:**   
Stacy Bonaffons  
Assistant Commissioner

  
Howard McCoach  
Director, Sandy Recovery Division

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**PURPOSE:**

To outline the policies and procedures for the Department of Community Affairs to document implementation and compliance with the U.S. Department of Housing and Urban Development (“HUD Lead-Based Paint Poisoning Prevention Act”, as amended (42 U.S.C. 4821 et seq.), and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.), and 24 CFR Part 35 (“HUD Lead Safe Housing Rule”). These statutes and regulations implement the Grantee’s Lead Safe Housing Rule responsibilities for the use of federal funds.

**POLICY:**

To protect families from exposure to lead from paint, dust, and soil, to meet the obligation to provide disclosure of known information on lead-based paint and lead-based paint hazards before the sale or lease of most housing built before 1978, and to comply with the lead evaluation and hazard control requirements for HUD assisted housing in connection with community development activities, the Grantee will implement all applicable laws and regulatory requirements. These requirements, including laws, regulations and links to other resources, may be found by clicking on:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/healthy\\_homes](http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes).

Adherence to the requirements for addressing lead based paint is required of all HUD Community Planning Development (CPD) programs and is therefore considered a cross cutting element. The following document is the base document that provides process that the State will carry out in meeting the crosscutting requirements under the Lead Safe Rule. However, in some cases certain CPD programs may contain waivers and alternative requirements, based on the relevant statutory provisions for grants provided under the Federal Notice issued for that program.

In order to meet the requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) Program (Robert T. Stafford Disaster Relief and Emergency Assistance Act of

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1974 (42 U.S.C. 5121 et seq.) commonly referred to the “Stafford Act”) as well as the Disaster Relief Appropriations Act of 2013 (78 FR 14329 – published March 5, 2013 and the clarifying guidance published on April 19, 2013) the following section has been added to describe any waivers or alternate requirements for this crosscutting element.

Note that wherever a conflict occurs between the crosscutting requirements and the special requirements as noted in the Stafford Act and the Disaster Relief Appropriations Act of 2013, the later shall take precedence.

#### **DISASTER RECOVERY WAIVERS OR ALTERNATE REQUIREMENTS:**

HUD promulgated regulations that established the regulatory framework for the receipt and expenditure of CDBG-DR Program funds, as set forth in Federal Register Notice (Vol. 78, No. 43; March 5, 2013) entitled: “Allocations, Common Application, Waivers and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy” (the “Notice”). Contained within the Notice were CDBG-DR waivers. No CDBG-DR waivers were granted to the HUD Lead Safe Housing Rule.

#### **CROSSCUTTING ELEMENT:**

In this section are a description of the HUD Lead Safe Housing Rule requirements and sample copies of required notices, and links to resources that may be needed to address lead based paint. The State shall satisfy HUD’s Lead Safe Housing Rule for all target housing that is federally-owned and target housing receiving federal assistance, and will meet the requirements for controlling lead-based paint hazards in such housing.

#### **I. REGULATION OVERVIEW AND REQUIREMENTS**

In accordance with HUD Lead Safe Housing Rule, requirements vary depending on the nature of the Federal involvement; the type, amount and duration of financial assistance; the age of the structure; and whether the dwelling is rental or owner-occupied.

The HUD Lead Safe Housing Rule is divided into "subparts" of 24 CFR Part 35, which address a multitude of HUD funded activities, and are summarized within the Lead Based Paint Compliance Table Summary (See Exhibit 1). Three subparts apply to all programs:

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Subpart A is the existing disclosure regulation that requires sellers and lessors of most pre-1978 housing to disclose known information on lead-based paint and/or lead-based paint hazards to prospective buyers and renters.

Subpart B describes the scope of coverage of the new regulation and provides definitions and general requirements for all programs.

Subpart R describes methods and standards for lead-based paint hazard evaluation and reduction activities.

Specific program based requirements are detailed within their respective Subparts as follows:

- Subpart J – Housing Rehabilitation Programs (RREM, Small Rental, Neighborhood Enhancement, Multi-family Housing)
- Subpart K – Homebuyer Assistance Programs and Rental Acquisition (Homebuyer Assistance, Neighborhood Enhancement, Multi-family Housing)
- Subpart H – Project Based Rental Assistance Programs (Landlord Incentive Program)

#### **A. Multiple Federal Funding Sources – Subpart Applicability**

The types of assistance provided to a dwelling unit determine which subparts of the regulation apply to that dwelling unit. If more than one type of assistance is being provided to the same dwelling unit, and two or more sets of lead paint requirements apply, the most protective requirements apply. Section 35.100 of the regulation includes a table listing HUD programs from the most protective to the least protective hazard reduction requirements; as well as guidance on how to use the table (refer to Exhibit 2).

#### **B. Exemptions**

A number of properties are not covered by the regulations, either because lead paint is unlikely to be present, or because children will not occupy the house in the future. Included in this list are the following:

- Housing built on or after January 1, 1978 (when lead paint was banned for residential use).
- Housing exclusively for the elderly or persons with disabilities, unless a child under age 6 is expected to reside there.



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- Zero bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks.
- Property that has been found to be free of lead-based paint by a certified inspector.
- Property from which all lead-based paint has been removed, and clearance has been achieved.
- Unoccupied housing that will remain vacant until it is demolished.
- Non-residential property.
- Any rehabilitation or housing improvement that does not disturb a painted surface.
- Emergency repair actions, which are those needed to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage, are exempted.
- Emergency housing assistance (such as for the homeless), unless the assistance lasts more than one hundred (100) days, in which case the rule does apply.

If any of the above exemptions apply, then they are valid for a project, regardless of rehabilitation cost, and shall be documented in each project file.

### **C. Elderly Property Determination**

The term “housing for the elderly” is defined in the regulation as “retirement communities or similar types of housing reserved for households composed of one or more persons sixty-two (62) years of age or older , or other age if recognized as near elderly by a specific Federal housing assistance program.” The lease or other residency agreement should so state this designation. A person with a disability is defined in the Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973 as any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of impairment, or is regarded by others as having such impairment. It is not necessary that the lease or residency agreement include these precise definitions.

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**D. EPA Certifications**

***Worker Training and Qualifications***

The regulation states, that lead-based paint inspections, risk assessments and abatements must be performed by individuals certified to perform such activities by the U.S. Environmental Protection Agency (EPA) or the State of New Jersey.

Individuals performing specified lead-based paint activities must be trained in EPA or New Jersey State accredited training programs and certified. The State of New Jersey or the EPA certifies the following disciplines:

- Inspector
- Risk Assessor
- Project Designer
- Abatement Worker
- Abatement Supervisor
- Renovators
- Renovation Firms
- Dust Sampling or Clearance Technicians

The EPA under the authority of 40 CFR Part 745 establishes specific training course content, model curricula, certification requirements, and work practice standards for the above listed lead disciplines.

Additionally, effective April 22, 2010, the EPA requires that contractors who perform activities that disturb painted surfaces in homes, apartments, and child-occupied facilities built before 1978 (including certain repairs and maintenance, and painting preparation activities) utilize trained renovators, be certified firms, and employ safe work practices.

**E. Lead-Based Paint Hazard Pamphlet**

Both HUD and the EPA have separate disclosure requirements for the provision of the pamphlet on lead-based paint hazards. The EPA currently has two pamphlets authorized for specific lead based paint activities:

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<b>Pamphlet Title</b>	<b>Recipient</b>
Protect Your Family From Lead in Your Home	First Time Homebuyer, Rental of federally assisted housing
Renovate Right – Important Lead Hazard Information for Families, Child Care Providers, and Schools	Rehabilitation Activities

The regulations provide that if you can show that the pamphlet has already been provided in compliance with the disclosure rule or the pre-renovation education rule, you need not provide it again. The compliance requirement shall require that all subrecipients or other funded entities perform its own distribution, and obtain certification documenting receipt of the lead pamphlet.

**F. Lead-Based Paint Defined**

HUD defines lead-based paint as any paint or other surface coating that contains lead equal to or greater than 0.5 percent or 5,000 parts per million by weight, or 1.0 mg/cm<sup>2</sup> as measured by laboratory analysis or X-ray fluorescence (XRF).

**G. Visual Assessment and Hazard Control below De Minimis Levels**

A visual assessment is not considered an evaluation for the purposes of the regulations. Therefore no notice of evaluation is required after a visual assessment to identify deteriorated paint, even though it may result in a hazard reduction activity.

However, if the visual assessment results in paint stabilization and clearance, the occupants must be provided with a Notice of Lead Hazard Reduction Activity describing the work that was done and the results of clearance. This is new information that must be provided to the occupants, regardless of the level of Federal assistance. If paint stabilization was completed on surfaces with areas below the de minimis, no clearance, safe work practices or notification is required.

**H. Safe Work Practices/De Minimis Standards**

The Lead Safe Housing Rule requires lead safe work for activities. It specifies prohibited practices, requirements for protecting occupants, and preparing the work site. Special cleaning techniques must be used, and clearance achieved. All areas of deteriorated paint must be repaired. However, if an area of deteriorated paint is below the de minimis amount, it means it is a small area and lead safe work practices and clearance are not required.

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The de minimis levels are:

1. 20 square feet on exterior surfaces
2. 2 square feet in any one interior room or space
3. 10 percent of the total surface area on an interior or exterior type of component with a small surface area

If paint is being disturbed, even at de minimis levels, the project is covered by the regulation. The requirements for lead-based paint hazard evaluation and reduction are based on the level of assistance, not the amount of paint being disturbed. Based on the Federal rehabilitation assistance level, required procedures must be performed.

Work on surfaces where the amount of paint disturbed is below the de minimis level need not follow safe work practices, although HUD recommends that caution be used to minimize the dispersal of lead in dust, paint chips, or debris.

Safe work practices are best described by reviewing the HUD Field Guide entitled “Lead Paint Safety: A Field Guide for Painting, Home Maintenance, and Renovation Work.” (See Reference Disk)

There is no need to perform paint testing if the job is exempt from safe work practices. Clearance is not required in this situation (see either Section 35.930(b)(3) or 35.1340(g)).

#### **I. Prohibited Work Practices**

Practices prohibited by HUD in Federally owned and assisted housing include the following:

1. Open flame burning or torching
2. Machine sanding, grinding, abrasive blasting, or sandblasting without HEPA exhaust
3. Heat gun above 1,100 degrees Fahrenheit
4. Extensive dry scraping or sanding
5. Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance

#### **J. Evaluation and Hazard Reduction Requirements**

For rehabilitation activities, the level of evaluation required and hazard reduction measures employed vary with the level of Federal funding. The three categories and their respective requirements are as follows:

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Rehabilitation Assistance		
Type Program	Construction Period	Requirements
1. Property receiving less than or equal to \$5,000 per unit	Pre-1978	<ul style="list-style-type: none"> <li>• Provision of pamphlet.</li> <li>• Paint testing of surfaces to be disturbed, or presume LBP</li> <li>• Safe work practices in rehab.</li> <li>• Repair disturbed paint.</li> <li>• Notice to occupants.</li> </ul>
2. Property receiving more than \$5,000 and up to \$25,000	Pre-1978	<ul style="list-style-type: none"> <li>• Provision of pamphlet.</li> <li>• Risk assessment, which includes paint testing of surfaces to be disturbed or presume LBP.</li> <li>• Interim controls, which includes safe work practices.</li> <li>• Notice to occupants.</li> <li>• Ongoing LBP maintenance if HOME.</li> </ul>
3. Property receiving more than \$25,000 per unit	Pre-1978	<ul style="list-style-type: none"> <li>• Provision of pamphlet.</li> <li>• Risk assessment, which includes paint testing of surfaces to be disturbed or presume LBP.</li> <li>• Abatement of LBP hazards.</li> <li>• Interim controls acceptable on exterior surfaces not disturbed by rehabilitation</li> <li>• Notice to occupants.</li> <li>• Ongoing LBP maintenance (for certain activities).</li> </ul>

**Note: Clearance is always required after abatement, interim controls, paint stabilization, or standard treatments.**

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**K. Risk Assessment and Paint Testing**

For rehabilitation activities, a unit evaluation shall be required to determine the presence of lead-based paint. For rehabilitation projects that the Federal funding exceeding \$5,000, a risk assessment is required to identify lead-based paint hazards. A risk assessment shall include paint testing of a sampling of deteriorated painted surfaces, plus dust and soil testing. The paint testing requirement is for all deteriorated painted surfaces plus all painted surfaces to be disturbed or replaced during rehabilitation.

**L. Interim Controls**

Will be required, for those properties that exceed \$5,000 up to the \$25,000 limit, interim controls may be required. Interim controls are a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards. The interim controls to be employed will be defined by the risk assessment.

**M. Abatement**

For units with Federal assistance in excess of the \$25,000 threshold, and where the risk assessment reveals the need for abatement, specific measures must be undertaken. Abatement is any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

1. The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and
2. All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.
3. Specifically, abatement includes, but is not limited to:
  - a) Projects for which there is a written contract or other documentation, which provides that an individual or firm will be conducting activities in or to a residential dwelling that:

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- 1) Shall result in the permanent elimination of lead-based paint hazards; or
  - 2) Are designed to permanently eliminate lead-based paint hazards and are described above in paragraphs (1) and (2).
- b) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by certified firms or individuals, unless such projects are covered by paragraph (4) below;
  - c) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by this section, unless such projects are covered by paragraph (4) of this definition; or
  - d) Projects resulting in the permanent elimination of lead-based paint hazards that are conducted in response to State or local abatement orders.
4. Abatement does not include renovation, remodeling, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

#### **N. Occupant Protection**

Contractors must take the following steps to protect occupants from lead-based paint hazards while the work is in progress:

1. Occupants may not enter the worksite. Occupants are allowed to return only after the work is done and the home has passed a clearance examination that checks for deteriorated lead-based paint and harmful levels of lead-contaminated dust.
2. Occupants' belongings must be protected from lead contamination. Depending on the nature of the work being performed, and the inventory of belongings, this

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can be done by removing them from the work area, or covering them with protective sheeting and sealing to prevent dust from getting on the items.

3. The work site must be set up to prevent the spread of leaded dust and debris.
4. Warning signs must be posted at entrances to the worksite when occupants are present; at the main and secondary entrances to the building, and at exterior work sites. The signs must be readable from 20 feet from the edge of the worksite. Signs must be in the occupants' primary language when practicable.
5. It may be necessary to temporarily move occupants out of the unit if work will take several days and it involves kitchens, bathrooms, or bedrooms. To determine the need for temporary relocation, complete the Relocation Screening Sheet (see Exhibit 3), and if applicable, the Relocation Exemption Worksheet (See Exhibit 4).

#### **O. Cleanup Activities**

Worksite cleanup must be performed to remove dust and debris from the work area. Good cleanup is critical to passing clearance and leaving the property safe for habitation. Worksite cleanup must be done using methods, products, and devices that are successful in cleaning lead-contaminated dust, such as vacuum cleaners with HEPA filters or equivalent equipment, and wet cleaning with household or lead-specific detergents or equivalent products.

#### **P. Clearance**

After the work is done and before the residents can return, the work area must pass a clearance examination, whereby the clearance examiner:

1. Performs a visual assessment of the worksite or unit for deteriorated paint and visible amounts of dust, debris, paint chips or other residue. If these are found in areas where dust sampling is required they must be eliminated before continuing the clearance examination. If deteriorated paint is found, it must be stabilized using safe work practices. If visible dust and debris is found, it must be cleaned up.



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2. Takes several dust wipe samples from floors, interior window sills, and window troughs and sends them to a laboratory for lead analysis. If leaded dust above standards is found, the worksite or unit must be re-cleaned and another clearance test conducted.
3. Clearance must be performed by a certified examiner.
4. The contractor cannot perform clearance, the person conducting the lead hazard reduction activities and clearance must be independent of each other.

Lead is considered a hazard if it exceeds the following designated clearance standards:

Floors	40	Micrograms in dust per sf.
Interior Window Sills	250	Micrograms in dust per sf. on interior window sills
Window Troughs	400	Micrograms in dust per sf. on interior window sills
Children's Play Areas	400	Parts per million
Rest of Yard	1,200	Parts per million

**Q. Clearance Failure**

If clearance is not achieved at first, the performing contractor must be notified, and the surfaces re-cleaned. If clearance is not achieved after two attempts, it is recommended that failing horizontal surfaces (floors, interior window sills, or window troughs) are smooth and cleanable before the third sampling. It is not necessary to issue a notice of hazard reduction activity until after clearance has been achieved. The notice must include information regarding any failed clearance sampling, however, because that is important information indicating that there has been lead-contaminated dust in the property. It is also important to note that this information must be disclosed in compliance with the HUD-EPA lead-based paint disclosure rule.

**R. Hazard Reduction Notice**

The regulation, at Section 35.125(b), requires that the notice of hazard reduction activity must be provided to occupants no more than 15 calendar days after the hazard reduction activities have been completed. The completion date is the date on which clearance is achieved, which is when the subject property has passed the visual assessment and the dust samples are all below the

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levels indicated in section 35.1320(b)(2)(i).

**S. Historic Preservation Considerations**

The regulation includes an exception at Section 35.115(a)(13) that allows designated parties to use interim controls instead of abatement methods, if requested by the State Historic Preservation Office, on properties listed or determined to be eligible for listing in the National Register of Historic Places or contributing to a National Register Historic District. This policy is explained in the preamble to the regulation at III.A.5.j at page 50150 of the Federal Register version.

**T. Mixed Use Properties**

The commercial part of a mixed use property is exempt from the lead paint regulation. However, common areas servicing the residential units are covered by the lead regulation. Therefore, entryways and hallways serving the residential units are subject to the requirements even if they are also located in the commercial space. Exterior areas are also covered by the lead regulation.

If the mixed use property contains a “child occupied facility” as defined by the EPA, requirements of the RRP rule shall apply to the project.

**U. Rehabilitation work and Use of Certified Lead Paint Abatement Contractors**

Those parts of the rehabilitation that are conducted with the express intent to permanently eliminate lead-based paint hazards, particularly those documented in HUD regulations, job specifications, cost allocation document, or local agency or court order requiring abatement, must be done by a New Jersey state certified lead-based paint abatement contractor.

**V. Rehabilitation Cost Determinations**

HUD requires “reduction of lead-based paint hazards in the course of rehabilitation projects receiving less than \$25,000 per unit in Federal funds” and “abatement of lead-based paint hazards in the course of substantial rehabilitation projects receiving more than \$25,000 per unit in Federal funds”.

This statutory language allows for the fact that Federal funds are used to assist various costs associated with rehabilitation projects. For example, Federal assistance is often used for acquisition or soft costs associated with rehabilitation. Such projects are considered rehabilitation projects for program purposes, regardless of the specific costs paid with Federal funds. To ensure that both the level of average Federal assistance per unit and the extent of rehabilitation are accurately measured for purposes of triggering lead-based paint requirements, the regulation

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calls for a dual-threshold method of the applicable set of lead-based paint requirements for a rehabilitation project.

Under the dual-threshold approach to calculating the level of rehabilitation assistance, two calculations are performed and the lesser of the two determines the applicable requirements. One calculation is of average Federal assistance per unit; the other is of average rehabilitation hard costs per unit, regardless of whether the source of funds is Federal or non-Federal.

For the purpose of calculating average Federal assistance per dwelling unit, Federal assistance per unit includes all Federal funds, including program income generated by Federal funds.

(Note: Proceeds of the sale of Low-Income Housing Tax Credits and proceeds from rehabilitation mortgage insurance, such as a 203(k) loan are not considered Federal assistance for this purpose. Funds provided under the Department of Energy's Weatherization Program are not counted as Federal assistance or covered by this regulation because it is not considered a housing assistance program. However, Weatherization performed with CDBG or HOME funds is covered by the regulation and therefore should be included when calculating average Federal assistance).

All Federal funds must be included in this calculation regardless of how the Federal funds are used in the project. For example, in a project involving acquisition and rehabilitation, all Federal funds received by the project are included in the calculation even if the Federal funds were used to pay for the acquisition or other non-rehabilitation costs.

The average Federal assistance per unit is the total Federal assistance divided by the total number of federally assisted dwelling units in the project. The average rehabilitation hard costs per dwelling unit are the actual costs, regardless of the source of funds, associated with the physical development of a unit (i.e., total per unit project costs minus "soft" costs, administrative costs, relocation costs, environmental review costs, acquisition costs, etc.), not including lead hazard evaluation and reduction costs. Soft costs include financing fees, credit reports, title binders and insurance, recordation fees, transaction taxes, impact fees, legal and accounting fees, appraisals, architectural and engineering fees.

Lead hazard evaluation and reduction costs include costs associated with site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributable to lead-based paint hazard reduction. If all the units in a multi-unit project are Federally-assisted, the average rehabilitation hard cost per unit is calculated as follows:

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Average per Unit Rehab Hard Cost = Total rehab hard costs for project / Total number of units for multi-unit projects with both Federally-assisted and non-assisted units, calculate the total rehabilitation hard costs per unit using the following formula:  $a/c + b/d$ , where:

- a = Rehabilitation hard costs, as defined above, for all assisted dwelling units (not including common areas and exterior surfaces),
- b = Rehabilitation hard costs, as defined above, for common areas and exterior surfaces,
- c = Number of federally assisted dwelling units in the project, and
- d = Total number of dwelling units in the project.

**W. Change Orders**

It is recognized that unanticipated change orders are common in rehabilitation projects. Therefore, if a change order is approved and the cost increase over the above defined thresholds, a subrecipient or other funded entity will not be required a recalculation of the level of assistance for the purposes of the lead-based paint regulation, and thus will not require a change in the category of lead-based paint requirements, as a result of a change order. However if a pattern is found that indicates an obvious abuse of this policy to avoid more protective requirements, the Department of Community Affairs – Sandy Recovery Division will find the designated party in non-compliance.

**X. Lead Hazard Reduction Costs and the “Hard Costs of Rehabilitation”**

Costs of lead-based paint hazard reduction can be deducted from the total cost of a project to determine the category of rehabilitation assistance in which the project belongs. However, the costs of rehabilitation that would have been performed anyway, in the absence of the regulation should not be deducted. To be subtracted, costs should be clearly and reasonably attributable to lead-based paint hazard reduction.

Section 35.915(b)(2) states that, “the amount of rehabilitation assistance is the average per unit amount of Federal funds for the hard costs of rehabilitation, excluding lead-based paint hazard evaluation and hazard reduction activities. Costs of site preparation, occupant protection, relocation, interim controls, abatement, clearance and waste handling attributable to lead-based paint hazard reduction are not to be included in the hard costs of rehabilitation.” All Federal funds are considered in the determination of rehabilitation costs, but only if the Federal program is considered to be a housing assistance program.

For each lead-based paint hazard reduction activity for which costs are subtracted, the following documentation is required:

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- (1) what the activity is, its scale or extent, and where in the building it is conducted;
- (2) that the surface affected is a known or presumed lead-based paint hazard prior to the rehabilitation;
- (3) that the activity is a reasonable and acceptable method of eliminating or controlling the hazard; and
- (4) determinations that the cost of the activity is reasonable.

The most authoritative way to provide documentation of items (1) through (3) shall be above shall be to conduct a risk assessment of the subject property before the rehabilitation. The risk assessment report shall document the nature and location of the hazard and shall indicate acceptable methods for controlling the hazard. Documentation for item (4) can be provided by a procurement process or cost certification.

In deciding whether activities qualify as lead-based paint hazard reduction activities, remember that intact lead-based paint is generally not considered a hazard. Therefore, , for example, when removing an interior partition on which the paint is intact, this should not classified as a lead-based paint hazard reduction even if the partition has lead-based paint on it. It is also important to apply the reasonableness test to activities in which paint disturbance is only ancillary to the task. For example, do not allocate the cost of a furnace replacement to lead hazard reduction because it happens to include repair and repainting a partition with deteriorated lead-based paint. Do not allocate the cost of roof repair to lead hazard reduction because the job includes replacement of fascia or soffits with deteriorated lead-based paint.

Window replacement or repair is a rehabilitation activity that can sometimes be attributable to lead-based paint hazard reduction, but only if the windows would not be replaced as part of the rehabilitation project. If the windows are deteriorated and would have been replaced regardless of the presence or absence of lead-based paint, they are rehabilitation costs, not lead hazard reduction costs, and cannot be subtracted in calculating the level of assistance for the purposes of the regulation.

#### **Y. Volunteer Paint Programs**

Paint programs are rehabilitation programs as specified in HUD guidance issued in March 2000. Therefore, they are subject to the requirements of Subpart J if they are assisted with funds provided under a program covered by Subpart J, such as the HOME program, and if painted surfaces are being disturbed by scraping, sanding or other abrasive methods during preparation of the surfaces for repainting. (HUD does not consider washing of painted surfaces, by itself, to constitute disturbance of painted surfaces, unless the treatment is water *blasting*.)

The requirements are basically that safe work practices must be followed in the course of the

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surface preparation and repainting and that clearance of the worksite must be achieved. However, safe work practices and clearance are not required if the area of paint being disturbed is no more than twenty (20) square feet on exterior surfaces, two (2) square feet in any one interior room, or ten (10) percent of the total surface area on an interior or exterior component with a small surface area (such as window sills, baseboards or trim). If the area of paint disturbance is expected to be greater than the de minimis level, there is a requirement that either surface to be disturbed must be tested for the presence of lead or the presence of lead-based paint must be presumed.

If the paint to be disturbed is tested and found not to be lead-based paint, safe work practices and clearance are not required, although safe work practices are always good practice because there may be some lead in the paint even if it is not at the defined level of “lead-based paint.” If the paint is tested and found to be lead-based paint, safe work practices must be implemented during the surface preparation and repainting, and a clearance examination must be conducted of the area where the surface preparation and repainting occurred and clearance must be achieved.

#### **Z. Sweat Equity Program Applicability**

If Federal funds are being used to pay for labor and materials (hard costs), sweat equity workers must meet the same requirements as other workers and must use safe work practices.

#### **AA. Relocation**

As stated in HUD Lead Safe Housing Rule, Section 35.1345, temporary relocation is required unless:

- (1) the work will not disturb lead-based paint or lead-based paint hazards;
- (2) only exterior work is being conducted and openings to the interior are closed during the work and lead-hazard-free entry to the dwelling is provided;
- (3) the interior work will be completed in 8 hours, the work sites are contained to prevent dust release into other areas, and no other health or safety hazards are created; or
- (4) interior work will be completed in five (5) consecutive days, work sites are contained, no other health or safety hazards are created, work sites and areas ten (10) feet from the containment are cleaned at the end of each work day, and occupants have safe access to sleeping, kitchen and bathroom facilities.

Safe access to sleeping areas and bathroom and kitchen facilities does not require that such facilities be provided in the same unit. Such facilities can be provided in another convenient location in many instances, thereby avoiding an unnecessary relocation of residents. The term “interior work” refers to work in a single room. At no time can occupants be permitted into the work sites, unless they are employed in the work, until after work is complete and clearance, if

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required, has been achieved.

Relocation of elderly occupants is not typically required, so long as complete disclosure of the nature of the work is provided and informed consent of the elderly occupant(s) is obtained before commencement of the work. For addition information, complete the Elderly Waiver Form (See Exhibit 5).

**BB. On-going Maintenance**

Ongoing lead-based paint maintenance is required only when there is a continuing, active programmatic relationship for more than one year between the property and the federally funded program, such as continuing financial assistance, ownership, or periodic inspections or certifications. The ongoing lead-based paint maintenance requirement normally does not apply to one-time assistance to owner-occupants or to renters. If a homebuyer receives a loan to purchase a home, this is considered one-time assistance, even though the homebuyer is making monthly payments on the loan. One-time downpayment assistance and security-deposit assistance are other types of assistance to which the ongoing maintenance requirement does not apply.

**CC. Notifications**

During the course of implementing the HUD Lead Safe Housing Rule, a number of notifications will be provided to the owners and occupants of the participating properties. These include notices of evaluation, presumption, and hazard reduction. All such notifications are required to be:

1. Of a size and type easily read by occupants.
2. To the extent practicable, be made available upon request in a format accessible to persons with disabilities (e.g., Braille, large type, computer disk, audio tape).
3. Provided in the occupants' primary language or in the language of the occupants' contract or lease.
4. Provided to the occupants by posting and maintaining it in centrally located common areas and distributing it to any dwelling unit, if necessary, because the head of household is a person with a known disability.

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5. Distributed to each occupied dwelling affected by the evaluation. If the notice is for a lead hazard in a common area that is used by those in the dwelling unit, the occupants of the dwelling unit shall also receive notice.

#### **DD. Implementation**

To properly address Lead Based Paint (LBP) requirements, a number of procedural steps must be followed. These implementation procedures provide the basis for conducting a LBP property review, and details the subsequent actions required based on varying conditions. To assist in meeting the LBP requirements, a number of LBP checklists have been devised to track individual property compliance (see Lead Based Paint checklist and File Requirements (Exhibit 6), Homebuyer Lead Based Paint Compliance Checklist (Exhibit 7), TBRA Lead Compliance Checklist (See Exhibit 8). These checklists should be completed as actions are taken, and maintained in the respective project folder for reference and monitoring purposes.

#### ***Pre-Inspection Records Search***

Upon receipt of a qualifying application or notification of a project approval, an examination of available records should be conducted to determine the age of the residence(s). Unless otherwise documented, you should always assume that painted surfaces from pre-1978 houses include lead-based paint and that all dust generated from these surfaces may contain lead.

If the property was constructed after 1978, you do not need to perform lead safe work practices. The project can be deemed exempt and no further actions with respect to LBP issues are required. This must also be documented and placed in the project file.

Also examine records for renovations or additions. If the proposed work will be conducted on the portions of the dwelling renovated or added after 1978, you do not need to utilize lead-safe work practices, even if the rest of the property was built earlier. In such instances, ensure that the appropriate documentation is contained within the project file.

When the property is being inspected for proposed repairs, a number of LBP concerns should also be addressed:

1. For participants in First Time Homebuyer Programs, all federally assisted rental properties, and project-based rental assistance (PBRA), transmittal of the pamphlet entitled "Protect Your Family from Lead in Your Home" in either English or Spanish, as appropriate.



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2. For participants in federally assisted rehabilitation, transmittal of the pamphlet entitled “Renovate Right – Important Lead Hazard Information for Families, Child Care Providers, and Schools” in either English or Spanish, as appropriate.
3. Obtaining of a certification for receipt of the pamphlet (See Exhibit 9 or 10).
4. A visual inspection of the site to determine potential LBP concerns, while determining the potential cost of all proposed rehabilitation activity. The location and nature of the proposed repairs should also be noted to determine LBP applicability.
5. Part 1 and 2 of the Lead Safe Housing Requirements Screening Worksheet should be completed and evaluated to determine if the property qualifies for an exemption (See Exhibit 11).

### ***Work Write Up***

For properties under rehabilitation activities, at the work write-up stage, an estimated value for the proposed rehabilitation activity should be prepared. Pursuant to residential rehab program requirements, firms must be appropriately certified to do assessment and remediation, and workers must have proper training and supervision. Based on this projection, an estimate of the Federal funds to be committed to the project must be made.

See Chart on page 8 for a summary of the LBP guidelines.

### ***Properties Receiving \$5,000 or Less:***

Where properties are receiving Federal assistance of \$5,000 or less, all painted surfaces to be disturbed shall be tested.

If the painted surfaced to be disturbed is tested and does not reflect LBP , then safe work practices and clearance are not required.

If the test reveals the presence of LBP, , then the following must be performed:

- Provision of “Renovate Right” pamphlet,
- Safe work practices
- Clearance examination

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- Occupant Notification

For repair work that is equal to or less than the \$5,000 threshold, and when the proposed work will not disturb any painted surfaces or areas where lead dust can accumulate; lead-safe work practices are not required.

***Receiving More than \$5,000, up to and including \$25,000:***

For Federal funding exceeding \$5,000, a risk assessment is required to identify lead-based paint hazards which the law requires to be abated. A risk assessment shall include paint testing of a sampling of deteriorated painted surfaces, plus dust and soil testing. The paint testing requirement is for all deteriorated painted surfaces plus all painted surfaces to be disturbed or replaced during rehabilitation.

For those properties that exceed \$5,000 up to the \$25,000 limit, interim controls shall be required. Interim controls are a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, paint stabilization, friction and impact surface treatments, and temporary containment. Required interim controls will be identified by the risk assessment.

***Receiving more than \$25,000:***

For units with Federal assistance in excess of the \$25,000 threshold, and where the risk assessment reveals the need for abatement, specific measures must be undertaken.

Abatement is any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

1. The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and
2. All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

Abatement does not include renovation, remodeling, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even

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though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. All workers must be certified by the State of New Jersey to perform abatement and supervised by a state certified abatement supervisor. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards. Required abatement measures will be identified by the risk assessment.

### **LBP Corrections/Clearance**

Upon completion of the LBP hazard reduction, the property must be inspected to obtain clearance of the required safe work practices/interim/abatement measures. Scheduling should be verified prior to the actual completion of the LBP work to ensure timely occupant re-entry, or continuation of the rehabilitation process.

Upon receipt of a clearance report, the subrecipient or other funded entity shall review its contents to ensure that the required inclusions are present, inclusive of the name, address, and certification number of each person involved in the clearance examination, the name and identification number of each laboratory conducting an analysis for lead, the results of the visual inspection, the locations of the sample locations, the results of the analysis of dust samples in micrograms per square feet for each sample location, and the date of the clearance.

A copy shall then be forwarded to the occupants with the Notice of Lead Hazard Reduction (See Exhibit 13). The regulation requires that the Notice of Hazard Reduction must be provided to occupants no more than fifteen (15) calendar days after the hazard reduction activities have been completed. The completion date is the date on which clearance is achieved, which is when the subject property has passed the visual assessment and the dust samples are all below the designated clearance standard levels. Lead is considered a hazard if it exceeds the following standards:

Floors	40	Micrograms in dust per sf.
Interior Window Sills	250	Micrograms in dust per sf. on interior window sills
Window Troughs	400	Micrograms in dust per sf. on interior window sills
Children's Play	400	Parts per million

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Areas

Rest of Yard                      1,200    Parts per million

If the property fails to receive a clearance, then the performing contractor should be immediately notified by written correspondence, requesting the correction of any deficiencies within a specified “not to exceed” period of time. Additionally, arrangements must be made for scheduling a second clearance examination. Upon receipt of a successful clearance, then a copy should be forwarded to the occupants with the appropriate notification letter.

To ensure that all rehabilitation LBP requirements are met, staff should complete the Lead Based Paint Checklist and Project File Requirements form (See Exhibit 6), and retain within the project file.

#### **Homebuyer Assistance Program - 24 CFR 35.1000 (Subpart K)**

Subpart K provides oversight to ensure that any LBP paint in homes purchased with CDBG-DR funds has been appropriately addressed, and that the unit is “lead safe” when it is occupied by the assisted household.

#### ***Key Requirements – Subpart K***

Key requirements for LBP under Subpart K are LBP hazard evaluation, treatment, and clearance. The following is required to identify deteriorated paint in homes:

1. Provision of the LBP Pamphlet “Protect your family from lead in your home”
2. Visual Assessment - An inspection of all interior painted surfaces, including common areas such as hallways, laundry rooms or garages, and exterior surfaces of the building in which the dwelling unit is located must be conducted to identify deteriorated paint.
3. Paint Stabilization - All deteriorated paint surfaces must be stabilized before the homebuyer/tenant moves into the home/unit. If paint testing of a deteriorated surface reveals no LBP, then paint stabilization is not required on that surface.
4. Safe Work Practices - The owner/contractor must use safe work practices when conducting paint stabilization. Safe work practices include safe work methods, occupant protection, worksite preparation, and cleanup.

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5. Clearance - After the completion of work, the home must pass clearance. Clearance must be obtained before occupancy.
6. Notice of Lead Hazard Reduction must be provided to the occupant once clearance is completed.

***Responsibilities of Sellers and Lessors***

The initial step in compliance with the HUD Lead Safe Housing Rule is to ensure the provision of the required lead information pamphlet – Protect Your Family from Lead in Your Home . Program staff shall obtain a verification of receipt for the provided pamphlet (See Exhibit 10).

The seller must allow the purchaser 10 days to conduct a risk assessment or inspection for lead paint/lead hazards before any obligation to purchase. To ensure that this requirement is met, the prospective purchaser shall be provided with an LBP Purchase Contract Addendum (See Exhibit 17) which shall be incorporated into the offer to purchase . Grantee staff shall utilize this time period to perform an inspection of the property, complete Part 1 and 2 of the Lead Safe Housing Requirements Screening Worksheet completed (See Exhibit 11), and obtaining any necessary lead testing and risk assessment report (not required for FTHB or rental acquisition transactions).

***Certification and Acknowledgement of Disclosure – Contract Language***

Contracts to sell or lease target housing must have an attachment that contains the following:

1. Lead Warning Statement.
2. Disclosure Statement – A statement by the seller/lessor disclosing the presence of known lead paint and/or lead paint hazards in the housing, or indicating that they have no such knowledge. Also included should be any additional information regarding the basis for such determinations, the location of lead paint/lead paint hazards, and the condition of painted surfaces.
3. Records and Reports Provided – The contract must also contain a list of records and reports available to the seller/lessor that have been provided to the purchaser/lessee regarding the existence of lead paint/lead paint hazards in the

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housing. If no such records or reports are available, the contract shall indicate this.

4. Confirmation – A statement by the purchaser/lessee confirming the receipt of all of the required disclosure information, and in sales transactions, confirming that he/she has either received an opportunity to conduct a risk assessment or lead inspection, or waived this opportunity.
5. Agents – Where there is an agent acting on behalf of the seller/lessor, the contract must also contain a statement that the agent has informed the seller/ lessor of their obligations and the agent is aware of his/her duty to ensure compliance with applicable lead disclosure requirements.
6. Signatures – All of the parties to the contract, including the agent, must sign and date the attachment, certifying the accuracy of their statements.
7. Retention –The seller/lessor shall retain a copy of the completed contract attachment for at least three years from the date of the sale/commencement of the leasing period.

The above requirements are met through the completion of a Disclosure Form for Target Housing Sales for First Time Homebuyer transactions (See Exhibit 18); and for rental properties, a Disclosure Form for Target Housing Rentals and Leases (See Exhibit 19).

In addition, to ensure that critical requirements are met, staff should complete and retain the Homebuyer LBP Compliance Checklist (see Exhibit 7) and obtain a completed LBP Seller Certification (Exhibit 20)for retention within the project file.

***Post-Offer Disclosure***

If any lead disclosure occurs after an offer to purchase or lease has been made, the seller or lessor shall:

- Complete the required lead disclosure repair activities prior to accepting the offer; and
- Allow the purchaser or lessee the opportunity to review the information provided at disclosure, and amend the offer.

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Under a Homebuyer Assistance Program, the inspection findings may be used in the negotiation process to perform any necessary price adjustments, or to determine which party will be responsible for the performance of LBP repairs.

**Project-Based Rental Assistance 24 CFR 35.700 (Subpart H)**

Lead hazard evaluation and reduction requirements under this section apply to:

1. Residential properties receiving project-based assistance and apply only to the assisted dwelling units occupied or to be occupied by families or households that have children under age six (6),
2. The common areas servicing such units, and
3. The exterior painted surfaces associated with the unit and its common areas.

Common areas include areas through which residents pass to gain access to a unit, and other areas frequented by resident children less than six (6) years old, including on-site play areas and child care facilities.

***Initial Requirements***

1. Staff of the subrecipient or other funded entity shall ensure compliance with the HUD Lead Safe Housing Rule by providing the required lead information pamphlet – Protect Your Family from Lead in Your Home . Program staff shall obtain a verification of receipt for the provided pamphlet (See Exhibit 10)
2. Subrecipient or other entity staff shall require landlords participating in the program to ensure that tenants are provided with a Disclosure Form for Target Housing Rentals and Leases (See Exhibit 19).
3. If LBP testing is performed, a Notice of Lead Hazard Evaluation shall be provided to the occupants (See Exhibit 21).

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***Paint Stabilization Requirements***

1. The owner is required to stabilize deteriorated paint in accordance with the requirements for interim controls, before occupancy by a tenant in a unit receiving rental assistance. Program staff shall provide a copy of the PBRA guidelines and requirements to the owner prior to the initiation of any repairs (See Exhibit 21).
2. If such occupancy began prior to a periodic inspection, paint stabilization must be completed within 30 days of notifying the owner of the results of the visual assessment.

Paint Stabilization includes repairs to any defect in the substrate that is causing the paint to deteriorate, removing loose paint and other material from the defective surfaces, and applying new protective coatings or paint.

Repairs must be performed in accordance with all applicable safe work practices, and by appropriately trained and certified individuals and firms. Program staff shall obtain a completed LBP Owner Certification upon completion of repairs (See Exhibit 22) .

Applicable occupant protections shall be enforced.

Any required relocation shall be provided.

Clearance testing and reporting shall be by, the owner to the tenants.

***On-going Maintenance of Rental Properties.***

In addition, owners shall ensure that occupants are provided with a copy of the Instructions to Residents (See Exhibit 23) , which details notification procedures for their lead based paint concerns .

***Requirement if a Child Has an Environmental Intervention Blood-Lead Level***

Applies to project-based rental assisted units when a child has been identified as having an environmental intervention blood-lead levels (EIBLL). The following actions are required:



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1. Risk Assessment

Within 15 days after being notified by a public health department or other medical care provider that a child under six residing in a unit receiving project-based rental assistance has an elevated blood-lead level, the owner shall allow that a risk assessment of the unit be conducted in which the child lived at the time the blood sample was taken, including the common areas servicing that unit.

If notified of an EIBLL child by a medical professional, the owner shall notify the Department of Community Affairs – Disaster Recovery Division within five (5) working days.

If notification of an EIBLL child is received from a source other than a medical provider or public health department, the Department of Community Affairs Grantee shall immediately verify this information with the public health department or medical provider before doing a risk assessment.

The risk assessment shall be conducted in accordance with 24 CFR 35.1320(b). The requirement to conduct a risk assessment still applies if another assisted household is now occupying the unit, or is expected to occupy the unit. The results of the risk assessment shall be provided to the Department of Community Affairs and the owner immediately upon its completion.

2. Hazard Reduction

The property owner shall complete lead abatement or interim control activities, within 30 days of receiving the risk assessment report, or an evaluation from the public health department.

Hazard reduction is complete when clearance has been achieved, or when the public health department certifies that the lead hazard reduction is complete. Failure to complete these activities as required constitutes a Housing Quality Standards (HQS) violation.

3. Notice to Residents

The owner shall notify building residents of any evaluation or lead hazard reduction activities.

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4. Data Collection and Record Keeping – At least quarterly, the subrecipient or other funded entity shall attempt to coordinate with the public health department(s) in the jurisdiction to identify EIBLL children who may be receiving PBRA, and perform lead hazard evaluation and reduction activities as required by this section.

**Renovation, Repair and Painting Rule (RRP).**

This is an additional LBP-related rule that is may be applicable to project or program being carried out by some subrecipient or other funded activities, specifically for non-residential facilities that are deemed “child-occupied”. The RRP Rule requires firms that perform renovation, repair, and painting projects that disturb LBP in pre-1978 public facilities, child care centers , and schools to be certified by EPA and to use certified renovators who are trained by EPA-approved training providers to follow lead-safe work practices. As the LSHR is generally more stringent than RRP, the LSHR takes precedence over the RRP for most subrecipient or other funded entity activities. However, the RRP includes worker certification requirements for contractors that are not included in the LSHR, and are applicable to rehabilitation activities conducted in non-residential facilities under the CDBG-DR programs.

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The exhibits that follow provide additional guidance, sample documents, and checklists related to implementation of Based Paint Requirements:

Exhibit 1	Summary of Lead Requirements for Pre-1978 Housing (24 CFR Part 35)
Exhibit 2	24 CFR Part 35, Subpart B – Levels of Protection – Hazard Reduction Requirements
Exhibit 3	Relocation Screening Sheet for Projects with Lead Hazard Reduction Activities
Exhibit 4	Relocation Exemption Worksheet
Exhibit 5	Elderly Relocation Waiver
Exhibit 6	Lead Based Paint Checklist and File Requirements
Exhibit 7	Lead Compliance Document Checklist – Homebuyer Program
Exhibit 8	Lead Compliance Document Checklist – Tenant Based Rental Assistance
Exhibit 9	Confirmation of Receipt of “Renovate Right” pamphlet
Exhibit 10	Confirmation of Receipt of “Protect Your Family from Lead in Your Home” pamphlet
Exhibit 11	Lead Safe Housing Requirements Screening Worksheet
Exhibit 12	Lead Based Paint Consultant Service Request Form
Exhibit 13	Notice of Lead Hazard Evaluation
Exhibit 14	Lead Hazard Presumption Notice
Exhibit 15	Property Owner/Rehabilitation Contractor Addendum – Reduction of Lead Paint Hazards

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Exhibit 16	Notice of Lead Hazard Reduction
Exhibit 17	Purchase Program – Lead Based Paint Contract Contingency Language
Exhibit 18	Disclosure Form for Target Housing Sales
Exhibit 19	Disclosure Form for Target Housing Rentals and Leases
Exhibit 20	Seller Certification – Homebuyer Program
Exhibit 21	Sample Instruction for Property Owners with Tenants Receiving Tenant Based Rental Assistance (including Sample Notice of Lead Hazard Reduction)
Exhibit 22	TBRA – Owner Certification
Exhibit 23	Instructions for Residents

# EXHIBIT 1

SUMMARY OF CPD's LEAD REQUIREMENTS FOR PRE-1978 HOUSING UNDER 24 CFR PART 35				
Subpart of Rule / Type Program		Owner/Landlord Requirements <sup>1, 2, 3</sup>	Participant Monitoring Requirements	HUD Program Monitoring Requirements <sup>6</sup>
<b>A</b>	<b>Lead Disclosure Rule</b>	<ul style="list-style-type: none"> <li>Federal lead information pamphlet</li> <li>Lead Warning Statement</li> <li>Disclose knowledge about LBP and its hazards to potential buyers or lessees</li> <li>Opportunity for buyer to conduct evaluation</li> </ul>	If participant is the buyer or lessor, provide evidence of compliance with Lead Disclosure Rule.	The Office of Healthy Homes and Lead Hazard Control (OHHLHC) and the Environmental Protection Agency (EPA) are both responsible for ensuring compliance with Lead Disclosure Rule.
<b>B</b>	<b>General Requirements and Definitions</b>	<ul style="list-style-type: none"> <li>Definitions.</li> <li>Exemptions <sup>4</sup></li> <li>Notice to occupants of evaluation and hazard reduction activities, if performed</li> <li>Pamphlet, if not previously provided</li> </ul>		
<b>Rehabilitation Assistance <sup>7</sup>:</b>				
<b>J</b>	<b>For all Properties</b>	<ul style="list-style-type: none"> <li>Provision of pamphlet, if not otherwise provided</li> <li>Paint testing of surfaces to be disturbed, or presume LBP</li> <li>Notice to occupants of evaluation for paint testing or presumption</li> <li>Lead safe work practices during rehabilitation and lead hazard reduction</li> <li>Ongoing LBP maintenance if HOME</li> </ul>	Evidence of compliance with the Lead Safe Housing Rule, and if participant is a buyer or seller, provide evidence of compliance with the Lead Disclosure Rule.	Program must ensure that Participant documents proper performance under agreement with respect to Lead Safe Housing Rule and Lead Disclosure Rule (see above).
	<b>Federal Assistance Level</b>			
	<b>Less than or equal to \$5,000 per unit</b>	<ul style="list-style-type: none"> <li>Safe work practices during rehabilitation</li> <li>Repair disturbed paint</li> <li>Clearance of the worksite</li> <li>Notice to occupants of lead hazard reduction/clearance</li> </ul>		
	<b>More than \$5,000, up to \$25,000 per unit</b>	<ul style="list-style-type: none"> <li>Risk assessment</li> <li>Interim controls</li> <li>Notice to occupants of lead hazard reduction including clearance</li> </ul>		
	<b>More than \$25,000 per unit</b>	<ul style="list-style-type: none"> <li>Risk assessment</li> <li>Abatement of LBP hazards</li> <li>Notice to occupants of lead hazard reduction including clearance</li> </ul>		
<b>K</b>	<b>Acquisition, Leasing, Support Services, or Operation</b>	<ul style="list-style-type: none"> <li>Provision of pamphlet if not previously provided</li> <li>Visual assessment</li> <li>Option of paint testing and notice to occupants of evaluation</li> <li>Paint stabilization</li> <li>Notice to occupants of lead hazard reduction including clearance</li> <li>Ongoing LBP maintenance</li> </ul>	Provide evidence that Owner / Landlord complies with Lead Safe Housing Rule and if participant is a buyer or seller, Lead Disclosure Rule (see above).	Program must ensure Participant documents proper performance under agreement with respect to Lead Safe Housing Rule and Lead Disclosure Rule (see above).

M	<b>Tenant-Based Rental Assistance for units to be occupied by children under 6 years of age</b>	<ul style="list-style-type: none"> <li>• Provision of pamphlet if not previously provided</li> <li>• Visual assessment</li> <li>• Paint stabilization</li> <li>• Notice to occupants of lead hazard reduction including clearance</li> <li>• Ongoing LBP maintenance</li> <li>• Response to EIBLL child <sup>5</sup></li> </ul>	Provide evidence that Owner / Landlord complies with Lead Safe Housing Rule and it participant is lessor, the Lead Disclosure Rule (see above).	<p>Program must ensure Participant documents proper performance under agreement with respect to Lead Safe Housing Rule and Lead Disclosure Rule (see above).</p> <p>Program must provide evidence of capacity to respond to report of child poisoning.</p>
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## NOTES

- <sup>1</sup> Clearance, safe work practices and occupant protection are always required after abatement, interim controls, paint stabilization, or standard treatments, except when the amount of deteriorated paint is below the de minimis levels specified in Subpart R of the rule.
- <sup>2</sup> Notice to occupants must include results of evaluations (paint testing, inspection, and risk assessment) and clearance, where applicable.
- <sup>3</sup> Training requirements (see [www.hud.gov/offices/lead](http://www.hud.gov/offices/lead) for information; see [www.epa.gov/lead](http://www.epa.gov/lead) about certification):

Evaluation includes inspection, paint testing and risk assessment

Visual assessment: Web-based or instructor-led HUD visual assessment course or risk assessment certification.

Inspection: LBP inspection certification.

Risk assessment, or re-evaluation: Risk assessment certification.

Clearance: LBP inspection or risk assessment certification, or sampling technician course.

Hazard Control (other than small ("de minimis") amounts of paint disturbance – see 24 CFR 35.1350(d) about this exception):

Repair of paint, paint stabilization, or interim control: Lead-safe work practices course.

Abatement: Abatement worker, supervisor and firm certification.

- <sup>4</sup> See 24 CFR 35.115 for exemptions.
- <sup>5</sup> Environmental Intervention Blood Lead Level (EIBLL): At least 20 micrograms of lead per deciliter ( $\mu\text{g}/\text{dL}$ ) for a single test, or 15-19  $\mu\text{g}/\text{dL}$  in two tests taken at least 3 months apart.

### Requirements for Responding To A Notification Of A Child With An Environmental Intervention Blood Lead Level:

**Verify the Information.** Notification must be received from a medical health care provider. If the grantee receives information about a child under age six with an EIBLL from a non-medical health care provider, it must verify with a public health department or other health department that the child has an environmental intervention blood lead level. If so, this information constitutes notification by the grantee.

**Conduct a Risk Assessment.** The grantee must conduct a risk assessment of the unit in which the child lived at the time of the last blood lead test and common areas servicing that unit within 15 days of notification. They must also immediately provide the results of the risk assessment to the owner of the dwelling unit. Note: Evaluation is completed when the risk assessment report is received.

**Respond to the Evaluation Results.** Within 30 days after receiving the risk assessment report, the owner of the dwelling must complete lead hazard reduction activities—interim controls or abatement—on identified lead-based paint hazards. Note: Lead hazard reduction is completed when clearance is achieved. Note: If interim controls, encapsulation, and/or enclosure are the methods used, the owner must conduct ongoing maintenance, and the grantee must continue periodic inspections.

**Provide Notices.** Notices of Lead Hazard Evaluation and Lead Hazard Reduction Activity must be provided or posted for the residents.

- <sup>6</sup> Field Office monitoring areas of interest: covered program responsibility, partnerships, information management (monitoring, data processing, tracking), reporting and responding, and resources.
- <sup>7</sup> For information on rehabilitation in insular areas, see 24 CFR 35.940.

## EXHIBIT 1.2

### 24 CFR 35 Subpart B – Section 100 (Extraction)

The following table lists the subparts and sections of 24 CFR 35 applying to HUD programs in order from most protective to least protective hazard reduction requirements. The summary of hazard reduction requirements in this table is not complete. Readers must refer to relevant subpart for complete requirements.

Level of Protection	Subpart, section, and type of assistance	Hazard Reduction Requirements
1	Subpart L, Public housing. Subpart G, §35.630, Multifamily mortgage insurance for conversions and major rehabilitations	Full abatement of lead-based paint.
2	Subpart J, §35.930(d), Properties receiving more than \$25,000 per unit in rehabilitation assistance	Abatement of lead-based paint hazards.
3	Subpart G, §35.620, Multifamily mortgage insurance for properties constructed before 1960, other than conversions and major rehabilitations. Subpart H, §35.715, Project-based assistance for multifamily properties receiving more than \$5,000 per unit. Subpart I, HUD-owned multifamily property. Subpart J, §35.930(c), Properties receiving more than \$5,000 and up to \$25,000 per unit in rehabilitation assistance	Interim controls.
4	Subpart F, HUD-owned single family properties. Subpart H, §35.720, Project-based rental assistance for multifamily properties receiving up to \$5,000 per unit and single family properties. Subpart K, Acquisition, leasing, support services, or operation. Subpart M, Tenant-based rental assistance	Paint stabilization.
5	Subpart G, §35.625, Multifamily mortgage insurance for properties constructed after 1959	Ongoing lead-based paint maintenance.
6	Subpart J, §35.930(b), Properties receiving up to and including \$5,000 in rehabilitation assistance	Safe work practices during rehabilitation.

**EXHIBIT 1.3**  
**Relocation Screening Sheet for Projects**  
**with Lead Hazard Reduction Activities**

Property Owner:
Property Address:

Relocation for this project is: (check one)

- ☐ Required (All items listed in Section A will be performed and appropriate documents will be attached.)
- ☐ Not required due to circumstances listed in Section B.

Note: If circumstances change, relocation may be required.

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A. Relocation of occupants is required and the following activities will occur for occupant protection:

- Occupants will not be permitted to enter the worksite during hazard reduction activities.
- Occupants will be temporarily relocated to a lead-safe unit before and during hazard reduction activities for their protection.
- Dwelling unit and worksite will be secured against unauthorized entry.
- Occupants' belongings in a containment area will be relocated to a secure area outside the containment area or covered with appropriate materials.

B. Relocation of occupants is not required due to the following circumstances:

- ☐ Work will not disturb lead-based paint, or involve any lead dust hazard reduction activities.
- ☐ Work in the interior of the unit will be completed within one period in eight daytime hours, the site will be contained, and the work will not create other safety, health, or environmental hazards.
- ☐ Only the building's exterior will be treated; the windows, doors, ventilation intakes, and other openings near the worksite will be sealed during hazard reduction activities and cleaned afterward; and a lead-free entry will be provided.
- ☐ Treatment will be completed within five calendar days; the work area will be sealed; at the end of each day, the area within 10 feet of the containment area will be cleared of debris and cleaned; at the end of each day, occupants will have safe access to sleeping areas, bathroom, and kitchen facilities; and treatment will not create other safety, health, or environmental hazards.
- ☐ Occupants are elderly and have signed an Elderly Waiver for Relocation (attached).

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Owner Signature

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Date

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City Representative

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Date



## EXHIBIT 4 RELOCATION EXEMPTION WORKSHEET

Property Owner:
Property Address:

### CIRCUMSTANCES WHEN OCCUPANT RELOCATION IS NOT REQUIRED

- ☐ Treatment will not disturb lead-based paint, dust lead hazards, or soil lead hazards.
  
- ☐ Treatment of the interior will be completed within one period in eight daytime hours, the site will be contained, and the work will not create other safety, health, or environmental hazards.
  
- ☐ Only the building's exterior is treated; the windows, doors, ventilation intakes, and other openings near the worksite are sealed during hazard reduction activities and cleaned afterward; and a lead-free entry is provided.
  
- ☐ Treatment will be completed within five calendar days; the work area is sealed; at the end of each day, the area within 10 feet of the containment area is cleared of debris and cleaned; at the end of each day, occupants have safe access to sleeping areas, bathroom, and kitchen facilities; and treatment does not create other safety, health, or environmental hazards.
  
- ☐ HUD has advised that the relocation of elderly occupants is not typically required, so long as complete disclosure of the nature of the work is provided and informed consent of the elderly occupant(s) is obtained before commencement of the work. (See "Interpretive Guidance—The HUD Regulation on Controlling Lead-Based Paint Hazards in Housing Receiving Federal Assistance and Federally Owned Housing Being Sold," 9/21/00 edition.)

<b>Based on the above indicated conditions, occupant relocation is not required for the listed property undergoing rehabilitation/repair activity.</b>	
Signature and Title:	Date:

**EXHIBIT 5**  
**Elderly Relocation Waiver**

I, \_\_\_\_\_, the undersigned,

☐ Choose to remain in my home while rehabilitation work financed by the \_\_\_\_\_  
(enter Grantee name) is being performed.

☐ Choose to relocate while the work is being performed.

I have made this choice having read and understood the following:

1. I am at least 62 years old.
2. My home was built before 1978.
3. I have received the pamphlet "Renovate Right – Important Lead Hazard Information for Families, Child Care Providers and Schools" and I am aware of the health hazards that are posed by lead-based paint.
4. I have been given a description of work that will be done in my home and understand that during the course of the work, lead hazards may be created in the work area. These hazards will be fixed before the job is considered complete.
5. I may stay in my home but I may not enter the work area while work is being performed.
6. I certify that no children under age six or women of childbearing age currently live in the unit or spend significant amounts of time in the unit.
7. I understand that allowing children under age six or women of childbearing age to visit my home while work is being done may pose a risk to their health.
8. I waive rights to all damages. I agree to hold harmless the (enter Grantee name) for any damages due to lead poisoning that occur on these premises during the course of the work.

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Date

## EXHIBIT 6

**(Note: This checklist is appropriate for rehab projects but not for Subpart K or M projects)**

### Lead Based Paint Checklist and Project File Requirements

Project:	Project Federal Funding:
Property Address:	Project Completion Date

#### Initial Requirements

- ☐ Verification of Provision of appropriate LBP Pamphlet
- ☐ Lead Based Paint Review Form

#### LBP – Presumption or Testing and Risk Assessment

- ☐ Copy of Notice of Presumption
- ☐ Copy of Risk Assessment
- ☐ Certification documentation for firm/individuals performing Risk Assessment
- ☐ Description of areas tested
- ☐ Results of areas sampled
- ☐ Floor plan
- ☐ Risk Assessment Summary Findings:
  - ☐ No LPB    ☐ LBP

Controls to be employed based on Risk Assessment and funding level:

- ☐ Safe Work Practices    ☐ Interim Controls    ☐ Abatement
- ☐ Transmittal of Risk Assessment or Notice of Presumption to owner/occupants

#### Lead Hazard Reduction

- ☐ Name and address of each firm and supervisor (or employer) involved in the lead hazard reduction activity.
- ☐ Verification of certification for all workers and supervisors to perform LPB safe work practices, interim controls, and abatement.
- ☐ Start and completion date(s) of lead hazard reduction activity.
- ☐ Detailed written description of the lead hazard reduction activity including the methods used.
- ☐ Locations of exterior surfaces, interior rooms, common areas and/or components where the lead hazard reduction activity occurred.
- ☐ Any suggested requirements for ongoing monitoring of paint condition or previous treatments.
- ☐ Notice to occupants of LBP hazard reduction and clearance

#### Clearance and Close-out

- ☐ Copy of Clearance Report

- ☐ Name, address, signature and certification number of each person involved in the clearance examinations.
- ☐ Name and identification number of each laboratory conducting an analysis for lead.
- ☐ Dates of clearance examination.
- ☐ Locations where samples were taken.
- ☐ Results of visual assessment for the presence of deteriorated paint and visible dust, debris, residue or paint chips.
- ☐ Results of the analysis of dust samples in micrograms per square feet ( $\mu\text{g}/\text{ft}^2$ ) for each sample location.

**EXHIBIT 7**  
**Lead Compliance Document Checklist**  
**Homebuyer Program**

The following documents should be in each HOME assisted homebuyer file to document compliance with the lead requirements:

	<b>Document Name</b>	<b>Purpose</b>
<input type="checkbox"/>	Disclosure Form	Documents that buyer received disclosure and pamphlet.
<input type="checkbox"/>	Lead Safe Housing Rule Screening Sheet	Documents exemptions
<input type="checkbox"/>	Physical inspection form (HQS or equivalent)	Documents visual assessment results
<input type="checkbox"/>	Seller Certification	Seller certifies that paint was stabilized by qualified workers and that safe work practices were followed during paint stabilization
<input type="checkbox"/>	Clearance Report and Clearance Review Worksheet	Documents that unit passed clearance
<input type="checkbox"/>	Lead Hazard Reduction Notice	Documents that buyer received required lead hazard reduction notification.

**EXHIBIT 8**  
**Lead Compliance Document Checklist**  
**TBRA Program**

The following documents should be in each TBRA unit file to document compliance with the lead requirements:

	Document Name	Purpose
<input type="checkbox"/>	Application	Documents age of children
<input type="checkbox"/>	Lead Safe Housing Rule Screening Sheet	Documents exemptions
<input type="checkbox"/>	Physical inspection form (HQS or equivalent)	Documents visual assessment results
<input type="checkbox"/>	Owner Certification	Owner certifies that paint was stabilized by qualified workers and that safe work practices were followed during paint stabilization and that ongoing monitoring will occur
<input type="checkbox"/>	Clearance Report	Documents that unit passed clearance
<input type="checkbox"/>	Disclosure Form	Documents that tenant received disclosure and pamphlet.
<input type="checkbox"/>	Lead Hazard Reduction Notice	Documents that tenant received required lead hazard reduction notification.
<input type="checkbox"/>	Documentation of ongoing maintenance activities: <ul style="list-style-type: none"> <li>• Inspection reports – from annual and turn-over inspections</li> <li>• Clearance report from each maintenance job involving painted surfaces above the de minimis</li> <li>• Notice of lead hazard reduction for each maintenance job involving painted surfaces</li> </ul>	Documents that a visual assessment is performed at least annually and that any deteriorated paint is addressed appropriately (including clearance and notice of lead hazard reduction)
<input type="checkbox"/>	Documentation of response to EIBLL child: <ul style="list-style-type: none"> <li>• Copies of risk assessment</li> <li>• Abatement or clearance report</li> <li>• Relocation documents</li> <li>• Correspondence with health department</li> </ul>	Documents that if an EIBLL child was identified in the unit, the situation was addressed in accordance with the Lead Safe Housing Rule.

## EXHIBIT 1.9

(Grantee Name)

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### Confirmation of Receipt of Lead Pamphlet

#### Certification:

I have received a copy of the pamphlet, ***Renovate Right - Important Lead Hazard Information for Families, Child Care Providers and Schools***, informing me of the potential risk of lead hazard exposure, and renovation requirements. I received this pamphlet prior to the repair of my property with Community Development Block Grant or HOME Investment Partnerships Program (HOME) funds.

---

Printed name of recipient

---

Date

---

Signature of recipient

## EXHIBIT 10

(Grantee Name)

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### Confirmation of Receipt of Lead Pamphlet

#### Certification:

I have received a copy of the pamphlet, *Protect Your Family From Lead in Your Home*, informing me of the potential risk of lead hazard exposure. I received this pamphlet prior to my acquisition of or any residency within any property with Community Development Block Grant (CDBG) or HOME Investment Partnerships Program (HOME) funds.

---

Printed name of recipient

---

Date

---

Signature of recipient



## EXHIBIT 11

### LEAD SAFE HOUSING REQUIREMENTS SCREENING WORKSHEET

**This worksheet should be placed in the project file for any residential property that is assisted with Federal funds. Parts 1 and 2 should be completed for all projects. Parts 3 and 4 should be completed for rehabilitation projects.**

Property Owner:	
Property Address:	
Year Constructed:	Per Unit Level of Rehabilitation Assistance:

#### Part 1: Exemptions from All Requirements of 24 CFR Part 35

*If the answer to any of the following questions is yes, the property is exempt from the requirements of 24CFR Part 35. The regulatory citation of each exemption is cited as additional guidance.*

Was the property constructed after January 1, 1978? [35.115(a)(1)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is this a zero-bedroom unit? (e.g. SRO, efficiency) [35.115(a)(2)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is this dedicated elderly <sup>1</sup> housing? (i.e. over age 62) [35.115(a)(3)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is this housing dedicated for the disabled <sup>2</sup> ? [35.115(a)(3)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has a paint inspection conducted in accordance with 35.1320(a) established that the property is free of lead-based paint? [35.115(a)(4)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
The date of the original paint inspection was _____. An optional paint inspection conducted on _____ confirmed this prior finding.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has all lead-based paint in the property been identified and removed, and has clearance been achieved as cited below? [35.115(a)(5)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Clearance was achieved prior to September 15, 2000, and the work was done in accordance with 40CFR Part 745.227(b).	<input type="checkbox"/> Yes <input type="checkbox"/> No
Clearance was achieved after September 15, 2000, and the work was done in accordance with 24CFR Part 35.1320, 1325 and 1340.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will a currently vacant unit remain vacant until it is demolished [35.115(a)(6)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the property used for non-residential purposes? <sup>3</sup> [35.115(a)(7)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will any rehab <b>exclude</b> disturbing painted surfaces? [35.115(a)(8)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety, or, to protect the property from further structural damage? (e.g. after natural disaster or fire) [35.115(a)(9)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will the unit be occupied for less than 100 days under emergency leasing assistance to an eligible household? <sup>4</sup> [35.115(a)(11)]	<input type="checkbox"/> Yes <input type="checkbox"/> No

## Part 2: Limited Exemptions from Specific Hazard Reduction Requirements

The HUD Final Rule allows for limited exemptions from specific requirements due to the characteristics of the rehabilitation work, the structure or the occupants. If the answer to any of the following questions is yes, the grantee and/or occupant may waive certain requirements as described below.

Is the amount of painted surface that is being disturbed below “de minimis” levels, as defined below? If so, safe work practices and clearance are not required in that work area.	
Less than 20 square feet on an exterior surface [35.1350(d)(1)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Less than 2 square feet in any single interior room [35.1350(d)(2)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Less than 10% of surface area of an interior/exterior component[35.1350(d)(3)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the unit occupied by an elderly person(s)? If so, relocation of the elderly occupant(s) is not required if complete disclosure of the nature of the work is provided and informed consent is obtained prior to rehabilitation. <sup>5</sup>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is a unit that is subject to abatement requirements listed or eligible for listing on the National Register of Historic Places, or does it contribute to a National Register Historic District? If so, the State Historic Preservation Office may request that interim controls be implemented rather than abatement. On-going maintenance and re-evaluation is required. [35.115(13)]	<input type="checkbox"/> Yes <input type="checkbox"/> No

I have performed an on-site evaluation of property conditions, reviewed the proposed work specifications, and interviewed the occupants. In my professional opinion, this unit qualifies for the above indicated exemption under the provisions of 24 CFR Part 35.	
Signature and Title:	Date:

<sup>1</sup> Defined as retirement communities or similar types of housing reserved for households composed of one or more persons over age 62, or other age if recognized by a specific Federal housing assistance program. However, if a child under age 6 resides or is expected to reside in such a unit, the unit is not exempt.

<sup>2</sup> The housing must be a residential property designated exclusively for persons with disabilities, defined as any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of impairment, or is regarded by others as having such an impairment. However, if a child under age 6 resides or is expected to reside in such a unit, the unit is not exempt.

<sup>3</sup> Except that spaces such as entryways, hallways, stairways, etc. serving both residential and non-residential uses in a mixed-use property are not exempt.

<sup>4</sup> When a household is provided short-term emergency leasing assistance and will occupy a unit for less than 100 days, the unit is exempt from lead paint regulations. This emergency leasing exemption is attached to the unit, not the family, and is a one-time exemption. After being assisted for a total of 100 consecutive days, the unit becomes subject to regular Subpart K requirements. Multiple families cannot be cycled through the same unit at intervals of less than 100 days under this exemption.

<sup>5</sup> HUD Interpretive Guidance, April 16, 2001, question # J-24.

## LEAD SAFE HOUSING REQUIREMENTS SCREENING WORKSHEET

### Addendum for Rehabilitation Projects - Parts 3 and 4

**Parts 3 and 4 of this worksheet should be completed for any residential property that is to undergo rehabilitation with Federal funds. The completed form should be placed in the project file with Parts 1 and 2.**

#### Part 3: Per Unit Level of Rehabilitation Assistance

A. Average Federal Funding Per Unit	\$
B. Average Per Unit Rehabilitation <u>Hard Costs</u> (not including costs of lead hazard evaluation and reduction)	\$
C. Lower of A or B	\$

#### Part 4: Approach Required (Based on answer to 3.C., above)

\$0 – \$5,000	<input type="checkbox"/> Do No Harm (Test & Repair)	Conduct paint testing per Sec. 35.930(a)(1) and implement safe work practices per §35.930(a)(2) or presume LBP and implement <b>safe work practices</b> . Either way, conduct a clearance examination, per §35.930(b)(3) after rehabilitation. Attach a copy of the paint test (if applicable) and clearance examination reports, after completion.
\$5,001 - \$25,000	<input type="checkbox"/> Identify and Control Lead Hazards	Conduct paint testing per Sec. 35.930(c)(1) and a risk assessment per Sec. 35.930(c)(2); perform <b>interim controls</b> per Sec. 35.1330 (see Sec. 35.930(c)(3)) or presume LBP and/or hazards present and use standard treatments per Sec. 35.120(a). Either way, conduct a clearance examination per Sec. 35.930(b)(3) after rehabilitation. Attach a copy of the paint test and risk assessment (if applicable), and clearance examination reports, after completion.
\$25,001 and above	<input type="checkbox"/> Identify and Abate Lead Hazards	Conduct paint test and perform a risk assessment per §35.930(d)(2), or presume LBP. <b>Abate</b> all LBP hazards identified by the paint test or risk assessment and any LBP hazards created as a result of the rehabilitation work, in accordance with §35.1325, except that interim controls are acceptable on exterior surfaces that are not disturbed by rehabilitation. Either way, conduct a clearance examination per Sec. 35.930(b)(3) after rehabilitation. Attach a copy (if applicable) of the paint test and risk assessment, and (in all cases, upon completion) the clearance examination reports.
<b>Note:</b> If Federal rehabilitation assistance under the HOME program is used, recipient shall require property owner to incorporate ongoing LBP maintenance activities into regular building operations, per Sec. 35.1355(a) (see Sec. 35.935).		

I have performed an on-site evaluation of property conditions, reviewed the proposed specifications, estimated the rehabilitation hard costs, performed the above indicated calculations, and interviewed the occupants. In my professional opinion, this project meets the above requirement for federal lead hazard reduction under 24 CFR Part 35.

Signature and Title:

Date:

## EXHIBIT 12

(Grantee Name)

### Housing Rehabilitation Program Lead-Based Paint Consultant Service Request Form

Date

The below listed property is under consideration for the performance of a rehabilitation repairs under the Department of Community Affairs Housing Rehabilitation Loan Program. The proposed scope of work has been determined, and has been attached to this request as Exhibit "A."

Prior to preparing bid docs for the repair portion of the project, we would like your firm to conduct the required testing/risk assessment as mandated by the indicated construction estimate of cost and proposed scope of work. Additionally, in conjunction with your testing/assessment report, please provide the corresponding lead hazard control options and estimated cost for their completion.

All services provided under this request are to be performed in conformance with the Department of Community Affairs (or its subrecipient) Consultant Services Agreement with your firm, and in accordance with all applicable Federal, State, and Local laws.

Should any unforeseeable or unique situations arise in the performance of your inspection, or you have any questions regarding this property or the nature of the proposed improvements, please contact our office at \_\_\_\_\_ for additional direction.

Property Address	Date of Construction	Estimated Construction Cost
Owner Name	Day Phone	Anticipated Construction Start Date
Occupants (if different than owner) Age	Additional Occupants Age	
Comments		
Authorized By:	Signature:	Date:

**EXHIBIT 13**  
**NOTICE OF LEAD HAZARD EVALUATION**

Property Address (and Unit Numbers, if applicable):

**Evaluation Performed:**   ☐ **Paint Inspection**   ☐ **Paint Testing**   ☐ **Risk Assessment**

Date Evaluation Performed: \_\_\_\_\_

Summary of Results of Paint Inspection or Paint Testing:

☐ Lead-based paint was found                      ☐ No lead-based paint was found

Summary of Results of Risk Assessment (See attached Risk Assessment, and below for additional information)

☐ Lead-based paint hazards were found  
☐ No lead-based paint hazards were found

Contact person for more information about the lead-based paint evaluation:

Printed Name:	Phone Number:
Organization/Firm:	
Address:	

Person who prepared this notice:

Printed Name:	Phone Number:
Organization/Firm:	
Address:	
Signature:	Date:

**EXHIBIT 14**  
**LEAD HAZARD PRESUMPTION NOTICE**

**The property listed below has not been evaluated for lead-based paint but it has been presumed that lead-based paint or lead based paint hazards are present.**

Property Owner:	
Property Address:	
Year Constructed:	Per Unit Level of Rehabilitation Assistance:

Types of Presumption (Check all that Apply):

- ☐ Lead-based paint is presumed to be present.
- ☐ Lead-based paint hazard(s) is(are) presumed to be present.

**Summary of Presumption - List at least the bare soil locations, dust-lead locations, and/or building components (including type of room or space and the material underneath the paint)**

**Presumed Hazards**

**Bare Soil** (list any areas of bare soil): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Dust Locations** (check the following that apply):

- ☐ Window sills      ☐ Window troughs      ☐ Floors

**Other presumed lead hazards** (check any of the following components that have deteriorated paint or are friction or impact surfaces):

**Exterior (List Locations)**

- ☐ Windows \_\_\_\_\_
- ☐ Doors \_\_\_\_\_
- ☐ Trim \_\_\_\_\_
- ☐ Cladding \_\_\_\_\_
- ☐ Outbuildings \_\_\_\_\_
- ☐ Fences \_\_\_\_\_
- ☐ Porch A \_\_\_\_\_
- ☐ Porch B \_\_\_\_\_

## Interior

- ☐ Trim \_\_\_\_\_
- ☐ Doors \_\_\_\_\_
- ☐ Windows \_\_\_\_\_
- ☐ Walls \_\_\_\_\_
- ☐ Floors \_\_\_\_\_
- ☐ Ceilings \_\_\_\_\_
- ☐ Other \_\_\_\_\_

Contact person for more information about the lead-based presumption:

Printed Name:	Phone Number:
Organization/Firm:	
Address:	

Person who prepared this notice:

Printed Name:	Phone Number:
Organization/Firm:	
Address:	
Signature:	Date:

**EXHIBIT 15**  
**PROPERTY OWNER/REHABILITATION CONTRACTOR CONTRACT ADDENDUM**  
**REDUCTION OF LEAD PAINT HAZARDS**

**Article I - Contract Document**

This document shall be attached to the Property Owner/Rehab Contractor Contract and is hereby incorporated therein. In the event of a conflict among contract documents, the provisions in this addendum shall prevail over all others.

**Article II - Scope of Services**

All lead-based paint activities performed, including waste disposal, shall be in accordance with applicable Federal, State, or local laws, ordinances, codes or regulations governing evaluation and hazard reduction. In the event of discrepancies, the most protective requirements prevail. These requirements can be found in: OSHA 29 CFR 1926—Construction Industry Standards, 29 CFR 1926.62—Construction Industry Lead Standards, 29 CFR 1910. 1200—Hazard Communication, 40 CFR Pt.261—EPA Regulations, HUD Title X parts 1012-1013.

The use of paint containing more than 0.06 percent dry weight of lead on any interior or exterior surface is prohibited.

The level of lead hazard reduction is determined by the level of federal assistance. That calculation is attached to this contract as Exhibit A and incorporated herein.. For work up to and including \$5,000, safe work practices must be used for all rehabilitation activities, and paint disturbed during the work must be repaired. For work over \$5,000 up to and including \$25,000, interim controls must be performed on the hazards identified by the risk assessment and paint disturbed during the rehabilitation must be repaired **or** standard treatments must be carried out for the entire unit. For work over \$25,000, surfaces painted with lead-based paint that are disturbed during rehabilitation and hazards identified by the risk assessment all must be abated. Interim controls may be performed on exterior surfaces if those surfaces are not undergoing rehabilitation.

**Article III - Worker Protection and Prohibited Methods**

Workers shall be provided with a pre-employment physical to determine blood lead level and ability to wear appropriate respirator protection. Workers shall also be provided with a changing area equipped with washing facilities and protective clothing. All safe work practices shall be used.

The following methods shall not be used to remove paint that is, or may be, lead-based paint:

1. Open flame burning or torching;
2. Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control;
3. Abrasive blasting or sandblasting without HEPA local exhaust control;
4. Heat guns operating above 1100 degrees Fahrenheit or charring the paint;
5. Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1.0 ft. (0.30m.) of electrical outlets, or when treating defective paint spots totaling no more than 2 sq. ft. (0.02 sq. m.) in any one interior room or space, or totaling no more than 20 sq. ft (2.0 sq. m.) on exterior surfaces; and
6. Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission and/or a hazardous chemical in accordance with the Occupational Safety and Health Administration regulations.



#### **Article IV - Records**

Records must be kept of each evaluation, clearance or hazard reduction report for at least three years.

#### **Article V - Fines**

The Contractor is fully responsible for the means and methods of executing the scope of work. Therefore, the Contractor and Subcontractor agree to hold the Owner and the City harmless in the event of any fines from federal or local agencies controlling the lead hazard reduction work. The Contractor or Subcontractor agree to immediately (within 30 days) satisfy any and all fines or judgments presented by OSHA, EPA, the local or state health department, the state office of lead hazard control and any other governmental agency having jurisdiction over the lead hazard reduction work.

#### **Article VI - Worker Training**

All workers involved in lead hazard reduction activities must either be supervised by an EPA or State of (Grantee jurisdiction) Abatement Supervisor or have received HUD-approved training in lead-safe work practices prior to commencement of work.

#### **Article VII - Occupant Protection During Lead Hazard Reduction**

The Contractor shall provide the City with a copy of the written Occupant Protection Plan as required by 40 CFR Pt. 745.

Actions must be taken to protect occupants from lead-based paint hazards if the units will not be vacant during the rehab project. Occupants may not enter the work site during the lead hazard reduction activities. Reentry is permitted only after such activities are completed and the units have passed a clearance examination. Occupants of the unit do not have to be relocated under the following circumstances:

1. Rehab work will not disturb lead-based paint or create lead-contaminated dust;
2. Hazard reduction activities can be completed within one 8 hour daytime period and the work site is contained to prevent safety, health or environmental hazards;
3. Exterior-only work is being performed where the windows, doors, ventilation intakes and other openings near the work site are sealed during hazard reduction activities, and cleaned afterward, allowing for a lead-safe entry to be maintained;
4. Hazard reduction activities will be completed within 5 calendar days and the work area is sealed, the area within 10 feet of the containment area is cleaned each day, occupants have safe access to sleeping areas, bathroom and kitchen facilities; and occupants are not permitted into the work sites until after clearance has been achieved.

#### **Article VIII - Temporary Relocation During Lead Hazard Reduction**

If occupied units are to undergo more extensive lead hazard reduction activities, the occupants must be temporarily relocated. Most often, furniture and occupant belongings can be covered and sealed with protective plastic sheeting, although storage of major furniture and removal of all small furnishings during the hazardous materials reduction work may sometimes be necessary. The Owners/Occupants are responsible for carefully packing all breakables, removing all clothing from closets, and protecting any personal property. During the hazard reduction work, only workers trained in lead hazard reduction may enter the work site. This means that neither owners nor occupants are permitted to return to the work site during the day or at night. If the Owner/Occupant has special needs to re-enter the site, the City must be contacted. Only when the unit has been cleaned to the federally-mandated standards and passed a clearance examination is it safe and permissible for the Owner/Occupant to return to their home. The City will notify the Owner/Occupant with an Authorization for Re-Occupancy. If work is done in stages, interim dust lead clearance must be obtained prior to re-occupancy by the owners or occupants and other non-

lead related rehabilitation workers. Final lead dust clearance must be repeated following the rehabilitation work to verify that the residence is free of lead hazards.

If needed, there shall be an allowance for relocation costs of \$ \_\_\_\_\_ per week for owner occupants. The Federal Uniform Relocation Act for temporary relocation costs will apply when tenants are required to relocate. Payment will be made once costs/expenses are verified. The total allowance has been made part of this contract and based upon the time designated in the bid for lead hazard removal.

#### **Article IX - Worksite Preparation and Containment**

The worksite shall be prepared to prevent the release of leaded dust, and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation.

All objects that cannot be moved (cabinets, appliances, built-in furniture) shall be covered with plastic sheeting at least 6 mils thick taped securely in place. Floors in the worksite shall also be covered with plastic sheeting at least 6 mils thick sealed with tape.

#### **Article X - Cleaning Up and Clearance**

The contractor shall keep the premises clean and orderly during the course of the work and all debris shall be removed on a continuous daily basis and not be allowed to accumulate.

All exposed interior surfaces shall be cleaned using a HEPA vacuum and wet washed with a detergent solution and clean water rinse to reduce the lead content.

Clearance may not be performed sooner than one hour after completion of the final cleanup. Clearance dust sampling is for settled leaded dust and is a two-phase process. The initial clearance evaluation is a Visual Examination done by the City followed by "environmental sampling" for leaded dust.

1. The visual examination determines that the work on all interior and exterior surfaces to be treated was completed, that there are no deteriorated paint surfaces, and that no visible settled dust or debris is present in interiors and within 10 feet of exterior walls if exterior work was performed.
2. Environmental sampling involves dust sampling on the interior work area. The clearance examiner may decide that exact sampling scheme based on the type of treatment (s), visual observation, and professional judgment.
3. Clearance samples must determine the lead dust levels of the work site prior to re-occupancy.
4. Clearance must be performed by an individual who is independent from the Contractor hired to do the work. The following dust lead clearance thresholds must be met:

Floors—40 µg/ft<sup>2</sup>

Interior window sills—250 µg/ft<sup>2</sup>

Exterior window troughs—400 µg/ft<sup>2</sup>

5. Clearance must be performed by an EPA or State certified Risk Assessor, Lead Paint Inspector or a Clearance Technician.
6. If a component, such as a floor, fails the clearance dust standard, the floor in the room that failed must then be re-cleaned. A clearance dust sample must then be taken. The first clearance cost was made part of the total cost of rehabilitation. All subsequent cleaning and clearances costs shall be the sole responsibility of the Contractor.

## **Article XI - Handling of Lead Wastes/Disposal**

The Contractor is solely responsible for complying with federal and state requirements for the safe handling of lead wastes and the disposal thereof.

## **Article XII - Owner Responsibilities**

Owners shall provide utilities, sanitary facilities, and fire insurance.

Owners shall be responsible for monitoring potential hazards, repairing damaged surfaces, and maintaining the property to prevent hazards from occurring after occupancy.

IN WITNESS WHEREOF, the parties hereto execute this Addendum to the Contract

### **Contractor:**

\_\_\_\_\_  
Name (Print) Contractor

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Contractor's License Number

\_\_\_\_\_  
Contractor Address

\_\_\_\_\_  
Contractor City, State, Zip Code

\_\_\_\_\_  
Contractor Telephone Number

\_\_\_\_\_  
Date of Acceptance

### **Owner:**

\_\_\_\_\_  
Name (Print) Owner

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Name (Print) Owner

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Owner Address

\_\_\_\_\_  
Owner City, State, Zip Code

\_\_\_\_\_  
Owner Phone Number

\_\_\_\_\_  
Date of Acceptance



U. S. ENVIRONMENTAL PROTECTION AGENCY

## NOTIFICATION

OF LEAD-BASED PAINT ABATEMENT ACTIVITIES

**Important:** A representative of the certified firm may complete this sample form or a similar form when notifying EPA. Consult the *Instructions for Notifying EPA Commencement of Lead-Based Paint Abatement Activities* when preparing abatement notification. **Please type or print responses in black or blue ink only.**

**A. Type of Notification** Please indicate the type of notification.

☐ Original ☐ Updated ☐ Cancellation

**B. Emergency Notification** ☐ No ☐ Yes, if yes include documentation showing evidence of an EBL determination or a copy of the Federal/State/Tribal/Local emergency abatement order.

**C. Activity Start and End Dates** Specify the dates you will begin and end lead-based paint activity.

If necessary, estimate end date using your best professional judgment. Start date: \_\_\_\_\_ End date: \_\_\_\_\_  
Month/Day/Year Month/Day/Year

**D. Description of Activity** This section relates to the building where abatement work will be performed.

Type of Building: ☐ Single Family Dwelling ☐ Multi-Family Dwelling ☐ Child-Occupied Facility

Property name (if applicable): \_\_\_\_\_

Property Address including apartment and/or unit number(s): \_\_\_\_\_

Street Address

City

State

Zip Code

Square footage/acreage to be abated: \_\_\_\_\_

Please write a brief description of abatement project to be performed. (Enclose additional paper if necessary)

**E. Firm Information**

Name: \_\_\_\_\_ Firm's Certification Number: \_\_\_\_\_

Address: \_\_\_\_\_  
Street Address City State Zip Code

Phone Number: \_\_\_\_\_

**F. Certified Supervisor's Information**

Name: \_\_\_\_\_

EPA Certification Number: \_\_\_\_\_ (Check here ☐ if working under interim certification and enter the identification number from your course completion certificate in this space)

**G. Firm Affirmation** Please note that this form is incomplete without a signature.

I hereby attest and affirm that the information included on this notification form is true and accurate to the best of my belief and knowledge. I acknowledge that any approval authorized pursuant to this notification will be subject to revocation if issuance was based on incorrect or inadequate information that materially affected the decision to issue the approval.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

For information on EPA and other lead programs, see the web site:  
<http://www.epa.gov/lead/>

Exhibit 1.4-20

**EXHIBIT 16**  
**Notice of Lead Hazard Reduction**

Property Address: \_\_\_\_\_ Today's Date: \_\_\_\_\_

**Summary of the Hazard Reduction Activity:**

Start Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_

**Location and type of activity:** (List the location and type of activity conducted or attach a copy of the summary page from the clearance report or the lead hazard scope of work providing this information.)

\_\_\_\_\_  
\_\_\_\_\_

Date(s) of clearance testing: \_\_\_\_\_

Summary of results of clearance testing:

- (a) \_\_\_\_\_ No clearance testing was performed.
- (b) \_\_\_\_\_ Clearance testing showed clearance was achieved.
- (c) \_\_\_\_\_ Clearance testing showed clearance was not achieved.

List any components with known lead-based paint that remain in the areas where activities were conducted. List the location of the component (e.g. kitchen-door, bedroom-windows).

\_\_\_\_\_  
\_\_\_\_\_

**Person who prepared this summary notice**

Printed Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Owner: \_\_\_\_\_ Date: \_\_\_\_\_

(Provide to Property Owner with work-write up)

**If you have any questions about this summary, please contact**

\_\_\_\_\_ [name] \_\_\_\_\_ at \_\_\_\_\_ [phone] \_\_\_\_\_

**EXHIBIT 17**  
**Purchase Program**  
**Lead-Based Paint Contract Contingency Language**

This contract is contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards at the Purchaser's expense until 9 p.m. on the tenth calendar-day after ratification. This ending date is: \_\_\_\_\_ **[insert date]** \_\_\_\_\_, 10 days after contract ratification or a date mutually agreed upon, (Intact lead-based paint that is in good condition is not necessarily a hazard. See the EPA pamphlet "Protect Your Family From Lead in Your Home" for more information.)

This contingency will terminate at the above predetermined deadline unless the Purchaser (or Purchaser's agent) delivers to the Seller (or Seller's agent) a written contract addendum listing the specific existing deficiencies and corrections needed, together with a copy of the inspection and/or risk assessment report.

The Seller may, at the Seller's option, within 10 days after Delivery of the addendum, elect in writing whether to correct the condition(s) prior to settlement. If the Seller will correct the condition, the Seller shall furnish the Purchaser with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of the settlement. If the Seller does not elect to make the repairs, or if the Seller makes a counteroffer, the Purchaser shall have 10 days to respond to the counter-offer or remove this contingency and take the property in "as is" condition or this contract shall become void. The Purchaser may remove this contingency at any time without cause.

Seller Name: \_\_\_\_\_ Date: \_\_\_\_\_

Purchaser: \_\_\_\_\_ Date: \_\_\_\_\_

Property Address: \_\_\_\_\_

\_\_\_\_\_

**EXHIBIT 18**  
**Disclosure Form for Target Housing Sales**  
**Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards**

**Lead Warning Statement**

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

**Seller's Disclosure (initial)**

\_\_\_\_\_ (a) Presence of lead-based paint and/or lead-based paint hazards (check one below):

☐ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).  
\_\_\_\_\_

☐ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing

\_\_\_\_\_ (b) Records and reports available to the seller (check one below):

☐ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).  
\_\_\_\_\_

☐ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

**Purchaser's Acknowledgment (initial)**

\_\_\_\_\_ (c) Purchaser has received copies of all information listed above.

\_\_\_\_\_ (d) Purchaser has received the pamphlet *Protect Your Family From Lead in Your Home*.

\_\_\_\_\_ (e) Purchaser has (check one below):

☐ Received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or

☐ Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

**Agent's Acknowledgment (initial)**

\_\_\_\_\_ (f) Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

**Certification of Accuracy**

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

_____ Seller	_____ Date	_____ Seller	_____ Date
_____ Purchaser	_____ Date	_____ Purchaser	_____ Date
_____ Agent	_____ Date	_____ Agent	_____ Date

**EXHIBIT 19**  
**Disclosure Form for Target Housing Rentals and Leases**  
**Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards**

**Lead Warning Statement**

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

**Lessor's Disclosure (initial)**

\_\_\_\_\_ (a) Presence of lead-based paint and/or lead-based paint hazards (check one below):

- ☐ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

\_\_\_\_\_

- ☐ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing

\_\_\_\_\_ (b) Records and reports available to the seller (check one below):

- ☐ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

\_\_\_\_\_

- ☐ Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

**Lessee's Acknowledgment (initial)**

\_\_\_\_\_ (c) Lessee has received copies of all information listed above.

\_\_\_\_\_ (d) Lessee has received the pamphlet *Protect Your Family From Lead in Your Home*.

**Agent's Acknowledgment (initial)**

\_\_\_\_\_ (e) Agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

**Certification of Accuracy**

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

_____	_____	_____	_____
Lessor	Date	Lessor	Date
_____	_____	_____	_____
Lessee	Date	Lessee	Date
_____	_____	_____	_____
Agent	Date	Agent	Date



**EXHIBIT 20**  
**Seller Certification - Homebuyer Program**

I, \_\_\_\_\_, owner  
(seller) of \_\_\_\_\_ (property address),  
certify that all deteriorated paint identified in the inspection report dated \_\_\_\_\_  
\_\_\_\_\_ was stabilized and that safe work practices were followed. Items 1A-1E were  
adhered to, in compliance with Federal, state and local regulations, except in cases  
where the work was exempt from safe work practice requirements as described in Item  
2.

**Check Number 1 or 2**

\_\_\_\_\_ 1. The following practices were followed as appropriate (check all that apply).

☐ A. The prohibited work methods listed below were not used.

\_\_\_\_\_ Open flame burning or torching.

\_\_\_\_\_ Machine sanding or grinding without a high-efficiency particulate air (HEPA)  
local exhaust control.

\_\_\_\_\_ Abrasive blasting or sandblasting without HEPA local exhaust control.

\_\_\_\_\_ Heat guns operating above 1,100 degrees Fahrenheit, or those that that  
operate high enough to char the paint.

\_\_\_\_\_ Dry sanding or dry scraping. (For exceptions to this rule see 24CFR 35.140  
(e).)

\_\_\_\_\_ Paint stripping in a poorly ventilated space using a volatile stripper that is a  
hazardous substance in accordance with regulations of the Consumer  
Product Safety Commission at 16 CFR 1500.3, and/or a hazardous chemical  
in accordance with the Occupational Safety and Health Administration at 29  
CFR 1010.1200 or 1926.59, as applicable to the work.

☐ B. Workers performing the work were qualified to do so, in compliance with 24 CFR  
Part 35

\_\_\_\_\_ Workers were supervised by a certified abatement supervisor; or

\_\_\_\_\_ Workers successfully completed a HUD-approved training on Lead Safe  
work practices (see [www.hud.gov/offices/lead/lbptraining](http://www.hud.gov/offices/lead/lbptraining) for a listing of  
approved courses)

☐ C. Protection of occupants and preparation of the worksite as described below.

## Occupant Protection

- \_\_\_\_\_ Occupants were not permitted to enter the worksite during hazard reduction activities until final clearance was achieved.
- \_\_\_\_\_ Occupants were temporarily relocated before and during hazard reduction activities if necessary.
- \_\_\_\_\_ Dwelling unit and worksite were secured against unauthorized entry, and occupants' belongings were protected from contamination by dust-lead hazards and debris during hazard reduction activities.
- \_\_\_\_\_ Occupants' belongings in a containment area were relocated to a secure area outside the containment area or covered with appropriate materials.

## Worksite Preparation

- \_\_\_\_\_ Worksite was prepared to prevent release of leaded dust and contained lead-based paint chips and other debris from hazard reduction activities within the worksite.
- \_\_\_\_\_ A warning sign was posted at each entry to rooms where hazard reduction activities were conducted when occupants were present.

☐ D. Specialized cleaning after hazard reduction activities including:

- \_\_\_\_\_ Used HEPA vacuum cleaners; or other method of equivalent efficacy; and Lead-specific detergents or equivalents.

\_\_\_\_\_ ☐ E. Clearance of unit achieved before re-occupancy was permitted.

2. Safe work practices and clearance were not required when activities do not disturb painted surfaces below the *de minimis* thresholds defined below:

The required repairs did not disturb painted surfaces that totaled more than:

- \_\_\_\_\_ 20 square feet on exterior surfaces;
- \_\_\_\_\_ 2 square feet in any one interior room or space; or
- \_\_\_\_\_ 10 percent of the total surface area on an interior or exterior type of component with a small surface area (such as windowsills, baseboards, and trim).

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Representative

\_\_\_\_\_  
Date

## EXHIBIT 21

### Sample Instructions for Property Owners with Tenants Receiving Tenant Based Rental Assistance (TBRA)

To better protect young children from the dangers of lead based paint in their homes, the Department of Housing and Urban Development has issued The Lead Safe Housing Rule (24 CFR 35)

- An estimated 890,000 children have too much lead in their bodies.
- Nationwide an estimated 38 million homes have lead based paint.
- The most common source of lead hazards are generated in a residential environment.

The Lead Safe Housing Rule applies to rental units leased under the Tenant Based Rental Assistance (TBRA) Program. TBRA Rental units affected are those:

- Built before January 1978 in which children under the age of six years are expected to live

The Lead Safe Housing Rule affects the manner in which the City and Landlords with TBRA units will do their business in the following ways:

- ⇐ The City will conduct physical inspections before move-in and annually thereafter.
- ⇐ All painted surfaces, interior and exterior, must be inspected for defective paint (not just those within reach of a child).
- ⇐ If deteriorated paint is identified, the paint must be stabilized. Paint stabilization must be done by qualified workers using safe work practices (see Attachment 2).
- ⇐ Once work on the defective paint surface is completed and the surrounding area cleaned, the City's certified inspector will conduct a clearance examination. Dust samples will be sent to a certified laboratory for testing. This may require two days.
- ⇐ The [City or Landlord] will pay for the first clearance examination.
- ⇐ If a unit fails the clearance examination, the [City or Landlord] is responsible for re-cleaning the unit and hiring a certified clearance examiner to perform a second clearance.
- ⇐ No TBRA contract can be effective or renewed until the unit passes the clearance test.
- ⇐ After work is complete, the Landlord must provide a Notice of Lead Hazard Reduction to the resident (see Attachment 3).
- ⇐ As long as a TBRA contract remains in place, the city will conduct annual inspections for deteriorated paint.
- ⇐ As long as a TBRA contract remains in place, the landlord is required to stabilize any deteriorated paint in a lead-safe manner (see Attachment 4).

The following resources are provided to help you implement these requirements:

- 1) Attachment 1: Summary of old and new requirements
- 2) Attachment 2: Instructions on how to stabilize paint
- 3) Attachment 3: Sample Notice of Lead Hazard Reduction
- 4) Attachment 4: Instructions for ongoing maintenance

The City will work with Landlords to facilitate compliance and help you find qualified workers. For more information, please contact \_\_\_\_\_.

## Attachment 1: Summary of Old and New Requirements

The City and landlords have always taken some steps covered by the new rules. The following shows basic steps or action required for compliance with the Lead Safe Housing Rule.

Previously Required	Required Since the Lead Safe Housing Rule Became Effective
Landlords sign the Lead Based Paint Disclosure Form when a request for Lease Approval is submitted for a unit.	Same
Lead Hazard Information Pamphlet is provided and explained to tenants at their briefing by the Housing Office	Same
When children under six will be or are living in a pre-1978 unit, the HQS inspector looks for defective paint.	<p>A visual assessment will be made of all exterior and interior painted surfaces on pre-1978 units in which children under the age of 6 will be or are living.</p> <p>The city will assume the defective surfaces contain lead-based paint.</p> <p>At their own expense, landlords have the option to test the paint to confirm the presence of lead based paint. If the test results show no lead-based paint is present, the rules do not apply.</p> <p>Surfaces subject to assessment include the interior and exterior surfaces of the unit, common areas connecting to the unit or used by one or more children under age six (on-site play areas and child care facilities)</p>
Landlords must properly remove and dispose of chipping, peeling paint from reachable surfaces.	Before the tenant moves in or before an annual contract is renewed, all defective surfaces must be corrected by trained workers or workers supervised by a certified supervisor or contractor. All work must be done using safe work practices.
Follow-up inspection is made by City to confirm HQS repairs are made.	<p>After the work is complete, the City's Certified Clearance Inspector will inspect the work done to correct the defective paint. The inspector will collect several wipe samples for clearance testing.</p> <p>The City will send the test samples to a certified laboratory for testing which will require 2 to 3 days.</p> <p>The City or Landlord will pay for the first clearance test. If the test fails, the City or Landlord will be required to pay for follow-up tests.</p> <p>The City will notify landlords of the test results. Landlords must notify tenants of the clearance test results.</p>
Contracts are not effective until a unit passes HQS inspection and leases are executed by both landlord and tenant.	Contracts will not be effective until a unit passes HQS inspection, which will now include the lead based paint clearance test, and leases are executed by both landlord and tenant.

## Attachment 2: Paint Stabilization Instructions

Repairing, removing or maintaining lead-based paint improperly can spread lead-contaminated dust throughout the home. It is very important to use safe work methods when working on surfaces that may contain lead-based paint.

1. **Use qualified workers.** In homes receiving HUD assistance, **paint stabilization must be done by workers who are specially trained in lead safe work practices.** Alternatively, the workers may be supervised by a state-certified abatement supervisor. The city can help you identify properly trained contractors.
2. **Use the proper equipment.** You will need the proper tools and supplies to do the job correctly. In addition to tools such as scrapers and putty knives, it is important to have: A HEPA vacuum (a vacuum equipped with a very fine filter capable of filtering very small particles of lead); double sided mop bucket and mop; a good household detergent; ample disposable paper towels or rags; plastic sheeting; tack cloth; disposal waste bags; wet sanding blocks; and misting bottle filled with water.
3. **Set up the work area properly.** The key is to contain the dust and debris created by the work. Create a barrier between the work area and the rest of the house. Use plastic sheeting over the doorways to seal off the area and protect the rest of the house from exposure. Work over a plastic drop cloth (never use cloth) to catch any debris created as a result of paint removal. Wear disposable shoe covers and remove them before exiting the work area, or step onto a tack cloth to remove paint chips and dust from the soles of shoes. Keep doors and windows closed to prevent dust from blowing and close off vents to central air or heating systems to avoid spreading dust to other parts of the house. Remove all furniture, or cover tightly with plastic sheeting. Do not allow children or pregnant women into the work area.
4. **Use safe work practices.** Never remove lead-based paint by dry-sanding, dry scraping or burning. Use power sanders, grinders, and planers only with a HEPA exhaust attachment. Using your misting bottle, wet the painted surface before sanding with a wet sanding block, or scraping. Be sure to work over a plastic drop cloth to catch any large particles. Do not eat, smoke or chew gum while working.
5. **Clean as you work.** Be sure to wet clean the areas you are working on as you go along. Though it will be necessary to clean the entire house at the end of the project, it is important to clean as you work in order to keep lead-contaminated dust from spreading. Clean using a good household detergent. Rinse your cleaning utensils in clean water.
6. **Dispose of waste properly.** When the work is done, mist the plastic sheeting with water to keep down the dust. Roll the plastic sheet up, keeping the dirty side in. Pick up any paint chips or other debris that may have fallen elsewhere. Be sure to place all disposable items used in the repair and clean up into plastic waste bags. The bags must be tightly sealed and properly can be disposed of with the household trash\*. Once the bags are sealed, do not reopen them.
7. **Have dust sampling done.** You must have clearance (also called dust sampling) done after the paint has been stabilized and the work area cleaned. The results of this test will tell you if your work practices and final cleaning have been effective at removing lead-contaminated dust.

\* Check with your State lead program to make sure that there is no regulation prohibiting this.

### Attachment 3: Sample Notice of Lead Hazard Reduction

Property Address: \_\_\_\_\_ Today's Date: \_\_\_\_\_

**Summary of the Hazard Reduction Activity:**

Start Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_

**Location and type of activity:** (List the location and type of activity conducted or attach a copy of the summary page from the clearance report or the lead hazard scope of work providing this information.)

\_\_\_\_\_  
\_\_\_\_\_

Date(s) of clearance testing: \_\_\_\_\_

Summary of results of clearance testing:

- (d) \_\_\_\_\_ No clearance testing was performed.
- (e) \_\_\_\_\_ Clearance testing showed clearance was achieved.
- (f) \_\_\_\_\_ Clearance testing showed clearance was not achieved.

List any components with known lead-based paint that remain in the areas where activities were conducted. List the location of the component (e.g. kitchen-door, bedroom-windows).

\_\_\_\_\_  
\_\_\_\_\_

**Person who prepared this summary notice**

Printed Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Owner: \_\_\_\_\_ Date: \_\_\_\_\_

(Provide to Property Owner with work-write up)

If you have any questions about this summary, please contact

[name] \_\_\_\_\_ at [phone] \_\_\_\_\_.

#### ***Attachment 4: Ongoing Monitoring and Maintenance Requirements***

Take the following steps to make sure that paint is not deteriorating and creating lead-contaminated dust and paint chips. This will help prevent children from being lead poisoned.

##### **1. Regularly Check Repairs for Deterioration, Paint Chips, and Dust**

Property owners must monitor painted surfaces at least annually and at unit turnover. Check to see if:

- New evidence of deterioration or paint failure is present.
- The cause of the problem was corrected.

Provide a written notice in the language of the occupant, to the extent feasible, to occupants asking them to report deteriorated paint or failed encapsulation or enclosure. Include the contact name, address, and telephone number. CPD recommends that the notice be provided every 12 months or at unit turnover.

##### **2. Maintain Surfaces and Work Safely**

- Stabilize deteriorated paint and perform other lead hazard reductions, as necessary;
- Use safe work practices and qualified workers for all maintenance activities.
- Provide a Notice of Lead Hazard Reduction Activity

##### **3. Perform Clearance**

- Clean thoroughly after all maintenance work;
- Perform clearance in the work area;
- Use a certified clearance examiner (risk assessor, paint inspector, or lead sampling technician);
- If the work area does not pass clearance, re-clean and perform clearance again

✱ **Note** – safe work practices and clearance are not required when maintenance or hazard reduction activities do not disturb painted surfaces below the de minimis thresholds defined below:

- 20 square feet (2 square meters) on exterior surfaces;
- 2 square feet (0.2 square meters) in any one interior room or space; or
- 10 percent of the total surface area on an interior or exterior type of component with a small surface area (such as window sills, baseboards, and trim).

**EXHIBIT 22**  
**TBRA Program - Owner Certification**

I, \_\_\_\_\_,  
owner of \_\_\_\_\_ (unit and  
property address), certify that all deteriorated paint identified in the inspection report  
dated \_\_\_\_\_ was stabilized and that safe work practices were  
followed. Items 1A-1E were adhered to, in compliance with Federal, state and local  
regulations, except in cases where the work was exempt from safe work practice  
requirements as described in Item 2. I also certify that I will conduct ongoing  
maintenance as described in Item 3 below.

**Check Number 1 or 2 and Number 3**

\_\_\_\_\_ 3. The following practices were followed as appropriate (check all that apply).

☐ A. The prohibited work methods listed below were not used.

\_\_\_\_\_ Open flame burning or torching.

\_\_\_\_\_ Machine sanding or grinding without a high-efficiency particulate air (HEPA)  
local exhaust control.

\_\_\_\_\_ Abrasive blasting or sandblasting without HEPA local exhaust control.

\_\_\_\_\_ Heat guns operating above 1,100 degrees Fahrenheit, or those that that  
operate high enough to char the paint.

\_\_\_\_\_ Dry sanding or dry scraping. (For exceptions to this rule see 24CFR 35.140  
(e).)

\_\_\_\_\_ Paint stripping in a poorly ventilated space using a volatile stripper that is a  
hazardous substance in accordance with regulations of the Consumer  
Product Safety Commission at 16 CFR 1500.3, and/or a hazardous chemical  
in accordance with the Occupational Safety and Health Administration at 29  
CFR 1010.1200 or 1926.59, as applicable to the work.

☐ B. Workers performing the work were qualified to do so, in compliance with 24 CFR.  
Part 35

\_\_\_\_\_ Workers were supervised by a certified abatement supervisor; or

\_\_\_\_\_ Workers successfully completed a HUD-approved training on Lead Safe  
work practices (see [www.hud.gov/offices/lead/lbptraining](http://www.hud.gov/offices/lead/lbptraining) for a listing of  
approved courses)



- ☐ C. Protection of occupants and preparation of the worksite as described below.

### Occupant Protection

- \_\_\_\_\_ Occupants were not permitted to enter the worksite during hazard reduction activities until final clearance was achieved.
- \_\_\_\_\_ Occupants were temporarily relocated before and during hazard reduction activities if necessary.
- \_\_\_\_\_ Dwelling unit and worksite were secured against unauthorized entry, and occupants' belongings were protected from contamination by dust-lead hazards and debris during hazard reduction activities.
- \_\_\_\_\_ Occupants' belongings in a containment area were relocated to a secure area outside the containment area or covered with appropriate materials.

### Worksite Preparation

- \_\_\_\_\_ Worksite was prepared to prevent release of leaded dust and contained lead-based paint chips and other debris from hazard reduction activities within the worksite.
- \_\_\_\_\_ A warning sign was posted at each entry to rooms where hazard reduction activities were conducted when occupants were present.

- ☐ D. Specialized cleaning after hazard reduction activities including:

- \_\_\_\_\_ Used HEPA vacuum cleaners; or other method of equivalent efficacy; and Lead-specific detergents or equivalents.

- ☐ E. Clearance of unit achieved before re-occupancy was permitted.

- \_\_\_\_\_ 4. Safe work practices and clearance were not required when activities do not disturb painted surfaces below the *de minimis* thresholds defined below:

The required maintenance or rehabilitation repairs did not disturb painted surfaces that totaled more than the *de minimis* levels, as detailed below:

- \_\_\_\_\_ 20 square feet on exterior surfaces;
- \_\_\_\_\_ 2 square feet in any one interior room or space; or
- \_\_\_\_\_ 10 percent of the total surface area on an interior or exterior type of component with a small surface area (such as windowsills, baseboards, and trim).

- \_\_\_\_\_ 5. I will comply with ongoing maintenance requirements, for the term of the HUD assistance including:

- Performance of visual assessments for deteriorated paint, bare soil and

lead hazard control failures of all lead-based paint in units, annually and at unit turnover.

- Repair all deteriorated paint above de minimis levels\* using Safe Work Practices.
- Repair all encapsulated or enclosed areas that are damaged or failing using appropriate interim controls or abatement methods (if applicable).
- Request in writing that occupants of units monitor lead-based paint surfaces and notify me regarding any new potential lead hazards. (For units that are newly leased during this monitoring period.)

\* De minimis levels are defined as:

- 20 square feet on exterior surfaces;
- 2 square feet in any one interior room or space; or
- 10 percent of the total surface area on an interior or exterior type of component with a small surface area (such as windowsills, baseboards, and trim).

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Owner Signature

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Date

---

City Representative

---

Date

**EXHIBIT 23**  
**Instructions for Residents**

To Whom It May Concern:

The purpose of this notice is to inform you that because your home was built prior to January 1978, it may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women.

You should have already received a pamphlet on lead poisoning prevention, as well as a disclosure form on the lead-based paint or lead-based paint hazards in your home. Attached is a handout, "What Are the Sources of Lead in Your Home?" that also provides useful information. For additional information on lead-based paint and lead hazards, please call the National Lead Information Center at 1-800-424-LEAD or visit the web at:

- <http://www.hud.gov/offices/lead/index.cfm>; or
- <http://www.epa.gov/lead/>

Regulations under The Lead Safe Housing Rule help to ensure that your home is safe for occupancy. In order for you to help keep your home safe, please notify the management if you see any paint that is chipping, peeling, flaking or otherwise damaged.

The bottom of this page can be detached and submitted to the management to bring attention to any lead-based paint concerns.

We thank you for your cooperation.

Best Wishes,  
The Management

**LEAD BASED PAINT CONCERN**

To: [Residential Management Company]

I am submitting this notice because I have observed the following:

☐ Paint in bad condition (chipping, peeling, flaking, etc.)

☐ Other \_\_\_\_\_

Location of Paint Concern:

☐ Interior (location): \_\_\_\_\_

☐ Exterior (location): \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

## What are the Sources of Lead in Your Home?

There are four major sources of lead that can pose a health hazard to people in and around the home. The sources are:

1. **Lead-based paint.** Lead-based paint can be found in housing built before 1978. It can be a hazard, especially if it deteriorates or, if it is disturbed during maintenance or normal wear and tear. If lead-based paint is peeling, chipping, chalking or cracking, it will create lead-contaminated dust that poisons children through normal hand-to-mouth activity. Children may also eat paint chips or chew on painted surfaces that are accessible to them, resulting in poisoning. Even lead-based paint that appears to be in good condition can be a problem if it is on surfaces that get a lot of wear and tear, such as door jams and window tracks. It is important to remove the causes of deteriorating paint such as water leaks. Repair areas where lead paint is deteriorating by repainting using a good latex paint or lead sealer.
2. **Lead-contaminated dust.** Lead-contaminated dust is created when lead-based paint is sanded or scraped during maintenance or repair, or just through every day wear and tear. When maintenance or renovation takes place, the dust from these operations settles on surfaces such as floors, countertops, window-sills and furniture. If the paint being worked on contains lead, the lead is deposited on surfaces as dust. Window tracks and door jams can be another source of lead-contaminated dust. If these components rub during normal opening and closing, lead-contaminated dust can be created and deposited on surfaces throughout the home. Lead from work done on house exteriors can be tracked into the home, becoming an additional source of lead dust. After routine home maintenance or remodeling renovation and painting, the home should be thoroughly cleaned to remove any dust that may be left behind because it may contain lead. Lead dust sampling should then be performed to verify that the cleaning was effective.
3. **Lead-contaminated soil.** Soil can become contaminated when exterior lead-based deteriorates and gets into the soil. Homes near certain industries such as smelters or battery manufacturers may have lead into the soil as a result of these operations. Past use of leaded gasoline has also left lead deposits in our nation's soil. Playgrounds and gardens should not be placed in areas where the soil is contaminated with lead. Soil can be tracked into the home so it is important for workers to clean shoes or remove them before entering the home.
4. **Lead-contaminated drinking water.** Drinking water can be contaminated with lead, regardless of the water's source. Many faucets in homes and on store shelves contain leaded components that can leach lead into the water. Leaded solder in household piping and leaded components in well pumps have been in use for many years, and continue to leach lead into the drinking water of thousands of homes even today. Many public water delivery systems still have old lead piping through which the water must pass before it reaches the home. Water with a high pH has a tendency to leach more lead than water with a neutral pH, and warm water leaches more lead than cold. Allow cold water to run before drinking.

The following are sources of information about lead-based paint in your home:

- National Lead Information Center (NLIC) is a clearinghouse for information on lead that provides copies of pamphlets, reports, and other resources. (1-800-424-LEAD)
- Safe Drinking Water Hotline provides information and assistance to the public on safe drinking water. (1-800-426-4791)

**SUBJECT:** Small, Disadvantaged, Minority-Owned, Women-Owned and Veteran Owned Businesses

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**NUMBER:** 2.10.21

**EFFECTIVE:** June 2013

**REVISED:** May 1, 2014

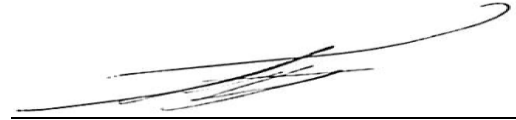
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**APPROVAL:**



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Timothy Cunningham  
Director, Sandy Recovery Division

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**PURPOSE:**

To ensure that small and disadvantaged businesses, minority firms, veteran- owned, and women-owned businesses can compete for and win a fair share of the contracts that are awarded by the Department of Community Affairs, its sub recipients and contractors receiving funding under the CDBG-DR program.

This policy is revised to clarify State of New Jersey reporting requirements. A form to capture data on small and veteran-owned businesses will be incorporated into SIROMS to capture the additional data, not already included in HUD Form 2516.

**POLICY:**

The Department of Community Affairs and sub recipients utilizing CDBG-DR funds will take all necessary affirmative steps to ensure that contracting opportunities are provided to small and disadvantaged businesses, minority firms, veteran- owned, and women-owned businesses and labor surplus area firms (see Attachment A).

Affirmative steps shall include:

- Placing qualified small and disadvantaged businesses, minority firms, veteran- owned, and women-owned businesses on solicitation lists;

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- Ensuring that small and disadvantaged businesses, minority firms, veteran- owned, and women-owned businesses are solicited whenever they are potential sources, for goods and/or services required in furtherance of Sandy Recovery programs;
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and disadvantaged businesses, minority firms, veteran- owned, and women-owned businesses;
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and disadvantaged businesses, minority firms, veteran- owned, and women-owned businesses;
- Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the U.S. Department of Commerce; and
- Requiring the prime contractor, if sub contracts are to be let, to take the affirmative steps listed above.

Department of Community Affairs, CDBG-DR equal opportunity records and contract files must include the following information:

- Data indicating the racial/ethnic character of each business entity receiving a contract or subcontract of \$25,000 or more paid, or to be paid with CDBG-DR funds
- Data indicating which of those entities are small and disadvantaged businesses, minority firms, veteran- owned, and women-owned businesses;
- The amount of the contract or subcontract; and
- Documentation of recipients and affirmative steps to ensure that small and disadvantaged businesses, minority firms, veteran- owned, and women-owned businesses have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services.

Affirmative steps to assure that small and disadvantaged businesses, minority firms, veteran-owned, and women-owned businesses have an equal opportunity may include, but are not limited to:

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- Technical assistance open to all businesses but designed to enhance opportunities for those enterprises; and
- Special outreach efforts to inform them of contract opportunities.

Such steps shall not include preferring a business in the award of any contract or subcontract solely or in part on the basis of race or gender.

New Jersey state law provides that contracting agencies, in consultation with the New Jersey Department of Treasury, may designate a contract, or a portion thereof, for goods, equipment, construction or services to be awarded by a contracting agency as a small and disadvantaged businesses, minority firms, veteran- owned, and women-owned businesses set-aside contract pursuant to the goals and procedures established by this 1985 amendatory act,<sup>1</sup> whenever there is a reasonable expectation that bids may be obtained for at least three qualified small and disadvantaged businesses, minority firms, veteran- owned, and women-owned businesses capable of furnishing the desired goods, equipment, construction or services at a fair and reasonable price. The designation shall be made prior to the advertisement for bids. For the purposes of this policy, “contracting agency” means the State or any board, commission, committee, authority or agency of the State (N.J.S.A 52:32-17 et.seq.). N.J.S.A.

The Sandy Recovery Division shall coordinate with appropriate DCA staff to support the Department’s Small, Disadvantaged, Minority-Owned, Women-Owned and Veteran Owned Business program. This includes any reporting requirements requested by the Department of Community Affairs to comply with State statutes and compliance reporting to the Division of Purchase and Property.

The Office of Small Business Assistance within the Department of Treasury has specific oversight of the small and disadvantaged businesses, veteran- owned and women-owned businesses set-aside programs. The Office of Minority Business Enterprise within the

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<sup>1</sup> N.J.S.A. 52:32-17, et. seq (“Set Aside Act for Small Businesses, Female Businesses, and Minority Businesses.”) and N.J.S.A. 52:32-20.

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Department has specific oversight of the minority business set-aside program. The New Jersey Department of Military and Veterans' Affairs can assist in assist with encouraging opportunities for veteran-owned business in State and subrecipient purchasing and procurement processes.<sup>2</sup>

See attached Exhibits for additional information:

Exhibit 1 – Instructions for Completing Uniform Certification Application

Exhibit 2 – Uniform Certification Application

Exhibit 3 – Affidavit of Certification

Exhibit 4 – Uniform Certification Application Documents Checklist

Exhibit 5 – Personal Financial Statement

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<sup>2</sup> N.J.S.A. 52:32-52 ("Goal for Contracts Awarded to Businesses Owned and Operated by Veterans.



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**Attachment A**

NEW JERSEY- Labor Surplus Area Data (2013)<sup>3</sup>

Atlantic City city	Atlantic City city in Atlantic County
Balance of Atlantic County	Atlantic County
Balance of Camden County	Camden County
Balance of Cumberland County	Cumberland County
Balance of Gloucester County	Gloucester County
Balance of Ocean County	Ocean County
Bayonne city	Bayonne city in Hudson County
Belleville Township Belleville Township in Essex County	
Berkeley township	Berkeley township in Ocean County
Brick Township Brick Township in Ocean County	
Bridgeton city	Bridgeton city in Cumberland County
Camden city	Camden city in Camden County
Cape May County	Cape May County
City of Orange Township City of Orange Township in Essex County	
Clifton city	Clifton city in Passaic County
Deptford Township Deptford Township in Gloucester County	
East Orange city	East Orange city in Essex County
Egg Harbor Township Egg Harbor Township in Atlantic County	
Elizabeth city	Elizabeth city in Union County
Galloway township	Galloway township in Atlantic County
Garfield city	Garfield city in Bergen County
Hamilton township	Hamilton township in Atlantic County
Irvington Township Irvington Township in Essex County	
Jersey City	Jersey City in Hudson County

<sup>3</sup> The US Department of Labor, Employment and Training Division defines "Labor Surplus Area" as a civil jurisdiction that has a civilian average annual unemployment rate during the previous two calendar years of 20 percent or more above the average annual civilian unemployment rate for all states (including Puerto Rico) during the same 24-month reference period. If the National annual average unemployment rate during the referenced period is less than 6.0 percent then the qualifying rate is 6.0 percent. If the National annual average unemployment rate during the referenced period is above 10 percent then the qualifying rate is 10 percent.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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Kearny town	Kearny town in Hudson County
Lacey Township Lacey Township in Ocean County	
Linden city	Linden city in Union County
Long Branch city	Long Branch city in Monmouth County
Manchester Township Manchester Township in Ocean County	
Millville city	Millville city in Cumberland County
Monroe township	Monroe township in Gloucester County
Middlesex County	
Neptune township	Neptune township in Monmouth County
Newark city	Newark city in Essex County
North Bergen Township North Bergen Township in Hudson County	
Passaic city	Passaic city in Passaic County
Paterson city	Paterson city in Passaic County
Pemberton Township Pemberton Township in Burlington County	
Pennsauken Township Pennsauken Township in Camden County	
Perth Amboy city	Perth Amboy city in Middlesex County
Plainfield city	Plainfield city in Union County
Rahway city	Rahway city in Union County
Salem County	Salem County
Toms River Township Toms River Township in Ocean County	
Trenton city	Trenton city in Mercer County
Union City	Union City in Hudson County
Vernon Township Vernon Township in Sussex County	
Vineland city	Vineland city in Cumberland County
West New York town	West New York town in Hudson County
Willingboro Township Willingboro Township in Burlington County	
Winslow township	Winslow township in Camden County

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**APPROVAL:**



Timothy Cunningham  
Director, Sandy Recovery Division

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**PURPOSE:**

Section 3 of the Housing and Urban Development Act of 1968 is intended to ensure that, to the extent feasible, low- and very low-income persons receive benefit in employment and related economic opportunities when such opportunities are generated by funding from the U.S. Department of Housing and Urban Development (HUD). It also specifically encourages economic opportunities for households who are recipients of government assistance for housing. The Section 3 program requires that recipients of HUD CDBG-DR funds, to the greatest extent feasible, provide (a) employment and training and (b) contracting opportunities for low- or very-low income residents in connection with construction projects in their neighborhoods.

This amendment specifically **excludes** the following CDBG-DR programs from Section 3 reporting requirements, based on HUD's directive that Section 3 does not apply to private beneficiaries:

- Reconstruction, Rehabilitation, Elevation and Mitigation Program (Pathway B applicants ONLY)
- Landlord Rental Repair Program
- Grants/Forgivable Loans to Small Businesses
- Direct Loans for Small Businesses
- LMI Homeowners Program

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## **I. SECTION 3 APPLICABILITY**

### ***Projects for which Section 3 Compliance is Required***

Section 3 is triggered when the award of CDBG-DR funds for new construction and rehabilitation projects creates the need for new employment, contracting, or training opportunities.

#### Section 3 requirements that apply to CDBG-DR Programs:

- Section 3 applies to the State of New Jersey, as recipient of HUD funding, as well as to subrecipients receiving HUD funding exceeding \$200,000. Whenever any portion of HUD funding is invested into projects involving housing construction, demolition or rehabilitation, commercial/private improvements for economic development, or other public construction (e.g., roads, sewers, community centers, and public facilities), the requirements of Section 3 may apply, based on the guidance provided below.

#### Section 3 requirements that apply to CDBG-DR Projects:

In conjunction with construction activity, Section 3 applies to projects that are fully or partially funded with CDBG-DR assistance, including projects that are financed in conjunction with state, local or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

- In conjunction with construction activities, Section 3 applies to contractors or subcontractors that receive contracts in excess of \$100,000 for Section 3 covered projects/activities. Once it is determined that Section 3 applies to a project, the requirements apply to all contracts for construction work arising in connection with that project exceeding \$100,000, including those not funded with CDBG-DR assistance. Contractors or subcontractors are required to comply with the Section 3 regulations in the same manner as the State; and
- “Section 3 covered contract” includes professional service contracts, provided that the work to be performed is generated by the expenditure of funds in furtherance of Section 3

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covered work (e.g., housing construction, housing rehabilitation and other public construction), arising in connection with construction projects. Professional service contracts that may constitute Section 3 “covered contracts” include construction contract oversight, engineering, architectural, environmental and property evaluation, construction progress and construction draw inspection and prevailing wage labor compliance.

- Direct beneficiaries (i.e. homeowners, landlords and businesses) are not responsible for meeting Section 3 requirements, as outlined in the bullets above.

The regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects and activities. If the expenditure of funding for an otherwise covered project and activity does not result in new employment, contracting, or training opportunities, reporting is still required. Recipients are not required to hire or enter into contracts with Section 3 residents or business concerns simply to meet the Section 3 goals, as anyone selected for contracting or employment opportunities must meet the qualifications for the job/contract being sought.

DCA will apply Section 3 criteria and standards to “covered activities” within the following programs:

- Reconstruction, Rehabilitation, Elevation and Mitigation Program (RREM Pathway C **ONLY**);
- Restoration of Multi-family Housing;
- Neighborhood Enhancement (Blight Reduction Pilot) Program;
- Special Needs Housing Program;
- Neighborhood and Community Revitalization Program.
- **Lead Hazard Reduction**
- **Energy Resiliency Bank**
- **Flood Hazard Risk Reduction**
- **Blue Acres Buyout**

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Section 3 is not implicated by the remaining CDBG programs detailed in the Action Plan. Descriptions of these programs can be found within the Action Plan submitted to HUD by the State of New Jersey (<http://www.state.nj.us/dca/divisions/sandyrecovery/action/>).

Notably as to the RREM program, Section 3 requirements apply not only to the general construction contractors and subcontractors in the RREM construction pool, but also to the RREM contract construction managers. Section 3 also applies to the contractors hired to assist subrecipients in managing construction-related tasks.

## **II. SECTION 3 GOALS**

The State, its subrecipients and partners will attempt to meet the Section 3 HUD numerical goals found at 24 CFR Part 135.30:

- Thirty percent (30%) of the aggregate number of new hires are Section 3 residents;
- Ten percent (10%) of the total dollar amount of all covered construction contracts are awarded to Section 3 business concerns; and
- Three percent (3%) of the total dollar amount of all covered non-construction contracts are awarded to Section 3 business concerns. Non-construction contracts may include, but not be limited to, accounting, payroll, bookkeeping, purchasing, data processing, marketing, printing, environmental, architectural/engineering, and related.

When the State awards CDBG-DR funds to units of local government, nonprofit organizations, subrecipients or other funded entities, the State will require that the minimum numerical goals set forth at 24 CFR Part 135.30 be met for all covered projects or programs. The State will inform its subrecipients and other funded entities of the requirements of Section 3, assist them and their contractors with achieving compliance, and monitor their performance with respect to the Section 3 objectives and requirements.

## **III. SECTION 3 DEFINITIONS**

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*Section 3 Residents*

A “Section 3 resident” is: 1) a public housing resident; or 2) a low- or very low-income person, as further defined, residing in the metropolitan statistical area or non-metropolitan county in which federal funds that implicate Section 3 are expended. HUD established for CDBG-DR in response to Superstorm Sandy that an individual is eligible to be considered a “Section 3 resident” if the annual wages or salary of the person is at, or under, 80% Area Median Income (“AMI”) for a one-person family for the jurisdiction. Local income limits can be obtained from the Department of Community Affairs – Sandy Recovery Unit.

The State recognizes the importance of ensuring that low- and very-low income residents’ benefit from CDBG-DR projects built in their communities. Therefore, contractors are likewise expected to demonstrate, through their implementation actions, that Section 3 eligible residents are included in their hiring goals and are indeed beneficiaries of hiring policies and practices.

Where possible, priority consideration will be given to (in the following order):

- Section 3 residents who live in the neighborhood of the project;
- Participants in HUD Youthbuild programs; and
- Other Section 3 residents, including residents of the metropolitan area or non-metropolitan county.

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*Section 3 Business Concerns*

A Section 3 eligible business concern is a business that can provide evidence it meets one of the following:

- 51 percent (51%) or more of the business is owned by Section 3 residents; or
- At least thirty percent (30%) of the business 'full-time employees include persons that are currently Section 3 residents, or within three (3) years of the date of first employment with the business concern were Section 3 residents; or
- Evidence, as required, of a commitment by the business to subcontract in excess of twenty-five percent (25%) of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications in the above two paragraphs.

Where possible, priority consideration will be given to the following businesses (in the following order):

- Section 3 business concerns that provide economic opportunities for Section 3 residents in the neighborhood of the project;
- Applicants selected to carry out HUD Youthbuild programs; and
- Other Section 3 businesses.

**IV. SECTION 3 HIRING POLICY**

Under the State's Section 3 Policy, subrecipients and other funded entities, including contractors and subcontractors, are contractually obligated to:

1. Conduct aggressive employment outreach to community-based agencies such as community action agencies (*Appendix 8*), local Housing Authorities (*Appendix 9*) and Youthbuild Organizations (*Appendix 10*) for all new hires.
2. Accept and give preferential employment consideration to referred Section 3 eligible residents who are qualified for the positions available.



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3. Provide appropriate employment outreach signage at the project site and throughout the project area to inform low- and very-low neighborhood residents of employment opportunities.
4. Distribute employment outreach flyers throughout the project community and with community based organizations, Housing Authorities and Youthbuild organizations regarding employment opportunities.
5. Contact local Workforce Investment Boards (WIB) to market the availability of jobs. The WIBs may be found at: <http://www.njsetc.net/njsetc/localwib/what/find/>

The State, its subrecipients and other funded entities, including contractors and subcontractors must certify low- and very-low income persons as “Section 3 eligible.” *Appendix 3* provides a sample certification form. These requirements will also apply to any funded entities, such as “construction contract managers” who are engaged to oversee and manage any CDBG-DR funded projects that are considered “Section 3 covered contracts.”

## **V. SECTION 3 BUSINESS OPPORTUNITY POLICY**

The State is committed to ensuring that designated Section 3-eligible business concerns derive economic benefit from HUD-assisted projects built in their communities. Subrecipients and other funded entities, including contractors and subcontractors are likewise expected to demonstrate that Section 3 certified business concerns are included in the contracting goals and are economic beneficiaries of business and procurement policies and practices. Section 3 eligible business concerns must be given priority in contracting for appropriate work.

The State of New Jersey’s Department of Transportation (DOT) maintains a Disadvantaged and Small Business Programs Unit whose mission is to promote contracting opportunities for small, socially and economically disadvantaged firms. Often, disadvantaged business enterprises will also qualify as Section 3-eligible businesses, and may also qualify as minority- or woman-owned business enterprises.

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To be eligible for Disadvantaged Business Enterprise (DBE) certification, the business must be a small business as defined by the Small Business Administration standards, and be 51% owned, and controlled by, one or more socially and economically disadvantaged individuals, based on SBA standards and definitions. Further, per U.S. Small Business Administration guidelines, African Americans, Hispanics, Native Americans, Asian-Pacific Islanders, Subcontinent Asian Americans and women are presumed to be socially and economically disadvantaged.

Application processes and materials for businesses wishing to qualify as Disadvantaged Business Enterprises may be accessed at

<http://www.state.nj.us/transportation/business/civilrights/dbe.shtm>

The State, its subrecipients and other funded entities, including contractors and subcontractors are strongly encouraged to make contracting opportunities (both construction and non-construction) available to Section 3-qualifying DBEs.

The New Jersey Department of Transportation maintains the New Jersey Unified Certification Program Directory, through which potential Section 3-qualifying businesses may be contacted and provided the opportunity to bid or otherwise respond to requests for proposal, requests for qualifications, bid on contracts, and/or be identified as subcontractors by contractors seeking to meet the Section 3 numeric goals. The directory can be searched by business name, business description (i.e., “lead-based paint abatement”), SIC or NAICS Code, specialty code, or NGIP code. The directory may be accessed on-line at <http://www.njucp.net/>

In addition to utilizing the DBE directory, the State, its subrecipients and other funded entities, including contractors and subcontractors will also be encouraged to provide information regarding Section 3 employment and training opportunities through outreach to local, state and county organizations. (See Appendix 8 – List of Organizational Resources).

The State, its subrecipients and other funded entities, including contractors and subcontractors must document outreach efforts related to Section 3-eligible business concerns. The State, its

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subrecipients and other funded entities, including contractors and subcontractors must also certify businesses/subcontractors as “Section 3 eligible.” See *Appendix 4* for a certification to be submitted by a business indicating its Section 3 status. Further, as a condition for receiving an award, each subrecipient must sign a Section 3 Certification, if such award exceeds \$200,000 (*Appendix 5*).

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**VI. REQUIRED CONTRACT LANGUAGE AND CERTIFICATION OF BIDDER(S)**

The State, its subrecipients, other funded entities and covered contractors are required to notify potential contractors/subcontractors of the Section 3 requirements, and must incorporate the Section 3 clause in all solicitations and contracts (*Appendix 1*). Further, for covered contracts exceeding \$100,000, the State, its subrecipients and/or those contractors contracting directly with an agency or authority of the state must obtain the certification of bidder (*Appendix 6*).

**VII. ADDITIONAL OUTREACH AND TRAINING EFFORTS**

The State also recognizes that outreach, training and education are critical components of a successful Section 3 strategy. Examples of such activities, as well as examples of Section 3 approaches, are described in *Appendix 2*.

**VIII. DOCUMENTING SECTION 3 EFFORTS**

The State will complete and submit quarterly reports on Section 3 projects using the HUD Form 600002 (See *Appendix 7* for report form). The State will require its subrecipients and other funded entities, including contractors, to complete and submit quarterly reports on Section 3 projects using the HUD Form 600002. Reports will be due within one week of the end of each calendar quarter. Reports shall be submitted to:

Department of Community Affairs  
Sandy Recovery Division  
Monitoring and Compliance Office – 6<sup>th</sup> Floor  
101 S. Broad Street  
Trenton, New Jersey 08625-0800

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The State will submit the annual Section 3 report to HUD. All reports shall be submitted on HUD Form 60002. An additional copy of the annual HUD Form 60002 will be submitted to FHEO at the time of the CAPER submission.

The State will take steps to receive and maintain records to document compliance with the Section 3 program objectives. Such records will include specific information and documentation to demonstrate whether the numerical goals were met and that a subrecipient, other funded entity, including contractors and subcontractors have carried out their responsibilities properly.

**IX. ENFORCEMENT – COMPLIANTS AND COMPLIANCE REVIEWS (PURSUANT TO SECTION 135.76)**

Any Section 3 resident or business may file a complaint alleging noncompliance with Section 3 by a subrecipient, other funded entity, including contractors, and subcontractors. Complaints will be investigated by the Director of the Sandy Recovery Unit or his designee; if appropriate, voluntary resolutions will be sought.

The complainant shall have appeal rights to the Secretary of the U.S. Department of Housing and Urban Development concerning any agency decision. Section 3 residents and businesses may also seek judicial relief. Complaints must be submitted to HUD within one hundred and eighty (180) days of the action or omission upon which the complaints based. Complaints are to be filed in writing to the local FHEO office or the Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 5100, Washington, DC 20410-2000

A written complaint must contain:

- Name and address of the person filing the complaint;
- Name and address of the subject of complaint (HUD Recipient or Contractor);
- Description of acts or omissions in alleged violation of Section 3; and

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- Statement of corrective actions sought.

Written complaints should be filed with:

Gabrielle N. Gallagher  
Director, Legal and Regulatory Affairs  
State of New Jersey  
Department of Community Affairs  
Office of the Commissioner  
101 South Broad Street  
P.O. Box 800  
Trenton, New Jersey 08625-0800

Upon receipt of a written complaint the Director of Legal and Regulatory Affairs will designate person(s) to investigate the specific allegations of the complaint and render a finding. If it is determined that the (subrecipient/contractor/subcontractor) has functioned in such a manner as to breach the contractual obligations of the approved Section 3 Plan, the Director of Legal and Regulatory Affairs will notify the Commissioner of the Department of Community Affairs of such findings and of the corrective measures that will be required. The Commissioner will respond to the complainant.

State's complaint process:

Any Section 3 resident or business may file a complaint alleging noncompliance with Section 3 by a recipient, contractor, or subcontractor. Complaints will be investigated by the Director of Legal and Regulatory Affairs.

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**X. SCOPE OF SECTION 3 POLICY**

This document describes the steps to be taken by the State, in connection with the use of CDBG funds, to comply with Section 3 of the Housing and Community Development Act of 1968 (as amended, 12 U.S.C. 1701u). For purposes of Section 3 compliance, nothing in this document should be construed to neither expand the scope of Section 3 nor constitute an agreement by the State to undertake processes or procedures beyond those required to satisfy Section 3.

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### **Appendix 1 - Contract Clause for Covered Contracts**

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u(Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with 24 CFR Part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than



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those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

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## **Appendix 2 -- Additional Resources & Examples**

### **HUD Section 3 webpage -**

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/section3/section3#.Tp2zTKTjtfw.favorites](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/section3/section3#.Tp2zTKTjtfw.favorites)

### **Section 3 Federal Register Notice**

[http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_12047.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12047.pdf)

### **Example Efforts to Offer Training and Employment**

#### **Opportunities to Section 3 Residents**

- Entering into "first source" hiring agreements with organizations representing Section 3 residents.
- Sponsoring a HUD-certified "Step-Up" employment and training program for Section 3 residents.
- Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other Section 3 residents in the building trades.
- Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in Sec. 135.34) reside.
- Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For Housing Authorities, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the Section 3 covered project.

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- Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.
- Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by a Housing Authority or contractor representative or representatives at a location in the housing development or developments where Category 1 or Category 2 persons reside or in the neighborhood or service area of the Section 3 covered project.
- Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where Category 1 or Category 2 persons reside and in the neighborhood or service area in which a Section 3 project is located.
- Arranging for a location in the housing development or developments where Category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.
- Conducting job interviews at the housing development or developments where Category 1 or Category 2 persons reside, or at a location within the neighborhood or service area of the Section 3 covered project.
- Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the Housing Authority's or contractor's training and employment positions.
- Consulting with State and local agencies administering training or workforce development programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the HA's or contractor's training and employment positions.
- Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

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- Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the Section 3 business concerns identified in 24 CFR Part 135), that will undertake, on behalf of the Housing Authority, other recipient or contractor, the efforts to match eligible and qualified Section 3 residents with the training and employment positions that the Housing Authority or contractor intends to fill.
- For a Housing Authority employing Section 3 residents directly on either a permanent or a temporary basis to perform work generated by Section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations. See 24 CFR 905.102, and Sec. 905.201(a)(6).)
- Where there are more qualified Section 3 residents than there are positions to be filled, maintaining a file of eligible qualified Section 3 residents for future employment positions.
- Undertaking job counseling, education and related programs in association with local educational institutions.
- Undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.
- After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other Section 3 residents to be trained or employed on the Section 3 covered assistance.
- Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

**Example Efforts to Award Contracts to Section 3 Business Concerns**

- Utilizing procurement procedures for Section 3 business concerns similar to those provided in 24 CFR Part 905 for business concerns owned by Native Americans (see Section III of this Appendix).

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- In determining the responsibility of potential contractors, consider their record of Section 3 compliance as evidenced by past actions and their current plans for the pending contract.
- Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying Section 3 businesses which may solicit bids or proposals for contracts for work in connection with Section 3 covered assistance.
- Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development or developments owned and managed by the Housing Authority.
- For a Housing Authority, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying Category 1 and Category 2 business concerns.
- Providing written notice to all known Section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the Section 3 business concerns to respond to the bid invitations or request for proposals.
- Following up with Section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.
- Coordinating pre-bid meetings at which Section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.
- Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that Section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.
- Advising Section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery

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schedules in ways to facilitate the participation of Section 3 business concerns.

- Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by Section 3 business concerns.
- Contacting agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.
- Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- Developing a list of eligible Section 3 business concerns.
- For Housing Authorities participating in the “Contracting with Resident-Owned Businesses” program provided under 24 CFR Part 963.
- Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.
- Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to Section 3 business concerns.
- Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.
- Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.
- Actively supporting joint ventures with Section 3 business concerns.
- Actively supporting the development or maintenance of business incubators which assist Section 3 business concerns.

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**Examples Procurement Procedures That Provide for**

**Preference for Section 3 Business Concerns**

This Section III provides specific procedures that may be followed by recipients and contractors (collectively, referred to as the "contracting party") for implementing the Section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR 85.36(d).

- (1) Small Purchase Procedures. For Section 3 covered contracts aggregating no more than \$25,000, the methods set forth in this paragraph (1) or the more formal procedures set forth in paragraphs (2) and (3) of this Section III may be utilized.

- (i) Solicitation.

- (A) Quotations may be solicited by telephone, letter or other informal procedure provided that the manner of solicitation provides for participation by a reasonable number of competitive sources. At the time of solicitation, the parties must be informed of:

- the Section 3 covered contract to be awarded with sufficient specificity;

- the time within which quotations must be submitted; and

- the information that must be submitted with each quotation.

- (B) If the method described in paragraph (i)(A) is utilized, there must be an attempt to obtain quotations from a minimum of three (3) qualified sources in order to promote competition. Fewer than three (3) quotations are acceptable when the contracting party has attempted, but has been unable, to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotation received in response to a solicitation provided the price is reasonable. In all cases, the contracting party shall document the circumstances when it has been unable to obtain at least three (3) quotations.

- (ii) Award.

- (A) Where the Section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified Section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than ten (10%) percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified Section 3 business

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concern is within ten(10%) percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation.

- (B) Where the Section 3 covered contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 15% to 25% of the total number of available rating points to be set aside for the provision of preference for Section 3 business concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating system.

- (2) Procurement by sealed bids (Invitations for Bids). Preference in the award of Section 3 covered contracts that are awarded under a sealed bid (IFB) process may be provided as follows:

- (i) Bids shall be solicited from all businesses (Section 3 business concerns, and non-Section 3 business concerns). An award shall be made to the qualified Section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid--
- (A) is within the maximum total contract price established in the contracting party's budget for the specific project for which bids are being taken, and
- (B) is not more than ``X" higher than the total bid price of the lowest responsive bid from any responsible bidder. ``X" is determined as follows:



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(C)

If the Lowest Bid is		X = lesser of	
At Least	But Less Than		
\$100,000	N/A	10%	\$9,000
\$100,000	\$200,000	9%	\$16,000
\$200,000	\$300,000	8%	\$21,000
\$300,000	\$400,000	7%	\$24,000
\$400,000	\$500,000	6%	\$25,000
\$500,000	\$1,000,000	5%	\$40,000
\$1,000,000	\$2,000,000	4%	\$60,000
\$2,000,000	\$4,000,000	3%	\$80,000
\$4,000,000	\$7,000,000	2%	\$105,000
\$7,000,000		1.5%	

(ii) If no responsive bid by a Section 3 business concern meets the requirements of paragraph (2)(i) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

(3) Procurement under the competitive proposals method of procurement (Request for Proposals (RFP)).

For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals (RFP) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.

(i) One of the evaluation factors shall address both the preference for Section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement (Section 3 strategy), as disclosed in proposals submitted by all business concerns (Section 3 and non-Section 3 business concerns). This factor shall provide for a range of 15% to 25% of the total number of available points to be set aside for the evaluation of these two components.

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- (ii) The component of this evaluation factor designed to address the preference for Section 3 business concerns must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR Part 135.36.
- (iii) With respect to the second component (the acceptability of the Section 3 strategy), the RFP shall require the disclosure of the contractor's Section 3 strategy to comply with the Section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the contractor's responsibility will include the submission of an acceptable Section 3 strategy. The contract award shall be made to the responsible firm (either Section 3 or non-Section 3 business concerns) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

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### Appendix 3 – Sample Section 3 Resident Certification Form

#### RESIDENT EMPLOYMENT OPPORTUNITY DATA

##### Eligibility for Preference

A Section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in 24 CFR Part 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

##### Certification for Resident Seeking Section 3 Preference in Training and Employment

I, \_\_\_\_\_, am a legal resident of the \_\_\_\_\_  
\_\_\_\_\_ and meet the income eligibility guidelines for a  
low- or very-low-income person.

My permanent address is: \_\_\_\_\_  
\_\_\_\_\_

I have attached the following documentation as evidence of my status:

☐ Copy of lease

☐ Copy of receipt of public assistance

☐ Copy of Evidence of participation

☐ Other evidence

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Printed name

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**Section 3 Resident Certification Page 2**

*SECTION 3 INCOME LIMITS*

All residents of public housing developments of the

\_\_\_\_\_ Housing Authority qualify as Section 3 residents.

Additionally, individuals residing in the \_\_\_\_\_ (City/County) of \_\_\_\_\_

who meet the income limits set forth below, can also qualify for Section 3 status.

A picture identification card and proof of current residency is required.

Eligibility Guideline		
Number in Household	Very Low Income	Low Income
1 individual		
2 individuals		
3 individuals		
4 individuals		
5 individuals		
6 individuals		
7 individuals		
8 individuals		

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## **Appendix 4 – Sample Certification, Section 3 Business**

### **CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY**

Name of Business \_\_\_\_\_

Address of Business \_\_\_\_\_

Type of Business: ☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Joint Venture

Attached is the following documentation as evidence of status:

**For Business claiming status as a Section 3 resident-owned enterprise:**

- |  |   |
|--|---|
| <input type="checkbox"/> Copy of resident lease  | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of evidence of participation<br>in a public assistance program | <input type="checkbox"/> Other evidence                       |

**For business entity as applicable:**

- ☐ Copy of Articles of Incorporation
- ☐ Certificate of Good Standing
- ☐ Assumed Business Name Certificate
- ☐ Partnership Agreement
- ☐ List of owners/stockholders and % ownership of each
- ☐ Corporation Annual Report
- ☐ Latest Board minutes appointing officers
- ☐ Organization chart with names and titles and brief function statement
- ☐ Additional documentation

**For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:**

- ☐ List of subcontracted Section 3 business(es) and subcontract amount

**For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:**

- ☐ List of all current full-time employees ☐ List of employees claiming Section 3 status
- ☐ PHA/IHA Residential lease less than 3 ☐ Other evidence of Section 3 status less than 3 years from day of years from date of employment employment

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Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- ☐ Current financial statement
- ☐ Statement of ability to comply with public policy
- ☐ List of owned equipment
- ☐ List of all contracts for the past two years

\_\_\_\_\_  
(Corporate Seal)

\_\_\_\_\_  
Authorizing Name and Signature

Attested by: \_\_\_\_\_

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**Appendix 5 - Section 3 Certification for Subrecipients Receiving More than \$200,000**

Certification Regarding Section 3 of the Housing and Urban Development

Act of 1968, 24 CFR Part 135

In accordance to Section 3 requirements for awards exceeding \$200,000, the undersigned certifies, to the best of his or her knowledge that as an applicant, this agency or its key employees:

- Will ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.
- Will ensure that notices about funding availability and for competitively awarded assistance involving housing rehabilitation, construction or other public construction, where the amount awarded exceeds \$200,000, the notice must include a statement that one of the purposes of the assistance is to give job training, employment, contracting and other economic opportunities to Section 3 residents and Section 3 business concerns. In addition, if the above threshold is met the requirements also apply to contractor and subcontractor contracts that exceed \$100,000 (see "HUD Section 3" section of the Small Cities Program Handbook at <http://www.nj.gov/dca/divisions/dhcr/offices/cdbg.html>).
- Will ensure the use of the Section 3 clause in all covered contracts
- Will collect information, document actions taken and submit cumulative reports at least annually while the program is underway as required by the NJ CDBG-DR Sandy Recovery Division.

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The applicant agrees that by submitting this certification, it will obtain from all its sub-grantees and contractors a certification that includes paragraphs (a) to (d) above as required.

Name of Agency:
Name and Title of Official Signing for Agency:
Signature of the Above Official:
Date Signed:



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### **Appendix 6 – Certification of Bidder**

#### **CERTIFICATION OF BIDDER REGARDING SECTION 3 AND SEGREGATED FACILITIES**

Name of Prime Contractor: \_\_\_\_\_

Project Name: \_\_\_\_\_

The undersigned hereby certifies that

(a) Section 3 provisions are included in the Contract.

(b) If contract equals or exceeds \$100,000, HUD form 60002 will be submitted within one week of the end of each calendar quarter, as well as with the final pay estimate.

(c) No segregated facilities will be maintained.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name & Title of Signer (Print or Type)

\_\_\_\_\_  
Date

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**Appendix 7 – HUD Form 600002**

[http://www.mhdc.com/rental\\_production/section3/documents/ftp/Form\\_60002\\_Summary\\_Report.pdf](http://www.mhdc.com/rental_production/section3/documents/ftp/Form_60002_Summary_Report.pdf)



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**Part II: Contracts Awarded**

**1. Construction Contracts:**

A. Total dollar amount of all contracts awarded on the project	\$
B. Total dollar amount of contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving contracts	

**2. Non-Construction Contracts:**

A. Total dollar amount of all non-construction contracts awarded on the project/activity	\$
B. Total dollar amount of non-construction contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving non-construction contracts	

**Part III: Summary**

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- ☐ Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contacts with community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
- ☐ Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- ☐ Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- ☐ Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- ☐ Other; describe below.

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u., mandates that the Department ensure that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as a self-monitoring tool. The data is entered into a data base and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative:

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## Form HUD-60002, Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons.

**Instructions:** This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any **public and Indian Housing programs** that receive: (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to **recipients of housing and community development assistance in excess of \$200,000** expended for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to **contracts and subcontracts in excess of \$100,000** awarded in connection with the Section-3-covered activity.

Form HUD-60002 has three parts which are to be completed for all programs covered by Section 3. Part I relates to **employment and training**. The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B, D, E and F) or the number of new hires utilized on the Section 3 covered project (columns B, C and F). Part II of the form relates to **contracting**, and Part III summarizes recipients' **efforts** to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons.\* A recipient of Section 3 covered assistance shall submit two copies of this report to the local HUD Field Office. Where the program providing assistance requires an annual performance report, this Section 3 report is to be submitted at the same time the program performance report is submitted. Where an annual performance report is not required, this Section 3 report is to be submitted by January 10 and, if the project ends before December 31, within 10 days of project completion. **Only Prime Recipients are required to report to HUD. The report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.**

HUD Field Office: Enter the Field Office name forwarding the Section 3 report.

1. Recipient: Enter the name and address of the recipient submitting this report.
2. Federal Identification: Enter the number that appears on the award form (with dashes). The award may be a grant, cooperative agreement or contract.
3. Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.
- 4 & 5. Contact Person/Phone: Enter the name and telephone number of the person with knowledge of the award and the recipient's implementation of Section 3.
6. Reporting Period: Indicate the time period (months and year) this report covers.
7. Date Report Submitted: Enter the appropriate date.

Submit two (2) copies of this report to the HUD Field Office of Fair Housing and Equal Opportunity, Program Operations and Compliance Center Director, at the same time the performance report is submitted to the program office. For those programs where such a report is not required, the Section 3 report is submitted by January 10. Include only contracts executed during the reporting period specified in item 8. PHAs/HAs are to report all contracts/subcontracts.

\* The terms "low-income persons" and "very low-income persons" have the same meanings given the terms in section 3(b)(2) of the United States Housing Act of 1937. **Low-income persons** mean families (including single persons) whose incomes do not exceed 80 per centum of the median family income for the area, as determined by the Secretary with

8. Program Code: Enter the appropriate program code as listed at the bottom of the page.

9. Program Name: Enter the name of the HUD Program corresponding with the "Program Code" in number 8.

### Part I: Employment and Training Opportunities

**Column A:** Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e., supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of "Other" includes occupations such as service workers.

**Column B:** Enter the number of new hires for each category of workers identified in **Column A** in connection with this award. New Hire refers to a person who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

**Column C:** Enter the number of Section 3 new hires for each category of workers identified in **Column A** in connection with this award. Section 3 new hire refers to a Section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

**Column D:** Enter the percentage of all the staff hours of new hires (Section 3 residents) in connection with this award.

**Column E:** Enter the percentage of the total staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.

**Column F:** Enter the number of Section 3 residents that were employed and trained in connection with this award.

### Part II: Contract Opportunities

#### Block 1: Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project/program that were awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

#### Block 2: Non-Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

### Part III: Summary of Efforts - Self-explanatory

smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings such that variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families. **Very low-income persons** mean low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

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## Appendix 8 – List of Organizational Resources

### ATLANTIC, CAPE MAY COUNTIES

**Atlantic Human Resources**

One South New York Avenue – Suite 303  
Atlantic City, NJ 08401

**Executive Director: Joseph E. Gaynor**

Telephone Number: (609) 348-4132  
Facsimile Number: (609) 345-5750

### BERGEN COUNTY

**Bergen County Community Action Program**

241 Moore Street  
Hackensack, NJ 07601

**Executive Director: Robert Halsch**

Telephone Number: (201) 342-5189  
Facsimile Number: (201) 342-9339

### BURLINGTON COUNTY

**Burlington County Community Action Program, Inc.**

718 Route 130 South  
Burlington, NJ 08016

**Executive Director: Silas Townsend, Ph.D.**

Telephone Number: (609) 386-5800  
Facsimile Number: (609) 386-7380

### CAMDEN COUNTY

**Camden Council on Economic Opportunity**

538 Broadway  
Camden, NJ 08103

**Executive Director: Arnold Byrd**

Telephone Number: (856) 964-6887  
Facsimile Number: (856) 964-0428

### CUMBERLAND, GLOUCESTER & SALEM COUNTIES

**Tri-County Community Action Agency**

110 Cohansey Street  
Bridgeton, NJ 08302

**President/CEO: Albert Kelly**

Telephone Number: (856) 451-6330  
Facsimile Number: (856) 455-7288

### ESSEX COUNTY

**Essex County, excluding the city of Newark**

Essex County Division of Community Action  
50 South Clinton Street  
East Orange, NJ 07018

**Division Director: Benjamin Amos**

Telephone Number: (973) 395-8350  
Facsimile Number: (973) 395-8433

**City of Newark / United Community Corporation**

31 Fulton Street  
Newark, NJ 07102

**Executive Director: Craig Rogers**

Telephone Number: (973) 642-0181  
Facsimile Number: (973) 621-5453

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HUDSON COUNTY

**City of Bayonne**

Bayonne Economic Opportunity Foundation  
555 Kennedy Boulevard / P.O. Box 1032  
Bayonne, NJ 07002

**Executive Director: Eleanor Tiefenwerth**

Telephone Number: (201) 437-7222  
Facsimile Number: (201) 437-2810

**City of Jersey City**

Jersey City Division of Community Development  
30 Montgomery Street – Room 404  
Jersey City, NJ 07302

**Director: Darice Bell**

Telephone Number: (201) 547-6910  
Facsimile Number: (201) 220-3803

**North Hudson Community Action Corporation**

Hudson County excluding cities of Bayonne, Hoboken and Jersey City  
5301 Broadway  
West New York, NJ 07093

**President/CEO: Christopher F. Irizarry**

Telephone Number: (201) 866-2388  
Facsimile Number: (201) 330-3803

**City of Hoboken**

Hoboken Organization Against Poverty & Economic Stress (HOPES)  
124 Grand Street  
Hoboken, NJ 07030

**Executive Director: Ora Welch**

Telephone Number: (201) 656-3713  
Facsimile Number: (201) 653-8213

HUNTERDON, MORRIS, SUSSEX & WARREN COUNTIES

**NORWESCAP NJ Community Action Program**

350 Marshall Street  
Phillipsburg, NJ 08865

**Executive Director: Terry Newhard**

Telephone Number: (908) 454-7000  
Facsimile Number: (908) 859-0729

MERCER COUNTY

**Mercer County Division of Community Services**

Mercer County excluding city of Trenton  
County Administration Building  
640 South Broad Street  
Trenton, NJ 08611

**Program Director: Michael Mattaliano**

Telephone Number: (609) 989-6964  
Facsimile Number: (609) 989-6032

**New Jersey Association on Corrections**

986 South Broad Street  
Trenton, NJ 08611

**Executive Director: James Hemm**

Telephone Number: (609) 396-8900  
Facsimile Number: (609) 396-8999

**United Progress, Incorporated**

City of Trenton  
162 West State Street / P.O. Box 10  
Trenton, NJ 08601

**Executive Director: Leslie Dona**

Telephone Number: (609) 392-2161  
Facsimile Number: (609) 392-2166



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MIDDLESEX COUNTY

**Puerto Rican Action Board**

90 Jersey Avenue  
New Brunswick, NJ 08901

**Executive Director: Mario Vargas**

Telephone Number: (732) 828.4510  
Facsimile Number: (732) 828.4546

**Jewish Renaissance Foundation**

149 Kearney Avenue  
Perth Amboy, NJ 08861

**CEO: Alexandra Mansonet-Cross**

Telephone: 732.324.2114  
Facsimile Number: 732.324.0256

MONMOUTH

**Check-Mate, Inc.**

910 Fourth Avenue  
Asbury Park, NJ 07712

**Executive Director: Georgia Berry**

Telephone Number: (732) 774-3100  
Facsimile Number: (732) 774-3220

OCEAN COUNTY

**Ocean Community for Economic Action Now, Inc.**

40 Washington Street - P.O. Box 1029  
Toms River, NJ 08754

**Executive Director: Theodore Gooding**

Telephone Number: (732) 244-2333  
Facsimile Number: (732) 349-4227

PASSAIC COUNTY

**Passaic County Human Services**

Passaic County excluding cities of Paterson and Passaic  
401 Grand Street – Room 417  
Paterson, NJ 07505

**Director of Human Services:  
Pamela Owen**

Telephone Number: (973) 881-4278  
Facsimile Number: (973) 881-2733

**Paterson Task Force for Community Action, Incorporated**

City of Paterson  
9 Colt Street  
Paterson, NJ 07505

**Executive Director: Rev. Ronald Tuff**

Telephone Number: (973) 279-2333  
Facsimile Number: (973) 279-2334

**United Passaic Organization**

City of Passaic  
41 Myrtle Avenue  
Passaic, NJ 07055

**Executive Director: Ed Lyons**

Telephone Number: (973) 472-2478  
Facsimile Number: (973) 472-5474



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SOMERSET COUNTY

**Somerset County Action Program**

429 Lewis Street / P.O. Box 119  
Somerset, NJ 08875-0119

**Executive Director: Isaac Dorsey**

Telephone Number: (732) 846-8888  
Facsimile Number: (732) 846-7569

UNION COUNTY

**Plainfield Action Services**

City of Plainfield  
510 Watchung Avenue  
Plainfield, NJ 07060

**Executive Director: Al Restaino**

Telephone Number: (908) 753-3233  
Facsimile Number: (908) 753-3540

**Union County Department of Human Services**

Union County Administration Building – 4th Fl.  
Division of Planning  
Elizabeth, NJ 07207

**Director: Trisha Stone**

Telephone Number: (908) 558-2290  
Facsimile Number: (908) 558-2562

STATEWIDE

**New Jersey Community Action Association**

227 East Hanover Street  
Trenton, NJ 08608

**CEO: Wayne R. Griffith**

Telephone Number: (609) 392-1110  
Facsimile Number: (609) 392-1397

**Comite de Apoyo a los Trabajadores**

Agrícolas (CATA)  
4 South Delsea Drive / P.O. Box 510  
Glassboro, NJ 08028

**Executive Director: Nelson Carrasquillo**

Telephone Number: (856) 881-2507  
Facsimile Number: (856) 881-2027

**The African-American Chamber of Commerce of New Jersey**

110 West State Street, Suite 3B  
Trenton, NJ 08608  
(609) 571-1620

**The Statewide Hispanic Chamber of Commerce of New Jersey**

One Gateway Center, Suite 2409  
Newark, NJ 07102  
(973) 900-5886

**The New Jersey Chamber of Commerce**

216 West State Street  
Trenton, NJ 08608  
(609) 989-7888

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## Appendix 9 - Housing Authorities

Asbury Park HA  
**Phone:** (732)774-2660  
**Fax:** (732)774-0643

1000 1/2 3rd Avenue  
**Asbury Park**  
NJ 07712

[Atlantic City Housing Authority](#)  
**Phone:** (609)344-1107  
**Fax:** (609)344-1015

227 N Vermont Avenue  
**Atlantic City**  
NJ 08401

[Bayonne HA](#)  
**Phone:** (201)339-8700  
**Fax:** (201)339-1766

549 Avenue A  
PO Box 277  
**Bayonne**  
NJ 07002

[Berkeley HA](#)  
**Phone:** (732)269-2312  
**Fax:** (732)269-7709

44 Frederick Drive  
**Bayville**  
NJ 08721

[Belmar HA](#)  
**Phone:** (732)681-1795  
**Fax:** (732)530-1739

710 8th Avenue  
**Belmar**  
NJ 07719

[Warren County HA](#)  
**Phone:** (908)475-3989  
**Fax:** (908)475-8637

415 Front Street  
**Belvidere**  
NJ 07823

Beverly HA  
**Phone:** (609)387-0250  
**Fax:** (609)387-7349

100 Magnolia Street  
**Beverly**  
NJ 08010

[Bloomfield HA](#)  
**Phone:** (973)680-4035  
**Fax:** (973)680-4510

1 Municipal Plaza  
Room 200  
**Bloomfield**  
NJ 07003

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[Boonton HA](#)  
**Phone:** (973)335-0846  
**Fax:** (973)335-0955

125 Chestnut Street  
**Boonton**  
NJ 07005

Brick HA  
**Phone:** (732)920-9400  
**Fax:** (732)920-7604

165 Chambers Bridge Road  
**Brick Town**  
NJ 08723

[Bridgeton HA](#)  
**Phone:** (856)451-4454  
**Fax:** (856)451-0226

110 E. Commerce Street  
**Bridgeton**  
NJ 08302

[Burlington HA](#)  
**Phone:** (609)386-0246  
**Fax:** (609)386-2465

800 Walnut Street  
**Burlington**  
NJ 08016

[Camden HA](#)  
**Phone:** (856)968-2700  
**Fax:** (856)964-8610

2021 Watson Street  
2nd Floor  
**Camden**  
NJ 08105

[Cape May HA](#)  
**Phone:** (609)884-8703  
**Fax:** (609)884-9028

639 Lafayette Street  
**Cape May**  
NJ 08204

Carteret HA  
**Phone:** (732)541-6800  
**Fax:** (732)541-2867

96 Roosevelt Avenue  
**Carteret**  
NJ 07008

[Cherry Hill HA](#)  
**Phone:** (856)432-8706  
**Fax:** (856)661-4746

820 Mercer Street  
PO Box 5002  
**Cherry Hill**  
NJ 08034

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[Clementon Housing Authority](#)

**Phone:** (856)784-1134

**Fax:** (856)784-1324

22 Gibbsboro Road

**Clementon**

NJ 08021

[Cliffside Park HA](#)

**Phone:** (201)941-0655

**Fax:** (201)941-4038

500 Gorge Road

**Cliffside Park**

NJ 07010

[Clifton HA](#)

**Phone:** (973)470-5846

**Fax:** (973)471-1837

City Hall

900 Clifton Avenue

**Clifton**

NJ 07013

[Collingswood HA](#)

**Phone:** (856)854-1077

**Fax:** (856)854-8283

30 Washington Avenue

**Collingswood**

NJ 08108

[Gloucester County HA](#)

**Phone:** (856)845-4959

**Fax:** (856)348-9044

100 Pop Moylan Boulevard

**Deptford**

NJ 08096

[Dover HA](#)

**Phone:** (973)361-9444

**Fax:** (973)361-6204

215 E Blackwell Street

**Dover**

NJ 07801

[East Orange HA](#)

**Phone:** (973)766-8896

**Fax:** (973)766-8797

160 Halsted Street

**East Orange**

NJ 07018

[Edgewater HA](#)

**Phone:** (201)943-6000

**Fax:** (201)943-0416

300 Undercliff Avenue

**Edgewater**

NJ 07020

[Edison HA](#)

**Phone:** (908)561-2525

**Fax:** (908)561-7517

14 Rev. Samuel Carpenter Boulevard

**Edison**

NJ 08820

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[Elizabeth HA](#)  
**Phone:** (908)965-2400  
**Fax:** (908)965-0026

688 Maple Avenue  
**Elizabeth**  
NJ 07202

[Union County HA](#)  
**Phone:** (908)527-4227  
**Fax:** (908)352-3980

1 Elizabethtown Plaza 5th Floor  
Administration Building  
**Elizabeth**  
NJ 07207

[Englewood HA](#)  
**Phone:** (201)871-3451  
**Fax:** (201)871-5908

111 West Street  
**Englewood**  
NJ 07631

[Bergen County HA](#)  
**Phone:** (201)569-7454  
**Fax:** (201)569-8074

25 Rockwood Place  
Suite 205  
**Englewood**  
NJ 07631

[Hunterdon County H A](#)  
**Phone:** (908)788-1336  
**Fax:** (908)806-4896

PO Box 2900  
**Flemington**  
NJ 08822

[Florence HA](#)  
**Phone:** (609)499-0575  
**Fax:** (609)499-0888

620 W. Third & Eyre Street  
**Florence**  
NJ 08518

Fort Lee HA  
**Phone:** (201)947-7400  
**Fax:** (201)947-9710

1403 Teresa Drive  
**Fort Lee**  
NJ 07024

[Cec](#)  
**Phone:** (732)780-1175  
**Fax:** (732)780-8977

11 Spring Street  
**Freehold**  
NJ 07728

[CSPNJ](#)  
**Phone:** (732)780-1175  
**Fax:** (732)780-8977

11 Spring Street  
**Freehold**  
NJ 07728

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[Monmouth County](#)  
**Phone:** (732)431-6027  
**Fax:** (732)431-6267

PO Box 3000  
**Freehold**  
NJ 07728

Freehold HA  
**Phone:** (732)462-2421  
**Fax:** (732)409-7075

107 Throckmorton Street  
**Freehold**  
NJ 07728

Garfield HA  
**Phone:** (973)340-4170  
**Fax:** (973)772-7804

71 Daniel P Conte Court  
**Garfield**  
NJ 07026

[Glassboro HA](#)  
**Phone:** (856)881-5211  
**Fax:** (856)696-0481

737 Lincoln Blvd.  
**Glassboro**  
NJ 08028

[Gloucester City HA](#)  
**Phone:** (856)456-5772  
**Fax:** (856)456-6894

101 Market Street  
**Gloucester City**  
NJ 08030

[Guttenberg HA](#)  
**Phone:** (201)861-0900  
**Fax:** (201)861-4521

6900 Broadway  
**Guttenberg**  
NJ 07093

Hackensack HA  
**Phone:** (201)342-4280  
**Fax:** (201)342-5044

65 First Street  
**Hackensack**  
NJ 07061

Hamilton Township HA  
**Phone:** (609)890-3675  
**Fax:** (609)890-3532

2090 Greenwood Avenue  
PO Box 00150  
**Hamilton**  
NJ 08650

[Harrison HA](#)  
**Phone:** (973)483-1488  
**Fax:** (973)483-4277

Harrison & Schuyler Avenue  
**Harrison**  
NJ 07029

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[Highland Park HA](#)  
**Phone:** (732)572-4420  
**Fax:** (732)985-6485

242 S 6th Avenue  
**Highland Park**  
NJ 08904

[Highlands HA](#)  
**Phone:** (732)872-2022  
**Fax:** (732)291-8743

215 Shore Drive  
**Highlands**  
NJ 07732

Hightstown HA  
**Phone:** (609)448-2268  
**Fax:** (609)426-9440

131 Rogers Avenue  
**Hightstown**  
NJ 08520

[Hoboken HA](#)  
**Phone:** (201)798-0370  
**Fax:** (201)798-0164

400 Harrison Street  
**Hoboken**  
NJ 07030

Irvington HA  
**Phone:** (973)375-2121  
**Fax:** (973)375-4581

101 Union Avenue  
**Irvington**  
NJ 07111

Jersey City Episcopal CDC  
**Phone:** (201)209-9301  
**Fax:**

779 Bergen Avenue  
**Jersey City**  
NJ 07306

[Jersey City Housing Authority](#)  
**Phone:** (201)706-4601  
**Fax:** (201)706-4802

400 U.S. Highway #1 (Marion Gardens)  
Building #7  
**Jersey City**  
NJ 07306

[Keansburg HA](#)  
**Phone:** (732)787-6151  
**Fax:** (732)787-5204

Church  
**Keansburg**  
NJ 07734

[Lakewood Housing Authority](#)  
**Phone:** (732)364-1300  
**Fax:** (732)367-3299

317 Sampson Avenue  
**Lakewood**  
NJ 08701

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[Lakewood Rap](#)

**Phone:** (732)367-0660

**Fax:** (732)367-6645

600 West Kennedy Boulevard

PO Box 856

**Lakewood**

NJ 08701

[Linden Housing Authority](#)

**Phone:** (908)298-3820

**Fax:** (908)298-6990

1601 Dill Avenue

**Linden**

NJ 07036

[Lodi Housing Authority](#)

**Phone:** (973)470-3650

**Fax:** (973)778-1429

50 Brookside Avenue

**Lodi**

NJ 07644

Long Branch HA

**Phone:** (732)222-3747

**Fax:** (732)222-7501

Garfield Court

**Long Branch**

NJ 07740

Madison HA

**Phone:** (973)377-0258

**Fax:** (973)377-5237

24 Central Avenue

**Madison**

NJ 07940

[Manville HA](#)

**Phone:** (908)725-8943

**Fax:** (908)231-0955

325 Main Street

**Manville**

NJ 08835

[Middletown Housing Authority](#)

**Phone:** (732)671-2990

**Fax:** (732)671-4828

1 Oakdale Drive

**Middletown**

NJ 07748

[Millville HA](#)

**Phone:** (856)825-8860

**Fax:** (856)825-5283

1153 Holly Berry Lane

PO Box 803

**Millville**

NJ 08332



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Buena HA  
**Phone:** (856)697-4852  
**Fax:** (856)697-2642

600 Central Avenue  
**Minotola**  
NJ 08341

[Montclair HA](#)  
**Phone:** (973)509-4936  
**Fax:** (973)509-4946

205 Claremont Avenue  
**Montclair**  
NJ 07042

[Morristown HA](#)  
**Phone:** (973)292-4186  
**Fax:** (973)292-4156

31 Early Street  
**Morristown**  
NJ 07960

[Morris County HA](#)  
**Phone:** (973)540-0389  
**Fax:** (973)540-1914

99 Ketch Road  
**Morristown**  
NJ 07960

[Burlington County HA](#)  
**Phone:** (609)261-1000  
**Fax:** (609)261-0737

795 Woodlane Road  
**Mount Holly**  
NJ 08060

[Neptune HA](#)  
**Phone:** (732)774-7692  
**Fax:** (732)774-9456

1810 Alberta Avenue  
**Neptune**  
NJ 07753

Middlesex County  
**Phone:** (732)745-3025  
**Fax:** (732)745-4117

Administration Building  
John F. Kennedy Square  
**New Brunswick**  
NJ 08910

[New Brunswick HA](#)  
**Phone:** (732)745-5157  
**Fax:** (732)253-7799

7 Van Dyke Avenue  
**New Brunswick**  
NJ 08901

[Newark HA](#)  
**Phone:** (973)273-6600  
**Fax:** (973)273-6636

500 Broad Street  
**Newark**  
NJ 07102

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[Newton HA](#)  
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**Fax:** (973)383-1181

32 Liberty Street  
**Newton**  
NJ 07860

North Bergen HA  
**Phone:** (201)868-8605  
**Fax:** (201)295-3098

6121 Grand Avenue  
**North Bergen**  
NJ 07047

[Ocean City H A](#)  
**Phone:** (609)399-1062  
**Fax:** (609)399-7590

204 Fourth Street  
**Ocean City**  
NJ 08226

[Old Bridge HA](#)  
**Phone:** (732)607-6383  
**Fax:** (732)679-0894

2000 Route 18 North  
Suite 100  
**Old Bridge**  
NJ 08857

[Orange Housing Authority](#)  
**Phone:** (973)675-1250  
**Fax:** (973)675-6843

340 Thomas Boulevard  
**Orange**  
NJ 07050

[Passaic HA](#)  
**Phone:** (973)365-6330  
**Fax:** (973)365-0017

52 Aspen Place  
**Passaic**  
NJ 07055

[Paterson DCD HA](#)  
**Phone:** (973)345-5650  
**Fax:** (973)977-9085

Housing Authority of the City of Paterson  
60 Van Houten Street  
**Paterson**  
NJ 07505

[Passaic County HA](#)  
**Phone:** (973)881-4369  
**Fax:** (973)684-0317

401 Grand Street  
**Paterson**  
NJ 07505

[Paterson HA](#)  
**Phone:** (973)345-5650  
**Fax:** (973)977-9085

60 Van Houten Street  
**Paterson**  
NJ 07505

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[Penns Grove HA](#)

**Phone:** (856)299-0101

**Fax:** (856)299-6736

Penn Towers South  
40 South Broad Street  
**Penns Grove**  
NJ 08069

[Pennsauken HA](#)

**Phone:** (856)663-0514

**Fax:** (856)665-6641

2400 Bethel Avenue  
**Pennsauken**  
NJ 08109

[Perth Amboy HA](#)

**Phone:** (732)826-3110

**Fax:** (732)826-3111

881 Amboy Avenue  
**Perth Amboy**  
NJ 08862

[Phillipsburg HA](#)

**Phone:** (908)859-0122

**Fax:** (908)859-1574

530 Heckman Street  
**Phillipsburg**  
NJ 08865

[Phillipsburg DCD](#)

**Phone:** (908)454-5500

**Fax:** (908)213-9214

675 Corliss Avenue  
**Phillipsburg**  
NJ 08865

[Plainfield HA](#)

**Phone:** (908)769-6335

**Fax:** (908)753-2232

510 E Front Street  
**Plainfield**  
NJ 07060

[Pleasantville HA](#)

**Phone:** (609)646-3023

**Fax:** (609)272-1405

156 N Main Street  
**Pleasantville**  
NJ 08232

[Princeton HA](#)

**Phone:** (609)924-3448

**Fax:** (609)924-1663

50 Clay Street  
**Princeton**  
NJ 08542

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[Rahway HA](#)

**Phone:** (732)499-0066

**Fax:** (732)499-0070

165 E Grand Avenue

**Rahway**

NJ 07065

[Red Bank HA](#)

**Phone:** (732)741-1808

**Fax:** (732)741-0104

52 Evergreen Terrace

**Red Bank**

NJ 07701

[Salem HA](#)

**Phone:** (856)935-5022

**Fax:** (856)935-5290

205 7th Street

**Salem**

NJ 08079

[Sayreville HA](#)

**Phone:** (732)721-8044

**Fax:** (732)721-0062

650 Washington Road

**Sayreville**

NJ 08872

[Secaucus HA](#)

**Phone:** (201)867-2957

**Fax:** (201)867-9113

700 County Avenue

**Secaucus**

NJ 07094

[Franklin HA](#)

**Phone:** (732)545-9430

**Fax:** (732)545-3667

25 Parkside Street

**Somerset**

NJ 08873

[Somerville HA](#)

**Phone:** (908)725-2300

**Fax:** (908)725-2859

25 West End Avenue

**Somerville**

NJ 08876

[South Amboy HA](#)

**Phone:** (732)721-1831

**Fax:** (732)721-0377

250 S Broadway

**South Amboy**

NJ 08879

[Summit HA](#)

**Phone:** (908)273-6413

**Fax:** (908)273-3618

512 Springfield Avenue

**Summit**

NJ 07901

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[NJ HMFA](#)

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637 South Clinton Avenue

PO Box 18550

**Trenton**

NJ 08650

[NJ DCA](#)

**Phone:** (609)292-4080

**Fax:** (609)633-8084

101 South Broad Street

PO Box 051

**Trenton**

NJ 08625

**Trenton HA**

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**Fax:** (609)599-9827

875 New Willow Street

**Trenton**

NJ 08638

**Union Township HA**

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**Fax:** (973)761-0086

1976 Morris Avenue

**Union**

NJ 07083

[Union City HA](#)

**Phone:** (201)864-1515

**Fax:** (201)864-7163

3911 Kennedy Boulevard

**Union City**

NJ 07087

[Vineland HA](#)

**Phone:** (856)691-4099

**Fax:** (856)691-8404

191 W Chestnut Avenue

**Vineland**

NJ 08360

[Weehawken HA](#)

**Phone:** (201)348-4188

**Fax:** (201)348-4457

525 Gregory Avenue

**Weehawken**

NJ 07086

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[West New York HA](#)

**Phone:** (201)868-6100

**Fax:** (201)868-3393

6100 Adams Street

**West New York**

NJ 07093

West Orange HA

**Phone:** (973)325-4107

**Fax:** (973)325-6359

66 Main Street

**West Orange**

NJ 07052

[Haddon HA](#)

**Phone:** (856)854-3700

**Fax:** (856)854-7122

25 Wynnewood Avenue

**Westmont**

NJ 08108

[Wildwood HA](#)

**Phone:** (609)729-0220

**Fax:** (609)729-4168

3700 New Jersey Avenue

**Wildwood**

NJ 08260

[Woodbridge HA](#)

**Phone:** (732)634-2750

**Fax:** (732)634-8421

20 Bunns Lane

**Woodbridge**

NJ 07095

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## Appendix 10 – Youthbuild Organizations

<a href="#">ASPIRA, Inc. of New Jersey</a>		<a href="#">Vineland</a>	<a href="#">NJ</a>
<a href="#">Great Falls YouthBuild</a>	New Jersey Community Development Corporation	<a href="#">Paterson</a>	<a href="#">NJ</a>
<a href="#">Housing Authority of the City of Camden</a>		<a href="#">Camden</a>	<a href="#">NJ</a>
<a href="#">Isles YouthBuild</a>	Isles, Inc.	<a href="#">Trenton</a>	<a href="#">NJ</a>
<a href="#">Passaic YouthBuild</a>	St. Paul's Community Development Corporation	<a href="#">Paterson</a>	<a href="#">NJ</a>
<a href="#">YouthBuild Atlantic City</a>	Atlantic City Boys & Girls Club	<a href="#">Atlantic City</a>	<a href="#">NJ</a>
<a href="#">YouthBuild Elizabeth</a>	Brand New Day CDC	<a href="#">Elizabeth</a>	<a href="#">NJ</a>
<a href="#">YouthBuild Hudson</a>	Catholic Charities of Archdiocese of Newark	<a href="#">Jersey City</a>	<a href="#">NJ</a>
<a href="#">YouthBuild Newark</a>		<a href="#">Newark</a>	<a href="#">NJ</a>

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**APPROVAL:** \_\_\_\_\_

Timothy Cunningham  
Assistant Commissioner

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**PURPOSE:**

To outline the policies and procedures for the Department of Community Affairs to document compliance with Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations found at 24 CFR Part 8.

**POLICY:**

Section 504 of the Rehabilitation Act of 1973, as amended, provides "No otherwise qualified individual with a disability in the United States... shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance". HUD's regulations implementing the Section 504 requirements can be found at 24 CFR Part 8.

Part 8 requires that recipients ensure that their programs are accessible to and usable by persons with disabilities. Part 8 also prohibits recipients from employment discrimination based upon disability. Additional information regarding Section 504 including requirements, laws, regulations and links to other resources, may be found by clicking on [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/disabilities/sect504](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504)

In some cases certain CPD programs contain waivers and alternative requirements, relevant statutory provisions for grants provided under the Federal Notice issued for that program. In order to meet the requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) Program (Robert T. Stafford Disaster Relief and Emergency Assistance act of 1974 commonly referred to the "Stafford Act") as well as the Disaster Relief Appropriations Act of 2013 (78 FR 14329 – published March 5, 2013 and the clarifying guidance published on April 19, 2013) the following section has been added to describe any waivers or alternate requirements for this crosscutting element. Note that wherever a conflict occurs between the crosscutting requirements and the special requirements as noted in the Stafford Act and the Disaster Relief Appropriations Act of 2013, the latter shall take precedence.



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**DISASTER RECOVERY WAIVERS OR ALTERNATE REQUIREMENTS:**

None.

**I. SECTION 504 APPLICABILITY**

The Section 504 regulations define a "recipient" as any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution organization, or other entity or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. For the purposes of Part 8, recipients include States and localities that are grantees and subgrantees under the HUD program, their subrecipients, community-based development organizations, businesses, and any other entity that receives HUD assistance, but not low- and moderate-income beneficiaries of the program.

**II. SECTION 504 PROTECTIONS**

Section 504 protects qualified individuals with disabilities. Individuals with disabilities are defined as persons with a physical or mental impairment which substantially limits one or more major life activities. People who have a history of, or who are regarded as having a physical or mental impairment that substantially limits one or more major life activities, are also covered. Major life activities include caring for one's self, walking, seeing, hearing, speaking, breathing, working, performing manual tasks, and learning. In addition to meeting the above definition, for purposes of receiving services, education or training, qualified individuals with disabilities are persons who meet normal and essential eligibility requirements.

Section 504 prohibitions against discrimination apply to service availability, accessibility, delivery, employment, and the administrative activities and responsibilities of organizations receiving Federal financial assistance. A recipient of Federal financial assistance may not, on the basis of disability:

- Deny qualified individuals the opportunity to participate in or benefit from federally funded programs, services, or other benefits.
- Deny access to programs, services, benefits or opportunities to participate as a result of physical barriers.

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- Deny employment opportunities, including hiring, promotion, training, and fringe benefits, for which they are otherwise entitled or qualified.

### **III. SECTION 504 REQUIREMENTS**

HUD grantees are responsible for establishing policies and practices that they will use to monitor compliance of all covered programs, activities, or work performed by their subrecipients, contractors, subcontractors, management agents, etc. The following requirements apply:

- **New Construction** - Part 8 requires that new non-housing facilities constructed by recipients of Federal financial assistance shall be designed and constructed to be readily accessible to and usable by persons with disabilities (24 CFR 8.21(a)).
- **Alterations to facilities** - Part 8 requires to the maximum extent feasible, that recipients make alterations to existing non-housing facilities to ensure that such facilities are readily accessible to and usable by individuals with disabilities. An element of an existing non-housing facility need not be made accessible, if doing so, would impose undue financial and administrative burdens on the operation of the recipients program or activity (24 CFR 8.21(b)).
- **Existing non-housing facilities** - A recipient is obligated to operate each non-housing program or activity so that, when viewed in its entirety, the program or activity is readily accessible to and usable by persons with disabilities (24 CFR 8.21(c)). Recipients are not necessarily required to make each of their existing non-housing facilities accessible to and usable by persons with disabilities if when viewed in its entirety, the program or activity is readily accessible to and usable by persons with disabilities (24 CFR 8.21(c)(1)). Recipients are also not required to take any action that they can demonstrate would result in a fundamental alteration in the nature of its program or activity or cause an undue administrative and financial burden. However, recipients are still required to take other actions that would not result in such alterations, but would nevertheless ensure that persons with disabilities receive the benefits and services of the program (24 CFR 8.21(c)(iii)).
- **Historic Preservation** - Recipients are not required to take any actions that would result in a substantial impairment of significant historic features of an historic property. However, in such cases where a physical alteration is not required, the recipient is still obligated to use alternative means to achieve program accessibility, including using

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audio-visual materials and devices to depict those portions of an historic property that cannot be made accessible, assigning persons to guide persons with disabilities into or through portions of historic properties that cannot be made accessible, or otherwise adopting other innovative methods so that individuals with disabilities can still benefit from the program (24CFR 8.21(c)(2)(ii)).

- **Accessibility Standards** - Design, construction, or alteration of facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) is deemed to comply with the accessibility requirements for non-housing facilities. Recipients may depart from particular technical and scoping requirements of UFAS where substantially equivalent or greater accessibility and usability is provided (24 CFR 8.32).
- **Employment** - Section 504 prohibits discrimination based upon disability in employment (see 24 CFR Part 8, Subpart B). For purposes of employment, qualified individuals with disabilities are persons who, with reasonable accommodation, can perform the essential functions of the job for which they have applied or have been hired to perform. Reasonable accommodation means an employer is required to take reasonable steps to accommodate an employee's disability unless it would cause the employer undue hardship. Complaints alleging employment discrimination on the basis of disability against a single individual will be referred to the U. S. Equal Employment Opportunity Commission for processing.
- **Communications** - Recipients are required to take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public. In effect, this means that, "to the maximum extent possible," persons with disabilities receive the benefits and services of the HUD program or activity. Participants are not, however, required to take actions that can be demonstrated to result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens (24 CFR 8.6).
- **Record Keeping Requirements** - Recipients are required to maintain applicable program records. Failure to maintain records is an indication of noncompliance with regulations governing record keeping. While a lack of documentation may not imply discrimination, it may require further review to ensure compliance (24 CFR 8.55).

#### IV. SECTION 504 SELF EVALUATIONS

Section 504 regulations required recipients of Federal financial assistance to conduct a self-evaluation of their policies and practices to determine if they were consistent with the law's

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requirements no later than July 11, 1989. The regulatory deadlines are long past; however, self-evaluation continues to be an excellent management tool for ensuring that a recipient's current policies and procedures comply with the requirements of Section.

HUD also recommends that recipients periodically update the self-evaluation, particularly, for example, if there have been changes in the programs and services of the agency. In addition, public entities covered by Title II of the American Disabilities Act (ADA) should review any policies and practices that were not included in their Section 504 self-evaluation and should modify discriminatory policies and practices accordingly.

Tips on how to implement a successful self-evaluation can be found in HUD Notice 00-10, issued December 26, 2000, found at <http://www.hud.gov/offices/cpd/lawsregs/notices>.

## **V. SECTION 504 COMPLIANCE PROCEDURES**

To comply with Section 504 requirements, the following should be completed:

- Develop and implement a formal, written grievance procedure for resolution of complaints alleging discrimination based on disability (for program participants or subrecipients with 15 or more employees).
- Ensure that documentation (e.g., blueprints and construction specifications) for all new non-housing facilities assisted with HUD program funds are being designed and constructed to be readily accessible to, and usable by, persons with disabilities in conformance with accessibility requirements.
- Ensure that any alterations that are made to existing non-housing facilities are usable by, and accessible to, persons with disabilities.
- Maintain records for projects that, if any alterations have been made to existing non-housing facilities, that such alterations have made these facilities usable by, and accessible to, persons with disabilities.
- Review policies to ensure that programs and activities are readily accessible to, and usable by, persons with disabilities.
- Ensure effective communication with applicants, beneficiaries, and members of the public who have hearing, vision, or speech impairments (qualified sign language and oral interpreters, readers, tapes, Braille materials, TTD, etc.).

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- Adopt and implement procedures to ensure that interested persons (including those with impaired vision or hearing) can obtain information concerning the existence and location of accessible services, activities and facilities.
- Provide and document steps taken to attract participation by persons with disabilities, such as: making buildings more accessible to persons with physical disabilities; home visits to assist applicants for program benefits in filling out applications; supplying sign language interpreters for public meetings on issues relating to the participant's programs.
- Maintain records for compliance purposes showing the extent to which persons with disabilities are beneficiaries of the HUD program(s).
- Develop, regularly update, and make available for review a Section 504 Self-Evaluation Form and Transition Plan.
- Develop, regularly update, and make available for review a Section 504 Reasonable Accommodation Policy.
- Regularly monitor subrecipients to ensure that Section 504, ADA, and Fair Housing Act requirements affecting persons with disabilities are met.

## **VI. SPECIFIC DEPARTMENT OF COMMUNITY AFFAIRS SECTION 504 COMPLIANCE PROCEDURES**

The Department of Community Affairs is committed to ensuring that the policies and procedures of its programs do not deny individuals with disabilities the opportunity to participate in, or benefit from, those programs. The DCA is also committed to ensuring that its policies and procedures do not otherwise discriminate, on the basis of disability, in connection with the operation of those programs, services and activities. Therefore, if an individual with a disability requires an accommodation, such as an accessible feature for the assisted unit or modification to an existing policy, the DCA will provide such reasonable accommodation unless doing so would result in a fundamental alteration in the nature of the program or an undue financial or administrative burden. In such case, the DCA will attempt to make another accommodation that meets the needs of all involved.

A reasonable accommodation is a change, modification, alteration or adaptation in policy,

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procedure, practice or program that provides a qualified individual with a disability the opportunity to participate in or benefit from one of the DCA's programs.

The DCA will post a copy of this Reasonable Accommodation Policy and Procedures (Policy) in the Central Administrative Office located at 101 South Broad Street, Fifth Floor in Trenton and copies will be available in each field office upon request. In addition, the Policy as contained in this Administrative Plan is available online to all program participants. Finally, individuals will receive a copy of the Policy in the tenant briefing packet.

### **Legal Authority**

The DCA is subject to federal civil rights laws and regulations. The Policy is based on the following authorities:

- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.S. §794; 24 C.F.R. Part 8)
- Title II of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C.S. §§ 12101 et seq)
- Fair Housing Act of 1968, as amended (Fair Housing Act) (42 U.S.C.S. §§ 3601-20; 24 C.F.R. Part 100)
- Architectural Barriers Act of 1968 (42 U.S.C.S. §§4151-4157)

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### **Monitoring and Enforcement**

The DCA's Sandy Recovery Division Assistant Director, Office of Compliance and Monitoring is responsible for monitoring the DCA's compliance with this Policy. Individuals who have questions regarding this Policy, its interpretation or implementation should contact the DCA's Section 504/ADA Coordinator in writing, by telephone, by facsimile, or by appointment, as follows:

Assistant Director, Office of Compliance and Monitoring  
Sandy Recovery Division  
NJ Department of Community Affairs  
101 South Broad Street, Eighth Floor  
Trenton, New Jersey 08625  
Telephone: (609) 943-4250

The Assistant Director for Housing Programs will ensure that all appropriate Sandy Recovery staff receives annual training on the Reasonable Accommodation Policy and Procedures, including all applicable federal, state and local requirements regarding reasonable accommodations. The alternate contact is Samantha Porter, Executive Assistant, Sandy Recovery Division at the same location.

### **Reasonable Accommodations**

A person with a disability may request a reasonable accommodation at any time during the application process. The individual, DCA's Section 504/ADA Coordinator, or another person identified by the individual, must reduce all requests for reasonable accommodation(s) to writing.

Reasonable accommodation methods or actions that may be appropriate for a particular program and individual may be found to be inappropriate for another program or individual. The decision to approve or deny a request for a reasonable accommodation is made on a case-by-case basis and takes into consideration the disability and needs of the individual.

### **Application of Reasonable Accommodation Policy and Procedures**

The Policy applies to individuals with disabilities applying to or participating in the programs administered by the DCA.

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### **Person with a Disability**

A person with a disability, as defined by the Federal Fair Housing Act<sup>1</sup>, is an individual who has a physical or mental impairment that substantially limits one or more major life activities<sup>1</sup>.

As used in this definition, the phrase “physical or mental impairment” includes:

1. This definition is nearly identical under Section 504 and the ADA.
  - a. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
  - b. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism. 24 C.F.R. § 100.201.

The definition of disability does not include any individual who is an alcoholic whose current use of alcohol prevents the individual from participating in the public housing program or activities, complying with the obligations of program participation, or whose participation, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others. The definition does protect individuals who are currently receiving treatment for their alcoholism.

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<sup>1</sup> “Major life activities” means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing and learning. 24 C.F.R. § 100.201.



**SUBJECT:** Section 504 of the Rehabilitation Act of 1973

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### **Examples of Reasonable Accommodations**

The Department of Community Affairs (DCA) will provide, as an attachment to the Reasonable Accommodations Policy and Procedures, the Examples of Reasonable Accommodations document which has been approved by the U.S. Department of Housing and Urban Development. Examples of reasonable accommodations may include, but are not limited to:

- (a) Allowing a live-in aid to reside in a tenant's unit;
- (b) Making documents available in large type, computer disc or Braille;
- (c) Providing qualified sign language interpreters for program participants meeting with DCA staff;
- (d) Permitting an outside agency or family member to assist a program participant to meeting the essential terms of the household's obligations of participation in the DCA housing assistance program;
- (e) Providing an additional, reasonable amount of time within which the program participant must complete paperwork or a recertification.

### **Processing of Requests for Reasonable Accommodations**

DCA will provide a Request for Reasonable Accommodation Form (Request Form), Exhibit 20-1, to all program participants or applicants. The Request Form will also be provided to any program participant or program applicant upon request.

Individuals may submit their reasonable accommodation request(s) in writing, orally, or by any other equally effective means of communication. Submission of the Request Forms is not mandatory. However, the DCA will ensure that all reasonable accommodation requests will be reduced to writing within 24 hours of receipt. If needed as a reasonable accommodation, DCA will assist the individual in completing the Request Form.

The following procedures will be followed:

- a. The DCA will provide all program participants with the Request Form as a part of the participant briefing packet. The Request Form will be provided in an alternative format upon request.
- b. Reasonable accommodations will be made for program participants during the eligibility determination process in an accessible location. Applications for participation will be made available in accessible formats.

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- c. DCA will provide program participants with appropriate auxiliary aids and services, including qualified sign language interpreters and readers, upon request.
- d. The DCA will provide program participants with the Request Form, if requested, during the annual re-certification process, and upon request at any other time. The DCA will provide the Request Form in an alternate form upon request.
- e. Program participants seeking accommodation(s) may contact the Field Office Supervisor at the county field office in which they reside. In addition, program participants may also contact the Section 504/ADA Coordinator's office directly to request the accommodation(s).
- f. Within two (2) business days of receipt, the DCA field office will forward the participant's reasonable accommodation request(s) to the office of the Section 504/ADA Coordinator.
- g. Within five (5) business days of receipt, the office of the Section 504/ADA Coordinator, or the program participant's Field Office Supervisor, will respond to the program participant's request.
- h. If additional information or documentation is required, the Section 504/ADA Coordinator's office will notify the program participant, in writing, of the need for the additional information or documentation. The Section 504/ADA Coordinator's office will provide the program participant with a Request for Information or Verification Form. The written notification will provide the program participant with a deadline for submission of the outstanding information or documentation. Such deadline will allow the participant a reasonable amount of time for submission of the requested documentation. If needed as an accommodation, and if feasible, the DCA will assist the program participant in obtaining the requested information or documentation.
- i. Within ten (10) business days of receipt of the request and, if necessary, all additional supporting documentation, the DCA will provide written notification to the program participant of the decision to approve or deny the participant's request(s). Upon request, the written notification will be provided in an alternate format. Approval for Request for Reasonable Accommodation (Exhibit 20-3); Denial of Request for Reasonable Accommodation (Exhibit 20-4)
- j. If the DCA approves the accommodation request(s), the program participant will be notified of the projected date for implementation.
- k. If the accommodation is denied, the program participant will be notified of the reasons for denial. In addition, the notification of denial will also provide the program participant with information regarding the DCA's grievance process and the right of the program participant to file a complaint with HUD.

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1. All reasonable accommodations that have been approved by the Section 504/ADA Coordinator will be forwarded to the appropriate Field Office Supervisor for implementation. All requests for reasonable accommodation that are approved by the Field Office Supervisor will promptly be implemented.

### **Verification of Reasonable Accommodation Request**

DCA may request documentation supporting the need for a reasonable accommodation as identified on the Request Form. In addition, the DCA may request that the individual, or the individual's health care provider, provide suggested reasonable accommodations.

DCA may verify a person's disability only to the extent necessary to ensure that individuals who have requested a reasonable accommodation have a disability-based need for the requested accommodation.

The following "informants" may provide verification of a program participant's disability and the need for the requested accommodation(s):

- a. Physician;
- b. Licensed health professional;
- c. Professional representing a social service agency; or
- d. Disability agency or clinic.

The Field Office Supervisor will forward the request for accommodation, including all supporting documentation, to the DCA's Section 504/ADA Coordinator within five (5) days of receipt.

### **Denial of Request for Reasonable Accommodation**

Requested accommodations will not be approved if one of the following would occur as a result:

- a. A violation of state and/or federal law;
- b. A fundamental alteration in the nature of the DCA's housing program;
- c. An undue financial and/or administrative burden on the DCA.

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### **Transfer as Reasonable Accommodation**

DCA shall not require a program participant with a disability to accept a transfer in lieu of provision of a reasonable accommodation.

### **Service or Assistance Animals**

Program participants with disabilities are permitted to have assistance/emotional support animals, if such animals are necessary as a reasonable accommodation for their disabilities.

### **Right to Appeal/Grievance Process**

The program participant may file a grievance with the DCA's Section 504/ADA Coordinator as indicated in the Denial of Request for Reasonable Accommodation form (Exhibit 20-4).

A program participant may, at any time, file a complaint with the U.S. Department of Housing and Urban Development (HUD). Individuals may contact the local HUD office at

U.S. Department of Housing and Urban Development  
Office of Fair Housing and Equal Opportunity  
One Newark Center, 13th Floor  
Newark, New Jersey 07102  
Telephone: (973) 776-7307  
Facsimile: (973) 645-6423

## **VII. SECTION 504 MONITORING**

**Exhibit 1** was designed for use by HUD program monitors to assess the program participant's compliance with Section 504 requirements, including:

- Program accessibility for housing and non-housing facilities;
- Communications;
- Records on disability status; and

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- Subrecipient monitoring.

## EXHIBIT 1

### Fair Housing and Equal Opportunity (FHEO) Section 504 HUD Monitoring Checklist

<b>Guide for Review of Civil Rights-Related Program Requirements for Section 504 of the Rehabilitation Act of 1973, as amended</b>			
<b>Name of Program Participant:</b>			
<b>Staff Consulted:</b>			
<b>Name of Grant Program(s) Reviewed:</b>			
<b>Name(s) of Reviewer(s):</b>		<b>Date:</b>	

**NOTE:** All questions that address requirements contain the citation for the source of the requirement (statute, regulation, NOFA, or grant agreement). If the requirement is not met, HUD must make a finding of noncompliance. All other questions (questions that do not contain the citation for the requirement) do not address requirements, but are included to assist the reviewer in understanding the participant's program more fully and/or to identify issues that, if not properly addressed, could result in deficient performance. Negative conclusions to these questions may result in a "concern" being raised, but not a "**finding**."

**Instructions:** This Exhibit is designed to assess the program participant's compliance with four requirements under Section 504 of the Rehabilitation Act of 1973. (See CPD's annual update to CPD Notice 00-10, issued December 26, 2000 on "Accessibility Notice: Section 504 of the Rehabilitation Act of 1973 and The Fair Housing Act and their applicability to housing programs funded by the HOME Investment Partnerships Program and the Community Development Block Grant Program.") This review should be conducted in conjunction with reviews of the CDBG Entitlement, CDBG State, HOME and ESG programs. Areas included in this Exhibit are:

- program accessibility for housing and non-housing facilities;
- communications;
- records on disability status; and
- subrecipient monitoring.

These requirements are based on the regulations governing Section 504 of the Rehabilitation Act of 1973 (24 CFR 8), the Fair Housing Act (24 CFR 100), and the Uniform Federal Accessibility Standards (UFAS) (24 CFR 8.32 and Appendix A to 24 CFR 40). CPD reviewers should note any apparent obstacles to accessibility.

Regarding compliance with Section 504 communications provisions, 24 CFR 8.6 requires the program participant to take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public. In effect, this means that, "to the maximum extent possible," persons with disabilities receive the benefits and services of the CPD program or activity. Participants are not, however, required to take actions that can be demonstrated to result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens.

With respect to the accessibility of non-housing facilities, 24 CFR 8.21 and 8.32(a) requires the design and construction of all new non-housing facilities to be readily accessible to, and usable by, persons with disabilities. The regulations also require alterations to existing non-housing

facilities to make such facilities accessible to, and usable by, persons with disabilities, unless such alterations result in a fundamental change to the nature of the program or an undue financial and administrative burden.

Program accessibility requirements under Section 504, at 24 CFR 8.4 and 8.20, call for the program participant to operate its non-housing programs or activities in ways that makes them readily accessible to, and usable by, persons with disabilities, unless it can be demonstrated that the actions taken to make these programs accessible would fundamentally change the nature of the program or impose undue financial or administrative burdens.

Section 504 record keeping requirements (at 24 CFR 8.55) are to be reviewed by examining applicable records maintained by the program participant and determining that, not only are such records available, but that they correspond to information contained in performance and other reports submitted to HUD, as applicable.

Failure to maintain records is an indication of noncompliance with regulations governing record keeping. While a lack of documentation may not imply discrimination, because the program participant's data are a basis for further investigating compliance with nondiscrimination requirements, the CPD reviewer is responsible for transmitting this completed Exhibit (including any supporting documentation) to FHEO upon completion of the monitoring (see Sections 22-3 and 22-4 of the introduction to this Chapter).

### **Questions:**

#### **A. ACCESSIBILITY PROCEDURES**

1.

For program participants or subrecipients with 15 or more employees, does it have a formal, written grievance procedure for resolution of complaints alleging discrimination based on disability? (If yes, obtain copy for FHEO review of due process standards.) [24 CFR 8.53(b)]	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>	<input type="checkbox"/> <b>N/A</b>
<b>Describe Basis for Conclusion:</b>			

#### **B. ACCESSIBILITY OF NON-HOUSING FACILITIES**

2.

Does the program participant, and/or its subrecipients, have documentation (e.g., blueprints and construction specifications) that all new non-housing facilities assisted with CPD program funds are being designed and constructed to be readily accessible to, and usable by, persons with disabilities in conformance with accessibility requirements?	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
<b>Describe Basis for Conclusion:</b>		

3.

Does a review of the program participant's and/or subrecipient records indicate that, if any alterations have been made to existing non-housing facilities, that such alterations have made these facilities usable by, and accessible to, persons with disabilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>
<b>Describe Basis for Conclusion:</b>			

C. ACCESSIBILITY OF HOUSING PROGRAMS

4.

Does a review of the program participant's and/or subrecipient policies and records indicate that programs or activities are readily accessible to, and usable by, persons with disabilities? (NOTE: A lack of records beyond 3 years is not a basis for a finding.) [24 CFR 8.4, 24 CFR 8.20, 24 CFR 8.21(c)(2)]	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Yes</b>	<b>No</b>
<b>Describe Basis for Conclusion:</b>		

D. COMMUNICATIONS

5.

a. Has the program participant taken steps to ensure effective communication with applicants, beneficiaries, and members of the public who have hearing, vision, or speech impairments using: i. Qualified sign language and oral interpreters? ii. Readers? iii. Use of tapes? iv. Braille materials? v. TTD? vi. Other (describe below)? [24 CFR 8.6]	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Yes</b>	<b>No</b>
<b>Describe Basis for Conclusion:</b>		



b. If the answer to “a” above is “no,” describe the method(s) used by the program participant to facilitate effective communication.

**Describe Basis for Conclusion:**

6.

**[OS]** Has the program participant adopted and implemented procedures to ensure that interested persons (including those with impaired vision or hearing) can obtain information concerning the existence and location of accessible services, activities and facilities?  
[24 CFR 8.6(b)]

☐

**Yes**

☐

**No**

**Describe Basis for Conclusion:**

7.

**[OS]** Is there documentation to show steps that the program participant has undertaken to attract persons with disabilities, such as: making buildings more accessible to persons with physical disabilities; home visits to assist applicants for program benefits in filling out applications; supplying sign language interpreters for public meetings on issues relating to the participant’s programs?  
[24 CFR 8.54(b) and (c)]

☐

**Yes**

☐

**No**

**Describe Basis for Conclusion:**

E. RECORD KEEPING

8.

<b>[OS]</b> Does the program participant maintain data for compliance purposes showing the extent to which persons with disabilities are beneficiaries of the program(s) being reviewed? [24 CFR 8.55 (b) and 24 CFR 8.121]	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
<b>Describe Basis for Conclusion:</b>	

9.

<b>[OS]</b> Are copies of the Section 504 Self-Evaluation Form and Transition Plan available for review?	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> <b>N/A</b>
<b>Describe Basis for Conclusion:</b>	

10.

<b>[OS]</b> Is a copy of the “Reasonable Accommodation Policy” available for review?	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> <b>N/A</b>
<b>Describe Basis for Conclusion:</b>	

F. SUBRECIPIENT MONITORING

11.

Is there documentation that program participants monitor subrecipients to ensure that Section 504, ADA, and Fair Housing Act requirements affecting persons with disabilities are met?	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
<b>Describe Basis for Conclusion:</b>	

## Exhibit 2-A

NJ DEPARTMENT OF COMMUNITY AFFAIRS  
HOUSING ASSISTANCE PROGRAMS  
CENTRAL ADMINISTRATIVE OFFICES  
PO BOX 051  
TRENTON, NJ 08625-0051

### REQUEST FOR REASONABLE ACCOMMODATIONS

You may utilize this form to request that the Department of Community Affairs (DCA) provide a reasonable accommodation to you, or any member of your household who has a disability, so that you or a member of your household may access the DCA's programs.

For purposes of this form, please refer to the "Reasonable Accommodation Policy" to determine whether you are a "qualified individual with a disability."

If you would like to request a reasonable accommodation on behalf of yourself or a member of your household, please complete this form. You must date and sign your name at the bottom of this form and return the form to the DCA's Housing Assistance Programs Field Office Supervisor.

If you need assistance in understanding whether you or a member of your household is a "qualified individual with a disability" or if you need assistance in completing this form, please contact the DCA's Field Office Supervisor or the DCA's Section 504/ADA Coordinator.

---

Date of Request

---

Social Security Number

---

Name of Participant

---

Telephone Number

---

Street Address

---

City/State/Zip Code

---

Contact telephone

## Exhibit 2-A

### REQUEST FOR REASONABLE ACCOMMODATIONS – PAGE 2

1. I am requesting the following reasonable accommodations(s):

---

---

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2. I am requesting the reasonable accommodation(s) on behalf of (name):

---

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---

3. My reason(s) for requesting this reasonable accommodation:

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A physician, licensed health care professional, professional representing a social service agency, disability agency or clinic may provide verification of your disability.

The DCA may require documentation to support your reasonable accommodation request(s).

---

Signature of Participant

---

Date

## Exhibit 2-B

NJ DEPARTMENT OF COMMUNITY AFFAIRS  
HOUSING ASSISTANCE PROGRAMS  
AUTHORIZATION FOR RELEASE OF INFORMATION  
REGARDING REASONABLE ACCOMMODATION(S) REQUEST

RE: Household member with disability: \_\_\_\_\_

I hereby authorize [Insert name and address of health care provider or other appropriate documenting authority] to consult with representatives of the DCA, in writing, in person, or by telephone concerning the physical or mental impairment(s) that I assert to qualify as an individual with a disability for the sole purpose of this reasonable accommodation request.

I hereby authorize the release of information to the DCA regarding the request for reasonable accommodation described on this form. This release shall constitute a limited authorization for the release of information, as described below.

This Authorization solely authorizes the release of information necessary to verify the following:

1. Documentation necessary to verify that the above-named individual meets the definition of a “qualified individual with a disability”, as defined below;
2. A description of the needed reasonable accommodation(s); and,
3. A description of the identifiable relationship between the individual’s disability and the requested reasonable accommodation(s).

For purposes of this Release, a “Qualified Individual with a Disability” is defined as a person who has a physical or mental impairment that:

1. Substantially limits one or more major life activities
2. Has a record of such an impairment
3. Is regarded as having an impairment

“A Physical or Mental Impairment” is defined as:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems including, but not limited to: neurological, musculoskeletal, special sense organs, respiratory, and speech organs; or
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

## Exhibit 2-B

The term “Physical or Mental Impairment” includes, but is not limited to, such diseases and conditions as visual, speech and hearing impairments, epilepsy, multiple sclerosis, cancer, etc.

“Major Life Activities” include functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

“Has a Record of Such an Impairment (mental or physical)” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

“Is Regarded As Having an Impairment” means:

1. Has a physical or mental impairment that does not substantially limit one or more major life activities, but is treated by a recipient as constituting such a limitation.
2. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward the impairment.
3. Has none of the impairments defined by Section 504’s definition of “physical or mental impairment, but is treated by a recipient as having such an impairment.

In addition, I authorize [Insert name of health care provider or other appropriate documenting authority] to provide only documentation that is necessary to verify that I meet the definition of a “Qualified Individual with a Disability”, as defined above.

This Authorization for Release of Information should only seek information that is necessary to determine if the requested reasonable accommodation is needed because of a disability.

This Authorization does not authorize the DCA to examine my medical records, including diagnosis or test result(s); nor does this authorize the release of detailed information about the nature or severity of my disability. Any information or documentation released as a result of this Authorization shall be kept confidential and will not be shared with anyone other than (a) the individual requesting the reasonable accommodation, or (b) unless required to make or assess a decision to grant or deny a reasonable accommodation request.

---

Name of Family Member/Parent/Legal Guardian [Print]

---

Signature

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Relationship to Participant

---

Date

## **Exhibit 2-C**

PLEASE PROVIDE THE FOLLOWING INFORMATION:

- (1) Informant's Name and Address
- (2) Informant's Telephone Number and Fax Number
- (3) Informant's Email Address

## Exhibit 2-C

### NJ DEPARTMENT OF COMMUNITY AFFAIRS HOUSING ASSISTANCE PROGRAMS

#### APPROVAL OF REQUEST FOR REASONABLE ACCOMMODATION

Date: \_\_\_\_\_

To: [Provide Participant's Name & Address]

Dear Participant:

Your request for reasonable accommodation has been received by the Department of Community Affairs (DCA). Specifically, you requested [describe specific accommodation request(s)].

The DCA will provide you with the requested accommodation(s).

If you think that this change or modification is not what you requested, you may contact the DCA Section 504/ADA Coordinator Dane Lane at (609)943-4698.

In addition, you may exercise your right to file a complaint with the U.S. Department of Housing and Urban Development. You may contact your local HUD office at:

U.S. Department of Housing and Urban Development  
Newark Office  
One Newark Center, 13th Floor  
Newark, NJ 07102  
Telephone: (973) 776-7307  
Facsimile: (973) 645-6423

Sincerely,

Name/Title



## Exhibit 2-D

### NJ DEPARTMENT OF COMMUNITY AFFAIRS HOUSING ASSISTANCE PROGRAMS

#### DENIAL OF REQUEST FOR REASONABLE ACCOMMODATION

Date: \_\_\_\_\_

To: [Provide Participant's Name & Address]

Dear Participant:

Your request for reasonable accommodation has been received by the Department of Community Affairs (DCA). Specifically, you requested [describe specific accommodation request(s)]. Following our review of your request, we have denied your request for the following reason(s):

\_\_\_\_\_ You do not meet the definition of a "qualified individual with a disability" as explained in the "Reasonable Accommodation Policy and Procedures" and, therefore, the DCA is not required to provide you with a reasonable accommodation.

\_\_\_\_\_ The DCA has determined that your request is not "reasonable" for the following reasons: [describe specific basis for unreasonable determination]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Although the DCA was unable to approve your specific reasonable accommodation request(s), we would like to meet with you to discuss an alternative accommodation that may meet your needs. You may bring a friend, advocate or attorney with you to meet with us. The meeting has been scheduled to occur on [insert date, time and location, including address, of proposed meeting.] If you are unable to attend this meeting at this scheduled time, please contact the office at [provide office telephone number] to reschedule a mutually convenient date and time for the meeting.

If you disagree with the DCA's decision, you may file a grievance. Contact DCA Section 504/ADA Coordinator Dana Lane at (609)943-4698.

In addition, you may exercise your right to file a complaint with the U.S. Department of Housing and Urban Development. You may contact your local HUD office at

U.S. Department of Housing and Urban Development  
Newark Office  
One Newark Center, 13th Floor  
Newark, NJ 07102  
Telephone: (973) 776-7307  
Facsimile: (973) 645-6423

Sincerely,

Name/Title

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

---

**SUBJECT:** Employee Travel Expense Reimbursements Mileage, Tolls and Parking

---


**NUMBER:** 2.10.24


**EFFECTIVE:** June 2013

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**SANDY CDBG-DR**

**PAGE 1 OF 10**

**APPROVAL:**   
Stacy Bonaffons  
Assistant Commissioner

  
Howard McCoach  
Director, Sandy Recovery Division

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**PURPOSE:**

To outline the policies and procedures for the Department of Community Affairs to request reimbursement of mileage, toll, parking, and other travel expenses incurred during the course of official State business on Federal Awards in accordance with OMB Circular A-87 and OMB Circular 08-19-OMB.

**POLICY:**

OMB Circular A-87 “Cost Principles for State, Local and Indian Tribal Governments” establishes principles and standards for determining allowable costs under Federal grants. The State and its subrecipients must to adhere to the administrative requirements contained in OMB Circular A-87 (State and local governments) and OMB Circular A-110 (non-profit agencies). A list of eligible costs that can be reimbursed with federal funds is described in OMB Circular A-87 Attachment B: Select Items of Cost.

The State of New Jersey OMB Circular 08-19-OMB, Travel Regulations, outlines the State’s travel policies.

In some cases certain CPD programs contain waivers and alternative requirements, relevant statutory provisions for grants provided under the Federal Notice issued for that program. In order to meet the requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) Program (Robert T. Stafford Disaster Relief and Emergency Assistance act of 1974 commonly referred to the “Stafford Act”) as well as the Disaster Relief Appropriations Act of 2013 (78 FR 14329 – published March 5, 2013 and the clarifying guidance published on April 19, 2013) the following section has been added to describe any waivers or alternate requirements for this crosscutting element. Note that wherever a conflict occurs between the crosscutting requirements and the special requirements as noted in the Stafford Act and the Disaster Relief Appropriations Act of 2013, the latter shall take precedence.

**DISASTER RECOVERY WAIVERS OR ALTERNATE REQUIREMENTS:**

None.

**SUBJECT:** Employee Travel Expense Reimbursements Mileage, Tolls and Parking

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## **I. OMB CIRULAR A-87 TRAVEL COSTS ALLOWABILITY**

The following is contained in OMB Circular A-87 Attachment B: Select Items of Cost, Section 43 - Travel costs:

**A. General.** Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the governmental unit. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the governmental unit's non-federally sponsored activities. Notwithstanding the provisions of OMB Circular A-87 Attachment B, section 19, General government expenses, travel costs of officials covered by that section are allowable with the prior approval of an awarding agency when they are specifically related to Federal awards.

**B. Lodging and subsistence.** Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the governmental unit in its regular operations as the result of the governmental unit's written travel policy. In the absence of an acceptable, written governmental unit policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57, Title 5, United States Code ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter shall apply to travel under Federal awards (48 CFR 31.205-46(a)).

### **C. Commercial air travel.**

1. Airfare costs in excess of the customary standard commercial airfare (coach or equivalent), Federal Government contract airfare (where authorized and available), or the lowest commercial discount airfare are unallowable except when such accommodations would:
  - (a) Require circuitous routing;
  - (b) Require travel during unreasonable hours;
  - (c) Excessively prolong travel;
  - (d) Result in additional costs that would offset the transportation savings; or

**SUBJECT:** Employee Travel Expense Reimbursements Mileage, Tolls and Parking

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- (e) Offer accommodations not reasonably adequate for the traveler's medical needs. The governmental unit must justify and document these conditions on a case-by-case basis in order for the use of first-class airfare to be allowable in such cases.
- 2. Unless a pattern of avoidance is detected, the Federal Government will generally not question a governmental unit's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the governmental unit can demonstrate either of the following:
  - (a) That such airfare was not available in the specific case; or
  - (b) That it is the governmental unit's overall practice to make routine use of such airfare.

**D. Air travel by other than commercial carrier.** Costs of travel by governmental unit-owned, -leased, or -chartered aircraft include the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of such costs that exceeds the cost of allowable commercial air travel, as provided for in subsection c., is unallowable.

**E. Foreign travel.** Direct charges for foreign travel costs are allowable only when the travel has received prior approval of the awarding agency. Each separate foreign trip must receive such approval. For purposes of this provision, "foreign travel" includes any travel outside Canada, Mexico, the United States, and any United States territories and possessions. However, the term "foreign travel" for a governmental unit located in a foreign country means travel outside that country.

## **II. NEW JERSEY TRAVEL POLICIES**

OMB Circular 08-19-OMB, Travel Regulations, outlines the State of New Jersey travel policies.

In order to receive reimbursement for mileage, toll and parking expenses incurred during the course of official State business, an employee must itemize his/her expenses on a Department of Community Affairs Travel Expense Invoice. The Department of Community Affairs Travel Expense Invoice form is available from the Department Fiscal Office or from the DCA Intranet under "DCA Forms" link. Based on the information provided by the employee and approved by his/her immediate supervisor, an NJCFS TV "M" type document will be keyed and processed, which will result in the generation of a reimbursement check to the employee.

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**A. Frequency of Reimbursement Requests.** Unless otherwise approved, employee reimbursement requests must be submitted monthly. Reimbursement requests for a single travel event must be reported as soon as possible after the completion of the event.

Total monthly travel expenses that do not exceed \$25 can be carried over to the following month, unless the employee a) does not expect to incur travel expenses in the following month; b) has been on or is about to take a leave of absence; or c) has been or is about to be terminated. At the close of the fiscal year, however, even though the amount of reimbursement is less than \$25, a travel reimbursement request must be submitted **since expenses cannot be carried forward and submitted for reimbursement in the next fiscal year.**

**B. Mileage Reimbursement Requests.** The mileage reimbursement rate for employees traveling by personal automobile on official State business is established in law. The authorized fiscal year mileage reimbursement rate is published in the respective annual Appropriations Handbook. The Chief Fiscal Officer will advise the Division Fiscal Offices of the current fiscal year mileage reimbursement rate.

A request for mileage reimbursement should reference odometer readings. An acceptable alternative to odometer readings is the inclusion of a mapping software printout detailing the employee's trek.

Division Fiscal Offices/Fiscal Coordinators are responsible for auditing travel expense reimbursement requests to verify the accuracy of mileage claims. To this end, the use of mapping software is encouraged. MapQuest and Google Maps are two examples of mapping software. A 10% variance between actual mileage claimed and the mapping software calculation is provided in recognition of variations in trip totals between mapping software packages, unforeseen traffic detours encountered by employees, and the requirement to make multiple stops within a destination area.

Employees using the mass transit certification must provide copies of mass transit passes, van or car pool receipts as part of the travel expense reimbursement request package.

The Department Fiscal Office, as well, will audit a sampling of travel expense reimbursement requests as part of its review and oversight responsibilities.

**C. Documenting Expenses.** Original receipts must be furnished when submitting reimbursement requests for tolls and parking. Should original receipts be misplaced, however, the employee must attach to the Travel Expense Invoice a written and signed statement attesting to the fact that the receipts were misplaced and that the referenced expense was incurred. An employee's

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supervisor will be advised if an employee frequently submits reimbursement requests without original receipts. The Department reserves the right to deny reimbursement requests from employee's who frequently misplace original receipts and is therefore unable to attach original receipts to his/her travel reimbursement requests.

**D. Reimbursement Check.** A check representing reimbursement for documented travel expenses will be delivered via the U.S. Postal Service to the requestor at the address listed on NJCFS VEND table approximately 2 days after the Department Fiscal Office approves and posts the transaction in NJCFS. An employee may elect to complete an ACH/Credit Authorization Agreement form to receive travel reimbursement as direct deposits into their personal checking accounts. See Administrative Procedure 1.60.18.

In accordance with 94-17-OMB, Hold Checks, the NJCFS 'Hold' check feature cannot be used when processing travel expense reimbursements.

An employee should contact his/her Division Fiscal Office/Fiscal Coordinator with questions concerning requests for mileage, toll and parking expenses reimbursements.

### III. NEW JERSEY TRAVEL PROCEDURES

In order to receive reimbursement for eligible travel expenses, employees must complete the following fields on the Travel Expense Invoice (sample form attached):

- **Social Security Number.** Provide nine-digit employee identification number.
- **Official Station.** OMB Circular 08-19-OMB, Travel Regulations, defines official station as "the office or headquarters provided by the State to which the employee is regularly assigned. The official station must be designated by the Department Head." It further reads that, "No reimbursement of transportation costs shall be allowed between the employee's official station and place of residence."
- **Travel Assignment Class.** When it is necessary to assign an employee to another office, headquarters or field task, the location to which the employee is assigned shall be designated by the Department Head or his/her designee, as a temporary official station. Transportation costs to such temporary official stations or work sites shall be reimbursable under one of four travel assignment classes:
  - **Infrequent or irregular assignments.** Reimbursement is on the basis of total travel cost

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from home to the temporary workstation less the total normal commute travel cost from home to the official station.

Any State employee who uses mass transit facilities by purchasing weekly or monthly commutation tickets or who participates in a car pool as a daily regular mode to commute to work shall not be required to make the usual commutation deduction when the employee's immediate supervisor requests that the employee travel temporarily to another work site or assignment. In each case in which the exception is to be applied, the following certification, signed by the Department Head, must be included on the travel voucher:

*I hereby certify that the claimant normally travels to his regular place of employment by mass transit facilities using a weekly/monthly commutation ticket or by car/van pool and that no reduction of commuting costs results from the claimant's non-sue of such facilities on the dates for which full mileage or other reimbursement is claimed.*

*Signature*\_\_\_\_\_

*Title*\_\_\_\_\_

- **Regular recurring assignments where the designation of the employee's home as official station is inappropriate.** Reimbursement is on the basis of total travel cost from home to the temporary station or from the official station to the temporary station, whichever is less.
- **Field assignments that do not require regular or periodic requirements to report to an official agency station.** Reimbursement for all travel shall be made on the basis of total travel cost from home, except that travel from home to the primary official station shall not be reimbursable.
- **Non-scheduled workdays or holidays.** Reimbursement to anywhere other than the official station is calculated from the employee's home.
- **Normal Commutation – Mileage.** The total mileage from home to the official station and return.
- **Employee Name and Address.** The employee name and complete mailing address as it appears on the NJCFS VEND table (unless requesting change, then the current name and current complete mailing address)



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- **“New Employee (Attached W-9)” Box.** Place check mark in this box to denote new employee and attach a completed State of New Jersey W-9 form. Refer to Administrative Procedures Manual 1.60.21, Establishing and Modifying a Vendor Record in NJCFS.
- **“Name/Address Change” Box.** Place check mark in this box to denote employee change of name and/or address. Refer to Administrative Procedures Manual 1.60.21A, Employee Name/Address Changes in NJCFS.
- **Date.** Indicate the date of travel. Multiple days’ expenses can be itemized on a single Travel Expense Invoice.
- **Travel Items (In Detail).** Mileage: from official station to specific destination(s) and return to official station **Normal commute must be clearly deducted.**
  - See Attachment “A” for an example of a reimbursement request where the Official Station is the employee’s office location, Assignment Class “A.”
  - See Attachment “B” for an example of a reimbursement request where the employee gets full reimbursement regardless of where the trip originated from, Assignment Class “B.”
  - See Attachment “C” for an example of a reimbursement request where the Official Station is the employee’s home, Assignment Class “C.”
- **# Site Visits.** Indicate the number of site visits made during a particular trip date
- **Miles.** The computed mileage total for a particular trip
- **Parking.** The total cost for parking for a particular trip supported by original receipts.
- **Tolls.** The total cost for tolls for a particular trip supported by original receipts, which can include original EZ Pass statements. (The name on the EZ Pass account must be visible on the receipt.)
- **Calculate Totals.** Calculate the individual sum total of miles driven, parking expenses and toll expenses.
- **Calculate Sub-Total, Grand Total.**

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- **Provide automobile insurance carrier and coverage levels.** If traveling via personal automobile. If traveling via State car, indicate such on form.
- **Sign and date the request and provide employee title.**

The completed and signed Travel Expense Invoice, with applicable original receipts attached, is then processed and routed as follows:

**A. Employee**

- Retain copy of request in pending file
- Forward original Travel Expense Invoice to Immediate Supervisor

**B. Immediate Supervisor**

- Receive original Travel Expense Invoice
- Review Invoice for accuracy relative to the employee's workload schedule, accuracy against Division travel logs, completeness, reference to the correct official station and travel assignment class, employee signature and necessary backup documentation.
- If Invoice is accurate relative to the employee's workload schedule, supported by Division travel logs, complete, references the correct official station and travel assignment class, is signed by the employee and necessary backup documentation is attached, then sign the Travel Expense Invoice as "Supervisor" and forward original Travel Expense Invoice to Division Fiscal Office
- Otherwise, return original package to employee

**C. Division Fiscal Office**

- Review Invoice for completeness, accuracy of mileage claim calculation, accuracy of reimbursement calculation, signatures, necessary backup documentation and overall conformance to Department and OMB policies and procedures.
- If request is complete, accurate, signed and in conformance with Department and OMB policies and procedures:

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- Scan NJCFS to identify reimbursement account number and determine available account balance
  - Indicate NJCFS account number on Travel Expense Invoice
  - Initial Travel Expense Invoice adjacent to the Supervisor's signature
- If reimbursement request from the Divisions of Housing and Community Resources or Codes and Standards:
  - Key enter and apply Levels 1 and 2 system approvals to document type TV "M" in NJCFS
  - Screen print two (2) copies of the TV "M" document
  - Attach one screen print to top of Travel Expense Invoice package
  - Attach one screen print to pending copy of Travel Expense Invoice
- Forward original Travel Expense Invoice package to Department Fiscal Office
- Maintain copy of Travel Expense Invoice package in pending file
- Otherwise, if request is incomplete, inaccurate and/or not in conformance with Department and OMB policies and procedures, return the original package to the employee without processing

**D. Department Fiscal Office**

- Receive original Travel Expense Invoice package
- Audit request for completeness, accuracy of mileage claim calculation, accuracy of mileage reimbursement calculation, and conformance with Department and OMB policies and procedures.
- If complete, accurate and in conformance with Department and OMB policies and procedures and request not from the Divisions of Housing or Codes and Standards:

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- Key enter, apply Levels 1-3 system approvals and process to document type TV “M” in NJCFS
  - Screen print document TV “M”
  - Attach TV “M” screen print to top of Travel Expense Invoice package
- If complete, accurate and in conformance with Department and OMB policies and procedures and request received from the Divisions of Housing or Codes and Standards:
  - Apply Level 3 approval and process document type TV “M” in NJCFS
- Initial and date TV “M” screen print.
- Otherwise, if not complete, accurate and/or not in conformance with Department and OMB policies and procedures, complete and attach blue rejection slip and return to Division Fiscal Office via Department Fiscal Office mail bin
- File original processed document in Department Fiscal Office files

**References:** OMB Circular 08-19-OMB, Travel Regulations

New Jersey Comprehensive Financial System (NJCFS) – User Manual

Administrative Procedures Manual, 1.60.21, Establishing and Modifying a Vendor Record in NJCFS

Administrative Procedures Manual, 1.60.21A, Employee Name/Address Changes in NJCFS

Administrative Procedures manual, 1.60.18, Automated Clearinghouse (ACH) Payments

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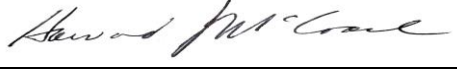
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**APPROVAL:**   
Stacy Bonaffons  
Assistant Commissioner

  
Howard McCoach  
Director, Sandy Recovery Division

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**PURPOSE:**

To outline the policies and procedures for the Department of Community Affairs to document compliance with the U.S. Department of Housing and Urban Development (“HUD”) Acquisition and Relocation regulations at 24 CFR Part 570.606 and 24 CFR Part 42, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 (“URA”) and implementing regulations issued by the Department of Transportation at 49 CFR Part 24, Section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(d)), Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 et seq., and HUD Handbook 1378.0 – Tenant Assistance, Relocation and Real Property Acquisition Handbook. These statutes, regulations, and handbook implement the Subrecipient or other funded entity’s acquisition and relocation responsibilities for the use of federal funds.

**POLICY:**

To insure fairness throughout the acquisition process with respect to both property owner and government agency, the acquisition of real property in connection with community development activities will meet applicable laws and regulatory requirements. These requirements, including laws, regulations and links to other resources, may be found by clicking on:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/library/relocation](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation)

and

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/library/relocation/policyandguidance/handbook1378](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/policyandguidance/handbook1378)

Adherence to the requirements for acquisition and relation is required of all HUD Community Planning Development (CPD) programs and therefore considered a cross cutting element. The following document is the base document that provides process that the State (“Subrecipient or other funded entity”) will carry out in meeting the crosscutting requirements under the URA. However, in some cases certain CPD programs may contain waivers and alternative requirements, based on the relevant statutory provisions for grants provided under the Federal

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Notice issued for that program. In order to meet the requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) Program, Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 et seq.) commonly referred to the “Stafford Act”, and the Disaster Relief Appropriations Act of 2013 (78 FR 14329 – published March 5, 2013 and the clarifying guidance published on April 19, 2013) the following section has been added to describe any waivers or alternate requirements for this crosscutting element. Note that wherever a conflict occurs between the crosscutting requirements and the special requirements as noted in the Stafford Act and the Disaster Relief Appropriations Act of 2013, the later shall take precedence.

**DISASTER RECOVERY WAIVERS OR ALTERNATE REQUIREMENTS:**

HUD promulgated regulations that established the regulatory framework for the receipt and expenditure of CDBG-DR Program funds, as set forth in Federal Register Notice (Vol. 78, No. 43; March 5, 2013) entitled: “Allocations, Common Application, Waivers and Alternative Requirements for Subrecipient or other funded entities receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy” (the “Notice”). Contained within the Notice were the following CDBG-DR waivers to the URA and Section 104(d) requirements:

**1. One-for-One Replacement - Exemptions to Section 104(d)(2)(A)(i) and (ii), and (d)(3), and 24 CFR 42.375:**

The one-for one replacement requirements at section 104(d)(2)(A)(i)–(ii) and (d)(3) and 24 CFR 42.375 are waived in connection with funds allocated under the Notice for lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. The Section 104(d) one-for-one replacement requirements generally apply to demolished or converted occupied and vacant occupiable lower-income dwelling units. This waiver exempts disaster-damaged units that meet the subrecipient or other funded entity’s definition of “not suitable for rehabilitation” from the one-for-one replacement requirements.

Before carrying out a program or activity which may be subject to the one-for-one replacement requirements, the subrecipient or other funded entity must define “not suitable for rehabilitation” in its Action Plan or in policies/procedures governing these programs and activities.

It should be noted, however, that the demolition and/or disposition of Public Housing Authority-owned public housing units is covered by section 18 of the United States Housing Act of 1937, as amended, and 24 CFR part 970, neither of which is waived by the Notice.

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**2. Relocation Assistance requirements at Section 104(d)(2)(A) and 24 CFR 42.350:**

The Section 104(d) relocation assistance requirements at section 104(d)(2)(A) and 24 CFR 42.350 are waived to the extent that they differ from the requirements of the URA and implementing regulations at 49 CFR Part 24, as modified by the Notice, for activities related to disaster recovery.

Without this waiver, disparities exist in relocation assistance associated with activities typically funded by HUD and FEMA (*e.g.*, buyouts and relocation). Both FEMA and HUD funds are subject to the URA; however, HUD's CDBG funds are also subject to Section 104(d), while FEMA funds are not.

The URA provides that a displaced person is eligible to receive a rental assistance payment that covers a period of forty-two (42) months. By contrast, Section 104(d) allows a lower-income displaced person to choose between the URA rental assistance payment and a rental assistance payment calculated over a period of sixty (60) months. This waiver of the Section 104(d) requirements assures uniform and equitable treatment by setting the URA and its implementing regulations as the sole standard for relocation assistance under the Notice.

**3. Arm's Length Voluntary Purchase:**

The requirements at 49 CFR 24.101(b)(2)(i)–(ii) are waived to the extent that they apply to an arm's length voluntary purchase carried out by a person who uses funds allocated under the Notice and does not have the power of eminent domain, in connection with the purchase and occupancy of a principal residence by that person.

Subrecipient or other funded entities are reminded that any tenants occupying real property that is acquired through voluntary purchase may be eligible for relocation assistance.

**4. Rental Assistance to a Displaced Person:**

The requirements at Sections 204(a) and 206 of the URA, and 49 CFR 24.2(a)(6)(viii), 24.402(b)(2), and 24.404 are waived to the extent that they require the subrecipient or other funded entity to use thirty (30) percent of a low-income displaced person's household income in computing a rental assistance payment if the person had been paying more than thirty (30) percent of household income in rent/utilities without "demonstrable hardship" before the project. Thus, if a tenant has been paying rent/utilities in excess of thirty (30) percent of household income without demonstrable hardship, using thirty (30) percent of household income to calculate the rental assistance payment would not be required.

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Before carrying out a program or activity in which the subrecipient or other funded entity will provide rental assistance payments to displaced persons, the subrecipient or other funded entity must define “demonstrable hardship” in its Action Plan or in the policies and procedures governing these programs and activities. The subrecipient or other funded entity’s definition of demonstrable hardship applies when implementing these alternative requirements.

#### **5. Tenant-based Rental Assistance:**

The requirements of Sections 204 and 205 of the URA, and 49 CFR 24.2(a)(6)(ix) and 24.402(b) are waived to the extent necessary to permit a subrecipient or other funded entity to meet all or a portion of a subrecipient or other funded entity’s replacement housing financial assistance obligation to a displaced tenant by offering rental housing through a tenant-based rental assistance (TBRA) housing program subsidy (*e.g.*, Section 8 Housing Choice Voucher Program), provided that the tenant is provided referrals to comparable replacement dwellings in accordance with 49 CFR 24.204(a) where the owner is willing to participate in the TBRA program, and the period of authorized assistance is at least forty-two (42) months.

#### **6. Moving Expenses:**

The requirements at Section 202(b) of the URA and 49 CFR 24.302, which require that a subrecipient or other funded entity offer a displaced person the option to receive a fixed moving cost payment based on the Federal Highway Administration’s Fixed Residential Moving Cost Schedule instead of receiving payment for actual moving and related expenses, are waived.

As an alternative, the subrecipient or other funded entity must establish and offer the person a “moving expense and dislocation allowance” under a schedule of allowances that is reasonable for the jurisdiction and that takes into account the number of rooms in the displacement dwelling, whether the person owns and must move the furniture, and, at a minimum, the kinds of expenses described in 49 CFR 24.301.

Persons displaced from a dwelling remain entitled to choose a payment for actual reasonable moving and related expenses if they find that approach preferable to the locally established “moving expense and dislocation allowance.”

#### **7. Optional relocation policies:**

The regulation at 24 CFR 570.606(d) is waived to the extent that it requires optional relocation policies to be established at the subrecipient or other funded entity or state recipient level. Unlike the regular CDBG program, States receiving CDBG–DR funds may carry out disaster recovery



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activities directly or through subrecipients. The regulation at 24 CFR 570.606(d) governing optional relocation policies does not account for this distinction.

This waiver also makes clear that UGLGs receiving CDBG disaster funds may establish separate optional relocation policies. This waiver is intended to provide States and UGLGs with maximum flexibility in developing optional relocation policies with CDBG–DR funds.

#### **8. Buyout Acquisition Requirement - Valuation Method:**

The term “buyouts” as referenced in the Notice refers to acquisition of properties located in a floodway or floodplain that is intended to reduce risk from future flooding.

Subrecipient or other funded entities have the discretion to determine an appropriate valuation method (including the use of pre-flood value or post-flood value as a basis for property value). However, in using CDBG–DR funds for buyouts, the subrecipient or other funded entity must uniformly apply whichever valuation method it chooses.

#### **9. Section 414 of the Stafford Act**

Section 414 of the Stafford Act, 42 USC § 5181, provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [Uniform Act] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such [Uniform Act]".

The URA (49 CFR § 24.403(d)) reflects the Section 414 requirement. This section provides that "No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond his or her control, including: (1) A disaster, an emergency , or an imminent threat to the public health or welfare, as determined by the President."

By virtue of Section 414 of the Stafford Act, replacement housing assistance will be provided to otherwise eligible residentially displaced persons without regard to their inability to meet prescribed occupancy requirements due to a “national disaster or a presidentially declared emergency”. Section 414 provides relocation assistance eligibility to those persons who are unable to return and reoccupy property they resided in that is within a project because they have been displaced by Superstorm Sandy. The displacee is relieved of the requirement that he or she actually be in physical occupancy of the dwelling as of the date of application for assistance for CDBG-DR funds.

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In accordance with the provisions cited in Section 414 of the Stafford Act and 49 CFR § 24.403, the subrecipient or other funded entity, upon making a determination of "constructive residential occupancy" must provide residential relocation benefits and payments in accordance with the provisions at 49 CFR Part 24. The determination of "constructive residential occupancy" must be made on a case-by-case basis and, as a minimum, must consider the following factors:

- The claimant's actual occupancy of the dwelling just prior to the displacing emergency;
- The existence of a lease or other legal tenancy, covering a tenant's right to occupancy prior to, and through the Superstorm Sandy;
- An owner's legal right to return to the evacuated property, rebuild and occupy a dwelling; and
- Any other factors indicating whether the claimant would have been in occupancy at the time of displacement by the CDBG-DR funded project except for the occurrence of Superstorm Sandy.

The subrecipient or other funded entity will make a determination that, had the storm not occurred, the occupant would have occupied the property within the CDBG-DR funded project until displaced by the project.

In regards to any projects that include business moves, since the occupancy provision discussed in the Stafford Act applies only to residential occupants, the relocation benefits that may be provided to business occupants are limited to current provisions in 49 CFR Part 24 Subparts C and D.

#### **CROSSCUTTING ELEMENT:**

In this section you will find a description of the acquisition and relocation process and sample copies of required notices, and links to resources that may be needed in implementing the URA requirements. Subrecipient or other funded entities must consider and satisfy all of HUD's URA requirements and obligations.

#### **I. IDENTIFYING HUD ACTIVITIES TRIGGERING URA COMPLIANCE**

The subrecipient or other funded entity potentially carries out several types of HUD funded activities which require compliance with the URA. Projects that only involve administrative costs do not trigger compliance with Federal relocation laws. Similarly, code enforcement alone does not trigger relocation unless subsequent mitigation causing displacement occurs. The following is a list of activities that may trigger compliance with URA and other laws:

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- Acquisition or demolition of residential or commercial property
- Rehabilitation of housing (hard and soft costs) including mitigation of lead based paint or other hazards
- New construction of housing, commercial structures or public facilities/improvements if part of a project involving acquisition or demolition
- Rehabilitation of public facilities or improvements
- Economic Development (acquisition of land, and commercial rehabilitation)
- Permanent easements for water, sewer or other public facility projects

**A. Determining Project Definition**

Subrecipient or other funded entity staff will, as soon as possible in the application process, determine what activities and what geographic boundaries comprise the project and document the file accordingly. A project is defined either in the program regulations or, by default, in the URA. Federal acquisition and relocation regulations apply to all the activities within the project area, not just those activities solely funded by HUD. Subrecipient or other funded entity staff will document the project file with a map that identifies the project boundaries with each parcel number and the name of all property owners and tenants in the project area.

Subrecipient or other funded entity staff shall review all activities conducted with the project that took place within one year of the application to determine whether the prior activities trigger compliance with the URA. This includes projects where the acquisition or demolition occurred prior to the application, but funds are being requested for the new use i.e., new construction or rehabilitation of housing, commercial structures or public facilities or improvements.

**B. Addressing Multiple Funding Sources in Acquisition and Relocation**

Some projects may require funding by more than one HUD program, other Federal programs including tax credits, as well as state or local funds. Combining funding sources can be difficult because each program has its own rules for income qualification, deed restrictions, and type of program participants. During the planning or application stage, subrecipient or other funded entity staff should:

- Review the regulations for each funding source to identify and address areas of programmatic differences,
- Prepare a spreadsheet identifying all funding sources for the project and which funding source will pay for which costs, and,

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- Hold a meeting with subrecipient or other funded entity staff, funding agency representatives and /or the local HUD Relocation Specialist to discuss areas where potential difficulties in complying with Federal law could arise.

## **II. REAL PROPERTY ACQUISITION UNDER THE URA**

The URA implements Federal acquisition and relocation law described at 42 U.S.C 4601, et seq. Its major objective is to ensure that property owners and displaced persons impacted by federally funded projects are treated fairly, consistently and equitably. The requirements are designed to ensure that property owners are paid the fair market value for their property and that displaced persons are provided required relocation assistance. The URA also seeks to minimize litigation and ensure that Federal agencies implement the regulations efficiently and cost effectively.

### **A. Pre-Acquisition Activities**

Once the environmental approval has been obtained for the proposed acquisition, subrecipient or other funded entity will perform the following:

1. Preliminary Title Report: A Preliminary Title Report (PTR) should be obtained for each parcel being acquired. Copies of the PTR should be provided to and reviewed by the acquisition staff, the subrecipient or other funded entity's attorney, and the appraiser.
2. Site Assessment - Environmental Conditions: Obtain a Phase 1 Environmental Site Assessment Report (Phase I at minimum).
3. Project Budget: or each project, the subrecipient or other funded entity shall prepare a Cost Estimate for all anticipated project expenses, and maintain a copy in the project file. This will assist the subrecipient or other funded entity in determining their budget needs and provide a useful tool for analyzing conformance with any Federal Requirements.
4. Appraiser: subrecipient or other funded entity shall secure the services of Credentialed Appraiser.
5. Relocation Consultant: When the subrecipient or other funded entity lacks qualified personnel to perform relocation functions, they shall secure the services of a Relocation Consultant.

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6. Review Appraiser Assignment: Subrecipient or other funded entity shall secure a Review Appraiser for all federally funded projects.

**B. Acquisition of Real Property**

The URA recognizes two types of acquisition: involuntary and voluntary. Involuntary acquisitions are subject to the provisions of Subpart B of the URA while voluntary acquisitions are exempt from those provisions. Subpart B of the URA establishes the process required to be followed when the subrecipient or other funded entity uses Federal funds to purchase property under the threat of eminent domain. The provisions require the subrecipient or other funded entity to treat property owners fairly and to pay them the fair market price for their property. If property is not being acquired under the threat of eminent domain, the URA establishes a process for exempting those acquisitions from Subpart B of the URA (see also HUD Handbook 1378 Section 5-2).

1. Acquisitions Not Involving Eminent Domain (Voluntary Acquisition)

Voluntary acquisitions may be carried out by the subrecipient or other funded entity when it does not invoke eminent domain or by organizations that do not have the power of eminent domain. If the subrecipient or other funded entity purchases the property directly from a property owner which is not under the threat of Eminent Domain, subrecipient or other funded entity staff will follow 49 CFR 24.101(b)(1) through (5) and HUD Handbook 1378 Chapter 5 Section 5-3 to establish that the purchase is voluntary.

- a. Purchases Conducted out by Non-Profit Organizations

Non-profit organizations, applying for HUD funding through the subrecipient or other funded entity, will be required to send a "Voluntary Letter" to the property owner stating: 1) that it does not have the power of eminent domain and, 2) the amount it believes is the fair market value of the property. If this letter was not sent at the time of the purchase agreement and HUD funds will be used to fund the acquisition, it will be sent during the funding application process. An appraisal or other evidence of value will be required for submission with the funding application, to document that the price offered was the fair market value. If the purchase price of the property is not the same as the fair market value, subrecipient or other funded entity staff will justify in writing why the price paid for the property is fair to the owner and/or a reasonable price for the subrecipient or other funded entity.

- b. Acquisitions Carried Out or by subrecipient or other funded entity or Other Government Entities

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Subrecipient or other funded entity staff will send a "Voluntary Letter" to the property owner that gives the fair market value of the property and states that subrecipient or other funded entity: a) is interested in purchasing the property on a voluntary basis, b) will not use its power of eminent domain and, c) if negotiations fail, it will not purchase the property. A copy of the "Voluntary Letter" and evidence of receipt will be placed in the file.

The acquisition file will contain documentation that shows that the property being purchased is: a) not part of an area where all the properties within that area will be purchased and is b) not part of a project in which purchase of the property being purchased is necessary for that project to go forward.

Subrecipient or other funded entity staff or its agents may not initially inform a property owner that the acquisition is voluntary and then later invoke eminent domain. If there is any possibility that eminent domain will be invoked if negotiations fail, follow the provisions of Subpart B of the URA.

If the purchase price of the property is not the same as the fair market value, subrecipient or other funded entity staff will prepare written justification to be placed in the file as to why the price paid was fair and reasonable. If the price paid is less than fair market value, the justification should explain why it is still considered fair to the owner. If it is more than the fair market value, the justification should address why the price paid is reasonable.

Subrecipient or other funded entity staff will not use a third party to conduct negotiations to avoid compliance with the URA. See HUD Handbook 1378 Section 5-3(A) for further direction on this subject.

Acquisitions of property between subrecipient or other funded entity departments or other subrecipient or other funded entity agencies will be handled the same as all other voluntary acquisition.

c. Other Sales

If a property owner offers to sell his or her property to subrecipient or other funded entity, without a prior expression of interest by subrecipient or other funded entity, or if the property is listed on the market, subrecipient or other funded entity staff must still follow all voluntary acquisition procedures.

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If the subrecipient or other funded entity purchases property through foreclosures or tax sales, the following documentation must be obtained and placed in the acquisition file: tax sale documents, foreclosure notices, bidding documents, or other foreclosure documents that verify the sale was through foreclosure, and the amount paid was the taxes owed or the final bidding price. The file must include the final escrow documents and a deed showing the transfer of the property to subrecipient or other funded entity.

### **C. Establishing Property Value**

#### **1. Appraisals/Comparable Sales**

Subrecipient or other funded entity staff will obtain an appraisal to determine the fair market value of the proposed property acquisition. The subrecipient or other funded entity must provide the owner with the opportunity to accompany the appraiser during their inspection of the property. See HUD Handbook Section 5-6 Paragraph E for additional information.

##### **a. Administrative Settlement**

An administrative settlement will be necessary when the price offered for the property is not initially accepted by the property owner. The settlement should be documented as follows:

- 1) If the price paid for the property is less than the amount shown on the appraisal, or is less than the owner's assessment of value, document why the price paid is reasonable and/or fair to the owner. (Voluntary acquisition only)
- 2) If the price exceeds the fair market value, subrecipient or other funded entity staff will provide a written justification to be placed in the file that documents why the amount paid for the property is reasonable given the public nature of the funds. Subrecipient or other funded entity staff will use the guidance provided in HUD Handbook 1378 Chapter 5, Paragraph H, and Pages 5-9. The written justification will be reviewed and approved by the subrecipient or other funded entity prior to the purchase of the property.

The written justification will include the nature and level of public benefit and an evaluation of one or more of the following factors:

- The feasibility of the project given the total number of units in the

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present building/development compared to the new building/development.

- Whether the project cost per square foot or per unit is the same or within an acceptable range of other similar subsidized or non-subsidized properties.
- Whether the price paid for the property is reasonable given the additional funds that would be spent on litigation.
- Whether the additional amount paid for the properties is within an acceptable percentage, (i.e., ten (10) percent) of the appraised value. If the percentage variance is higher, a higher standard of public benefit would be expected.
- Whether the difficulty of finding a specific type of property, (like multi-family structures), for a specific type of project (i.e., affordable housing, special purpose housing, public facility), justifies the additional amount paid.

b. Waiver Valuations

See HUD Handbook 1378 Section 5-4 E, F, and G.

c. Donations

See HUD Handbook 1378 Section 5-5.

d. Temporary Easements

See HUD Relocation and Acquisition Policies (RAP) Volume 2, No 1 (Subpart B), February 2006

e. Acquisitions Involving the use of Eminent Domain (Involuntary Acquisition)

When the subrecipient or other funded entity acquires property under the threat of eminent domain, the following steps outlined in Subpart B of the URA beginning at 49 CFR 24.101 and HUD Handbook 1378 Chapter 5- Paragraph 5-4 will be followed:

- 1) Initial Correspondence with Owner



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Subrecipient or other funded entity staff will transmit an "Intent to Appraise" letter to the property owner notifying them of subrecipient or other funded entity's intent to acquire the property, describing the basic URA protections provided to the owner, and informing the owner of his/her right to accompany the appraiser. A copy of this letter and proof of its delivery will be placed in the file.

2) Appraisals

Subrecipient or other funded entity staff will procure an outside State licensed appraiser to conduct the real property appraisal, and a Fixtures and Equipment (F&E) appraiser to secure a value for the F&E, where warranted. Whenever possible, the real property appraiser and the F&E appraiser shall walk the site together to clarify and avoid issues of redundancy regarding real property and personal property. An appraisal contract will be signed with each that conforms to HUD Appendix 19 and 20 and follows the guidelines set forth in 49 CFR 24.102, 49 CFR 24.103 and HUD Handbook 1378, Chapter 5, Section J, or other applicable standards. The appraisal will be used to set the fair market value at the time of the sale. It will not consider any recent zoning changes or future development. The price offered will be no less than the fair market value. The appraisal must be no less than three (3) months old. If the appraisal was not completed within the last three (3) months, a new one will be requested and the fair market value set based on the new date. The owner has the option of obtaining his or her own appraisal. If the values differ, subrecipient or other funded entity staff and the property owner will meet to discuss differences and determine if the offering price needs to be adjusted.

The subrecipient or other funded entity shall establish criteria for determining the minimum qualifications of appraisers. Appraisal qualifications shall be consistent with the level of difficulty of the appraisal assignment. The subrecipient or other funded entity shall obtain a signed statement by each appraiser setting forth his appraisal qualifications, and it shall review the experience and education and other qualifications of appraisers and identify and employ only qualified appraisers to perform the appraisals.

The subrecipient or other funded entity's appraisals of fair market value shall be based upon nationally recognized appraisal standards and techniques to the extent that such principles are consistent with the concepts of value and the rules on the admissibility of evidence of value under the eminent domain law of the State

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factors relating to race, color, religion, sex or national origin, or to racial, religious and ethnic identification of neighborhoods are not relevant to the estimation of value and shall not be considered in connection with appraisals of residential real property.

Appraisal reports must contain sufficient documentation, including supporting valuation data and the appraiser's analyses of that data, to demonstrate the correctness of the appraiser's opinion(s) of value.

No appraiser shall have any interest, direct or indirect, in the real property which he appraises for the State agency that would in any way conflict with his performance of the appraisal. No appraiser shall act as a negotiator for the State agency or the owner in the acquisition of real property which he has appraised in connection with the project, except that a review appraiser on the staff of the State agency is not precluded from acting as a negotiator for the State agency. Compensation for an appraisal shall not be based on the amount of the valuation.

3) Review Appraisal

If the appraised fair market value of the real property to be acquired exceeds two thousand dollars (\$2,000), the appraisal(s) of the property shall be reviewed by a qualified staff appraiser or independent fee appraiser. Qualified subrecipient or other funded entity real estate staff or a qualified review appraiser will review the appraisal according to URA regulations at 49 CFR 24.104 and HUD Handbook 1378 Chapter 5, Section K.

If the review appraiser finds the appraisal report(s) to be acceptable, he shall set forth in a written report his recommendation as to the fair market value of the property. The reviewer's report shall identify the appraisal report(s) reviewed and explain the basis for his recommendation. The file will document that the appraisal was reviewed by qualified staff, and that no conflict of interest exists between the person conducting the original and the review appraisal.

4) Offer of Just Compensation and Statement of Summary

Subrecipient or other funded entity staff will determine the fair market value and the amount will be reviewed and approved by supervising subrecipient or other funded entity staff. Subrecipient or other funded entity staff will send the owner a Notice of Just Compensation and Summary Statement per 49 CFR 24.102. The offer will be no less than the fair market value shown on the original and review

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appraisals and will include any tenant improvements per 49 CFR 24.105 and HUD Handbook 1378 Chapter 5, Section L.

5) Negotiation Process

Subrecipient or other funded entity shall make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses. The owner shall be given reasonable opportunity, at a minimum thirty (30) days, to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. Subrecipient or other funded entity shall consider the owner's presentation. Subrecipient or other funded entity staff will use non-coercive methods to negotiate the purchase of the property. They will keep a record of all conversations, counter-offers and other correspondence with the property owner to document the negotiation process.

6) Condemnation, Court Settlements and Administrative Settlements

For information on condemnation, see HUD Handbook 1378 Section 5-4 I. If the case goes to court, subrecipient or other funded entity staff will document that the property owner was paid the amount shown in the court settlement, including litigation costs, and will follow 49 CFR 24.102. If the value of the property is settled out of court through an administrative settlement, follow the Administrative Settlements process described in HUD Handbook 1378, Section 5-4 H.

7) Initial Tenant Notifications and Negotiations

Follow procedures detailed in HUD Handbook 1378 – Section 5-3 (D). When acquiring any interest in real property, subrecipient or other funded entity shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

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Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this review. Subrecipient or other funded entity will appraise and establish Just Compensation for a Tenant-Owned Improvement. Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the market value of the whole property, or its salvage value, whichever is greater. Nothing in this section shall be construed to deprive the tenant-owner of any right to reject payment under this subpart and to obtain payment for such property interests in accordance with other applicable relocation law.

8) Subrecipient or Other Funded Entity Oversight of Acquisition Process

Subrecipient or other funded entity staff will review the acquisition at each stage of project development and will use HUD forms whenever possible to document compliance with the URA.

9) Notice of Funding Availability (NOFA) Process

Where a NOFA process is utilized, subrecipient or other funded entity staff will review the language of the Notice of Funding Availability (NOFA) to ensure that all Federal acquisition and relocation requirements and required documents are described.

10) Application Process

Subrecipient or other funded entity staff will review applications to: 1) verify that the Letter to the Seller is worded properly and has been documented as being received, 2) assess whether the amount paid for the property is reasonable given the evidence of property value submitted, 3) ensure that any purchases over the fair market value are adequately justified. 4) resolve any conflict of interest situations.

11) Implementation and Final Review of Acquisition

Supervising subrecipient or other funded entity staff will review the purchase agreement and final escrow documents at contract execution to ensure that all eligible costs are paid, the final costs are consistent with the amount shown in all agreements and subrecipient or other funded entity approvals are documented. Subrecipient or other funded entity staff will ensure that a deed, including any

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required deed restrictions, is recorded and a copy placed in the file. At close out, the subrecipient or other funded entity staff will ensure that any correspondence with the seller regarding estimates of value are also in the file.

12) Sample Letters and Forms

Wherever available, subrecipient or other funded entity staff will use the sample letters provided in the HUD Handbook 1378 - Appendices, revised to reflect subrecipient or other funded entity and project details.

**D. Relocation Assistance Under the Uniform Relocation Act (URA)**

1. Persons Displaced

The URA provides relocation assistance to any person, renter or owner, as defined at 49 CFR 24.2(a)(9)(i) that is displaced as a direct result of a federally assisted project involving acquisition, demolition or rehabilitation. Displaced persons include individuals, households, businesses, non-profits, and persons storing property on the site. See HUD program regulations and HUD Handbook Chapter 1- Paragraph 1-4 (I) for further information.

2. Persons Not Displaced

A person is not considered displaced and is not eligible for permanent relocation assistance, if the file documents that he or she: 1) has been legally evicted, 2) has no legal right to occupy the property; 3) was required to move only temporarily and could return to the same or similar unit with the same conditions or 4) is not legally present in the U.S. See explanation below and 49 CFR 49.2(a)(9)(ii) and HUD Handbook 1378, Chapter 1 Paragraph 1-4(1). The denial of relocation benefits to any person must be approved by the subrecipient or other funded entity staff.

a. Evictions

Relocation benefits may be denied only if the file documents show that the person was notified that he or she had not paid rent for at least two (2) months or had broken another clause in their rental agreement, and there is a court order to evict. See HUD Handbook 1378 Chapter 1 Section 1-4(J)(I). Denials of assistance to any person evicted must be approved by supervising subrecipient or other funded entity staff.

Persons who did not move timely from the project when notified to do so may not be denied relocation benefits. See Exhibit A of HUD Handbook 1378 for further discussion

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of the Initiation of Negotiations (ION) date.

Evictions for failure to renew a lease (including a month to month lease) in order to sell property as vacant are not considered by HUD to be valid evictions. Before accepting that a site is vacant, the applicant will be asked to provide a history of occupancy during the year prior to the application for funding. Subrecipient or other funded entity staff will visit the site and review the lease of any occupants leaving within one (1) year of application to determine if such vacancy occurred because of the request for HUD funding. (See HUD Handbook 1378- Chapter 1 Section 1-4).

Persons "evicted for cause" (see 49 CFR 24.206) after the ION date may be denied relocation benefits. However, the consequences of an eviction, as they relate to relocation benefits, must be stated in the General Information Notice issued to potentially displaced persons prior to the eviction.

b. Unlawful Occupancy

Persons not legally occupying the property are not eligible for relocation assistance. To deny benefits for this reason, the file must document that the occupant: 1) did not have a rental agreement with the owner and was not paying the rent in lieu of a legal agreement, 2) moved in without the owner's permission, or 3) was engaged in illegal activity while occupying the property. Any occupant, whose name is not on the lease, must provide other evidence (driver's license, utility bill, other official correspondence) showing they lived in the unit to qualify for relocation assistance.

c. Temporary Displacement

Temporary displacement occurs when the displacement is for less than twelve (12) months and the person returns to the same type of unit under the same rental conditions, including the same rent for twelve (12) months. Activities, like minor rehabilitation, lead based paint or other abatement, cause temporary rather than permanent relocation.

If a project causing displacement is projected to take less than twelve (12) months, but is delayed a few months so that displacement exceeds twelve (12) months, occupants will be offered permanent relocation, or they may state their preference to wait, in writing, at their own option, for the unit at the project to become available.

Subrecipient or other funded entity staff will ensure that temporary displacement is

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carried out properly i.e., correctly worded notices are received and out of pocket expenses reimbursed. If tenants are required to move temporarily and are not provided with out of pocket expenses or the relocation lasts over twelve (12) months, permanent relocation assistance will be provided. Staff will review and follow HUD Handbook 1378 - Chapter 1, Paragraph (1-4) when temporary relocation occurs.

d. Not Legally Present in the U.S.

Public Law 105-117 prohibits aliens, who are not lawfully present in the United States, from receiving relocation assistance but also provides exceptions for "exceptional and extremely unusual hardship" to such a person's spouse, parent or child, who is a citizen or legal resident of the United States. Health and safety and family unity are two exceptions identified, but the regulation allows for other exceptions that have significant or demonstrable adverse impacts. Refer to 49 CFR 24.208.

The subrecipient or other funded entity will monitor compliance with Public Law 105-117 by: 1) obtaining proper certifications of residency from persons being paid relocation benefits with HUD funds, 2) citing the U.S. Legal residency requirement in the General Information Notices and Notices of Eligibility Notices and 3) documenting any exceptions granted. If relocation benefits are disallowed because the person lacks legal residency in the U.S., the file will document either that the person declined to sign the residency certification, stated their lack of legal residency on the form and/or was notified in writing to submit the certification by a specific deadline and did not submit it.

Exception requests will be signed by the head of the household, and will state the reason the exception is being requested. Exceptions must be approved by subrecipient or other funded entity staff. In defining hardship, the subrecipient or other funded entity will approve a definition of "family unit" for the project, which may be expanded to include siblings, grandparents, nieces and nephews.

If some household members are legal residents and others are not, subrecipient or other funded entity will pro-rate moving expenses based on the number of household members or business owners, who are in the country legally. Unless an exception is requested, replacement housing payments will be adjusted according to the methodology developed by the Federal Highway Administration (FHWA).

Section 8 and McKinney Act permanent housing programs carried out by Housing Authorities must follow program regulations with respect to documenting legal residency in the United States.

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e. Relocation Plan

During the application process, applicants will be required to submit a preliminary relocation plan. Once the project is approved and the contract is executed, a final plan will be required. A Federal Plan may be combined with a State Plan, but if combined must include all the URA requirements (see 49 CFR 24.205). Subrecipient or other funded entity staff will ensure that both the preliminary plan and the final relocation plan contain the following elements:

- 1) Contents of Preliminary Relocation Plan: The estimated number of currently occupied units in the building and whether any have been vacated in the last year.
  - The number of households estimated to be displaced (permanently or temporarily) by bedroom size and the current rents for each bedroom size
  - The estimated number of households that are low income
  - The estimated cost of relocation based on the number of households to be displaced and the difference between current project rents (or, if tenants are low income, estimated income) and other available units in the community
  - A statement regarding who will carry out the relocation
  - A statement regarding what funds will be used for the relocation and proof that those funds are currently in place (i.e. commitment from funding source)
  - A complete list of tenants by unit. If it is not possible to provide the names of tenants, the applicant will provide a timeline for providing the names and subrecipient or other funded entity staff will determine by what date the names will be required
  - The specific steps the subrecipient or other funded entity, as recipient or sponsor will take to minimize project displacement



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2) Contents of Final Relocation Plan

- Estimated number of households to be displaced including owner/tenant status, value and rental rates of properties to be acquired, family characteristics, impacts on minorities, the elderly, large families and disabled persons.
- The estimated number of comparable replacement dwellings (including price ranges and rental rates) available to fulfill the needs of the households to be displaced. Refer to last resort housing, if not enough comparable homes available.
- For businesses, the plan will include the following:
  - The estimated number, type and size of the businesses, farms, and non-profit organizations to be displaced and the number of employees affected
  - The estimated number of available replacement business sites. (If sites are unavailable, state the impact on businesses being displaced)
  - An explanation of any complex or lengthy moving processes for small businesses with limited financial resources and/or an analysis of business moving problems
  - The need for any special relocation advisory services
- Minimizing displacement - subrecipient or other funded entity will make all reasonable efforts to minimize displacement as a result of HUD funded activities by: 1) staging rehabilitation, so that occupants can stay in the unit as long as possible or be moved to another unit in the same building rather than off-site and 2) ensuring that rents are not raised for current occupants for at least one (1) year.

3) Occupancy Lists

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Subrecipient or other funded entity will ensure that occupants will be tracked at each stage of the project (application, approval, contract execution, implementation and close-out) in order to ensure that: 1) all eligible persons are paid all relocation benefits they are due, 2) no occupant leaves the site prematurely without being informed of their eligibility for benefits, and 3) occupants do not have to be re-contacted and paid additional relocation benefits.

#### Timing of Submission of Occupancy List

- Projects Involving Acquisition or Acquisition and Rehabilitation

Occupancy lists must be submitted as follows: 1) during the application process, 2) after the loan is approved, 3) at close of escrow or execution of loan agreement and 4) upon project completion. If it is not feasible for the applicant to provide a list of occupants at the time of application, the reason will be documented, and a new date established by subrecipient or other funded entity staff as to when the list will be provided. A list must be provided by the contract execution date.

- Requests for Funding of New Construction where Acquisition and/or Demolition Occurred Within the Year Prior to Application

Applicants will provide a list of occupants on the project site on the date the property was originally purchased and for each occupant, provide documents that show: 1) the amount of any relocation assistance provided, 2) documentation to fully support the calculation of the relocation assistance amount and 3) if no relocation assistance was provided to some or all of the occupants, an explanation of why no payments were provided. Documents will be submitted and reviewed by subrecipient or other funded entity staff.

- Projects Involving Rehabilitation Where Applicant Already Has Site Control

A complete list of occupants must be submitted with the application.

#### Review of Occupancy Lists

Subrecipient or other funded entity staff will track each person on every occupancy list to verify that proper notices were issued to all occupants. If notices are issued by a consultant, subrecipient or other funded entity staff will monitor and document the activities of the Relocation Consultant throughout the

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acquisition process to ensure compliance with URA requirements. Any person, who is on the list of occupants at application, and who is not on the list of occupants at project completion, must be accounted for.

At any time during the project, if it is learned that any occupant did not receive a properly worded General Information Notice, Move In Notice, or Notice of Eligibility, and left the project without receiving relocation benefits, he or she will located, re-contacted and, if eligible, paid full relocation benefits.

The file for anyone not receiving relocation assistance (moving or replacement housing) must completely document the reason that no relocation assistance was paid. Evictions must be accompanied by proof that the eviction procedure was followed. The decision not to pay any occupant relocation benefits must approved by supervising subrecipient or other funded entity staff.

4) Relocation Notification Process

Subrecipient or other funded entity staff will ensure that project occupants are notified regarding HUD funding for the project, informed how the project will affect them, and provided with information on their rights under the URA. Notification includes holding meetings and/or issuing notices. If more than five (5) households will be relocated, a meeting for all affected tenants will be held. All notices that are provided to occupants must be worded properly, issued in a timely manner, documented as received, and copies retained in files. For those who are unable to read and understand English, a notice in their own language will be provided. For delivery of notices see 49 CFR 24.5.

5) Meetings

To document meetings, the following information will be placed in the files: meeting notices, (with date and time), method of distribution, personnel conducting the meeting, agenda, information provided including any hand-outs, a list of attendees and the name of any translators.

6) General Information Notice (GIN)

The GIN informs project occupants whether they might be displaced because of a Federal project and explains what protections they are afforded under the URA (see 49 CFR 24.203(a)).

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The wording of the GIN will vary depending on whether the property is residential or commercial and whether the tenant will be able to stay or will be permanently displaced from the building or unit. Sample notices provided in HUD Handbook 1378 will be used whenever possible.

Subrecipient or other funded entity will ensure that General Information Notices are provided in a timely manner as follows:

**Voluntary Acquisition**

- Projects Involving Acquisition or Acquisition and Rehabilitation Not Currently Owned by Applicant

A GIN must be submitted as soon as feasible i.e., after any acquisition loan is approved, at the close of escrow or the execution of the loan agreement. If it is not feasible for the applicant to issue a GIN at the time of loan approval, the reason will be documented and provided no later than the date the agreement with the subrecipient or other funded entity is executed.

- Projects Involving New Construction where Acquisition and/or Demolition have occurred prior to request for HUD funding

A GIN must be submitted at the time of the application.

- Projects Involving Rehabilitation Where the Application for Funds is for Rehabilitation of a Building Already Owned by the Applicant

A GIN must be submitted at the time of application.

**Involuntary Acquisition**

General Information Notices will be provided to tenants on the day the Notice of intent to Appraise is issued.

**7) Move-In Notice**

The purpose of the Move-In Notice is to allow owners to continue to rent units during the application for Federal funding without incurring additional relocation liability. Tenants, who sign a properly worded Move-In Notice, are not eligible for URA assistance.

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8) Notice of Non-Displacement

The purpose of the Notice of Non-Displacement is to notify occupants, who will not be required to move, that they may continue their current terms of occupancy and thereby prevent any unnecessary departures from the building. A Notice of Non-Displacement shall be executed based on the following protocols:

- Wording of Notice - The notice informs occupants that: 1) the project described in the GIN notice has been approved, 2) they should not move now, 3) they will not be required to permanently move from the building, 4) the conditions under which they will be permitted to stay, including their rent, and the conditions under which any temporary displacement will occur. Staff should note any significant changes to the conditions of tenancies that could cause a tenant to be permanently displaced and be eligible for full relocation benefits. The sample Notice of Non-Displacement in HUD Handbook 1378 will be used.
- Timing of Notice - Tenants must receive the notice as soon as possible following the execution of the loan agreement. **Failure to deliver such notice at this time could substantially increase the cost of relocation.** A tenant, who moves after the date of the executed agreement before receiving a Notice of Non-Displacement, becomes eligible for permanent relocation assistance.

9) Notice of Eligibility for Relocation Assistance

The purpose of the Notice of Eligibility (NOE) is to notify qualified occupants of their specific relocation benefits including advisory, moving and residential or business relocation assistance. It is due on the date of the Initiation of Negotiations (ION), the definition of which may vary depending on the funding source (see HOME, CDBG regulations). Timing of the notices is dependent on the type of acquisition and the type of activity being funded. Subrecipient or other funded entity staff will ensure that Notices of Eligibility are properly worded and issued in a timely manner as follows (see 49 CFR 24.203(b) and Exhibit A of HUD Handbook 1378 for further discussion of the ION date).

- Wording of the Notice of Eligibility - The NOE explains the occupant's specific eligibility for relocation assistance. The wording of the NOE depends on whether the occupant is a homeowner or renter or is a residential

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or commercial tenant. It describes moving options, advisory services, and, for residential occupants, the exact amount of replacement housing assistance that will be provided. The NOE shows how the replacement housing payment was calculated, i.e., the rent and utility amounts used and the person's income, if applicable.

The NOE instructs occupants not to move and to continue to pay their rent and explains that another notice will be issued no less than ninety (90) days before the occupant must move. The notice also identifies the name and address of the project, the funding source, and the date the occupant is eligible for relocation assistance. Subrecipient or other funded entity staff will use the sample notices provided in HUD Handbook 1378, or a variation of such.

The NOE will contain the addresses of at least three (3) comparable housing units. One of them will be identified as the most comparable unit and will be used to establish the amount of the replacement housing payments. Averaging of comparable units is not allowed, and a "rent schedule" is not allowed without prior approval by HUD.

The comparable unit will be inspected to show the unit is decent, safe, and sanitary. Documents in the file must show that replacement units meet local housing standards and those standards as described in the URA.

- Timing of Notice of Eligibility - Issuance of the Notices of Eligibility in a timely manner requires advance planning and interviewing of tenants.

#### Voluntary Acquisition

For projects involving non-profit sponsors, the Notice of Eligibility is due on the date the sponsor executes a contract with subrecipient or other funded entity to use HUD funds for the project. All occupants legally residing on the property on that date are eligible for full relocation benefits. For entities with the power of eminent domain that elect not to use it, the Notice of Eligibility is due on the date subrecipient or other funded entity executes the purchase agreement.

#### Involuntary Acquisition

The Notice of Eligibility is due on the date the Offer of Just Compensation is

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issued to the property owner for owner-occupied properties, or as close to the offer date as is feasible with tenant-occupied properties.

10) Ninety (90) Day Notices

Each occupant to be displaced must receive at least ninety (90) days written advance notice before being required to move. This notice cannot be given before the person has been issued a notice of eligibility for relocation assistance or before being notified of the availability of a comparable replacement dwelling. The notice must specify the date by which the property must be vacated, or if that date is not known, the occupants must be informed that they will receive another notice at least thirty (30) days or sixty (60) days (depending on current real estate law) before the day they must move (see 49 CFR 24.203(b)).

11) Temporary Displacement Notices

The purpose of the Temporary Displacement Notice is to give tenants reasonable advance written notice of the location, terms and conditions of the temporary move and of their right to reimbursement of all reasonable out of pocket expenses. The temporary displacement notice may be combined with a Non-Displacement Notice. A temporary relocation plan must be developed before notices are issued. Temporary displacement that lasts over one year becomes permanent relocation and requires the payment of permanent relocation benefits.

12) Relocation Assistance

Upon project approval, occupants will be interviewed to determine their eligibility for the following types of relocation assistance: advisory services, moving expenses, and replacement housing payments. Advisory services and moving expenses are provided to all displaced persons while replacement housing payments are only provided to homeowners and residential tenants, who are displaced if the cost of finding comparable replacement housing exceeds the cost of the displacement housing.

Replacement housing must be shown by inspection to be decent, safe and sanitary and meet local occupancy standards. Business moves are more complicated and the list of eligible expenses is more detailed. Certain expenses for re-establishing the business are also reimbursed.

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### Appeal Process

Any aggrieved person may appeal the amount of their relocation assistance or other aspects of the relocation. Appeals will be sent to subrecipient or other funded entity staff for resolution. They must be in writing and accompanied by supporting documentation.

The subrecipient or other funded entity supervisory staff will consider all pertinent information submitted by the person, applicable regulations, HUD policy and subrecipient or other funded entity policy in making the determination. A written decision will be provided to the person within fifteen (15) days of the appeal's written submission to subrecipient or other funded entity. The decision will include the basis for the decision, the facts considered, and if full relief is not granted, a statement advising the person of the reason for the denial and the right of judicial appeal.

For more information on what actions may be appealed i.e., time limits for appeals, right to representation, and file review (see 49 CFR 24.10). Low income persons may file an appeal to HUD (see HUD Handbook 1378 Paragraph 1-10).

### 13) Residential Relocation

#### Intake Process

The sample intake or interview form shown in HUD Handbook 1378 Appendix 8, will be completed for each occupant. It will be modified, if necessary, to fit special circumstances. It will be completed as soon after the project is approved as possible so that occupants can be issued the appropriate notices in a timely manner.

#### Notices

The sample notices provided in HUD Handbook 1378 will be used. They will be modified to include the subrecipient or other funded entity letterhead, the project name and HUD funding source on it.

#### Types of Relocation Benefits

- Advisory Services



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Subrecipient or other funded entity staff will ensure that the advisory services listed in 49 CFR 24.205 are offered and that files document for each residential displaced person what advisory services were needed and what advisory services were provided (see HUD Handbook 1378 Section 2-6).

- Moving expenses

Displaced persons are eligible for the cost of moving personal property from the displacement property to the replacement property. Subrecipient or other funded entity will follow the URA at 49 CFR 24.301 and HUD Handbook 1378 Paragraph 3-2. Payment will be based on the reasonable cost of moving based on actual moving costs or the fixed payment as provided in the Department of Transportation's Fixed Moving Schedule:

<http://www.fhwa.dot.gov/realstate/fixsch96.htm>

Subrecipient or other funded entity staff will ensure that: 1) claims are documented with receipts for actual expenses or the fixed scheduled is in the file 2), any unusual circumstances are explained, 3) proof of payment is in the file. Use Appendix 11 in HUD Handbook 1378 as the Residential Claim form for moving expenses and the DOT Fixed Schedule for New Jersey. Moving expenses will be prorated for households with some members who are legal residents of the U.S. and some who are not legal residents.

- Replacement Housing Payments for Homeowners

Homeowners who are displaced as a result of their property being acquired through the eminent domain process are entitled to a replacement housing payment in addition to the purchase price of their home. To be eligible for such payment, the homeowner must have occupied their homes for more than one hundred and eighty (180) days prior to the date of the Notice of Just Compensation and Summary Statement. The replacement housing payment is the difference between the price paid for the replacement home or a comparable home (whichever is lower), plus any additional mortgage financing costs, and reasonable eligible incidental closing costs paid for the displacement home. Subrecipient or other funded entity staff will follow HUD Handbook 1378 and 49 CFR 24.401.

Property owners, who have been properly documented as voluntarily selling

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their property, are not eligible for relocation assistance.

A property owner who receives an eminent domain letter for "tax purposes" is considered eligible for relocation.

- Replacement Housing Payments (RHP) for Renters

#### Methodology for Calculating the RHP

The RHP is calculated as the difference between the rent at the displacement unit and the rent at either a comparable unit or the actual replacement unit, whichever is lower, for forty-two (42) months. For persons, who meet the HUD "low to moderate income limit", the calculation will be the difference between the household's rent plus utilities at a comparable unit or the actual replacement unit, whichever is lower, and thirty (30) percent of the household's monthly gross income or displacement rent plus utilities, whichever is lower. Since HUD adjusts this income limit each year, subrecipient or other funded entity staff must ensure that the income used in the calculation is placed in the file and is for the correct time period.

#### Documentation of RHP Calculations

- Rent - Documents verifying the amount of rent at the displacement, comparable, and replacement units must be in the file. If a rental agreement is not available for the displacement unit, rent receipts for several months will be obtained.
- Utilities - The rent used in the base rent calculation includes utilities. Utilities are calculated as follows: renters must be asked to provide actual utility bills within the last six (6) months to one (1) year. If the renter is unable or unwilling to provide the receipts or obtain them from the utility company, they will sign a statement authorizing the use of housing authority utility schedules. If such schedules are used, the file must clearly document the type of utilities at the displacement, comparable and displacement unit with a lease, intake, comparability form or inspection form (see HUD RAP, Volume 2, No. 2, August 2006 for more information).
- Income - Subrecipient or other funded entity staff will ensure that the low income formula will be used to calculate the RHP for low income

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households. A rent to rent calculation will only be used for a person who appears to be low income, if the file contains a letter, documented as received by the tenant that: a) describes the amount of the benefit that would be payable if income documentation were to be provided, b) describes the type of documentation required and c) gives a date the documentation must be received. Refer to HUD Handbook 1378, Section 6 for an explanation of how to document income.

#### Legal Residency in Making Replacement Housing Payments

Subrecipient or other funded entity staff will follow the Federal Highway Administration (FHWA) "URA Frequently Asked Questions (FAQ)" Section 105-117 to determine the amount of RHP to be provided to households, which have at least one person who is a legal resident of the U.S., but have other household members who are not legal residents of the U.S. As an alternative, the subrecipient or other funded entity will consider exception requests per 49 CFR 24.208.

#### Legal Occupancy

To determine whether specific individuals are lawful occupants of the unit, subrecipient or other funded entity staff will review and maintain the following documents in the file: intake form, lease or rent receipts, utility bills, and any correspondence. If these documents show that the occupant was living in the unit at the time of the displacement, the person will be considered "displaced." If there is anyone on the original intake form who does not receive relocation assistance, subrecipient or other funded entity staff will document the reason.

#### Comparability

Subrecipient or other funded entity staff will ensure that a person, who is displaced, is offered comparable housing as defined in the URA. Such housing must be made available prior to giving the person a ninety (90) day notice to move. Addresses of three (3) comparable units, including the unit most comparable unit, will be provided in the Notice of Eligibility. The most comparable unit will be used as the basis for computing the replacement housing payment. For more information, refer to the 42 CFR 24.2 definitions, and HUD Handbook 1378, Chapter 1.

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Subrecipient or other funded entity staff will use the HUD comparability form shown in HUD Handbook I378, Appendix 12, to document the three (3) comparable rental units and the one designated as the most comparable. If the same building address, with multiple, available comparable units, is used as the comparable unit for several displaced renters, the file will clearly show that the number of units available at the same rent will accommodate the number of displaced persons who were provided that building as a comparable unit. A "rent schedule" will not be used without written HUD approval.

#### Down payments

If the RHP is used as a down payment and/or eligible incidental expenses to purchase a home, it will be paid as a lump sum to the escrow company. Subrecipient or other funded entity staff will review the purchase agreement, escrow documents and inspection documents prior to the payment and ensure that these documents are placed in the tenant relocation file.

An escrow instruction letter will be submitted to the escrow company, which educates the escrow officer as to the eligible expenses and down payment for which subrecipient or other funded entity provided funds can be applied and directs the escrow officer to return any unused portion of subrecipient or other funded entity's funds to subrecipient or other funded entity, not the buyer. The buyer and seller, as well as the escrow officer, are to sign the escrow instruction letter.

#### Non Payment of RHP

Subrecipient or other funded entity staff will ensure that the file for any displaced person not receiving a relocation payment includes the following: all written correspondence, a record of verbal discussions and other actions, and a written justification for the non-payment signed by the subrecipient or other funded entity staff.

Subrecipient or other funded entity staff will not request a waiver of relocation benefits from any eligible or ineligible occupant as waivers are prohibited per 49 CFR 24.207 and HUD Handbook 1378 Section 1-8(B). Similarly, waivers signed prior to the application for HUD funds will not be considered valid.

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#### Special Circumstances

Subrecipient or other funded entity staff will follow the policies listed in the "URA Frequently Asked Questions (FAQ)" issued by the Federal Highway Administration (FHWA) for circumstances not specifically described by the URA. If the circumstance is not listed in the FAQ, subrecipient or other funded entity staff will consult with local HUD relocation staff and place the written determination and supporting documents in the file.

#### Relocation Payment/Claim Process

HUD claim forms will be used to document moving expenses and replacement housing, down payment, homeowner assistance. The HUD claims forms shown in HUD Handbook 1378 will be used:

Appendix 13 - 180 Day Homeowners

Appendix 14 - Rental Assistance or Down payment

Homeowner and down payment assistance for former renters will be provided as a lump sum. Cash rental assistance will be paid in two installments, one an advance to cover first and last month's rent, and a final payment. The subrecipient or other funded entity will also consider an applicant's request to provide a more frequent payment schedule. Conversely, subrecipient or other funded entity may choose to make payments via a greater number of installments than the two payment installments described above. Regardless of the payment schedule, payments will be made to displaced persons in time for them to meet their housing obligations.

The subrecipient or other funded entity staff will review all claim forms prior to payment and specifically review the calculation of all payments and related supporting documentation. Supporting documentation will include: an inspection report, evidence of legal residence if required, and for low income claimants - income documentation. Although it is not necessary to review all leases and utility receipts prior to payment, these documents must be reviewed prior to project closeout.

Subrecipient or other funded entity staff will forward the relocation claim with a request for payment to the Finance Department. Payment will be provided by wire transfer or check to the escrow company, if it is for down

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payment or homeowner assistance or by check if it is rental assistance. A copy of the check will be maintained in the file. Whenever possible, a receipt from the recipient will be obtained. No back rent may be deducted from the relocation payment without the written permission of the recipient.

#### Inspections

Replacement housing for a displaced person must be decent, safe and sanitary as defined in 42 CFR 24.2. The URA at 49 CFR 24.403(b) requires that replacement housing be inspected to see that it meets this standard. The definition of decent safe and sanitary includes compliance with the local occupancy standard or subrecipient or other funded entity adopted occupancy standard. Subrecipient or other funded entity staff will ensure that the file contains documentation that the housing was inspected prior to making the final relocation payment.

If the replacement unit fails the inspection, the replacement housing payment cannot be made. Notify the tenant of the items not meeting the inspection standard and give them a thirty (30) day deadline to provide evidence of compliance. If the non-conforming item(s) is not cleared, notify the tenant in writing that payments will be suspended until items comply.

If the displaced person moves out of state, subrecipient or other funded entity staff will contract with a qualified inspector in the area of the move to perform the inspection. The cost of the inspection will be considered part of the relocation budget.

#### Occupancy Standards

In referring displaced tenants to a replacement housing unit, the subrecipient or other funded entity will follow its adopted occupancy policy and document the file with a copy of the occupancy standard and evidence that it has been met.

#### Special Types of Housing

- Section 8 and Shelter Plus Care Assistance

Subrecipient or other funded entity staff will make every effort to ensure that tenants who are being displaced from public housing receive

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referrals to other public housing, and tenants who already have a Section 8 voucher can transfer the voucher to another unit.

A new Section 8 voucher may be offered to a qualified low income household, but if the household requests a replacement housing payment, a replacement housing payment must be provided. Tenants receiving HUD Shelter Plus Care (SPC) assistance will be provided with accommodation at another SPC unit if such move can be qualified under SPC regulations.

- Homeless Facilities

Emergency shelters are not considered permanent housing so residents are not eligible for replacement housing payments. Instead, emergency shelter residents will be provided with assistance in moving to another emergency shelter and up to fifty dollars (\$50) to move their personal property.

- Transitional Shelters

Persons displaced from transitional shelters are considered to be in permanent dwellings and are eligible for relocation to comparable housing, which would be another similar type of housing, i.e., shared living dormitory to a shared living dormitory or from a rental unit to a similar sized rental unit.

- Motels/Hotels

Displaced persons who reside in a motel or hotel on a permanent basis are considered permanently housed and are eligible for permanent relocation assistance. Residence of ninety (90) days is not required. Subrecipient or other funded entity staff must determine whether the person's stay at the motel/hotel is temporary or permanent by contacting the landlord and obtaining a record of their hotel stay. To ensure compliance, contact local HUD relocation staff for further guidance.

- Board and Care Facilities

Tenants being displaced from board and care facilities will be relocated to a comparable facility that offers the same level of services at the same

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price.

- Rehabilitation Treatment Facilities and Halfway Houses

Persons residing in drug and alcohol rehabilitation treatment facilities should be referred to another similar treatment facility. Persons living in halfway houses would be referred to another halfway house.

- Mobile Homes

Both tenants and owners of mobile homes are eligible for relocation assistance. Subrecipient or other funded entity staff will carry out this relocation in compliance with 49 CFR 24.501 to 49 CFR 24.503, the Appendix and Federal Highway Administration Questions and Answers.

- Economic Displacement

Subrecipient or other funded entity staff will avoid, whenever possible, economic displacement. A person will be considered permanently displaced and eligible for full relocation benefits, if he or she will not be able to return to a unit like the one they vacated at the same rent for at least a year.

- Last Resort Housing

The URA provides monetary limits to relocation assistance in 49 CFR 24.401 (twenty-two thousand and five hundred dollars (\$22,500) for homeowners) and 49 CFR 24.402 (five thousand two hundred and fifty dollars (\$5,250) for renters). However if the replacement housing payment exceeds the monetary limits, the last resort housing provision in 49 CFR 24.404 requires the full forty-two (42) months of URA replacement housing payments. Subrecipient or other funded entity staff will not impose any monetary caps on replacement housing payments. For additional clarifications, review HUD Handbook 1378 Section 3-3.

14) Temporary Relocation

Temporary relocation occurs most often when rehabilitation is involved and a tenant does not have to permanently leave the unit but may need to leave the unit for a few days/weeks (but no more than twelve (12) months). Subrecipient or



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other funded entity staff will follow the steps outlined in HUD Handbook 1378 Section 3-10 and ensure the following:

- A relocation plan is developed and implemented fairly to all similarly affected parties.
- Subrecipient or other funded entity's temporary relocation policy will be followed.
- Appendix 15 from HUD Handbook 1378 is used to claim temporary relocation benefits.
- Claims are reviewed to ensure that claims are for out of pocket expenses and payments are based on actual receipts. Please note that persons may not receive an amount equal to a hotel stay for staying with relatives. Lodging must be supported by an actual receipt.

15) Business Relocation

Businesses are defined in the URA and in this manual as for-profits engaged in lawful activity, a non-profit organization, or a farm operation. Farm operation moves are covered in 49 CFR 24.305(c) and non-profit moves in 49 CFR 24.305(d). To qualify for relocation assistance, the business must meet the definition of "displaced person." Businesses are not entitled to a comparable replacement site or to temporary moving expenses. Businesses engaged in unlawful activities are not eligible for relocation assistance and the file should be documented accordingly.

In order to minimize business displacements, subrecipient or other funded entity staff will ask sponsors, and/or sub-recipients, whenever possible not to increase tenant rents for at least a period of one year after completion of any rehabilitation.

Notices

Subrecipient or other funded entity staff will ensure that business and other non-residential tenants are provided with a 1) properly worded General Information Notice issued within the same timeframes as residential tenants and 2) a Notice of Non-Displacement or Notice of Eligibility shortly after the ION date. Refer to Attachment "A" of HUD Handbook 1378 to determine this date. Subrecipient or

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other funded entity staff will use the sample forms provided in HUD Handbook1378:

- Appendix 2a - General Information Notice - Nonresidential Tenant Not Displaced
- Appendix 3 - General Information Notice - Nonresidential Tenant Displaced
- Appendix 7 - Notice of Eligibility

#### Advisory Services

Subrecipient or other funded entity staff will work closely with developers/consultants to ensure that businesses are provided with all required advisory services shortly after contract execution. Files will document that the following types of advisory services, listed in 49 CFR 24.205(c)(2)(i) are provided to all businesses and non-profits to be displaced:

- Information regarding their eligibility for relocation benefits and procedures for obtaining them.
- Needs and preferences with respect to finding an appropriate replacement site i.e., space required, utility hook ups, permits, type of facilities, equipment installation, location, re-establishment at the new location
- The need for any outside specialist
- Identification of personal and realty issues
- The time required to vacate
- The difficulty locating replacement sites
- The need for any advance relocation assistance
- Moving Expenses

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- Eligible Expenses

Displaced businesses are eligible for reimbursement of reasonable, necessary actual moving expenses and, for some businesses, re-establishment expenses. The move can be a move by commercial movers or a self-move. Refer to 49 CFR 24.301 for a complete list of eligible expenses. Some businesses may receive an alternative payment in-lieu of relocation per 49 CFR 24.305.

- Equipment Inventory

The file must account for all equipment on site to be moved. Whenever possible, an appraisal that covers furniture, fixtures and equipment should be obtained. Document any tenant leaseholds. An alternative method of equipment identification may be used, if an appraisal is not feasible and is approved by subrecipient or other funded entity staff.

- Claims

Claims must be supported by receipts. HUD Form 40055 "Claim for Actual Reasonable Moving and Related Expenses - Businesses, Non Profit Organizations, and Farm Operations" will be used. Moving expenses will be pro-rated based on the number of business owners who are documented to be in the U.S. legally.

Refer to 49 CFR Subpart D which begins at 24.301, and the URA Frequently Asked Questions - Subpart D, issued by the FHWA for additional information and Chapter 4 of HUD Handbook 1378 for more information about business relocation.

- Ineligible Expenses

Ineligible expenses include loss of goodwill, loss of profits, loss of trained employees, personal injury, interest on a loan to cover any costs of moving or re-establishing a business, the cost of moving any structure, cost of storage for personal property, the purchase of capital assets except as permitted under moving costs, and interior or exterior finishes solely for aesthetic purposes (refer to 49 CFR 24.305).

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- Subrecipient or other funded entity Oversight of Business Relocation

Subrecipient or other funded entity staff will ensure that: 1) notices are worded appropriately, sent and delivered in a timely manner, 2) businesses receive all the relocation assistance they are eligible for, including advisory services and moving expenses, 3) no ineligible expenses are paid for with HUD funds, 4) files are properly documented.

- Differences in State and Federal Relocation Laws

The URA does not allow for the payment of loss of goodwill and the use of "global settlements, but State law may require their payment. The subrecipient or other funded entity will **not** use HUD funds to pay for any loss of goodwill or use global settlements. If there is a settlement, the file will identify all relocation assistance paid for with HUD funds and document that all costs were eligible.

#### 16) Relocation Oversight

This section details the steps subrecipient or other funded entity staff will take to ensure that all projects that involve acquisition, rehabilitation and demolition, comply with the URA, Code of Federal Regulations, where applicable as follows:

##### Application Process

At application, subrecipient or other funded entity staff will identify which projects must comply with the URA. Information about occupants will be requested. Staff will review the relocation liability associated with the application and will determine if the estimated relocation cost is reasonable and that the project remains feasible.

##### Project Approval

Upon approval of the project for funding, subrecipient or other funded entity staff will review the occupancy list, and determine the date when issuing General Informational Notices is first feasible. Staff will also review the wording and delivery of General Information Notices.

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#### Contract Execution

Upon contract execution, or ION date, subrecipient or other funded entity staff will review the occupancy list, timing of tenant interviews and proper issuance/delivery of Notices of Eligibility or Non- Displacement.

#### Project Implementation

During the implementation of the relocation, the developer will provide a monthly report that shows the progress of the relocation including which occupants were not paid and why they were not paid. Subrecipient or other funded entity staff will review all claim forms prior to disbursement of funds to determine the correctness of the payment. Subrecipient or other funded entity staff will also resolve any complaints and appeals from affected persons and the public.

#### Project Completion

At project completion, subrecipient or other funded entity staff will: 1) review files to ensure that they are properly organized and contain documentation of payment calculations supporting the payments, i.e., leases, utilities receipts and/or schedules and comparability of housing offered, and 2) verification that the replacement units were inspected and meet the housing standard.

### **E. Record Keeping**

Subrecipient or other funded entity staff will review Chapter 6 of HUD Handbook 1378 and these procedures for a list of records that must be maintained for projects involving acquisition and relocation, inclusive of the following:

- Acquisition Files
- Notices - For voluntary acquisition, the "voluntary" letter to the seller should be in the file. For involuntary acquisition, the following documents should be in the file: Notice to Appraise, Offer of Just Compensation and Summary Statement and any other correspondence related to the purchase.
- Documents related to the purchase, i.e., purchase agreement, escrow settlement documentation.

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- Documents related to the property's value. An appraisal or other estimate of value for voluntary acquisitions and an appraisal and review appraisal for involuntary acquisitions. If three (3) months have passed, a second appraisal may be necessary.

1. Relocation Files

a. Records Retention

Acquisition and relocation records will be retained until three (3) years after a project is completed and closed out. A project may be closed out when all the funds have been spent, program objectives met, displaced persons relocated and audits completed. Refer to HUD Handbook 1378 Section 6-1 (D) for additional information.

b. Availability and Confidentiality of Records

Records are considered confidential information, and the contents should only be available to authorized subrecipient or other funded entity staff, HUD personnel or other audit staff. Upon written request, information may be released to affected persons or their designated representative. See HUD Handbook 1378 Section 6-2 (a) for more details.

c. Project Relocation File

The records contained with the project relocation file should minimally include:

- Summary List of Occupants on site as of the following dates: Application, Approval, Contract Execution and Project Completion
- Record of any meetings held and information covered at the meeting
- Summary List of Occupants who were paid and the amount they were paid
- Summary List of Occupants not paid and reason why not paid
- Fixed Payment Schedule used to compute moving expense
- Section 8 income limits used in URA RHP calculations

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d. Relocation Files for Individual Residential Tenants (Tenant Files)

The individual residential tenant files should contain the following:

- Site Occupant Record (HUD Handbook 1378) Appendix 8 for residential and Appendix 9 for business occupants
- Notices and proof of delivery
- Claim Form (URA)
- Documentation for replacement housing payment claim, i.e., intake form, lease or rent receipt, utility receipts or properly completed utility schedule. See HUD Handbook 1378 Section 6-2(d).
- Evidence of income, if part of the housing payment calculation: wages, self-employment, government and private pensions (i.e., SSA, SSI, VA), rental income. (Refer to HUD Handbook 1378 Section 6-2 C (2)).
- Explanation of any special circumstances (calculation or otherwise); no waivers are accepted. Please consult with subrecipient or other funded entity staff prior to payment of benefit
- Evidence of Section 8 transfer, if applicable
- Evidence of comparability of designated unit (HUD Handbook 1378 - Appendix 12)
- Proof of payment of moving expense (fixed schedule, or receipts)
- Proof of payment of relocation housing payment/receipt by claimant
- Record of Inspection (In town and out of town relocations)
- Appeals, exceptions to legal residency requirement if any, explanations, correspondence or Advisory services provided

e. Individual Homeowner Files

**SUBJECT:** Acquisition and Relocation

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Individual homeowner files should contain the following:

- Notices and proof of delivery
- Claim forms
- Appraisal of displacement home
- List of comparable homes (HUD Comparability Form)
- Purchase price of new home and other incidentals (purchase agreement and final escrow settlement), and proof of payment- wire transfer
- Inspection of replacement home
- Log of advisory services provided

f. Business Tenant Files

Business tenant files should contain the following:

- Notices and proof of delivery
- Business Claim Form
- Appraisal or other documentation of fixtures, furniture and equipment and leasehold interest, if any (provide an explanation for any furniture or equipment that is not moved).
- Receipts for all moving expenses and proof of payment
- Receipts for establishment expenses and proof of payment
- Log of advisory services provided

**F. Other Acquisition/Relocation Issues**



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1. Adding HUD Funds for Acquisition to an Existing Project - Compliance with other Federal laws and regulations

Subrecipient or other funded entity will review all Federal laws and regulations that may be triggered if HUD funds are added to existing projects. For CDBG, see 24 CFR Subpart K 570.600; for the HOME program, see 24 CFR Subpart H 92.350-357 and Subpart K, for the ESG Program, refer to 24 CFR 576.79; for the Supportive Housing Program (SHP), see 24 CFR 583.330.

Review the National Environmental Protection Act regulations at CFR Part 58 before funds are committed. Subrecipient or other funded entity staff will ensure that all statutory checklists are completed and signed and any required Requests for Release of Funds are approved by HUD prior to committing HUD funds to any project.

When using HUD funds with projects involving state funds, subrecipient or other funded entity staff will review the following issues to determine if additional action is necessary to comply with all HUD regulations.

- a. General Information Notices - A state general information notice does not substitute for a Federal General Information Notice since the language and timing is different. When HUD funds are added to a project a HUD General Information Notice is required to be issued to all occupants on the site.
- b. Legal residency in the U.S. - The URA prohibits relocation assistance from being provided to persons who are not legal residents of the URA. If HUD funds are added to a project, residency information, which was not previously required, must be obtained from all persons on the project site.
- c. Definition of voluntary acquisition - Under various state laws, a property listed on the open market may potentially be considered a voluntary acquisition. This is not true under the URA. To be considered voluntary under the URA, a properly worded notice must be sent to the property owner. This may involve issuing a voluntary letter after negotiations are underway or completed and giving the owner the option to withdraw from the purchase.
- d. Business relocation - Loss of good will and global settlements allowable under State law are not allowed under the URA.

Tax Credit Projects

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The use of Federal Tax Credits alone in a project does not trigger compliance with the URA; but the URA is triggered when tax credit funds and HUD funds are used in the same project. The income targeting requirements for a tax credit project are more restrictive than CDBG. Subrecipient or other funded entity staff must be alert to situations where a sponsor, in order to receive maximum consideration in the tax credit application process, may decide to "voluntarily" displace tenants, who would otherwise be eligible under HUD program rules to remain at the project. To ensure compliance with the URA, HUD local relocation staff should be consulted to determine whether such displacement qualifies as voluntary. The wording of notices to occupants must be reviewed thoroughly.

2. Using HUD Funds with Other Funding Sources for Relocation Payments

If more than one funding source is used to provide relocation assistance, subrecipient or other funded entity staff will ensure that subrecipient or other funded entity's accounting records clearly show, by person, which relocation benefits were paid with HUD funds versus which relocations were paid with other funds.

3. Conflicts of Interest

Subrecipient or other funded entity staff will review acquisitions and take the following actions to ensure there is no conflict of interest. A conflict of interest generally arises when the owner(s) of property being purchased with HUD funds has an interest in the entity purchasing the property either individually or as a member of a group such as a limited liability corporation.

- a. Review the HUD program rules for Conflict of Interest provisions: CDBG program (refer to 24 CFR 570.611), HOME program (refer to 24 CFR 92.356), and the SHP program (refer to 24 CFR 583.330(e)).
- b. Obtain all ownership documents including grant deeds, tax liens, assignments, promissory notes, title reports to ensure that there is no conflict of interest. This is particularly important when the parties involved in the new acquisition had a prior ownership interest in the property and/or will have an interest in the new ownership like tax credit investors, parent companies, housing developers, housing operators, and family trusts. Where there is an apparent conflict of interest, request that subrecipient or other funded entity counsel reviews all acquisition documents and render a written determination (not email) as to whether there is a conflict of interest. Subrecipient or other funded entity will not fund a project with an unresolved conflict of interest.

4. Program Income

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If property is acquired, in full or in part by HUD, and held for a period with tenants paying rent to the acquiring agency, subrecipient or other funded entity staff must determine the applicability and/or use of program income.

For the CDBG program, refer to 24 CFR 570.500(a),(b), and(c), and for sub-recipient reporting, see 24 CFR 570.504(c).

5. Contracting with Consultants

Subrecipient or other funded entity staff will review the HUD guidance prior to engaging the services of a consultant company to provide acquisition and/or relocation services. Consultants hired for HUD projects must have previous experience with HUD programs and knowledge of URA.

## **EXHIBIT 1**

### **Acquisition Checklist**

#### **Part I - Application Review**

- ☐ Contains a statement regarding compliance with URA
- ☐ Define voluntary and involuntary acquisition procedures
- ☐ Explains requirement regarding seller notification and estimate of fair market value
- ☐ If relocation is involved, requires the following be submitted at the application
  - ☐ List of occupants currently on site and who left within last 6 months
  - ☐ Explanation for any occupant departures in six (6) months prior to application
  - ☐ Description of the number of households expected to be displaced
  - ☐ Defines relocations as permanent or temporary or none
  - ☐ Estimate of relocation costs
  - ☐ Source and commitment of funding for relocation
  - ☐ Application contains a map of project, list of parcels to be purchased and identification of all property owners.
  - ☐ Application identifies all activities connected to the site, including any prior property acquisition
  - ☐ Application to contain a statement of interest of all parties in the acquisition

#### **Part II - Acquisition Review at Application -Voluntary Acquisition**

Governmental and Non-Governmental Entities)

- ☐ Any letters of interest/negotiation (optional)
- ☐ Voluntary Letter or Language in Purchase Agreement
- ☐ Voluntary Letter Delivery
- ☐ Evidence of Fair Market Value/Basis for amount established (appraisal/other value)
- ☐ Purchase Agreement
- ☐ Tax credit projects - statements and/or documentation of any identity of interest

Governmental Entities Only

- ☐ Statement/Evidence that project is not in a designated area where all of the properties are to be acquired
- ☐ Statement that agency will not acquire, if negotiations fail

#### **Part III - Acquisition Review Involuntary Acquisition (Governmental Entities Only)**

- ☐ Letter to Appraise
- ☐ Offer of Just Compensation/Summary Statement
- ☐ Letters of Negotiation
- ☐ Appraisal
- ☐ Review Appraisal
- ☐ Purchase Agreement with Seller
- ☐ Administrative Settlement Justification
- ☐ If litigation, court settlement papers

**Part IV - Acquisition Review at Project Approval**

- ☐ Resolution of any identity of interest issues
- ☐ Final Escrow Documents
- ☐ Subrecipient or other funded entity approval document
- ☐ Executed agreement with Subrecipient or other funded entity

**Part V - Acquisition Review at Project Completion Review**

- ☐ Deed Recordation
- ☐ File Documentation Review - Include all documents listed above

**Part VI - Project Review (Check program for definition of project otherwise use URA)**

- ☐ Project Information (where several parcels/owners involved).
- ☐ Map of Project showing project boundaries
- ☐ List of parcels in project and which are being acquired
- ☐ List of all owners and property addresses
- ☐ Sources and uses chart showing all properties/sources of funding

## **EXHIBIT 2**

### **Relocation Checklist**

#### **Part I - Application/Planning Review**

##### **A. Review applicability of URA**

- ☐ CDBG-DR Funded?
- ☐ Demolition/Conversion of low income units
- ☐ One for One Replacement Status
- ☐ Correct notices and benefits formula

##### **B. Occupant Status**

- ☐ Names/addresses of who (which units) will be displaced?
- ☐ Whether relocation is temporary or permanent
- ☐ Will some tenants stay and other tenants go?
  - ☐ Based on income requirement
  - ☐ Based on tenant characters- seniors/disabled/overcrowded
  - ☐ Will rents for some tenants go up?
- ☐ If no occupant list is available, a list of how many units/households of what type occupied/to be displaced

##### **C. Preliminary Estimate of Costs**

- ☐ Number of household by units/bedroom size
- ☐ Current rents in building ☐ Current rents in area/ project rents
- ☐ Possible low income ☐ Are some tenants not in U.S. legally?
- ☐ If exact information not available, develop a range of relocation costs (from no low income occupants to all low income occupants)
- ☐ If temporary relocation - (Less than twelve (12) months)
  - ☐ How many persons for how long
  - ☐ Type of out of pocket: moving, housing/utilities, food

##### **D. Relocation Staffing**

- ☐ Request Name of Organization who will carry out relocation
- ☐ Request statement of relocation experience
- ☐ Does sub-recipient/consultant have appropriate experience
  - ☐ HUD project/regulations
  - ☐ Housing versus business
  - ☐ Size of project
- ☐ Did the application explain who will carry out the following relocation functions:
  - ☐ Prepare estimates
  - ☐ Interview occupants
  - ☐ Send out notices
  - ☐ Find comparable housing
  - ☐ Calculate benefits
  - ☐ Advisory services

##### **E. Funding Source for Relocation**

- ☐ Name of entity/funding source for relocation provided

☐ Status of funds for relocation - If not now in place, is there a future commitment

F. Occupant Notification

☐ Meetings with tenants (Date, presenter, type of info) \_\_\_\_\_

☐ General Information Notice GIN

☐ Date to be issued

☐ Delivery method

☐ Wording

## **Part II – Application/Relocation Checklist - Project Approval Review**

### **Meeting with Sub-recipient/Developers/sponsor/to address Status of Relocation**

#### **A. Review Relocation Staffing**

- ☐ Who is carrying out relocation: \_\_\_\_\_
- ☐ If consultant, is consultant on board: \_\_\_\_\_

#### **B. Review General Information Notice**

- ☐ Status of GIN - has it been sent
- ☐ Review wording of GIN, if not already sent
- ☐ Review method of delivery of GIN, if not already sent

#### **C. Review Occupancy Lists**

- ☐ Who has moved in since application?
- ☐ Was there a move in notice?
- ☐ Compare current occupant list with one provided at application and request info on people who have departed

#### **D. Review Final Relocation Plan**

- ☐ Final Number to be displaced has been determined
- ☐ Type of Displacement has been determined
- ☐ Final Estimate of Costs has been made
- ☐ Availability of Comparable Units has been determined
- ☐ Timeline for Issuing Notices
- ☐ Procedures for Filing Claims have been set up
- ☐ Advisory services have been defined and checklist prepared
- ☐ Appeal procedures have been set up
- ☐ Plan has been finalized according to state and HUD rules
- ☐ Legal residency status has been reviewed and considered.

#### **E. Review Applicability**

- ☐ Review funding sources
- ☐ Correct Notices
- ☐ Correct Claim Forms
- ☐ Covered in the Relocation Plan
- ☐ Formula for benefits is correct
- ☐ Number of months is correct
- ☐ Applied to all low income
- ☐ Applied irrespective of U.S. residency status
- ☐ Need for One for One Replacement Plan



### Part III – Application/Relocation Checklist – Contract Execution Review

Conduct meeting with principals to address the following:

#### A. Final Plan is Approved

- ☐ Permanent
- ☐ Temporary

#### B. Occupancy List

- ☐ Obtain list as of ION
- ☐ Compare with other occupancy lists (check for departures)
- ☐ Move in notices used and worded properly
- ☐ Presence of undocumented aliens
  - ☐ Use of exceptions approved
  - ☐ Adjustments in calculation of benefits
- ☐ Presence of Evictions – correct procedures followed
- ☐ Which tenants will be displaced
- ☐ Is there any temporary displacement
  - ☐ Plan in place
  - ☐ Funding in place

#### C. Notices

- ☐ GIN – Status
- ☐ Notice of Displacement/Notice of Eligibility
  - ☐ Wording approved
  - ☐ Date to be sent
  - ☐ Delivery method
- ☐ Temporary Notices
  - ☐ Wording approved
  - ☐ Date to be sent
  - ☐ Delivery method

#### D. Status of Interviews with Tenants

- ☐ Started
- ☐ Estimated Date of Completion \_\_\_\_\_
- ☐ Appeal Process in Place

#### E. Subrecipient or other funded entity Review Process

- ☐ Status Reports to be provided regularly
- ☐ Procedure for file documentation has been set up

## Part IV - Application/Relocation Checklist - Project Completion Review

### A. Occupancy List

- ☐ Did everyone receive benefits?
- ☐ If no benefits, agency has reviewed and approved
  - ☐ Evictions were proper
  - ☐ Agency has reviewed and approved

### B. Review of Claim Forms

- ☐ Forms completed correctly
- ☐ All Payments made
- ☐ Inspections completed for both in-town and out of town replacement housing
- ☐ Moving Expenses for Housing
  - ☐ Actual expenses supported by documentation received
  - ☐ Fixed payment according to updated Federal FHWA schedule

### C. Review of Rental Housing Replacement Housing

- ☐ Comparable units - sufficient number and documented as comparable
- ☐ Calculations are supportable
  - ☐ Rent (Lease or rent receipts)
  - ☐ Utilities
  - ☐ Income
- ☐ Referred to correct unit size
- ☐ Correct income schedule used
- ☐ Section 8 - Documentation of initial award or transfer
- ☐ Down payment documentation in file
- ☐ Legal residency issues
  - ☐ Exceptions approved or
  - ☐ FHWA methodology used

### D. Review of Homeowners Replacement housing

- ☐ Provided, if acquisition was involuntary
- ☐ Replacement housing documented

### E. Advisory Assistance

- ☐ Assistance Documented

### F. Review of Business Relocation

- ☐ All equipment identified and accounted for (appraisal or other document)
- ☐ Re-establishment
- ☐ Moving expenses supported by bids/receipts

### G. Other Review

- ☐ Advisory Assistance
- ☐ Complaints settled
- ☐ Files Organized Properly

**EXHIBIT 3**  
**OFFER OF JUST COMPENSATION**

[Agency Letterhead]

(Date)  
(Name)  
(Address)  
(Address)

Dear \_\_\_\_\_

The purpose of this letter is to make you an offer of just compensation for your property located at \_\_\_\_\_ (address of property) \_\_\_\_\_, \_\_\_\_\_ (Name) \_\_\_\_\_, \_\_\_\_\_ (Title) \_\_\_\_\_ has established the amount of just compensation for your property at \$\_\_\_\_\_.

This amount is based on the fair market value established by an appraisal and approved by a review appraiser.

The (Subrecipient or other funded entity) proposes to purchase your property for the established fair market value stated above. Attached you will find a Summary Statement of the Basis for the Determination of Just Compensation.

If you have any questions about this matter, please do not hesitate to call me at (phone number). I look forward to hearing from you soon.

Sincerely,  
(Name)  
(Title)

Attachment

**EXHIBIT 3 - Attachment**  
**SUMMARY STATEMENT OF THE BASIS FOR THE DETERMINATION**

**Description and Location of Property:**

The Property to be acquired is located at \_\_\_\_\_, and is also described as that lot or parcel in the City of \_\_\_\_\_, County of \_\_\_\_\_, state of \_\_\_\_\_, and identified as: \_\_\_\_\_ (Lot Number, Subdivision, Plat, etc.), also recorded in (Book, Page, and Date) in the records located at \_\_\_\_\_.

This is the same property described in a deed from \_\_\_\_\_ to \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_, and recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, Clerk's Office, \_\_\_\_\_, and on record at Tax Map: \_\_\_\_\_ Map Code: \_\_\_\_\_, Route #: \_\_\_\_\_.

**Purpose of Purchase:**

**Interest in the Property:**

**Improvements:**

**Declaration of Offer:**

Based on the appraisal and the review appraisal prepared for the property to be acquired, the State/County/City of \_\_\_\_\_ hereby makes you an offer to acquire your property in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_.00). This offer is for the fair market value of your property and does not include any consideration of decrease or increase in value attributable to the project in which it is being acquired. If relocation payments are applicable, they are not represented in the amount identified in this offer letter.

Should you have any questions concerning this summary statement and the State/County/City offer, please contact \_\_\_\_\_ (Name) at the \_\_\_\_\_ (Subrecipient or other funded entity name), phone number \_\_\_\_\_.

\_\_\_\_\_  
Signature of Authorizing Official

\_\_\_\_\_  
Date

**EXHIBIT 4**  
**90 DAY NOTICE TO VACATE**

**(Subrecipient or other funded entity Letterhead)**

You were issued a notice of eligibility for relocation assistance, which identified the address of a comparable unit that was most representative of your present home. This notice informed you that it would be necessary for you to relocate in order for the (Subrecipient or other funded entity name) to carry out its project, and that you would not be required to vacate your unit without at least ninety (90) days advance written notice of the date by which you must vacate.

This is your ninety (90)-day notice to vacate the property. You must vacate the property no later than           (Insert Date ninety (90) days from the date of this Notice)          .

When you do move, you will be entitled to relocation payments and other assistance in accordance with Federal regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA). This assistance was outlined in the Notice of Eligibility for Relocation Assistance you previously received.

NOTE: Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.

We will continue to provide you with the address of other replacement housing units for you to consider, and provide transportation to inspect these units. Please remember that we cannot base your payment on any unit that is not a "comparable replacement home," and decent, safe and sanitary. Therefore, do not commit yourself to purchase or rent a unit until we inspect it.

In addition to relocation payments and housing referrals, counseling and other services are available to you. However, in order for you to obtain a replacement housing payment, you must move to a decent, safe and sanitary home within one year after you vacate your present home. Therefore, do not move into your selected unit until it has been inspected and approved.

If you have any questions, please contact the (Subrecipient or other funded entity) representative, \_\_\_\_\_, at \_\_\_\_\_.

This letter is important to you and should be retained.

## EXHIBIT 5

### Fixed Residential Moving Cost Schedule (2012)

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, Fixed Residential Moving Cost Schedule 2012 was published in the [Federal Register/Notices on Wednesday, May 23, 2012](#).

The provisions of the notice are **effective June 22, 2012** or on such earlier date as an agency elects to begin operating under this schedule.

The payments listed in the table below apply on a state-by state basis. Two exceptions and limitations apply to all States and Territories. Payment is limited to one hundred dollars (\$100.00) if either of the following conditions apply:

- a. A person has minimal possessions and occupies a dormitory style room, or
- b. A person's residential move is performed by an agency at no cost to the person.

State	Occupant Owns Furniture									Occupant does not own furniture	
	Number of Rooms of Furniture								addt'l room		
	1 room	2 rooms	3 rooms	4 rooms	5 rooms	6 rooms	7 rooms	8 rooms		1 room/ no furn.	addt'l room no furn.
Alabama	600	750	900	1050	1200	1350	1500	1650	150	400	50
Alaska	700	900	1125	1350	1550	1725	1900	2075	300	500	200
American Samoa	282	395	508	621	706	790	875	960	85	226	28
Arizona	700	800	900	1000	1100	1200	1300	1400	100	395	60
Arkansas	550	825	1100	1350	1600	1825	2050	2275	200	300	70
California	685	880	1100	1295	1570	1815	2090	2365	250	450	85
Colorado	600	800	1000	1150	1300	1450	1600	1750	150	350	50
Connecticut	620	810	1000	1180	1425	1670	1910	2150	150	225	60
Delaware	500	710	880	1110	1260	1410	1560	1710	160	400	60
DC	500	650	800	950	1100	1250	1400	1650	150	300	50
Florida	550	700	875	1050	1200	1350	1500	1650	200	450	125
Georgia	600	975	1300	1600	1875	2125	2325	2525	200	375	100
Guam	450	800	1150	1450	1750	2000	2250	2500	100	200	0
Hawaii	550	900	1250	1550	1850	2100	2350	2600	200	300	100
Idaho	500	650	800	950	1100	1200	1300	1400	100	300	50
Illinois	700	850	1000	1100	1250	1450	1600	1900	300	500	75
Indiana	500	700	900	1100	1300	1500	1700	1900	200	400	100
Iowa	550	700	800	900	1000	1100	1225	1350	125	500	50
Kansas	400	600	800	1000	1200	1400	1600	1800	200	250	50
Kentucky	500	700	900	1100	1300	1500	1700	1900	200	350	50
Louisiana	500	700	900	1100	1300	1500	1700	1900	200	375	60

Maine	650	900	1150	1400	1650	1900	2150	2400	250	400	100
Maryland	650	850	1050	1250	1450	1650	1850	2050	200	500	100
Massachusetts	700	850	1000	1150	1300	1450	1600	1750	200	400	100
Michigan	700	950	1150	1300	1450	1600	1750	1900	300	500	200
Minnesota	550	700	900	1100	1300	1500	1700	1900	250	425	100
Mississippi	750	850	1000	1200	1400	1550	1700	1850	300	400	100
Missouri	800	900	1000	1100	1200	1300	1400	1500	200	400	100
Montana	500	700	800	900	1100	1300	1500	1700	200	350	50
Nebraska	390	545	700	855	970	1075	1205	1325	120	310	40
Nevada	500	700	900	1100	1300	1500	1700	1900	200	350	60
New Hampshire	500	700	900	1100	1300	1500	1700	1900	200	200	150
New Jersey	625	725	825	975	1125	1275	1375	1525	250	300	50
New Mexico	650	850	1050	1250	1450	1650	1850	2050	200	400	60
New York	600	800	1000	1200	1400	1600	1800	2000	200	350	100
North Carolina	550	750	1050	1200	1350	1600	1700	1900	150	350	50
North Dakota	465	670	845	1015	1190	1330	1420	1595	175	405	60
N. Mariana Is.	282	395	508	621	706	790	875	960	85	226	28
Ohio	600	800	1000	1150	1300	1450	1600	1750	150	400	100
Oklahoma	600	750	900	1100	1250	1450	1650	1850	175	300	50
Oregon	600	800	1000	1200	1400	1600	1800	2000	200	350	100
Pennsylvania	500	750	1000	1200	1400	1600	1800	2000	200	400	70
Puerto Rico	500	700	850	950	1150	1300	1450	1600	150	425	100
Rhode Island	450	625	800	900	1000	1200	1350	1500	150	300	50
South Carolina	685	790	1075	1260	1575	1735	1890	2075	225	500	75
South Dakota	500	650	800	950	1050	1200	1400	1600	200	300	40
Tennessee	500	750	1000	1250	1500	1750	2000	2250	250	400	100
Texas	600	800	1000	1200	1400	1600	1750	1900	150	400	50
Utah	600	750	900	1050	1200	1350	1500	1650	150	500	100
Vermont	400	550	650	850	1000	1100	1200	1300	150	300	75
Virgin Islands	500	700	850	950	1150	1300	1450	1600	150	425	100
Virginia	600	800	1000	1200	1400	1600	1800	2000	200	400	75
Washington	600	800	1000	1200	1400	1600	1800	2000	200	300	50
West Virginia	750	900	1050	1200	1350	1500	1650	1800	150	350	50
Wisconsin	550	700	900	1100	1300	1500	1700	1900	250	425	100
Wyoming	480	590	750	910	1070	1180	1400	1500	160	300	50

**EXHIBIT 6**  
**Notice Procedures**

Type of Notice	When Notice Should Be Sent	Who Will Send it
<b>Involuntary Acquisition</b>		
Letter of Interest/Letter to Appraise	At appraisal	Subrecipient or other funded entity staff in charge of acquisition/eminent domain process
Offer Letter -Just Compensation and Summary Statement	After appraisal and review appraisal and value determination	Subrecipient or other funded entity staff in charge of acquisition or eminent domain process
<b>Voluntary Acquisition</b>		
Voluntary Notice	Prior to purchase agreement or after the fact, if application submitted after purchase agreement is signed	Subrecipient or other funded entity staff or third party applicant
<b>Relocation Notices/General Information Notice</b>		
Involuntary Acquisition Voluntary Acquisition	Letter of Interest Purchase Agreement	Subrecipient or other funded entity staff in charge of eminent domain process Notice provided by applicant, reviewed by subrecipient or other funded entity
Move In Notice/Notice to Prospective Tenant	At time of move in; after application submitted and General Information Notice sent to other tenants	Notice provided by applicant; reviewed by subrecipient or other funded entity staff
<b>Notice of Eligibility</b>		
Involuntary Acquisition	Offer of Just Compensation	Subrecipient or other funded entity staff in charge of eminent domain process
Voluntary Acquisition Project carried out by Subrecipient or other funded entity	Approval of Consolidated Plan or Amendment to Consolidated Plan listing project site	Subrecipient or other funded entity in charge of acquisition
Project carried out by third party applicant	Execution of contract between Fontana and third party applicant or contractor and site control exists	Notice provided by applicant; reviewed by Subrecipient or other funded entity staff
Ninety (90) Day Notices	Ninety (90) Days prior to vacate cannot issue until address of comparable unit provided to displacee	Notice provided by Subrecipient or other funded entity or provided by applicant and reviewed by Subrecipient or other funded entity staff
Notice of Non-Displacement	Same timing as Notice of Eligibility	Notice provided by Subrecipient or other funded entity or provided by applicant and reviewed by Subrecipient or other funded entity
Temporary Notice	No less than ninety (90) days before temporary relocation starts	Notice provided by Subrecipient or other funded entity or provided by applicant and reviewed by Subrecipient or other funded entity



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**APPROVAL:**

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Samuel R. Viavattine  
Deputy Commissioner  
Sandy Recovery Division

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Laura Shea  
Assistant Commissioner  
Sandy Recovery Division

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**PURPOSE:**

This policy sets forth the standards for determining the reasonableness, allowability, and allocability of costs incurred as part of CDBG- DR-financed activities. This policy is consistent with guidance found in 2 CFR Part 200 for governmental subrecipients, non-profit subrecipients, and educational institutions.

**POLICY:**

**I. Allowable Costs**

Based on guidance from 2 CFR Part 200, Subpart E – Cost Principles cited above, a *cost is allowable* under the CDBG-DR program if:

- - (a) It is necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
  - (b) Conforms to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
  - (c) Is consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
  - (d) Is accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

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(e) Is not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. (See also §200.306 Cost sharing or matching paragraph (b)).

(f) Is adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

**II. Reasonable costs. (§200.404 )**

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.

(b) The restraints or requirements imposed by such factors as: sound business practices; arm's length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.

(c) Market prices for comparable goods or services for the geographic area.

(d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.

(e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

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### III. Allocatable Costs.

The expenditure has been *authorized by the grantee* through approval of the budget for the activity. Any obligations by the subrecipient on such activities exceeding the approved amount may be disallowed by the grantee based upon the provisions of the Subrecipient Agreement.

A cost is allocable if it can be traced to a particular cost object. This means that:

- (a) It is incurred specifically for the Federal award;
  - (b) It benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods; and
  - (c) It is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award in accordance with the principles in this subpart.
- (d) In accordance with the guidance found in 2 CFR 200, the composition of direct and indirect costs must be clear. **Direct costs** must be identified specifically with a particular activity. **Indirect costs** are those incurred for common objectives that benefit more than one activity (e.g., salaries of executive officers, accounting and auditing, other costs of general administration). The subrecipient's indirect costs must be supported by an indirect cost proposal/cost allocation plan prepared in accordance with U.S. Department of Health and Human Services Circular OASMB-5 (for non-profit subrecipients) or OASC-10 (for governmental subrecipients). The HHS approved indirect cost application must be available to be furnished upon request. Alternately, the subrecipient may opt for the de minimus 10% indirect cost rate, pursuant to 2 CFR 200.414.

### IV. Non-Prohibited Costs

The *expenditure is not prohibited* under Federal, state, or local laws or regulations. The following activities may *not* be assisted with CDBG-DR funds *unless* authorized as a special economic development activity under 24 CFR 570.203, *or* when carried out by Community-Based Development Organizations(CBDOs) under the provisions of 24 CFR

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570.204, or when the other special conditions noted in the following section after each category are met:

- **Purchase of construction equipment** (unless purchased for use as part of a solid waste disposal facility, which is eligible under 24 CFR 570.201(c)).
- **Personal property, furnishings, fixtures, or motor vehicles** (unless these items constitute part or all of a public services activity under 24 CFR 570.201 (e), are eligible as firefighting equipment under 24 CFR 570.201(c), or are necessary in the administration of activities assisted with CDBG-DR funds).
- **Operating and maintenance expenses** (except for expenses associated with public service, “In Rem,” and interim assistance activities, or office space for program staff employed in carrying out the CDBG-DR program).
- **Income payments** (this prohibition does not preclude payments made under 24 CFR 570.201(n) to facilitate and expand homeownership by low- and moderate-income persons or emergency grant payments made over a period of up to 3 consecutive months to the provider of such items as food, clothing, housing, or utilities).

Additional prohibited expenditures can be found at 2 CFR 200.420 – 2 CFR 200.475 (General Provisions for Selected Items of Cost).

#### V. **Additional Requirements**

The **expenditure is consistently treated** and utilizes the same procedures in calculating costs as for its non-Federally assisted activities.

The **cost is net of all applicable credits**. Any credits such as purchase discounts or price adjustments must be deducted from total costs charged. The subrecipient is not allowed to make a profit from any costs charged to CDBG funds.

#### VI. **Source Documentation**

The general standard is that ***all accounting records must be supported by source documentation (2 CFR Part 200)*** Supporting documentation is necessary to show that the costs charged against CDBG-DR funds were incurred during the effective period of the subrecipient’s agreement with

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the grantee, were actually paid out (or properly accrued), were expended on allowable items, and had been approved by the responsible official(s) in the subrecipient organization. The source *documentation must explain the basis of the costs incurred* as well as show the actual dates and amount of expenditures.

- With respect to **payrolls**, source documentation should include employment letters and all authorizations for rates of pay, benefits, and employee withholdings. For staff time charged to the CDBG-DR program activity, **time and attendance records should be maintained consistently and available upon demand**. If an employee's time is split between CDBG-DR and another funding source, there must be time distribution records supporting the allocation of charges among the multiple sources. Canceled checks from the employees, insurance provider, etc., or evidence of direct deposits will document the actual outlay of funds.
- With respect to the cost of **space and utilities**, space costs must be supported by documentation such as rental or lease agreements. Utility costs will be supported by bills from the utility companies. Both types of expenses will be supported by canceled checks. If the cost of space or utilities is split between the CDBG-DR program and other sources, there must be a reasonable method in place to allocate the charges fairly among the sources. Any questions regarding allocations and/or allocation methodology should be referred to the Sandy Recovery Unit of the Department of Community Affairs for guidance. Sub recipients should keep in their administrative files, documentation of the methodology used to allocate costs.
- With respect to **supplies**, documentation would include purchase orders or requisition forms initiated by an authorized representative of the subrecipient, an invoice from the vendor (which has been signed-off by the subrecipient to indicate the goods were received), and information regarding where the supplies are being stored and for what cost objective(s) they are being used.

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- All **source documentation** does not have to be located in the CDBG-DR project files, but it must be **readily available for review by the grantee, HUD, or other authorized representatives at all times.**
- The subrecipient must ensure that either (a) an encumbrance/obligation is recorded whenever a contract is signed or a purchase order is issued or (b) up-to-date information on the status of all obligations is otherwise readily accessible.
- The subrecipient must maintain a complete, accurate, and up-to-date record of the receipt and use of CDBG-DR-generated **program income.**

The Sandy Recovery Division and all sub recipients and contractors must submit to the Finance Director a written explanation for all cost variances that exceed 10% of the in-house estimate and a written explanation of any variances where actual costs exceed the budgeted amount.

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**SUBJECT:** Cash Management

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**NUMBER:** 2.10.28

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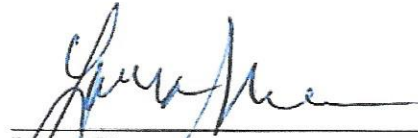
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**APPROVAL:**



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Samuel R. Viavattine  
Deputy Commissioner  
Sandy Recovery Division



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Laura Shea  
Assistant Director  
Sandy Recovery Division

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**PURPOSE:**

To establish procedures to minimize the time elapsed between receipt of funds from the grantee and the actual disbursement of those funds. This requirement is intended to curtail unnecessary drawdowns of CDBG- DR funds (through the grantee) from the U.S. Treasury and minimize the cost of financing the CDBG- DR program by the Federal Government.

**POLICY:**

Grantees have two general methods available to transfer CDBG-DR grant funds to subrecipients: the reimbursement method and the cash advance method.

- The **reimbursement method** entails a transfer of grant funds to the subrecipient **based on actual expenditures by the subrecipient before the request for funds.**
- The **cash advance method** involves the transfer of CDBG-DR funds from the grantee based upon the subrecipient's request (and information on obligations) **before the actual cash disbursements have been made by the subrecipient.**

Both methods must be implemented in compliance with the cash management requirements. In accordance with 2 CFR Part 200 as applicable, and 31 CFR Part 2056, these requirements include:

- A subrecipient must include ***accurate information in its drawdown request to a grantee.*** This requirement is intended to address the intentional falsification of
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drawdown information. Subrecipients must have adequate financial record-keeping systems in place to be able to determine reliably their cash on hand and what their immediate cash needs will be.

- *Although there is no explicit procedure for cash advances provided by regulation, the general standard is that the subrecipient must disburse the funds to pay for CDBG-DR program costs within 3 business days of the receipt of those funds from the grantee.* The subrecipient should also maintain written justification in its files for each instance in which disbursement of an advance took longer than a 3-day period.
  - A subrecipient must *return erroneously drawn funds to the grantee within 3 business days* This applies to both advances and reimbursement payments when it is determined that the transfer resulted in more funds being drawn down than what was required by the subrecipient's immediate disbursement needs.
  - If CDBG-DR *grant advances* are placed in an interest-bearing account by a subrecipient, the subrecipient must *return this interest income to the U.S. Treasury* via the grantee (per 2 CFR Part 200 or 570.502(b)(3)(i), as applicable, and 24 CFR 570.500(a)(2)). Such interest income is not considered program income. Similarly, if a subrecipient uses a *"revolving loan fund account"* under the CDBG-DR program, *the funds must be deposited in an interest bearing account, and all interest earned on funds on deposit must be returned to the Treasury via the grantee no less frequently than annually* (24 CFR 570.500(b)).
  - *To the maximum extent feasible, program income shall be used or distributed before additional withdrawals from the U.S. Treasury are made, except as it relates to revolving loan funds, in which case, repayments to the fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the U.S. Treasury for payments which could be funded from the revolving fund (Federal Register Notice, V. 78, No. 43, March 5, 2013, p. 14342).*
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- If program income is put in an approved revolving fund by a subrecipient, the subrecipient must *disburse this program income for the same activity for which the revolving fund was established*, before making further cash drawdown requests to the grantee for the activity.
- Funds held in an *escrow account* for rehabilitation activities generally must be disbursed within 10 days (24 CFR 570.511(a)(4)).

**SUBJECT:** Sandy Recovery Division Vehicle Rentals

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**NUMBER:** 2.10.29

**EFFECTIVE:** August 2013

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**SANDY CDBG-DR**

**APPROVAL:**



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Paul B. Macchia  
Chief of Staff

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**PURPOSE:**

To establish policies and procedures for the rental of vehicles to be used by State of New Jersey, DCA Sandy Recovery Division full-time employees traveling on official State business.

**SCOPE:**

Full-time, State of New Jersey, DCA Sandy Recovery Division employees whose job duties require vehicle travel.

**POLICY:**

The Department may arrange for a rental vehicle on either a short-term or long-term basis for a Sandy Recovery Division employee who is authorized to travel on official State business.

Long-term vehicle rentals require the employee travel no less than 1,250 business miles per month, as indicated in OMB Circular 12-11-ADM, State Vehicular Assignment and Use Policy.

Vehicles must be picked up and returned on the dates specified in the vehicle rental agreement. Daily vehicle rental and other fees incurred outside the dates of the rental agreement will be the responsibility of the employee.

Requests for vehicle rental must receive Sandy Recovery Division Director and DCA Chief of Staff advance written approval.

In other instances where cost and other factors must be considered, the Chief of Staff, at his discretion, may authorize a vehicle rental. Such requests must include compelling justification.

Employees that use a State-contracted rental car in the performance of their official State duties must sign and be in full compliance with the rental agreement provided to them by the contracted rental car agency.

Rental vehicles are to be secured through the Department Fiscal Office using a State Travel Credit Card.

A completed request for vehicle rental must be presented to the Department Fiscal Office for processing not less 48 hours prior to the vehicle rental start date. A completed form must:

- Have all pertinent fields populated.

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- Include a cost comparison evidencing that vehicle rental is more cost effective than requiring the employee use his personal vehicle during the requested time period, a requirement of OMB 12-11-ADM, State Vehicular Assignment and Use Policy.
- Be signed by the employee (requestor).
- Be approved/signed by the Sandy Recovery Division Director.
- Reference the Sandy CDBG-DR NJCFS account number, which is
- 13-100-022-8022-001.
- Be signed by the Sandy Recovery Division Fiscal Coordinator to a) attest to the availability of funds and b) where federal grant funding will be used, certify that such expenditure is allowable.
- Be approved/signed by the DCA Chief of Staff.
- Be approved/signed by the DCA Accountability Officer.
- Have a copy of the employee's valid driver's license and personal automobile insurance card attached.

The lowest cost vehicle available under contract will be rented regardless of minor differences in functionality and/or features.

Vehicle "options" are not to be selected as they unnecessarily add to the cost of vehicle rental.

The rental agency is not responsible for loss of or damage to any personal property in or on the vehicle, in any service vehicle, on the rental agency's premises, or received or handled by the rental agency.

The Sandy Recovery Division shall be responsible for vehicle rental costs charged by the State-contracted rental agency and for related employee reimbursements for fuel, tolls and parking costs. Charges that will be the responsibility of the employee include, but are not limited to, those for unauthorized upgrades, vehicle damages and/or repairs, lost keys, fuel surcharges, daily rental and other fees incurred outside the authorized rental period (early pickup, delayed return), EZ Pass violations, motor vehicle violations, and parking tickets.

The Sandy Recovery Division must ensure that vehicle usage logs are maintained for all rental assignments, as required by DCA Administrative Procedure 1.10.6, State Vehicle Procedures. Vehicle usage logs must indicate beginning and ending odometer readings, time and mileage for all stops including lunch and breaks. The Sandy Recovery Division Vehicle Coordinator or designee must enter the rental vehicle mileage and days assigned into the Department's Vehicle Database by the 30th of each month.

The employee may forfeit future access to rental vehicles should a significant overstatement exist between the actual rental vehicle mileage reported by the vehicle rental agency and the anticipated mileage included on the employee's vehicle rental request that was used to calculate the cost effectiveness of renting. Further, an employee will be required to refund the Department

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for fuel reimbursements determined to be excessive based actual mileage reported by the vehicle rental agency.

Agency use of the State vehicle rental contract will be monitored by the Department of the Treasury, Contract Compliance and Audit Unit (CCAU), and those agencies found to be deviating from the procedures outlined for contract use will have their privileges to use such contract revoked, as noted in the Rental Vehicle contract Notice of Contract Award.

#### **EMPLOYEE RESPONSIBILITIES**

- Arriving at the rental agency to accept the rental vehicle not later than three (3) hours after the estimated time of arrival or at the pick-up location at the designated time.
- Declining the loss damage waiver option, supplemental liability coverage, personal accident insurance (PAI) and other additional insurance options when executing the rental agreement at the rental agency, a requirement of OMB Circular 12-14-OMB, Travel Regulations. DCA drivers who accept any of the insurance options listed above will not be reimbursed for these costs.
- Inspecting the rental vehicle for defects and notifying the rental agency of such prior to accepting the vehicle.
- Using the rental car for the conduct of State business only, as required by OMB Circular 12-11-ADM, State Vehicular Assignment and Use Policy.
- Using a cell phone while driving only when conducting official State business and only when a hands-free device is utilized.
- Paying highway tolls using cash and requesting reimbursement. A State-provided EZ Pass transponder is **NOT transferrable** to a rental vehicle.
- Returning the vehicle to the rental agency or arranging for a rental agency vehicle pick up that is not later than the date specified on the vehicle rental contract.
- Returning the rented vehicle with a full tank of gas. Failure to do so will result in the employee paying all fuel surcharges imposed by the rental company.
- Returning the vehicle free of damages. Rental agency damage claims are the responsibility of the employee.
- Submitting a DCA Travel Reimbursement request, together with original receipts, for reimbursement of fuel, tolls and parking costs associated with State business use only.

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- Reporting as soon as possible, but within 24 hours, all accidents, breakdowns, minor mechanical disrepairs and lost keys to the vehicle rental agent, to the Sandy Recovery Division Director, and to the DCA Department Fleet Coordinator at **609-292-9114**.
- Contacting the DCA Office of Human Resources at **609-292-6030** in the event of a death or serious injury resulting from an accident as soon as possible but not later than 24 hours after the accident.
- Taking notes at the scene of the accident. And, together with the employee's immediate supervisor, completing a Vehicle Accident Report (Form RM-1A) or an Incident Report (Form RM-1B), and forwarding it to your Division's Vehicle Coordinator within 24 hours of the accident. These forms must be completed for all accidents or non-moving incidents regardless of severity.
- Forwarding any correspondence received from an attorney, insurance company or party to an accident in which the State is involved to the DCA Department Fleet Coordinator immediately upon receipt.
- Consulting with the DCA Department Fleet Coordinator prior to responding to any requests for statements, interrogatories, depositions and court appearances.

References:

OMB Circular 12-11-ADM, State Vehicular Assignment and Use Policy

OMB Circular 12-14-OMB, Travel Regulations

OMB Circular 13-03-DPP, State of New Jersey Travel Card Program

DCA Administrative Procedure 1.10.6, State Vehicle Procedures

M-0064, Nationwide Vehicle Rental Services – State of New Jersey Notice of Contract Award

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SANDY RECOVERY DIVISION**

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**SUBJECT:** Budget & Finance Department Procedures - Invoice Submission

---

**NUMBER:** 2.10.31

**EFFECTIVE:** October 2013


**REVISED:** June 2016

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**SANDY CDBG-DR**

**PAGE 1 OF 6**

**APPROVAL**



Samuel R. Viavattine  
Deputy Commissioner  
Sandy Recovery Division



Laura Shea  
Assistant Commissioner  
Sandy Recovery Division

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**POLICY:**

Contractor invoices submitted for payment to the State of New Jersey, Department of Community Affairs Sandy Recovery Division must be submitted following these procedures and in accordance with 2 CFR 200 and 2 CFR 200 Appendix II

**PROCEDURE:**

**Task Order:** Prior to invoice submittal, a task order is initiated within the Department of Community Affairs Legal Office to begin the internal process allowing contractor invoices to be considered for payment. A purchase order will be issued based on the Contract and the respective task order. Contractors may not submit invoices not tied to a DCA-approved task order and/or purchase order.

**Invoice Format:**

An invoice must contain all of the information included in the sample template (attached). DCA will permit alternate formats so long as all information is fully covered. All major DCA-Sandy vendors utilize the SIROMS CIM Module for submitting Invoices for reimbursement. Each invoice as well as a summary of all supporting details should be attached in SIROMS in Excel workbook format.

The invoice submittal/attachments should contain all backup necessary to tie out to the charges categorized on the invoice summary. Invoice support/backup documentation should be scanned and provided in electronic format within the SIROMS CIM module. See the following section for additional guidance on eligible costs and back-up documentation.

Invoices submitted by contractors are expected to be accurate, timely, current, and consistent with the terms of their agreements. Invoices are submitted separately by type (labor, ODCs, and travel). An invoice submittal should only contain one of the three categories and be applied against one Task Order.



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It must also be broken out by program area, activity code and national objective (as applicable to contractors working on specific program types). An authorized representative must sign a certification as part of each invoice. This certification should be located on the invoice summary (provided in hard copy), with original signature and should read as follows:

“I hereby certify that, to the best of my knowledge and belief, all payments requested are correct, accurate, and complete, that payment therefore has not been received and that all amounts requested are for the appropriate purposes and in accordance with this Agreement.”

This self-certification requirement imposes a responsibility on the authorized representative of each contractor to undertake, at a minimum, a good faith effort to verify that its charges under the Program are appropriate. Should a problem be discovered through monitoring, this certification is an important component of the remedy process.

**Documenting Eligible Costs:**

All costs must meet the following requirements and the invoice must include appropriate documentation. In addition, the contractor's files are subject to audit by DCA and HUD and must contain all appropriate back-up documentation.

- All invoices must adhere to the cost principles set forth in 2 CFR 200. Subpart E. Eligible contractor staff costs, ODC's and per diem travel expenses may be billed as direct costs to the CDBG-DR program. To be eligible for payment, these costs must be properly documented and attributed to the specific program for which the costs were incurred.
- Invoices should identify the associated period of performance, the task order, and/or purchase order, as applicable.
  - All backup documentation should cover the same billing period
  - Costs and totals should be presented for the current billing as well as cumulative to date.
  - Totals and multiplications within the invoice must be accurate. DCA will not correct mathematical errors and will return inaccurate invoices to the contractor for correction.

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- Invoices must reference the specific Task and/or purchase order authorizing the scope of work, and costs are to be separated by program area (if applicable).
  - When an individual works on multiple Sandy Recovery programs (e.g., Resettlement, RREM), labor hours and travel/ODCs must be reported separately for each program.
  - In particular, costs for each DCA program (RREM, Resettlement, LMI, etc.) must be reported separately.
- The backup/support documentation included should tie out to all invoice charges by program area.
  - Backup documentation should be provided in the same sequence as the entries in the invoice to facilitate review
- Invoices should correspond to standard contract line items for costs related to personnel, travel and other direct costs.
  - Costs and totals should be reported separately for labor charges, travel and ODCs, as appropriate
  - Cumulative invoice totals should be compared to applicable task order totals.
  - Remaining task order amounts should be presented, where applicable
- Timesheet and labor category by employee and by work location (if applicable) must be included in the back up.
  - Hours for each labor category should be reported separately for each individual in the labor category with appropriate backup for these hours (e.g., timesheets, reports from web-based time accounting systems)
  - Timesheets must be kept by person. Each individual must sign their timesheet attesting to its accuracy. Supervisors must sign/approve timesheets
  - Labor should be tracked and invoiced in increments no smaller than 0.25 hours
  - Timesheets or electronic timekeeping system summaries must be attached to each invoice for all applicable staff billed during that period
  - Labor rates must correspond to the rates approved by DCA in the contract. Contractors' files must have documentation of how employees and subcontractors were assigned to



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labor categories based on factors such as education, experience, skills, and job requirements.

- Hotel and food travel must be expensed as per diem. Travel and lodging receipts must be included, while meal expense receipts are unnecessary (within per diem) or when the cost of the meal is \$25 or less.
  - Travel must be directly related to the provision of services approved in the contract and within time periods approved by DCA
  - Airfare or train trips must be conducted at the lowest reasonable coach class price. Direct flights may be chosen (rather than connections) if the airfare cost is less than the cost of a connecting ticket plus added travel time
  - Mileage for business use of personal automobiles should be invoiced at \$0.31 per mile per contract terms and conditions
  - Contractors shall encourage carpooling when permitting rental cars. Rental cars shall be at the lowest class appropriate for the number of travelers
  - Billed travel costs for hotel and meals/incidentals may not exceed the current federal per diem rates. The A-87 and federal travel rules regarding eligible costs must be followed including no reimbursement for purchase of alcohol
  - Per the federal travel requirements, meals and incidentals must be pro-rated for travel days
  - No allowance for meals and incidentals is permitted for in state travel.
  - Other direct costs such as supplies, telephone, photocopies or equipment shall be supported by receipts. Copies of these receipts must be submitted with the invoice
  - DCA expects contractors to ensure cost reasonableness in the purchase of other direct costs
  - Billed costs for equipment and supplies must be directly attributable to the provision of DCA programs
  - When more cost efficient, equipment should be leased rather than purchased. Lease costs may be billed based on an invoice
  - Equipment purchased using CDBG funds is the property of DCA. This equipment must be tagged with a property tag following those procedures (See SRD Policy 2.10.11 –

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Property Management and Disposition) and the equipment must be returned to DCA at the contract conclusion

**Invoice Narrative:**

Each invoice shall be accompanied by a brief narrative. The narrative is expected to be no longer than one page, unless additional explanation is needed. That narrative must contain the following information:

- Summary of the work completed over the billing period
- Explanation of any unusual or non-standard items in the invoice

**Invoice Submission:**

Invoices shall be submitted at least monthly via SIROMS but may be submitted more frequently as major contract tasks are completed.

**Invoice Review:**

Once a contractor submits the invoice and back up documentation for review, it is first reviewed and approved by the State Contract Manager (SCM). Once approved by the SCM, the Sandy Recovery Division Budget and Finance Department assigns a Department Fiscal Analyst to review the invoice for accuracy, backup support, and alignment with the task order or purchase order. Areas for review include but are not limited to:

- All required data/supporting documentation as indicated previously in this policy
- Invoice period of performance
- Invoice date is correct. SRD considers the invoice date to be the date that all information required to completely review the invoice is received
- Task Order number is referenced (more than one task order cannot be combined on a single invoice)



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- Hours being invoiced should match hours on the labor detail summary by employee / labor category and all time sheets submitted agree with the summary by employee
- Expense (other direct costs) backup is correctly calculated and agrees to the total amount billed
- Expense backup is reviewed by SRD for allowable and unallowable costs per Federal/State Regulations
- Travel documentation is reasonable and complete:
  - Airline costs are reasonable or an explanation is provided
  - Per Diem is billed at allowable daily rates
  - Business meals include an explanation and must be approve

If any of the above items are incorrect or incomplete, the invoice will be returned (within the SIROMS system) to the contractor/vendor, unpaid, with an explanation detailing the deficiencies.

Contractors/vendors shall correct the deficiencies and resubmit the invoice in SIROMS. Once all required supporting documents have been determined to be present by the Fiscal Analyst and approved, the Fiscal Analyst prepares PO requests and PV requests to be reviewed/signed by the Principal Fiscal Analyst, State Contract Manager, Asst. Director-Budget and Finance and the CFO-Sandy Recovery Division as applicable and forwarded to DCA Fiscal for processing.

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**APPROVAL:**

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Timothy F. Cunningham, Director  
Sandy Recovery Division

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**Purpose:**

Title VI at 24 C.F.R §1.4 requires that recipients take responsible steps to ensure meaningful access to federally funded programs by persons with Limited English Proficiency (LEP persons). The New Jersey Department of Community Affairs (DCA) is a recipient of federal funds for its disaster recovery programs and is obligated to reduce language barriers that can preclude meaningful access by LEP persons to CDBG-DR funded DCA programs. DCA has prepared this Language Access Policy and Plan (“LAP” or “Plan”), which defines the actions to be taken to ensure meaningful access to agency services, programs, and activities on the part of persons who have limited English proficiency.

DCA is committed to this Language Access Policy and the Plan it informs as the appropriate response to meeting our clients’ needs. DCA’s federally funded programs will interact with individuals with limited English proficiency (LEP) in a variety of ways. These could include, but are not limited to:

- In person and telephone contact with program applicants and participants;
- hotline or information line calls;
- outreach programs;
- public meetings and hearings to solicit citizen input;
- public access to agency websites;
- written materials or complaints sent to an agency;
- Agency brochures intended for public distribution.

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Since any public interaction has the potential to involve LEP individuals, it is important those departments and agencies receiving CDBG-DR funding examine the manner in which they will interact with the public and/or LEP individuals and either:

1. Adopt the Department of Community Affairs policy or;
2. Create a policy for review and approval by DCA.

**Definitions:**

*Recipient* means the entity designated as a recipient for assistance with federal or state funding. This is any entity which receives federal assistance, directly from a DCA-administered program or from a sub recipient. This policy pertains to recipients of CDBG-DR assistance from any of the following: any state department, unit of local government, public housing authority, community housing development organization, public or private nonprofit agency, developer, contractor, private agency or institution, builder, property manager, or residential management corporation.

*LEP* means Limited English Proficiency. Persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English, and may be entitled to language assistance with respect to a particular type of service, benefit, or encounter. Note that for the purposes of gathering data for the four-factor analysis, DCA used the U.S. Census definition as any individual who speaks a language at home other than English as their primary language, and who speaks or understands English “not well” or “not at all”.

**Background:**

DCA is the grantee for all HUD CDBG-DR funding allocated to the State of New Jersey in response to the devastation created by Superstorm Sandy. Utilizing this funding, DCA is directly operating the following programs:

- Rehabilitation, Reconstruction, Elevation and Mitigation (RREM) for homeowners;
- Landlord Rental Repair Program;

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- Neighborhood Enhancement Program;
- Landlord Incentive Program (project-based rental assistance);
- Programs to Prevent Homelessness (tenant based rental assistance);
- Lead Hazard Reduction Program (for both homeowners and landlords); and
- LMI Homeowner Repair Program (including set-aside for manufactured housing).

In addition, DCA is providing support to local governments to help them address additional demands on public services created as a result of the storm. DCA also provides personnel to support local code enforcement and zoning code officials. DCA administers planning grants for local municipalities and provides match for federal programs (FEMA, EPA, FHWA, and ACE).

DCA also subcontracts with other state agencies and quasi-governmental organizations to deliver CDBG-DR programs that interface directly with the public at some point during the implementation process. These include the following agencies and programs:

Housing Mortgage Finance Agency (FMHA)

- Fund for Restoration of Multi Family Housing (including set-aside for Public Housing Authorities);
- Sandy Special Needs Housing Fund
- Sandy Homebuyer Assistance Program

Economic Development Authority (EDA)

- Small Business Grant Program;
- Small Business Loan Program; and
- Neighborhood Commercial Revitalization

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Department of Environmental Protection (DEP)

- Blue Acres Buyout Program

**Likely Points of Contact between DCA and Sub recipients and the LEP Population:**

DCA has determined that persons with LEP are most likely to come into contact with CDBG-DR funded programs as follows:

- Persons seeking to access to housing or housing assistance in any program funded by or through DCA. This would include both current homeowners seeking assistance with reconstruction, rehabilitation, and/or elevation; potential homebuyers, and current tenants and those seeking affordable rental housing.
- Persons that visit any of the Housing Centers or DCA offices to receive information regarding programs or other services.
- Persons seeking information on Sandy Recovery Programs via the Sandy Recovery Website ([www.renewjerseystronger.org](http://www.renewjerseystronger.org)).
- Persons seeking to participate in the planning process for DCA programs or services (pursuant to the Citizen Participation Plan); or wishing to offer comment on Sandy Recovery Programs.
- Persons who reside in any CDBG-DR funded affordable housing who have a question or problem with property ownership or management.
- Business owners seeking assistance from the Economic Development Authority.
- Homeowners targeted for buyout programs.

Effective communication with LEP individuals requires grantees and sub recipients to have language assistance services in place. There are two primary types of language assistance services: oral and written. Oral language assistance service may come in the form of "in-language" communication (a demonstrably qualified bilingual staff member communicating directly in an LEP person's language) or

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interpreting. DCA, its sub recipients and partner agencies will provide training to program managers and direct service staff on implementation of this Language Access Policy and methods of assistance to LEP individuals. This training will be periodically updated to ensure that all staff understands their responsibilities under this policy.

DCA and its partner agencies must inform LEP individuals of their eligibility for benefits, programs, and services in a language they understand, to the maximum extent practical. Agencies should assess all points of contact, telephone, in-person, mail, and electronic communication its staff has with the public and LEP individuals when determining the best method of providing notice of language assistance services. An agency should not only translate its outreach materials, but also explain how LEP individuals may access available language assistance services. Methods used to inform LEP individuals about language assistance services may include translating outreach materials into other languages, updating non-English content in key languages on the main page of the program website, and providing public service messages in non-English media describing the programs.

Current applicants or beneficiaries of CDBG-DR funded programs or services should also receive notice and information about available language assistance services. This may be accomplished through the use of effective, program specific notices such as forms, brochures, language access posters placed in conspicuous locations describing in multiple languages the availability of language assistance services, the use of "I Speak" language identification cards, by including instructions in non-English languages on telephone menus, and by letters sent directly to applicants advising them of language assistance services available.



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**Four Factor Analysis**

Since all CDBG-DR funded programs are serving the same nine most impacted counties, the analysis conducted by DCA will be utilized by all the CDBG-DR funded programs to inform their LEP programs.

**Factor One - Identifying LEP Population in New Jersey's Nine Most Impacted Counties Who May Need Language Assistance**

Per the pooled 2009-2011 data from the American Community Survey, approximately 87.4% of New Jersey's population speaks English, and 12.6% speak a language other than English. Of the populations in New Jersey with Limited English Proficiency, 7.2% speak Spanish, 0.6% speak Chinese, and 0.5% speak Portuguese. No other ethnicity has a sizeable limited English proficient population. The Migration Policy Institute identified languages used by the top eleven LEP populations in the nine New Jersey counties most impacted by Hurricane Sandy as Spanish, Vietnamese, Chinese, Korean, Polish, Portuguese, French Creole, Arabic, Tagalog, Gujarati, and Italian.

The State of New Jersey has LEP populations in all of the nine most impacted counties where the numbers exceed the Department of Justice's Safe Harbor 1,000 cohort threshold. This data, from the Migration Policy Institute is depicted in the following table:

County	Total Population	Total LEP Population	Language 1 (name)	Language 1 (LEP number)	Language 1 (LEP % of total pop)	Language 2 (name)	Language 2 (LEP number)	Language 2 (LEP % of total pop)	Language 3 (name)	Language 3 (LEP number)	Language 3 (LEP % of total pop)
New Jersey	8,253,100	1,036,300	Spanish	594,700	7.206%	Chinese	50,600	0.613%	Portuguese	41,800	0.506%
Atlantic County	257,100	28,500	Spanish	15,800	6.145%	Chinese	2,000	0.778%	Vietnamese	2,000	0.778%
Bergen County	850,300	120,900	Spanish	41,300	4.857%	Korean	26,200	3.081%	Polish	8,300	0.976%
Cape May County	92,700	3,400	Spanish	2,300	2.481%						
Essex County	727,600	106,000	Spanish	59,600	8.191%	Portuguese	15,300	2.103%	French Creole	8,500	1.168%
Hudson County	585,600	150,000	Spanish	105,400	17.999%	Arabic	5,000	0.854%	Tagalog	4,700	0.803%
Middlesex County	753,900	122,200	Spanish	53,800	7.136%	Chinese	11,700	1.552%	Gujarati	10,500	1.393%
Monmouth County	593,700	41,600	Spanish	21,300	3.588%	Portuguese	4,000	0.674%	Chinese	3,900	0.657%
Ocean County	534,400	23,700	Spanish	13,400	2.507%	Italian	1,400	0.262%	Polish	1,000	0.187%
Union County	496,500	103,500	Spanish	70,400	14.179%	Portuguese	9,100	1.833%	French Creole	5,000	1.007%

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In addition to these major language cohorts, the following additional languages have representations of at least 1,000 individuals in one of more of the nine counties: French, Hindi, Russian, Japanese, German, Arabic, Urdu, Greek Serbian and Croatian. <sup>1</sup>

DCA will review and update this LAP on an annual basis as census data becomes available, in order to ensure continued responsiveness to community needs.

**Factor Two: Number and proportion of LEP persons to be served**

Considering DCA's disaster recovery programs and services that are available in the counties identified above, all of which sustained major impacts as a result of Superstorm Sandy, it is likely that LEP persons will need to have direct contact with these programs and staff as they seek assistance to recover from the storm. See the list of Programs (page 3) and Likely Points of Contact (page 4) for instances where there is an increased probability that Language Assistance will be needed.

**Factor Three: Frequency with which LEP persons come into contact with each program funded by CDBG-DR**

The disaster recovery programs and services offered by DCA have the ability to provide direct assistance to LEP individuals and families, particularly for housing-related needs. Leasing assistance, support to address the need for renovation or reconstruction of an owner's primary residence, assistance with buyout of a home that has experienced repetitive flooding, and access to affordable rental housing units are the major programs for which determination of the type of language access needed is of critical importance. Business owners who are LEP individuals must be able to Access EDA grant and loan programs to assist them with their business recovery. There is no data currently available to determine what percentage of business owners in the nine most impacted counties have limited English proficiency. In addition, it is essential that LEP populations have adequate access where citizen participation is part of the vital process for determining state and local needs and program policies.

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<sup>1</sup> Note: In a telephone call with HUD officials on June 23, 2014, HUD concurred that it was reasonable and sufficient for DCA to provide translation of vital documents for the three LEP populations with the highest representation in each of the nine counties. Interpretation resulted in the identification of the eleven major languages noted above and coincides with the findings in the VCA.

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**Factor Four – The Language Access Plan and Resources Available to Execute**

This Language Access Plan represents DCA’s blueprint to provide meaningful access to CDBG-DR funded services, programs and activities on the part of LEP individuals. This Language Access Plan outlines the tasks DCA will undertake to meet this objective and identifies the resources available and costs to DCA.

DCA and its partner agencies must inform LEP individuals of their eligibility for benefits, programs, and services in a language they understand, to the maximum extent practical. Agencies should assess all points of contact, telephone, in-person, mail, and electronic communication its staff has with the public and LEP individuals when determining the best method of providing notice of language assistance services. An agency should not only translate its outreach materials, but also explain how LEP individuals may access available language assistance services. Methods used to inform LEP individuals about language assistance services may include translating outreach materials into other languages, updating non-English content in key languages on the main page of the program website, and providing public service messages in non-English media describing disaster recovery programs.

Current applicants or beneficiaries of CDBG-DR funded programs or services should also receive notice and information about available language assistance services. This may be accomplished through the use of effective, program specific notices such as forms, brochures, language access posters placed in conspicuous locations describing in multiple languages the availability of language assistance services, the use of “I Speak” language identification cards, and by including instructions in non-English languages on telephone menus, and by direct mail to applicants advising them of the availability of these services.

DCA has taken the following actions to address LEP:

**1. *Appointment of LEP Coordinator***

The Department of Community Affairs has appointed an LEP Coordinator who will be the primary point of contact for all LEP related programs, procedures and complaints for all DCA CDBG-DR programs. This position will oversee the activities of LEP Coordinators that will be appointed by each of the Subrecipient agencies.

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The DCA LEP Coordinator is:

[REDACTED]

New Jersey Department of Community Affairs  
101 South Broad Street  
Trenton, NJ  
609-  
Email:

All CDBG-DR programs must identify an individual responsible for securing language access services within their agency or program. This individual will be the primary point of contact for Sandy Recovery Division leadership on language access questions related to that specific program. This is the individual responsible for ensuring that the partner agency adheres to its language access policy directives, plan and procedures to provide meaningful access to LEP persons. This individual will be responsible for collecting data on LEP requests and contacts and forwarding this information to DCA as requested. The LEP Coordinator assists agency staff with all language access issues.

Each partner agency must set forth the name and contact information of the responsible individual and this information should be forwarded to Timothy Cunningham, Sandy Recovery Division Director and Gabrielle Gallagher, DCA Director of Legal Services. The Subrecipient contact list is attached to this Plan as Exhibit A.

If the need for language access services is identified either by phone, email, or in person, staff will immediately contact their DCA, Housing Center, or agency language access contact, who will take appropriate action to ensure meaningful communication through the methods described below. If, for any reason, the contact is not available for a particular program, center or agency, program staff are directed and trained to contact the DCA LEP Coordinator at the telephone/email listed above. The DCA Language Access Coordinator will also be available as a resource in obtaining assistance.

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**2. Outreach Plan and Implementation**

DCA will develop a LEP Outreach and Marketing Plan that ensures that all the LEP communities identified in the four factor analysis in the nine most impacted counties receive, via a variety of mediums, information about all of the CDBG-DR funded programs that are available to them. This includes the RREM Program, LMI Homeowners' Rebuilding Program, Tenant Based Rental Assistance, Landlord Incentive Program, Neighborhood Enhancement Program, Lead Hazard Reduction Program, rental units developed by HMFA (Fund for Restoration of Multi-Family Housing, Sandy Homebuyer Assistance, and Sandy Special Needs Housing), and small businesses assisted with EDA programs.

Outreach efforts will include, but not be limited to the following, in the language of identified LEP populations:

- public services announcements;
- print advertisements (including notices in foreign language publications when available);
- press releases;
- billboards/bus advertising;
- social media; and
- other media as appropriate.

DCA has secured the services of two companies skilled in providing outreach services to LEP populations:

- Name

- Name

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This firms will report directly to the DCA LEP Coordinator on a weekly basis regarding specific LEP outreach activities and numbers of LEP individuals contacted (as available).

In addition, DCA will contract or subcontract with community-based organizations with a demonstrated track record of experience in working with LEP populations in the nine most impacted counties. These organizations will provide both outreach and translation/applicant assistance services to clients. These additional services may include housing counseling, financial management, tenant counseling, and help in securing rehabilitation/reconstruction services, affordable rental housing, and business assistance.

The DCA LEP Coordinator will serve as the primary point of contact for implementation of a Language Access Plan for all CDBG-DR funded programs. This individual will identify community-based groups, faith based groups, and civic organizations that represent and/or work with LEP populations. The LEP Coordinator will work with outreach service providers to ensure these community groups have complete program information; and the outreach providers will determine how group can be helpful in reaching their LEP constituents.

### **3. *Training Program***

DCA will develop and implement a training program with three specific components:

- a. Training for the LEP Coordinators for each of the subrecipient agencies and for Housing Center Supervisors. This plan will outline each entities' responsibilities for implementation of the Language Access Plan, including how to handle citizen complaints, how to implement the DCA Language Access Plan, how to plan and carryout outreach activities, and how to secure additional language assistance as needed.
- b. Training for all DCA employees, contractors, Housing Center, and subrecipient staffs who have direct contact with the public. This training will include LEP awareness and implementation of the current LEP protocol, including the procedures for accessing language translation services. **This will be in-person training and will be**

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**mandatory for all staff having direct contact with the public.** This training will cover the following topics:

- How staff can identify the language needs of an LEP individual;
- How to access and provide necessary language assistance services;
- How to work with interpreters;
- How to request document translations; and
- How to track the use of language assistance services.

- c. Training for DCA Compliance and Monitoring staff that is responsible for monitoring subrecipients.

**4. *Development of a Language Bank***

DCA, the Housing Centers, and all subrecipients will identify staff and contractors who are fluent in a language other than English. The DCA LEP Coordinator will be responsible for developing a roster of these individuals, along with their contact names, telephone numbers email addresses and hours of availability. The DCA LEP Coordinator will disseminate this list to all programs having direct contact with the public and will be responsible for verifying/revising the roster at least annually. This roster will be used to support the provision of translation services in all locations having access to the public. Bi-lingual staff members and contactors will be assessed and receive regular training on the following:

- Proper interpreting and translation techniques;
- Ethics;
- Specialized terminology; and
- Program specific information as needed.

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If there are significant populations in areas where no contractor or staff fluent in the language is available, the LEP coordinator for that location/program will be assisted by the DCA LEP Coordinator in identifying locally available translation services.

**5. *Provide Language Access Services***

All correspondence from DCA related to CDBG-DR programs sent to individuals will include a provision indicating that free language interpretation services are available by contacting a toll free number available to serve LEP persons in the appropriate language. All of the Housing Centers and programs with direct public contract will utilize the “I-Speak” card and will provide access to a “Language Line” that can translate program information into the applicant’s native language. Housing Center receptionists will be trained on the use of I-Speak cards to identify the language needs of visitors.

DCA will provide in-person translators in all the Housing Resource Centers. They will hire at least one housing counselor in each Housing Center who is bi-lingual in Spanish and English. In Essex County, there will also be one housing counselor who is bi-lingual in Portuguese and English.

DCA will have language lines in all of the Housing Resource Centers, based on the LEP populations identified in each county. They will also provide translation services as needed for all appellate processes, all meetings related to program eligibility determinations and all meetings with contractors and subcontractors. Program applicants will have access to translation services throughout the process (rebuilding, identification of rental units, etc.) until they have successfully completed the process. If additional support is needed, the LEP Coordinator will be contacted by the program staff. The LEP Coordinator will identify a bi-lingual individual who will assist the recipient to navigate through the entire process to successful re-housing.

DCA will procure   contractors to provide translation services on demand for DCA and all subrecipient agencies. This roster of approved contractors will be provided to all subrecipient agencies and updated as needed. Bi-lingual staff will validate the accuracy of translations in the initial stages of this contract.



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All LEP program applicants will be given the contact information for the LEP Coordinator of that specific program at the time of intake. This person should be the first point of contact for any complaints or appeals. They will assist the LEP individual to obtain translation services to enable them to exercise their complaint and/or appeal rights. The contact information for each CDBG-DR program which interacts directly with the public is required to post the name and contact information for their LEP Coordinator on the program and agency website, in a manner which makes it easy for LEP individuals to locate.

**6. *Translation of Vital Documents***

DCA will have vital documents translated into the three most prevalent languages in each of the nine counties, for the following programs:

- Rehabilitation, Reconstruction, Elevation and Mitigation (RREM) for homeowners;
- Landlord Rental Repair Program;
- Neighborhood Enhancement Program;
- Landlord Incentive Program (project-based rental assistance);
- Programs to Prevent Homelessness (tenant based rental assistance);
- Lead Hazard Reduction Program (for both homeowners and landlords); and
- LMI Homeowner Repair Program (including set-aside for manufactured housing)
- Fund for the Restoration of Multi Family Housing
- Sandy Homebuyer Assistance Program
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- Small Business Grant Program

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• Small Business Loan Program

A “vital document” is defined as a document that includes information regarding program eligibility requirements, applications and instructions, program eligibility determinations, and appeals procedures:

- consent and complaint forms;
- intake and application forms with the potential for important consequences;
- written notices of rights;
- notices of denials, losses, or decreases in benefits or services;
- notice of disciplinary action; signs; and
- notices advising LEP individuals of free language assistance services.

This also applies to all information posted on the Sandy Recovery Website ([www.renewjerseystronger.org](http://www.renewjerseystronger.org)). The translations on this website will be updated every time the English information on the website is updated.

The rental housing resource website, New Jersey Housing Resource Center, that is used to list all available units supported with CDBG-DR funding through HMFA and DCA will be available in both Spanish ( <http://nj.gov/njhrc/espanol>) and English (<http://nj.gov/njhrc>). For applicants for rental units, TBRA, and project based vouchers this database provides information on affordable rental properties across New Jersey (within and outside the nine counties). The tool provides detailed information about rental properties, enabling individuals and families searching for housing to locate a unit that best fits their needs. The site also provides a tool for rent calculations, moving costs, a budget worksheet, and rental checklists. **The service can be accessed at no cost online 24 hours a day or through a toll-free, bilingual call center at 211.** DCA requires that all participants in CDBG-DR rental housing program participate in listing their properties into this database.

For recipients needing translation in languages other than Spanish, translation services will be made available upon request.

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For application deadlines, legal notices for Release of Funds and Finding of No Significant Impact (FONSI), time sensitive documents will be published in Spanish in both the Spanish weekly papers (list attached), and in the general circulation daily's to ensure the broadest possible public access. Legal notices should be published in both Spanish and English in general circulation daily newspapers.

**7. *Subrecipient Language Access Plans***

All Subrecipients will adopt a Language Access Plan that is consistent with the DCA Language Access Plan. Copies of each agency's LAP will be transmitted to DCA for review and approval by the LEP Coordinator. DCA will monitor whether its subrecipients have taken reasonable steps to provide meaningful access to LEP persons for the subrecipients CDBG-DR funded programs, in accordance with Title VI and 24 C.F.R §1.4.

To facilitate this process, DCA will:

- a. Provide a copy of DCA's approved LAP to each of the subrecipient agencies, immediately upon HUD approval.
- b. Provide training to the LEP Coordinators in each subrecipient agency. This training will include:
  - Implementation of procedures required to assist LEP populations;
  - Available resources to assist subrecipients to work effectively with LEP populations; including but not limited to: language lines, Language Bank, assess to translation services;
  - Monitoring of LEP service provision and requests for LEP assistance (on a monthly basis).

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8. Guidance to create a record of language assistance services that will help inform programs whether there should be changes to the quantity or type of language assistance services. The monitoring and review of current policies and the types of language assistance services provided will be reviewed annually and adjusted as necessary. ***Complaints and Appeals***

Complainants may file a complaint with the DCA Language Access Coordinator if they believe they have been denied the benefits of this Plan. Complaints will be investigated pursuant to DCA's Complaint procedures. To file a complaint with the DCA Language Access Coordinator, submit the written complaint to:

**Insert DCA LEP Coordinator Contact Information**

Any person that feels that the Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and Executive Order 13166 regulations were not complied with may file a complaint directly with the Region II Director for Fair Housing and Equal Opportunity at the following address (or as otherwise directed by HUD):

Jay Golden, Region II Director  
Office of Fair Housing and Equal Opportunity  
U.S. Department of Housing and Urban Development  
26 Federal Plaza, Room 3532  
New York, NY 10278  
Jay.Golden@hud.gov

LEP Program applicants wishing to appeal eligibility or other programmatic decisions should contact the LEP Coordinator for their specific program. The Coordinator will provide a translator to assist the applicant with the appeals process. In addition, the applicant will be provided with either a Hearing Officer who speaks their language or a translator who provides translation services in the LEP individual's language.

The public and advocacy groups will be notified that language assistance is available for appeals if an LEP individual's application for disaster recovery services is rejected. This information will

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be posted in the Housing Recovery Centers, as well as EDA and HMFA offices (and on the Housing Resources website).

**9. Database Development, Data Collection and Reporting**

To facilitate the tracking of requests for language assistance received for all CDBG-DR programs, a field will be established in the SIROMS system to note LEP/language assistance and the specific language. It will be explained to applicants that provision of LEP information will help them more easily access the services they need. Reporting on this field will be mandatory for all programs subject to Language Access Plan requirements including all DCA, EDA, DEP and HMFA programs with services provided directly to the public (individuals and businesses).

On a quarterly basis, DCA will submit to FHEO, Fair Share Housing Center, New Jersey State Conference of NAACP, and the Latino Action Network a report that quantifies all requests for LEP services and all LEP services provided by DCA and its subrecipients. The report will also include a narrative detailing monitoring of subrecipient compliance with the LAP. On an annual basis, DCA will update its LAP to reflect any change in the plan based on the prior year's activity.

DCA will maintain a monitoring file on each subrecipient including the following information:

1. Documentation of LEP guidance and/or technical assistance provided by DCA;
2. Any documentation of Four-Factor analysis and LAP's or LEP outreach plans prepared by subrecipients.
3. Number of LEP individuals/businesses serviced and the services provided.

**10. Monitoring, Evaluating and Updating the Language Access Policy, Plan and Procedures**

DCA will periodically monitor, evaluate and update the plan, policies and procedures. The DCA LEP Coordinator and the Sandy Recovery Division Assistant Director for Compliance and Monitoring will jointly have responsibility for monitoring, evaluating and updating the language access program for all CDBG-DR activities. This monitoring will include, but not be limited to the following:

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- Surveying staff on how often they use language access services, if they believe there should be changes in the way services are provided or the providers that are used, and if they feel that the services in place are meeting the needs of the LEP communities.
- Conducting customer satisfaction surveys of LEP applicants and beneficiaries, based on their experience with accessing benefits, programs, information and services.
- Observing and evaluating agency interactions with LEP individuals.
- Soliciting feedback from community-based organizations and other stakeholders about the effectiveness and performance in ensuring meaningful access for LEP individuals.
- Keeping current on community demographics and needs by engaging school districts, faith communities, refugee resettlement agencies and other local resources.
- Considering new resources including funding, collaborations with other agencies, human resources, emerging technologies and other mechanisms for ensuring improved access for LEP individuals.
- Monitoring the response rate to complains or suggestions by LEP individuals, community members, and employees regarding language assistance services provided.

**Resources Available for Language Access Plan Implementation**

The budget for implementation of the Language Access Plan described previously is as follows:

Outreach services (including subcontracts with CBO's) \$ \_\_\_\_\_

Housing counseling and program assistance (includes contracts

With HUD Housing Counseling providers or non LEP services \$ \_\_\_\_\_

Translation services \$ \_\_\_\_\_

Interpreters \$ \_\_\_\_\_

**Total Language Access Implementation Budget** \$ \_\_\_\_\_

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**Appendix A**

**CDBG-DR LAP Program Contacts**

<b>Department/Agency</b>	<b>Contact for Language Access Plan &amp; Services</b>	<b>Telephone</b>	<b>Email Address</b>
Department of Health	Eric Anderson	609-292-6915	Eric.Anderson@doh.state.nj.us
NJEDA	Lori A. Matheus	609-858-6700	Lmatheus@njeda.com
NJHMFA	Theresa M. White	609-278-7576	<a href="mailto:Twhite@njhmfa.state.nj.us">Twhite@njhmfa.state.nj.us</a>
NJRA	Leslie Anderson	609-278-5171	Landerson@njra.us
DEP	Nicholas Horites		<a href="mailto:Nicholas.Horitates@dep.state.nj.us">Nicholas.Horitates@dep.state.nj.us</a>

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**Appendix B**

**Spanish Language Publications**

<b>Newspaper</b>	<b>Color/ B&amp;W</b>	<b>Account</b>	<b>Contact</b>		<b>Email</b>	<b>Comments</b>
El Diario La Prensa	B&W	n/a	Miriam Nieto	212-807-4762 Fax: 212-807-4617	<a href="mailto:Miriam.nieto@eldiaryony.com">Miriam.nieto@eldiaryony.com</a>	ATLANTIC, BERGEN, ESSEX, HUDSON, MERCER, MIDDLESEX, MONMOUTH, MORRIS, OCEAN, PASSAIC, SOMERSET, UNION
El Especialito	B&W	n/a	Tony Calcagno	BB: 201-658-2361 Office: 201-348-1959 ext. 254	<a href="mailto:tcalcagno@elespecial.com">tcalcagno@elespecial.com</a>	Weekly free newspaper (Circulation 120,000) - covers Essex, Bergen, Passaic, Hudson.
REPORTE HISPANO	B&W	n/a	Cara Marciano	609-933-1400	<a href="mailto:caramarciano@reportehispano.com">caramarciano@reportehispano.com</a>	Weekly newspaper (Circulation 55,000) - covers all NJ counties except Sussex, Warren, Burlington, Gloucester, Salem, and Cape May



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**GRANTS ADMINISTRATION**

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**APPROVAL:**



Peter B. Lijoi, Director  
Information  
Technology Unit



Stacy Bonnaffons  
Assistant  
Commissioner



Howard McCoach  
Director, Sandy Recovery  
Division

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**POLICY:**

The CDBG-DR allocation (Federal Register Notice, March 5, 2013) administered by the Department of Community Affairs, as grantee, requires the establishment of a system for fiscal administration of the grant and programmatic tracking of activities funded with the CDBG-DR appropriation. To carry out this mandate, the Sandy Integrated Recovery Operations and Management System – SIROMS has been created. All CDBG-DR funded programs are required to use this system for submission of invoices, documentation, and performance reports.

Division management, subrecipients, and all SIROMS users will comply with:

- SIROMS operational requirements,
  - Fiscal requirements established by the Director of the Sandy Recovery Division.
  - Division practices promulgated to promote internal control and efficacious grant administration,
  - NJ Treasury Circular Letter 07-05-OMB,
  - Programmatic, financial, administrative and reporting requirements of funding sources, including entry into DRGR,
  - Federal OMB Circulars pertaining to Cost Principles, Uniform Administrative Requirements, and Financial Audits,
  - Department Administrative Procedures Manual Policies and Procedures,
  - All other laws, rules, and regulations applicable to the administration of grant funds, and cross-cutting Federal requirements.
-

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**SIROMS Overview:**

Sandy Integrated Recovery Operations and Management System – SIROMS is designed to meet the following objectives:

- Support NJDCA and its partners in the implementation of the Action Plan and program delivery.
- Assist the State in delivering disaster relief services in a flexible, scalable, and efficient manner.
- Provide management and oversight capability to the State over the programs being implemented as part of the Action Plan.
- Provide a shared technology infrastructure, software, IT and financial services support the State in its disaster recovery operations.
- Facilitate compliance with State and Federal regulations (CDBG-DR).

To achieve these objectives the system consists of the following program delivery support functions:

- Supports collaboration between DCA and its partners with program documentation, training materials, notifications, and financial support services.
- Automates the fund request process for faster processing through the Funds Request Module.
- Facilitates DRGR data entry and establishes standardized reporting for each program, including the DRGR module, reporting module, Quarterly Performance Reporting module, and the data warehouse.
- Helps DCA and its partners to monitor and meet the national objectives and goals of the program.
- Supports forecasting and budgeting processes in accordance with the Action Plan.
- Supports the Governor's Transparency Reporting Objectives.
- Supports programmatic and fiscal management.
- Supports program delivery through intake and eligibility process management.
- Provides for ongoing compliance and monitoring functions and auditing services.

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**PROCEDURE:**

Funding is available to support the CDBG-DR recovery efforts at the point in time that a grant agreement is executed with the U.S. Department of Housing and Urban Development and the Director of the Sandy Recovery Division and DCA Office of Fiscal Services certify that the funding has been established in the New Jersey Comprehensive Financial System in a status available for encumbrance. Available funding streams, established on the NJCFS system, are allocated to one or more SIROMS system grant programs by the Sandy Recovery Division and the DCA Office of Fiscal Services.

Programs are established in SIROMS in consultation with, and with the prior approval of, the staffs of both the Sandy Recovery Division and the Information Technology Unit. The establishment of new grant programs in SIROMS is triggered by the appropriation or other receipt of funds identified by the Director of the Sandy Recovery Division, and the execution of appropriate grant agreements and/or Memoranda of Understanding with subrecipients and contractors. The Director of the Sandy Recovery Division will call for the establishment of a new program in the SIROMS system to manage and administer the award funds, and Division's Assistant Program Directors (Housing and Recovery Programs) will respond to this call for program information by initiating contact with IT SIROMS staff to provide program requirements and start-up information. Simultaneously, the Office of Fiscal Services will mirror the NJCFS account in the SIROMS system; making the new program's initial allotment of funds available to support the newly created SIROMS grant program.

The establishment of a new grant program in SIROMS will set program-wide parameters concerning the programmatic and fiscal requirements of the grant program. Fiscal constraints concerning limitations on the time period allowed by the funding source or State policy for commitment to projects, encumbrance of funds, expenditure of funds, reporting of expenditures and deadlines for final account fiscal transactions are enforced by business logic embedded in the SIROMS system. Similar constraints of a programmatic nature, such as the authorization for access to the system, authorization for data entry into the system, types of entities, who can apply for funding, and potential program beneficiaries, are also established at the time of SIROMS grant program initialization.

***Funding Request Process:***

The process for submitting a fund request through SIROMS is as follows:

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1. Program originator logs on to SIROMS Funds Request Module.
2. Program Originator [agency/program] must submit funds request form.
3. Program Approver provides first level approval.
4. DCA SRD Approvers (Policy and Fiscal) provide second level approval.
5. DCA SRD Policy Approvers must approve form.
6. DCA SRD Fiscal Approvers must approve form.
7. DCA Accountability Officer reviews at the third level.
8. DCA Fiscal Approver publishes Fiscal Transfer and the funds request is generated.

The Funds Request Module contains an on line form that allows the Originator to directly enter the information required for funding requests, along with any necessary attachments. Once submitted into the system, SIROMS tracks the status of the request, providing the Approver with a “To Do List” site that alerts the Approver to the presence of a request in the system. The system also enables the Approver to view the Status and History of any request. Once reviewed, the system allows the Approver to electronically sign the approval form.

After the Program Approver approves the submission it is moved to the “To Do List” for the SRD Policy Approver (Assistant Director for Housing or Recovery Programs) and the SRD Financial Approver. These two individuals review the request and have the ability to either approve the request (with electronic signature) or return the request for additional data.

After both the Policy Approver and SRD Fiscal Approver approve the request, it moves to the “To Do List” of the DCA Accountability Officer. The Accountability Officer reviews and either approves (via electronic signature) or returns the form to the SRD Policy or Fiscal Approver.

Once approved by the DCA Accountability Officer, the funding request moves to the “To Do List” of DCA Fiscal. DCA Fiscal reviews the request and completes the Fund Request Form transfer process.

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**APPROVAL**

  
\_\_\_\_\_  
Laura Shea  
Assistant Commissioner  
\_\_\_\_\_  
Samuel R. Viavattine  
Deputy Commissioner

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**SIROMS**

The Sandy Integrated Recovery Operations and Management System or SIROMS, is an IT solution that allows the State to quickly deploy its CDBG-DR Program to assist State residents impacted by Superstorm Sandy.

SIROMS includes a portal allowing other State Contractors and State Departments receiving CDBG-DR grants and any other disaster recovery funding to provide reports necessary to efficiently accomplish and fund their projects as provided for in the Action Plan. Among other things, SIROMS collects and manages the reports and data to make payments under the program, file reports with the federal government, and provides the source data to State transparency sites and reporting dashboards. SIROMS supports the staff that operates, manages, and monitors the program, including program managers, fiscal staff, auditors, and accountants.

The System compiles the data required of other State Contractors and State Departments using uniform reporting standards and provides the processes to make payments, assure quality control, compliance, and maintain audit trails. The System is web-based and housed in a secure cloud environment.

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## **Roles and Responsibilities**

Each agency working with the Sandy Recovery Unit has access to and regular users in SIROMS. It is their responsibility to submit and track information in SIROMS to be collected by the Budget and Finance Department. The B & F Department will then use this information to review and approve invoices, report performance measures, and track progress.

## **Requirements**

The Business Process Management system includes the following components:

- a) A process management engine designed to drive the progression of work in structured or unstructured processes or cases;
- b) Capabilities to manage business rules to ensure regulatory and program compliance;
- c) Content management capabilities to store files such as PDF documents and images in compliance with the record retention requirements;
- d) Internet-based interaction portals that allow staff and grantees to interact with the processes they are involved on;
- e) Ability to link processes to the resources they control such as proposals, grant activities, grantees and fund disbursements;
- f) Active analytics engine for monitoring performance in areas such as processes, resources, grant activities and fund balances;
- g) Reporting to provide decision support for program stakeholders;
- h) Reporting for HUD and public transparency requirements;
- i) Exportable data in common formats for ETL processes and advanced analytics; and;
- j) Management and administration.



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The SIROMS system develops, maintains and/or improves the interfaces with the following external systems:

- NJ Rebuild Website
- RREM Project Management Contractors
- LMI Project Management Contractors
- LRRP Project Management Contractors
- NJ Treasury – NJCFS
- SAGE Systems
- Bank of America – Escrow Systems
- NJ DEP Internal Systems

**Resources**

- SIROMS Contract & Amendments  
[http://www.state.nj.us/treasury/purchase/noa/contracts/g8048\\_13-r-23156.shtml](http://www.state.nj.us/treasury/purchase/noa/contracts/g8048_13-r-23156.shtml)

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**2016 - STATEMENT OF CONFIDENTIALITY**

In administering the multitude of Sandy Recovery programs offered by the Department of Community Affairs, employees of the Department, partner agencies and other State departments have access to confidential client information. This Statement of Confidentiality was created to assure that this information remains secure and is used in the appropriate manner. All confidential documents including SIROMS (Sandy Integrated Recovery Operations and Management System) documents are to be secure from unauthorized access and inappropriate use. The information is never to be divulged for a non-business purpose. Failure to abide by this policy may result in an administrative action by the Department of Community Affairs, Contract Termination, Legal Actions, and sanctions by the United States Department of Housing and Urban Development (HUD).

Users & Administrators of the Sandy Recovery Division Resources SIROMS system are responsible for the protection of passwords, information, equipment, case files and communication pathways. Specifically, employees, contractors, and users are responsible for adhering to the following procedures:

1. User IDs and user passwords are for your individual use only and are to be maintained as confidential information.
2. The file of record is not to be removed from the office without prior consent by the office supervisor.
3. Employees are to provide barriers between unauthorized persons and documents or computer media containing private data. Files are to be kept in file cabinets and computer screens are to be positioned so unauthorized individuals cannot read the screens.
4. Any files or documents that leave the office must be secured and sent to a specific designee.
5. Inactive files are to be disposed of per the approved record retention and disposition schedule.
6. Contractors are to notify the state contract manager immediately regarding any suspected violation or breach of security.



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7. Employees are to notify their supervisor and the Supervisor of Field Operations immediately regarding any suspected violation or breach of security.
8. If any of the confidential information becomes the subject of an OPRA request, individual should check with Sandy Recovery Division within Department of Community Affairs, before divulging the information.

All client information is subject to the Federal Privacy Act of 1974 (5 U.S.C.552a). This act states, "Personal information may be used only by authorized persons in the conduct of official business. Any individual responsible for unauthorized disclosure of personal information will be prosecuted to the maximum extent possible under law."

I \_\_\_\_\_, have read the Statement of Confidentiality and agree to maintain all information as confidential and to use the information only to determine eligibility for all Sandy Recovery Division programs administered and overseen by the Division's work units.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Department / Contractor: \_\_\_\_\_

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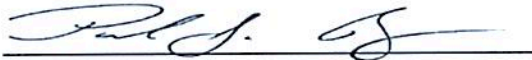
April 2015

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**APPROVAL**



Paul Regan  
Assistant Director for Budget & Finance  
Sandy Recovery Unit



Laura Shea  
Assistant Commissioner



Samuel R. Viavattine  
Director, Sandy Recovery Division

---

**OVERVIEW:**

DRGR is HUD's Disaster Recovery Grant Reporting System. It was developed by HUD as the system that its grantees use to draw funds from Treasury and report the accomplishments of the programs funded by HUD. It is the responsibility of the Sandy Recovery Division's Budget and Finance Department to not only maintain DRGR with the appropriate program information, but to also draw vouchers and report on programmatic accomplishments.

HUD staff use DRGR to review and approve program activities established in New Jersey's approved Action Plan, the required Quarterly Performance Reports (QPR), and the overall progress that has been made.

The following guidance will describe the five modules within DRGR and how the Budget and Finance staff works within each;

1. Admin,
2. Action Plan
3. Drawdown
4. QPR
5. Reports

A collection of DRGR resources and information can be found on the OneCPD.info site.

<https://www.onecpd.info/drgr/>

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### **Users Roles & Responsibilities:**

When identifying and assigning user roles and responsibilities in DRGR the Budget and Finance staff must consider the amount of information that flows through DRGR, any backup support needed, and the level of controls that are necessary. Some programs require more activities or have a higher proportion of the budget and therefore, will need additional management and oversight.

The Budget and Finance Department's employees are currently assigned the following DRGR user roles and responsibilities:

<b>B &amp; F Position Title</b>	<b>Roles</b>	<b>Additional Responsibility</b>
Assistant Director	Drawdown Approver	Administrator
Principal Fiscal Analyst	Drawdown Approver	Administrator
Accounting Supervisor	Drawdown Approver	Administrator
Fiscal Analyst	Drawdown Requester	Regular User
Accounting Bookkeeper	Drawdown Requester	Regular User

The chart below illustrates the various abilities and limitations of each role. For example, only Draw Requesters or Approvers can obligate funds in the Drawdown module, but all users can view and export Reports in Microstrategy, (i.e. the Reports module).



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**Exhibit 1: DRGR Roles**

	<b>Regular Grantee Users</b>	<b>Grantee View Only</b>	<b>Grantee Admin &amp; Drawdown Approver</b>	<b>Grantee Request Draw</b>	<b>Grantee Approve Draw</b>
Assign grantee users to grants		X			
View Action Plans	X	X	X	X	X
Edit/Submit Action Plans	X	X		X	
Update Obligations				X	
Create Draws				X	
Approve Draws					X
Block activities from draws		X			
View QPR's	X	X	X	X	X
Edit/Submit QPR's	X	X		X	
View Reports (via Microstrategy)	X	X	X	X	X

**REQUIRED DATA BY MODULE:**

As noted in the New Jersey Action Plan, The Disaster Relief Appropriations Act of 2013, requires that all CDBG-DR funded activities address an impact of the disaster for which the funding was appropriated. The CDBG-DR provisions require that each activity: (1) be CDBG eligible (or receive a waiver), (2) meet a National Objective (which include benefitting low and moderate income persons, meeting urgent needs to implement a robust and comprehensive recovery for the residents of New Jersey, and preventing or eliminating slums or blight), and (3) address a direct or indirect impact from the disaster in the 9 counties declared by the President to have been impacted by the disaster.

The Action Plan established by DCA and approved by HUD outlines the proposed programs and is then translated into DRGR. This section reviews the process of entering the Action Plan, as well as the data required in the four other modules in DRGR, as seen in the Exhibit below.

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**Exhibit 2**



## **Admin**

The Admin Module serves several functions in DRGR and looks different to the Budget and Finance staff depending on his or her user roles. For example, Administrative users have the responsibility of re-certifying all of the State's DRGR users every six months. If a new employee is hired and requests an account in DRGR, the Administrative user will need to certify that new user. The Administrative user can also assign other users to various grants within DRGR. Currently, the State manages prior CDBG-DR and NSP awards that are tracked in DRGR, in addition to the new Sandy appropriation. Users can be limited to working on only specific grants if the Administrator chooses to do so.

### **New User Accounts**

All user account requests for access to DRGR should be submitted to Assistant Director of Budget and Finance for approval and submission to HUD's CPD Representative for processing. User accounts can often take up to two weeks for set-up.

If you are submitting a request for multiple users, please use the Attachment 4-A spreadsheet, Grantee Multiple DRGR Account Request Form. Otherwise, the following information is required in a single request:



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- Full name of user
- Grantee Name
- B or C# assigned for IDIS User ID (if you have a current IDIS user)
- Address
- Phone number with extension
- Fax number
- Email address
- Whether you want to be authorized to be EITHER a View Only User, Regular User, or Administrative User
- If you would like to be a Voucher Approver or Voucher Requester. (not an option if View Only User)
- For grantee users that do not have a current IDIS account - Five digits you can always remember for your PIN which will be used by the HUD help desk for help tickets

The Admin module also serves the function of collecting subrecipient assistance and monitoring data. The Sandy Recovery Division is required to report on any **Training and Technical Assistance** provided to its subrecipients, **Monitoring** or **Auditing** activities, and **Findings** or **Concerns** that are the result of the Monitoring. This information should be collected and provided by the program staff to the Budget and Finance Department, who will then enter it into DRGR.

To review, the following transactions occur and data is required in the Admin Module:

- User certifications
- User grant assignments
- AND
- Training & Technical Assistance (T/TA)
- Monitoring & Auditing Events
- Finding & Concerns

**Resources:**

- Admin Module – Draft User Guide - [http://portal.hud.gov/hudportal/documents/huddoc?id=drgr\\_amdug.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=drgr_amdug.pdf)
- DRGR Account Registration or Modification: <https://www.onecpd.info/drgr/drgr-account-registration-or-modification/>

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**Action Plan**

The Budget and Finance Department is responsible for updating and maintaining the electronic version of the Division's approved Action Plan in DRGR. The Action Plan will undergo amendments and updates as the individual programs progress, and the Budget and Finance team is in charge of gathering that information from the program staff and for making sure those updates are accurately reflected in the DRGR Action Plan Module. To better understand the general structure of the DRGR Action Plan, refer to Appendix 1-A: Allocation and Method Of Distribution in the approved Action Plan.

<b>Table 4-1 Method of Distribution</b>							
<b>Category (Action Plan Section No.)</b>	<b>Allocation Level</b>		<b>Program (Action Plan Section No.)</b>	<b>Allocation Level</b>	<b>Estimated LMI Benefit</b>	<b>Maximum Housing Award</b>	<b>Estimated Unit Benefit</b>
	<b>Total Amount</b>	<b>Estimated LMI Amount</b>					
Homeowner Assistance Programs (4.1)	\$780,000,000	\$528,000,000	Reconstruction, Rehabilitation, Elevation and Mitigation Program (4.1.1)	\$600,000,000	70%	\$150,000	6,000
			Housing Resettlement Program (4.1.2)	\$180,000,000	60%	\$10,000	18,000
<b>Total</b>	<b>\$780,000,000</b>	<b>\$528,000,000</b>		<b>\$780,000,000</b>			
Rental Housing and Renter Programs (4.2)	\$379,520,000	\$366,544,000	Fund for Restoration of Large Multi-Family Housing (4.2.1)	\$179,520,000	95%	\$120,000	1,700
			Small Rental Properties (4.2.2)	\$70,000,000	100%	\$50,000	1,750
			Pre-development Fund (4.2.3.1)	\$10,000,000	90%	\$500,000	1,000
			Blight Reduction Pilot Program (4.2.3.2)	\$30,000,000	90%	\$250,000	120
			Incentives for Landlords (4.2.4.1)	\$40,000,000	100%	\$50,000	1,000
			Sandy Home Buyer Assistance Program (4.2.5)	\$25,000,000	100%	\$50,000	500

The DRGR Action Plan is set up similar to this Method of Distribution (MOD) in that it has higher level "buckets" of funds called *Projects*, which are based on the MOD's Categories. Within those Projects are the assigned programs or *Activities*. Exhibit 3 below provides a sample of how the hierarchy between Projects and Activities is reflected in DRGR.



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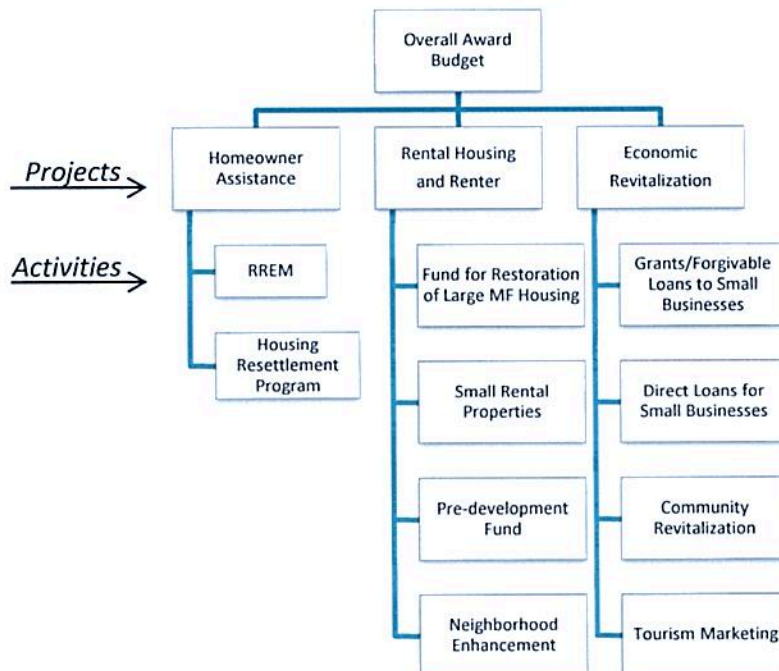
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**Exhibit 3**



It is essential that the individual Activities are set up accurately in DRGR because it will affect how they are drawn and then reported on in the QPR. Each program identified in the approved Action Plan must be set up and translated into DRGR as one or more Activity. The Budget and Finance team will base this information on the original approved Action Plan, but must maintain continuous communication with the program staff for the various agencies, as it continues to progress and changes are needed.

Each Activity established in the DRGR Action Plan must contain the following information or components:

1. Activity Type (e.g. Admin, Code Enforcement, Public Services, New Construction)
2. Responsible Organization (e.g. DCA, EDA, NJHMFA)
3. National Objective (LMI, Urgent Need, and Slum & Blight)
4. Multi-family Property (If Applicable)



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Most programs will achieve multiple national objectives, may have more than one Responsible Organization, and therefore will require more than one Activity in DRGR so it can be reported on accordingly.

DCA created an Action Plan template in Excel to map out these activities and their naming conventions to support these requirements. In the example listed in Exhibit 4, the first Project Number is S01AdmnR1. This Project Number translates to the following:

- S01 = First tranche of Sandy awards, (with the possibility of two additional tranches)
- Admn = The category for this project is Administration/Planning
- R1 = This is the first of two rounds for this activity according to the grant agreement, for the first two years

The Activity Name and Number go even further to identify the Responsible Organization for this activity, DCA, and the National Objective. (Admin activities do not have a National Objective, N/A)

**Exhibit 4**

Project	Project Number	Activity Name	Activity Type	National Objective	Resp. Org.	Activity Number
Admin	S01AdmnR1	DCA Administration R1	Administration	NA	DCA	Admn-DCA-R1
Homeowner Housing	S01HmHsgR1	RREM DC LMI R1	Rehab/Reconst of Res. Struct.	LMI	DCA	RREM-DCA-LMI-R1

When setting up or editing an activity in DRGR, the user populates data into two separate screens. The first screen requires the following information:

- Activity Type (For a list of all Activity Types, please see Attachment 4-B)
- Activity Title
- Activity Number
- National Objective (LMI, Urgent Need, Slum & Blight)
- Start and End Dates
- Associated Project

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- Budget
- Environmental Assessment
- Activity Status

The second page of the Activity set-up process requires the following information:

- Responsible Organization
- Direct or Area Benefit
- Projected Performance Measures (the fields will depend on what Activity Type was selected on Page 1 of the Activity set-up, and whether it is a Direct or Area Benefit)
- Location Description
- Activity Description

Once this information has been entered, the user saves the Activity. Once saved, it should then appear on the overall Action Plan page. Any time a new Activity is added or a current Activity is updated, the user keeps a record of this change so that when the Action Plan is resubmitted for approval, **a complete list of the changes will be submitted along with it to help expedite the CPD Representative's review.**

The Action Plan Activities are currently divided among the Budget and Finance DRGR staff by MOD categories or DRGR Projects. The staff assigned to those MOD categories will be responsible for updating and reporting on the specific activities that fall under those categories, or projects.

**Resources:**

- Action Plan Module – Draft User Guide:  
[http://portal.hud.gov/hudportal/documents/huddoc?id=drgr\\_man\\_act\\_plans.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=drgr_man_act_plans.pdf)
- DRGR Fact Sheet: DRGR Direct Benefit Data–Selecting Beneficiary and Housing Measures:  
<https://www.onecpd.info/resource/128/drgr-fact-sheet-drgr-direct-benefit-data-selecting-beneficiary-and-housing-measures/>



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## Drawdowns

The Drawdown module is used to draw Federal HUD funding from Treasury to reimburse the State for payment vouchers that have been expended on Programs/Activities within Sandy Recovery Division. All invoices received by Budget and Finance from vendors or contractors are drawn from DRGR once approved through an internal review process.

Any Program Income generated from a NJ Sandy program is receipted and must be drawn in this module *before program funds can be disbursed*, unless it is part of a Revolving Loan Fund.

**Draw Approval:** The following signatures are required in order to initiate a drawdown:

1. Director of Sandy Recovery Division
2. Director of Auditing
3. Assistant Director of Budget Finance

## Obligating Funds

Once a program is underway and an Activity is established in the Action Plan, that Activity's budget is then Obligated in the Drawdown module. This means that there are plans or contracts in place for the Activity and once obligated, the funds can be drawn. Users must have either a Drawdown Approver or Drawdown Requester role to obligate budgets.

Obligation amounts must be less than or equal to the Total Activity Budget and greater than or equal to the Total Drawn Amount (i.e. a user can't decrease the obligation amount to less than the amount that has already been drawn down).

$$\text{Activity Budget} \geq \text{Obligation} \geq \text{Total Activity Drawn Amount (PF+PI)}$$

## Creating a Voucher

Creating a draw is four step process and requires a Drawdown Requester user. This means that Regular Users and Draw Approvers cannot create vouchers. Each voucher created can contain one or more Activities or as they are called in the Drawdown module, *Line Items*.

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\*\*The total sum of a Voucher cannot exceed \$5 million. If a voucher that exceeds \$5 million is drawn in DRGR, it will trigger a required review from HUD to ensure that proper signatures, controls, and documents are in place to be able to approve the invoice. This may cause a delay in reimbursement.

The steps to creating a voucher are as follows:

1. Along the left side of the screen select *Create Voucher*. To add the necessary activities to the voucher, select *Add More Activities*.
2. Search for and add Activities by selecting box under either Program Funds or Program Income (if PI is available to draw).
  - a. Confirm the activities or remove any.
  - b. Enter the amount to be drawn per activity.
3. Confirm Voucher.

Once the voucher is confirmed, DRGR sends an email to the Voucher Approvers alerting them that a voucher is waiting for his or her approval.

Exhibit 5 below outlines the Budget and Finance Department's more detailed, step-by-step process of creating a voucher in DRGR.

**Exhibit 5**

**DRGR - Drawdown Procedural Steps**

- Review drawdown request and identify Activity(s) Number(s) and Amount(s) Requested, and reference Batch No(s) or Activity No(s)
- Complete Sandy Tracking Form Checklist for drawdown request and obtain signatures of Paul Regan and Howard McCoach
- Login to the **DRGR System**.
- Click **DRAWDOWN** tab at the top of menu.
- Click **CREATE VOUCHER** tab from the menu on the left hand side.
- Click **ADD MORE ACTIVITIES**
- Within the **Search Criteria** drop down menu select the **Grant # B-13-DS-34-0001**.
- Click the **Search Activities** button.
  - a) Search by Activity(s) Number(s) referenced on drawdown request per individual assigned project.



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**DRGR - Drawdown Procedural Steps**

- b) Select Activity(s) Number(s) needed by clicking on the box in the **Program Funds** column, (unless there is Program Income available)
  - c) Once Activity(s) Number(s) have been selected click **Continue** tab below.
- Enter Drawdown Amount(s) for each Activity(s) Number(s). Make sure to use excel to see if all costs add up to the total. Keep for your records.
  - a) **Payment Voucher total cannot exceed \$5M.**
- Click the **SUBMIT VOUCHER** below.
- Add **VOUCHER COMMENTS** in the comment box below, enter Batch No(s) or reference Activity No(s). \*Make sure you add a comment for each Activity(s).
- Click the **CONFIRM VOUCHER** tab. (You will see an alert in red "Voucher Created Successfully")
- Print and download PDF version of voucher.
  - a) Save voucher (S:\Sandy Recovery\Budget & Finance Dept\DRGR\Drawdown)
  - b) Create Folder with current date if necessary
  - c) Save Voucher in current date folder by Voucher Number.
- DRGR will send **Voucher Pending Approval** e-mail confirmation to Drawdown User Requester as well as the Drawdown ADMIN Approver
- ADMIN will send approval/revision confirmation e-mail (DRGR does not generate approval/revision e-mail confirmations)
- **If a revision is needed follow these steps (Only Voucher Requesters are able to perform this action)**
  - a) Return to DRGR
  - b) Select Search/Maintain option on left hand side
  - c) Search for newly created Voucher by Voucher Number or Date
  - d) Click Checkbox on left and select your Voucher
  - e) Select Maintain option, then Select Revise option both on right hand side
  - f) Make necessary corrections to your Voucher
  - g) Click Save and Maintain Voucher Page will be redisplayed and status will be Revised Pending Approval
- Forward approval confirmation e-mail to Kathy Babula and Mike Kozar of DCA Fiscal (cc: Team Members).
  - a) Include the voucher number and amount in e-mail subject.
  - b) Include the date in which the funds will be available. (Calculate 2 business days from drawdown date).
- Return to DRGR system and log out or Create Voucher if more than one drawdown.

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<b>DRGR - Drawdown Procedural Steps</b>

**Approving a Voucher**

Once a voucher is created and confirmed in DRGR, it must then be approved by a second user. That user is known as the Voucher Approver, and receives an email alerting them that a voucher is ready for approval. The Voucher Approver user logs into DRGR's Drawdown module, reviews the amounts that have been entered and compares it to the approved invoices. If any amounts are incorrect, the Voucher Approver has the option to reject an individual Activity's amount (Line Item) or reject the entire voucher.

If a voucher is rejected, the Voucher Approver must enter comments or a reason as to why it was rejected, and the corrective action that should be taken. The Voucher Requester receives an alert that the voucher has been rejected, and will make corrections before resubmitting.

If the voucher is correct, and the Voucher Approver can approve line items individually, or select and approve all at one time. Once approved, the request will be sent to LOCCS for processing and the funds should return to DCA Fiscal within 1-2 business days.

Exhibit 6 below outlines the Budget and Finance Department's step-by-step process of approving a voucher in DRGR.

**Exhibit 6**

DRGR - Approval Procedural Steps	
<ul style="list-style-type: none"><li>• Login to the DRGR System</li><li>• From the left column function listing select <b>"Drawdowns"</b></li><li>• From the same column select <b>"Search / Maintain Vouchers"</b><ul style="list-style-type: none"><li>○ Enter <b>Grant # B-13-DS-34-0001</b></li><li>○ Go to the <b>Line Item Search</b> and select <b>"Open"</b><ul style="list-style-type: none"><li>▪ Click on <b>"Search"</b></li><li>▪ <b>Review Voucher(s) and check for errors</b></li><li>▪ Click on <b>"Action"</b> and select <b>"MAINTAIN" (APPROVE Or REJECT)</b></li><li>▪ Select <b>"APPROVE Or APPROVE ALL"</b></li></ul></li></ul></li></ul>	



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<b>DRGR - Approval Procedural Steps</b>
<ul style="list-style-type: none"><li>▪ Download to PDF and print a copy</li><li>▪ Email to Drawdown Requester, APPROVED with an attachment of the PDF download.</li><li>○ If Voucher needs revision<ul style="list-style-type: none"><li>▪ Do Not Reject, Requester will not be able to make corrections</li><li>▪ Specify necessary corrections e.g., Correct Amount</li><li>▪ Email to Drawdown Requester for corrections</li><li>▪ Wait for Requester to correct Voucher</li></ul></li><li>○ Select "Reject or Reject All"<ul style="list-style-type: none"><li>▪ Email Requester explanation for rejection</li><li>▪ Specify to Requester to create a New Voucher</li></ul></li></ul>



### **Revising Vouchers**

As programs progress and Activities change, vouchers need to be revised. The Budget and Finance Department revises vouchers for the following reasons:

- Original costs incurred are not for the correct Activity
- Error in accounting and costs need to be moved to another Activity
- HUD deemed costs ineligible

If the voucher was drawn against the wrong activity, it can be revised within the Drawdown module and assigned to the correct activity. If there was an error and funds were over-drawn or HUD deems the costs to be ineligible, there are two options:

1. Revise original voucher in DRGR AND off set next draw
2. Wire funds back to LOCCS
  - This option is used sparingly. Contact your CPD rep before wiring funds back. And, once the wired funds is processed by HUD's CFO staff (out of Ft. Worth), there will show a negative draw on the grant and the grantee must assign the negative draw to the desired Activity.

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- When funds are returned to DRGR through wires or off-setting draws, users can now categorize these as collections and recaptures when assigning funds to new activities through the revisions.

Voucher revisions are mapped out step-by-step in a financial report or Excel document before users make any changes in the system. The screen shot below shows a user going through the process of making a voucher revision. In this example, the user is moving \$5,000 of a \$25,000 voucher from Activity *NSP1-B A/R MF DHH LH25* to Activity *NSP1-B A/R MF DHH LMMI*.

**Revise Voucher Line Item** [Help?](#)

Updated: 2013-01-11 12:22:59.0      Effective Date:

Special Remarks:

Line Item	Grant #	Grantee Activity #	Responsible Organization	Activity Type	Activity Title	Fund Type	Drawdown Amount	Line Item Status	Submission Date
	B-08-MN-99-0103	NSP1-B A/R MF DHH LH25	Greater Denver Housing Help	Rehabilitation/reconstruction of residential structures	Acq/Rehab Multifamily LH25	PROGRAM INCOME	\$25,000.00	Approved	2012-01-11

Move Funds to Activities

Delete	Activity # / Activity Title / Available Amount	Amount
<input type="checkbox"/>	NSP1-B A/R MF DHH LMMI / Acq/Rehab Multifamily LMMI / \$500,000.00	\$ 5000
<input type="checkbox"/>	<--Select-->	\$ 0

Total Funds moved to other activities: \$ 5000.00

Balance Remaining on Activity = NSP1-B A/R MF DHH LH25: \$ 20000.00

\*Revision Reason:  
<--Select-->

Enter Reviser Comment:

Users can now select Revision Reasons and add comments about why the items were revised.

## Resources

- User Guide for DRGR Drawdown Module:  
[http://portal.hud.gov/hudportal/documents/huddoc?id=drgr\\_7\\_3\\_user\\_guide.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=drgr_7_3_user_guide.pdf)
- DRGR System Training for NSP Users – Day 2  
Users [https://www.onecpd.info/resources/documents/DRGRTrainingforNSPUsers\\_Slides\\_Day2.pdf](https://www.onecpd.info/resources/documents/DRGRTrainingforNSPUsers_Slides_Day2.pdf)



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### **Quarterly Performance Reports (QPR)**

The QPR is a quarterly summary of the performance and financial progress at the Activity level, and is based on records of funds that have been expended during the reporting quarter. QPR's automatically collect financial and Activity data in the system (via the Draws and the Action Plan) on the last day of the quarter.

The Budget and Finance Department is responsible for reviewing this information and reporting on,

1. Actual Performance Measures,
2. Addresses, and
3. Expenditures for each Activity.

Performance measures or Accomplishments will vary for each Activity depending on how that Activity was set up in the Action Plan and its associated Activity Type. Address information is entered only once a National Objective has been met and there are actual occupants in the property or unit.

Expenditures refer to outlays for either internal costs or external (sub-grantee, developer or contractor) payments. These may or may not have been drawn down yet in DRGR, but they have been paid from the DCA Fiscal Department.

A **Progress Narrative** is also required for each active Activity to further explain the progress that has been made over the quarter. The progress narrative is intended to support the accomplishments and report any information that is not captured in those prescribed metrics. The narrative has a character limit of about 3,500, including spaces.

Each **QPR is due within 30 days after the end of each full quarter**. The first DRGR QPR report is due to HUD by October 30<sup>th</sup>, 2013. After the end of the quarter (i.e. October 1<sup>st</sup>) the Budget and Finance DRGR staff reviews the entire Action Plan to ensure that all Activities are current and accurate. If any changes are needed the Action Plan is then resubmitted to the CPD Representative. By submitting the Action Plan for approval in early October, the CPD Rep has 30 days to review and approve it before the QPR is due.

When submitting the QPR, here are a few things to consider:

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- QPRs cannot be submitted if the Action Plan is *not* in a status of Review and Approved
- Submit changes to Action Plan in advance of QPR due dates to allow time for review
- The Action Plan cannot be edited when the QPR is submitted and waiting for approval

When ready to create the QPR, click 'Add' to add a QPR and 'Edit' to re-open one. The top of the QPR edit page will show information about the grant. The user selects a contact person for the QPR here as well. At the bottom of the screen is a space to enter a narrative on the overall progress of the award for the quarter. To report on individual Activities, click on the activity number. Activities with any financial activity during the quarter must be included in the QPR. To report on an individual Activity the following information is required:

- Beneficiary Data & Accomplishments
  - Fair Housing and Equal Opportunity (FHEO) Data: Based on Activity Type and Benefit data defined in the Action Plan, QPR - Page 1 may require FHEO data.
  - Report once end-use has been met
    - Addresses: Manual Entry and Geocode validation
  - Prior Period Adjustments (If needed, negative #s allowed to back out over-reporting)
- Financial Data
  - Expenditure vs. Drawdown data
- Activity-Specific Progress Narrative
  - This space can also be used to report other accomplishments for programs that don't fit into performance measures. This could include special accomplishments under the activity like community outreach or special performance measure accomplishments beyond standard measures.

The image below is a sample of the QPR's data fields available to report on this Activity's beneficiary data.



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Quarterly Performance Report

Edit Performance Report - Activity Page 1

Grant Number:  QTR Start Date:  Completed Date:  [Help?](#)

[View Cumulative Totals](#)

\*Direct Benefit Data by Households

**Race/Ethnicity**

Race	Total	Owner		Total Households	
		Hispanic/Latino	Total	Hispanic/Latino	Total
- Select -					
<b>Totals</b>					

**Female-Headed Households**

**Income Levels**

	Owner	Total
<b>Total Number Low</b>		
<b>Total Number Moderate</b>		
<b>Total Households</b>		

| 
  |

This is an example of the second page of the QPR and is where the financial data, such as Total Funds Expended, is entered.

Activity Funding	Apr 1 thru Jun 30, 2011	To Date
<b>Total Projected Budget from All Sources:</b>	N/A	\$9,181,844.95
<b>Total Budget:</b>	\$0.00	\$9,181,844.95
<b>Total Obligated:</b>	\$0.00	\$9,069,404.17
<b>Total Funds Drawdown</b>	\$217,879.14	\$4,838,204.69
Program Funds Drawdown:	\$135,101.84	\$4,725,763.91
Program Income Drawdown:	\$82,777.30	\$112,440.78
<b>Program Income Received:</b>	\$0.00	\$0.00
<b>Total Funds Expended:</b>	\$0.00	\$4,594,745.76
Restore Neighborhoods L.A., Inc. (RNLA)	\$ 0.00	\$4,594,745.76
<b>Match Contributed:</b>	\$ 0.00	\$0.00

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#### **Resources**

- Quarterly Performance Report Module –Draft User Guide:  
[http://portal.hud.gov/hudportal/documents/huddoc?id=drgr\\_user\\_manual\\_qpr.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=drgr_user_manual_qpr.pdf)
- Guidance for Reporting Projected and Actual NSP Grantee Accomplishments in DRGR:  
<https://www.onecpd.info/resource/2731/guidance-reporting-projected-actual-nsp-grantee-accomplishments-drgr/>
- DRGR Quarterly Performance Report Checklist - NSP1:  
<https://www.onecpd.info/resource/139/drgr-quarterly-performance-report-checklist-nsp1/>

#### **Reports**

The reports module is perhaps one of most important features of DRGR, yet it is completely optional to the user. It is divided into three separate sections and provides canned reports for each section. The canned, or pre-formatted, report provides a snapshot of the data in DRGR at that time.

The reports module does not provide historical data, or data from a specific timeframe. Therefore the Budget and Finance DRGR team pulls and saves a few select reports weekly, and saves them to a folder on the S drive, S:\Sandy Recovery\Budget & Finance Dept\DRGR\DRGR Reports.

The benefit in using these reports is to provide a relatively quick and easy way of accessing the most up-to-date information in DRGR related to user accounts, obligations and drawdowns, performance measures, etc. Grantees use financial reports to reconcile the internal financial system's data and HUD uses these reports to periodically monitor or check on the grantee's progress.

To access the most commonly used reports, refer to the Standard Reports folder.

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**1.**



**Disaster Recovery Grant Reporting System  
(DrgrRep) - FY2008 - 001A**  
Project description unavailable

**2.**



**Shared Reports**  
Run reports and share reports with others.

**3.**



**Public Reports**  
**Owner:** Administrator  
**Modified:** 2/26/11 11:17:07 AM  
**Available reports:** n/a

OR



**Standard Reports**  
**Owner:** Ivo Djoubrailov  
**Modified:** 2/26/09 4:03:42 PM  
Contains custom defined reports

For more information on how to modify and export reports, see the resources available below.

#### Resources

- DRGR System Training - Part 2 (HUD):  
[http://portal.hud.gov/hudportal/documents/huddoc?id=cdbg\\_training\\_5-2\\_2\\_14.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=cdbg_training_5-2_2_14.pdf)
- DRGR Grantee User Reports: <https://www.onecpd.info/resource/132/drgr-grantee-user-reports/>



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**RESOURCES:**

HUD Portal Page on DRGR info	<a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/drsi/drgrs">http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/drsi/drgrs</a>
HUD Portal Page on DRGR User Guides and Training Materials	<a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/drsi/drgrs/drgtraining">http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/drsi/drgrs/drgtraining</a>
OneCPD main DRGR Page	<a href="https://www.onecpd.info/drgr/">https://www.onecpd.info/drgr/</a>
OneCPD – DRGR Guides, Factsheets and Webinar Archives	<a href="https://www.onecpd.info/drgr/guides/">https://www.onecpd.info/drgr/guides/</a>
DRGR Classroom training slides (NSP-specific but very similar to the ones used for CDBG-DR)	<a href="https://www.onecpd.info/resource/145/drgr-training-for-nsp-users-presentation-slides/">https://www.onecpd.info/resource/145/drgr-training-for-nsp-users-presentation-slides/</a>
DRGR Frequent Asked Questions (How do I...?)	<a href="https://www.onecpd.info/resource/134/drgr-knowledgebase-faqs/">https://www.onecpd.info/resource/134/drgr-knowledgebase-faqs/</a>
One CPD Ask A Question (Basic DRGR help & Troubleshooting) – Please list grant, grant #, describe steps and send before/after screenshots showing problems	<a href="https://www.onecpd.info/ask-a-question/my-question/">https://www.onecpd.info/ask-a-question/my-question/</a>
DRGR Access Troubleshooting and New Accounts/Account Updates	Email Debbie Key through <a href="mailto:DRGR_Help@hud.gov">DRGR_Help@hud.gov</a>

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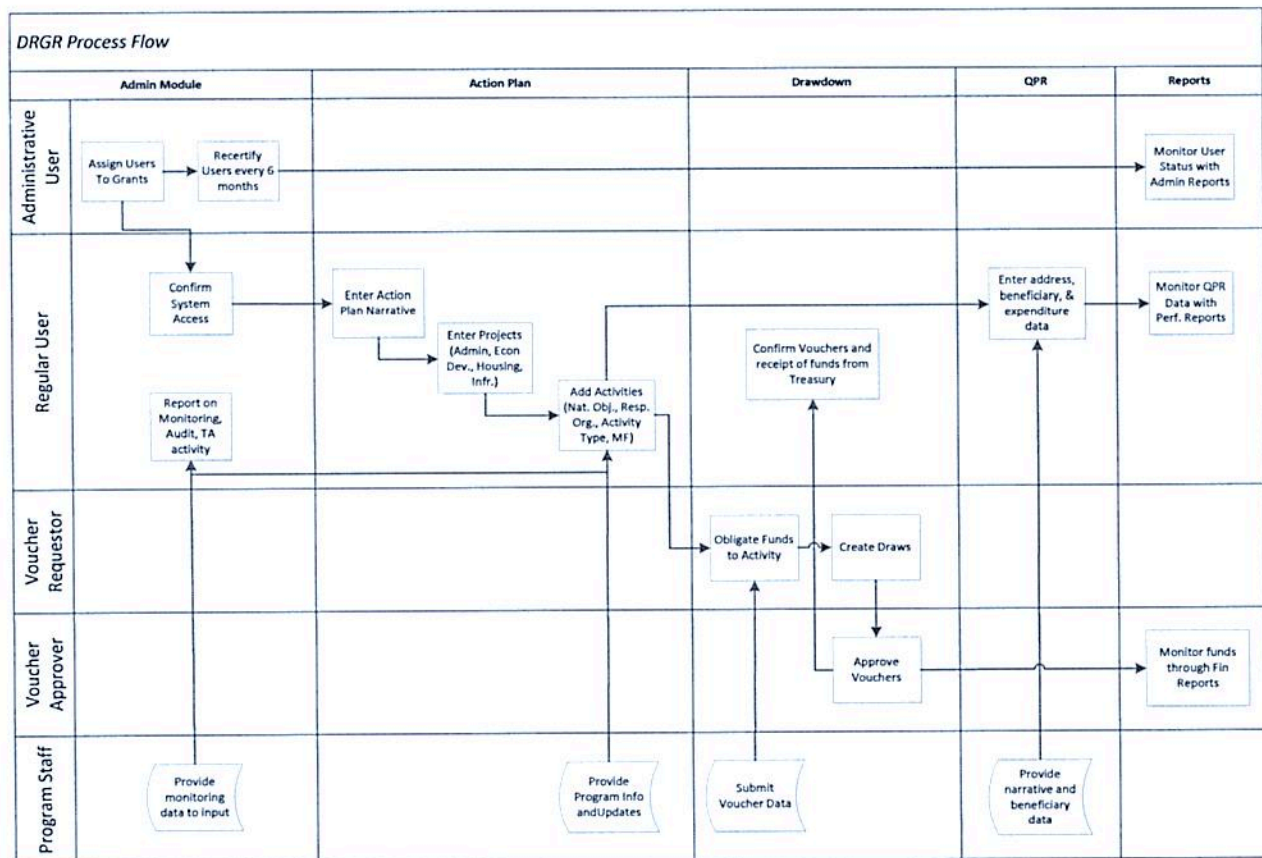
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**PROCESS FLOW:**

Also see Attachment 4-C.



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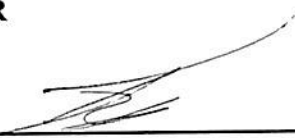
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**SANDY CDBG-DR**

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**APPROVAL:**

  
Timothy Cunningham  
Director, Sandy Recovery Division

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**Purpose:**

The Department of Community Affairs is making every effort to ensure that all grants and loans are awarded and disbursed according to the Action Plans and applicable State and Federal regulations. However, situations may arise where incorrect third-party data, errors by contractors, errors by the applicant or fraudulent activity result in an overpayment to an award recipient.

This recapture/charge off policy sets forth the process that the Department of Community Affairs will use to pursue repayment of funds that have been incorrectly awarded to an applicant. This includes, but is not limited to:

- Funds paid out to applicants who are later determined to be ineligible;
- Overpayment of funds to eligible applicants;
- Funds owed as the result of additional receipt of insurance, FEMA, or other benefits by beneficiaries; and/or
- Funds owed due to a breach of contractual obligations
- If due to contractor error, consideration should be made to determine if the contractor should repay the overpayment to DCA.

The following procedures will be implemented to collect money, charge off the amounts that are not collectible and avoid repayment of the amounts to the Federal Treasury from non-federal funds.



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Each agency is responsible for ensuring its internal systems for debt collection is adequate to effectively collect amounts due, and to comply with New Jersey OMB Circular No. 13-11. This Policy establishes requirements for the review and identification of assets deemed to be uncollectible. Such assets may include accounts, claims, and loans receivable; deficiency balances; items outstanding for an extended period of time or delinquent balances held in suspense accounts; or unreconciled items in an organization's general ledger. Financial accounting treatment of write-offs and the methodology for establishing the allowance for uncollectible receivables will be addressed in separate policy statements.

#### Recapture Policy

To be subject to collection, the amount of the overpayment must be either a case of fraud or the overpaid amount must be at least \$1,000 and must be:

- Due to third –party errors (i.e. damage assessment, valuation or insured value of the property);
- The result of a subrogation payment;
- Due to an error on the part of a contractor; or
- The result of other causes that may be determined by DCA on a case-by-case basis

Suspected fraud cases will be referred to the Attorney General for collection and possible prosecution.

Once an overpayment has been discovered and requires collection, the following steps will be taken:

- Determine if the applicant is eligible to receive additional funds under another program in which they were not overpaid. Perform a preliminary analysis to compare the amount of additional funds to be received and apply the additional funds to the amount overpaid;

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- Notify the applicant with a certified letter, giving them thirty (30) days to respond, informing them that their case is under review and if necessary their application may be rolled into another program or they will have to repay some or all of the funds they have received;
- The Director of the Sandy Recovery Division or his or her designee will review the analysis and take one of the following actions:
  - If the applicant is due additional funds from another program, overpaid amounts will be deducted from the award. If the funds exceed the overpayment amount, the applicant will receive a supplemental award.
  - If the applicant is not eligible or due funds from another program, DCA will attempt to collect the amount of the overpayment.

Non Tax Debt Collection Procedure

Each sub-recipient is responsible for ensuring their internal systems for data collection are adequate to effectively collect the amounts due. These internal systems shall include a computerized database that is designed and utilized to track and report on open accounts. The computerized database must be designed and utilized to accurately capture all of the information listed below.

For accounts involving individuals, the information shall include:

- First name, last name, middle initial, and if appropriate, designations (e.g. Jr., Sr., II)
- Home address
- Home telephone number
- Office telephone number
- Social security number
- Nature of debt
- Date of debt

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- Amount of debt
- Payment(s) amounts(s)
- Payment(s) date
- Balance due

For accounts involving businesses, the information shall include:

- Company name
- Company address
- Contact(s) name(s)
- Federal identification number
- Nature of debt
- Amount of debt
- Payment(s) amounts(s)
- Payment(s) date(s)
- Balance due

All accounts, whether an individual or a company account, shall be assigned account numbers that are consistent and logical for the agency.

The agency shall develop and establish written procedures and guidelines to be followed by all staff assigned to the debt collection function. These procedures and guidelines shall include, at a minimum, the following:

- Initial billing (invoice) or demand letter upon identification of a repayment required
- First dunning or formal notice letter via certified mail after 30 days
- Second dunning or formal notice letter via certified mail after 60 days

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- Transfer account to Department of Treasury, Division of Revenue and Enterprise Services (DORES), Cross Agency Collection and Services Bureau for further collection efforts.

With the written approval of DORES, the agency may employ alternative procedures and guidelines for collecting non-tax debt. The agency must demonstrate to DORES' satisfaction that the alternative procedures and guidelines ensure due diligence and follow-up on non-tax debt accounts and that they support efficient and effective collection practices.

#### Repayment Plan and Recapture Agreement

Any Sandy Recovery Division program that provides disaster assistance funds to individual beneficiaries may elect to accept the recapture of funds utilizing a payment plan. Individual beneficiaries must enter into a Recapture Agreement that details the terms and conditions of the repayment. No term of a Recapture Agreement may exceed four (4) years in term. Any recapture of funds may include a lump sum (partial payment) and monthly payments for the outstanding balance. Payments will be divided into equal monthly installments and no interest, fees or charges will be assessed.

A repayment plan may be developed based on the debtor's ability to repay and/or other financial considerations related to ability to make monthly payments to sufficiently repay indebtedness within the prescribed four (4) year maximum term.

The Recapture Agreement must, at a minimum, contain the following:

- Total amount owed
- The amount of any lump sum (partial payment) paid at the execution of the agreement (if applicable)
- Repayment time period
- Monthly payment amount

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- Reference in written agreement or contract regarding non-compliance
- Provision whereby terms of Recapture Agreement may be renegotiated if there is a material change in debtor's situation or circumstances
- Provision whereby late or missed payments constitute default of the Repayment Agreement and may result in termination
- Provision identifying an enforcement mechanism (lien, deed restriction or declaration of restrictive covenant) to be employed in the event of default.

Departmental Write-off Policy

1. In accordance with the relevant provisions of New Jersey OMB Circular Letter 13-11, write off recommendations will be made by the Sandy Recovery Division. All documentation of the efforts made to collect on non-tax debt accounts, including all correspondence received, must be retained until the accounts are either paid or approved for write off. An account shall be deemed uncollectible and eligible for write-off only if DORES deems the account uncollectible and if the account meets one of the following criteria:
  - a. Any debt of \$250 or less, which is delinquent at least six months with no contact or no payment from the debtor for at least six months
  - b. Any debt greater than \$250, but no more than \$1,000 that is delinquent at least nine months with no contact or no payment from the debtor for at least nine months.
  - c. Any debt greater than \$1,000 that is delinquent at least one year with no contact or no payment from the debtor for at least one year. A judgment against the debtor must be obtained.

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- d. Any debt that is owed by a debtor that is deceased and there are no assets in his or her estate from which to collect the sum owed. A copy of the death certificate is required.
  - e. Any debt or portion thereof that is discharged in bankruptcy. A copy of the discharge notice is required.
  - f. Any debt that is owed by a corporation that is no longer in business or has been dissolved and there are no assets from which to collect the sum owed. Written documentation is required.
  - g. Any debt that is determined to be uncollectible by the Attorney General, his designee, or other agency legal counsel. Written documentation is required.
2. On an annual basis, an organization's quarterly estimate of write-offs for the next Fiscal Year will be established by the Sandy Recovery Division's Finance Director or designee, subject to review by the Departmental Integrity Officer for consistency with the Policy.

On a quarterly basis, the Sandy Recovery Division's Finance Director will evaluate its assets to quantify and recognize amounts to be written off, on a timely basis. Each quarter, the program Finance Director will report to the Sandy Recovery Division Director and DCA's Accountability Officer, the level of actual write-offs vs. its original estimated write-offs.

3. Authorizations should be obtained for write-offs prior to their recognition in an organization's general ledger. The Sandy Recovery Division and their accounting operation will have established authorization thresholds for write-offs. Such thresholds



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will be developed by Sandy Recovery Division's management, subject to review by the Sandy Recovery Division Director for consistency with the Policy.

In developing the thresholds, consideration will be given to:

- Statutory or regulatory program requirements involving write-offs;
  - Requiring that write-offs of progressively higher dollar amounts be authorized by progressively higher level officials;
  - Requiring signatures be obtained from all appropriate officials participating or concurring in each write-off decision before an asset is written off; and
  - Appropriate internal control considerations (e.g., separation of duties, etc.) will be implemented and documented, where applicable.
4. A summary memorandum or other format, i.e., approved HUD Form, detailing the rationale for proposing a write-off, a summary of the due diligence performed, and evidence of authorization of the write-off will be included as part of the Sandy Recovery Division's file documentation. Such records will be maintained in accordance with the Department of Community Affairs record retention requirements.
5. Unless otherwise provided in statute, the Department of Community Affairs will initiate referral of receivables exceeding \$100,000 to the Department of Justice for its concurrence in terminating collection action.<sup>1</sup> For debt referred to the Department of Justice for concurrence for termination of collection action, the Department of Community Affairs will:
- Track and monitor accounts referred to DOJ for termination of collection actions; and

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<sup>1</sup> See HUD policy guidance at <http://www.hud.gov/offices/cfo/policies/cfowrtof.cfm>

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- Ensure that accounts returned from DOJ with concurrence are actually written off.

#### Close-out and Retention of Written-off Assets

A distinction will be made between financial statement recognition of non-recoverable assets (write-offs) and the subsequent management of those non-recoverable assets (i.e., close-out vs. retention of written-off assets). The Sandy Recovery Division will write off and close out an asset or write off and retain a written-off (i.e., inactive) asset for possible recovery action, depending on the circumstances and probability of eventual recovery.

At the time the asset is recommended for write-off, a proposal shall be made as to whether the asset will be retained or closed-out. The Sandy Recovery Division will consider the following factors when evaluating whether retention is justified:

- Whether there is a potential for offset against future benefits and if so, how far into the future is the potential offset;
- Whether there be access to any new or expanded recovery actions in the near future;
- Whether there is information that can be used to prescreen future applicants for previous defaults; and
- Whether there are statutory, regulatory, or contractual restrictions which prohibit the reporting of discharged receivables to the IRS?

#### Suspension of Collection Activities

The Department of Community Affairs and its sub recipients pursuant to its inherent authority as the department which the debt originated may suspend at its discretion, collection activities as provided by New Jersey OMB Circular 13-11.

#### Recaptured Funds

All funds recovered as a result of this policy will be tracked and returned to U.S. Treasury.



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Applicability

This policy shall apply all CDBG-DR funds that are managed by the Department of Community Affairs, Sandy Recovery Division and all of its sub recipients.

Write-off activities involving both program and accounting operations include receivables deemed uncollectible such as loans, fees, rents, overpayments, and similar debts. Each program manager and sub recipient is required to report any recapture or charge off activities involving CDBG-DR funds to the SRD Assistant Director for Budget and Finance immediately upon determination.

Implementation of this policy is required by all sub recipients. Written confirmation of receipt and implementation of this policy is required.

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**SUBJECT:** Personally Identifiable Information (PII) Policy

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**NUMBER:** 2.10.44

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**APPROVAL:**



**Robert Bartolone, Director of Auditing and Accountability Officer**



**Stacy Bonaffons  
Assistant Commissioner**



**Howard McCoach  
Director, Sandy Recovery Division**

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**PURPOSE:**

The purpose of this policy is to set forth the requirements for protecting the confidentiality of personally identifiable information (PII) concerning any person making application to any program funded with Community Development Block Grant – Disaster Recovery funds for which PII is required to be provided and/or maintained.

**POLICY:**

As a condition of making application for CDBG-DR funds, the Federal government requires the Department of Community Affairs and its subrecipients to collect PII to verify program eligibility. In making application for CDBG-DR funds or a CDBG-DR funded program, the applicant acknowledges that PII may be required to be submitted to document eligibility.

The Department of Community Affairs recognizes that this PII is defined by HUD as:

“ information that can be used to distinguish or trace an individual’s identify, such as name, and social security number, alone, or when combined with other personal and identifying information which is linked or linkable to a specify individual , such as date, place of birth, mother’s maiden name, etc.”

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The Department of Community Affairs recognizes that PII, if lost, compromised, or disclosed without authorization could result in substantial harm, embarrassment, inconvenience or unfairness to an individual. For this reason, DCA shall require adherence to the following policy when obtaining, accessing and handling PII.

**This policy applies to all DCA staff, subrecipients and contractors who have responsibility for implementing, supervising, or monitoring any program, project or activity funded with CDBG-DR funds.**

1. Access to documents, files and electronic data containing PII must be limited to authorized individuals and individuals who require access to this data to perform their work duties. Before gaining access to PII, all staff, subrecipients, consultants and employees of sub-contractors shall sign a *Non-Disclosure Agreement (NDA)*.
2. All requests for PII from unauthorized individuals, members of the public, the media, or other outside entities must be accompanied by the "*Permission for Access to Applicant Information*" form that must be signed by the applicant. (see attached)
3. Interviews and meetings that involve the sharing or discussion of PII are to be held in a private space where conversations cannot be overheard. Any notes or minutes of such meetings must be stored securely unless it is verified that the documents do not contain PII.
4. PII should be discussed over the telephone only after confirming with the applicant that the right party has been contacted and informing that person that PII will be discussed. **Messages containing PII should never be left on voicemail.**
5. PII is not to be transmitted by email or in any other electronic format (e.g., text messages).
6. Applicant/participant files may contain PII, thus the entire file should be protected in a secure and confidential manner that adheres to this policy.
7. Applicant files containing PII shall not be placed on shared network drives or intranets. Rather, it must be secured in a manner that restricts access to only authorized users.

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8. Both civil and criminal penalties may result from non-compliance with these privacy requirements.

**PROCEDURES:**

All subrecipients, contractors and staff having access to PII must follow the procedures below. Subrecipients and contractors may adopt their own operating procedures that conform to DCA guidelines. **These operating procedures are subject to review and approval by the Department of Community Affairs prior to implementation.**

1. Staff should receive training and periodic refreshers on the importance of maintaining confidentiality in the handling of all PII.
2. The information collected in the course of making application to Superstorm Sandy Disaster Recovery Programs contains PII that shall not be divulged to a third party without the express consent of the applicant.
3. By making application to a program funded with Disaster Recovery funds, the applicant agrees to provide the documentation required by the program to verify eligibility and qualification. This documentation which is collected from the applicant includes, but is not limited to: pay stubs, federal income tax returns, bank accounts, brokerage accounts, retirement accounts, and pension funds.
4. Staff should exercise discretion when speaking about applicants and any conversations concerning applicants or PII should take place in secure locations or closed offices where confidentiality can be maintained.
5. Details regarding applicants are not to be discussed with anyone except supervisors, management and authorized representatives of the Department of Community Affairs.
6. Employees should never remove PII from the workplace, either intentionally or unintentionally.

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7. If information provided by the applicant to verify eligibility includes social security numbers and/or bank or brokerage account numbers, the following procedure shall be followed:
  - a. A copy of the document is made in the presence of the applicant.
  - b. The identifying social security or account information is redacted.
  - c. The document is scanned and uploaded to a secure site.
  - d. The redacted document is returned to the applicant or shredded in the applicant's presence.
8. Confidential documents are to always be kept in a secure location.
9. Computers and passwords are not to be shared.
10. Only program authorized and approved IT equipment is permitted to be used to process, store, and disseminate information and data.
11. Egrants and other renew Jersey Stronger program applications shall only be accessed from a program-authorized desktop, laptop or mobile device. Accessing eGrants and other renew Jersey Stronger program applications from a non-program asset is strictly prohibited.
12. All authorized USB storages devices that are used to store data must use encryption when uploading data that meets or exceeds FIPS 140-2 and NIST SP 800-111 Guide to Storage Encryption Technologies for End User Devices, Standards, i.e.(AES-256 or higher).
13. All program users must lock their workstation, laptop or mobile device when leaving such devices unattended.
14. Device monitors/screens shall be programmed to immediately lockout users after five minutes of inactivity.
15. In some instances, applicants have requested the assistance of advocates to help them through the recovery process. This assistance may involve help to complete housing applications, gather required data, or interpret programmatic requirements. Proper

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permission must be granted by the applicant prior to sharing any PII on an applicant – including, but not limited to status of application and the amount of award.

Prior to allowing anyone other than the applicant to participate in meetings with housing counselors, or gain access to any information related to a specific applicant, the applicant is required to come in to the nearest Housing Center with his/her advocate and sign a consent form (see attached). Advocates will be required to produce some form of picture identification at that time.

In some instances, housing advocates are working with applicants who are unable to physically come to the Center. In such cases, if the applicant or his/her advocate contacts the Supervisor of the Housing Center, arrangements shall be made to meet with the applicant and his/her advocate at the applicant's current place of residence.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Personally Identifiable Information (PII) Policy

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**NUMBER:** 2.10.44

**EFFECTIVE:** November 2013

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**Permission to Access Applicant Information**

By completing the information below, you are agreeing that the person you list will be able to access verbal and written information regarding your application for Superstorm Sandy Recovery Assistance, and any additional information related to the program for which you have applied.

Name of Attorney/Non-Attorney Advocate (please print) \_\_\_\_\_

Address of Attorney/Non-Attorney Advocate  
\_\_\_\_\_

Relationship \_\_\_\_\_

Information that may be disclosed  
\_\_\_\_\_

I understand by signing this form that the New Jersey Department of Community Affairs, its staff and contractors are allowed to speak freely about my application for housing assistance and related matters, within any limits specified above. I understand that I may revoke this permission at any time by sending a signed, dated statement to Stephen Grady, Assistant Director – Housing Programs, Sandy Recovery Division, New Jersey Department of Community Affairs 101 South Broad, Trenton, NJ 08625.

Applicant Name (printed) \_\_\_\_\_

Applicant Name (signed) \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_  
\_\_\_\_\_

This permission may be revoked at any time by the applicant. To do so, please:

- Check the box below
- Sign in the space provided below.
- Return the form to Stephen Grady, Assistant Director – Housing Programs, Sandy Recovery Division, New Jersey Department of Community Affairs (Email: [stephen.grady@dca.nj.state.us](mailto:stephen.grady@dca.nj.state.us))

☐ I hereby revoke permission for Advocate Access to Information.

Applicant Name (signed) \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

**SUBJECT:** Accounting for Third Party Benefits Received Post Grant Signing

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**NUMBER:** 2.10.50

**EFFECTIVE:** January 2014  
**REVISED:**

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**APPROVAL**



**Stacy Bonnaffons**  
Assistant Commissioner



**Howard McCoach**  
Director, Sandy Recovery Division

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**PURPOSE:**

This policy acknowledges that some program participants for Sandy Recovery Division programs may receive additional benefits from third party sources (private insurance, National Flood Insurance, FEMA, non-profits, etc.) after their Duplication of Benefits calculations have been completed and their grant award signed. This document sets out the policy and procedures that must be followed in these circumstances.

**POLICY:**

The Federal Register Notice of March 5, 2013 awarding Community Development Block Grant funds to the State of New Jersey states that each grantee must have a procedure that identifies processes for each of the following:

*".....verifying all sources of disaster assistance; determining an applicant's unmet need(s) before awarding assistance; and ensuring beneficiaries agree to repay the assistance if they later receive other disaster assistance for the same purpose. The procedures should also indicate which personnel or unit are responsible for the task."*

The notice further states:

*"Duplication of benefits. Section 312 of the Stafford Act, as amended, generally prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which he has received financial assistance under any other program or from insurance or any other source. To comply with this law and provisions of the Appropriations Act, each grantee must ensure that each activity provides assistance to a person or entity only to the extent that the person or entity has a disaster recovery need that has not been fully met."*

(Note: See Sandy Recovery Division Duplication of Benefits Policy, No. 2.10.2 – Adopted March 2013 and revised June 2013.)



**SUBJECT: Accounting for Third Party Benefits Received Post Grant Signing**

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This is the policy that the Sandy Recovery Division has adopted to address situations where, following the Duplication of Benefits analysis and the grant signing, a program beneficiary receives additional third-party payments related to damage incurred as a result of the storm.

When this occurs the additional benefits will be taken into consideration resulting in a revised Duplication of Benefits calculation and potentially a revised grant award.

**PROCEDURE:**

The status of grant disbursements determines the procedures to be followed to account for the additional benefits.

***Grant Signed but No Disbursement Has Occurred:***

If no payment has been made to the beneficiary from grant funds, the following procedure should be followed:

1. Beneficiary will be asked to produce documentation of the additional benefit received/to be received.
2. Appropriate SRD staff or their designee revises Duplication of Benefits (DOB) calculation worksheet to arrive at a new grant amount.
3. If the new DOB calculation reduces the amount of "unmet need," then the grant amount will be reduced accordingly.
4. The beneficiary will be required to sign a statement verifying the DOB analysis and acknowledging the reduction in the grant award.
5. This information is entered into to the Egrants and SIROMS systems, documenting the new award amount.

**SUBJECT: Accounting for Third Party Benefits Received Post Grant Signing**

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*Grant Signed and Disbursements Made:*

If payments have been made from the grant award to the beneficiary, then the following procedure is to be followed:

1. Beneficiary will be asked to produce documentation of the additional benefit received/to be received.
2. Appropriate SRD staff or their designee revises Duplication of Benefits (DOB) calculation worksheet to arrive at a new grant amount.
3. If the new DOB calculation reduces the amount of “unmet need,” then the grant amount will be reduced accordingly.
4. The beneficiary will be required to sign a statement verifying the DOB analysis and acknowledging the reduction in the grant award.
5. If the revised grant award is MORE than the amount already disbursed, then the amount remaining on the grant will be adjusted and the beneficiary so notified.
6. If the revised grant award is LESS than the amount already disbursed, the beneficiary will be notified that they will be required to produce a check for the overpayment within 5 calendar days. The check is to be made payable to: New Jersey Department of Treasury and is to be for the full amount of any overpayment. The check is to be either mailed or hand delivered to: Department of Community Affairs, Finance Division, 101 South Broad, Trenton NJ.
7. Failure on the part of the beneficiary to comply with this procedure will result in the initiation of action pursuant to the Sandy Recovery Division’s Recapture – Charge Off Policy (No . 2.10.43, approved November 2013).
8. Once payment is received, the Finance Department will deposit the funds back into the SRD account, with a “—99” notation, indicating that this is a reimbursement (first two digits represent the program).

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9. Reimbursed funds are to be drawn before additional DRGR drawdowns. For accounting and financial monitoring purposes, these funds are considered “reimbursement” and not “program income.”
10. At the time that reimbursement is received, a notation will be entered into the SRD finance account and Egrants system noting the amount of the reimbursement and the name and application number (if available) of the program beneficiary. This enables program and finance staff to track reimbursements both individually and in the aggregate.

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**EXHIBIT 3**

**SUPERSTORM SANDY RECOVERY  
SUBROGATION AND ASSIGNMENT AGREEMENT**

This Subrogation and Assignment Agreement (hereinafter the "Agreement") is made by and between STATE OF NEW JERSEY, DEPARTMENT OF COMMUNITY AFFAIRS, having offices at 101 South Broad Street, Trenton, NJ 08625-0800, hereinafter "STATE" and the HOMEOWNER as noted in Exhibit 1 residing at the address noted in Exhibit 1, hereinafter "HOMEOWNER".

In consideration of HOMEOWNER'S receipt of funds or the commitment by the State to provide funds (collectively, "RREM grant proceeds" under the Community Development Block Grant Disaster Recovery Program (CDBG-DR Program), administered by the STATE, HOMEOWNER hereby assigns to the STATE all of HOMEOWNER's future rights to reimbursement and any and all payments received from any grant, subsidized loan, or insurance policy of any type or coverage, including but not limited to, any reimbursement or relief program related to or administered by the Federal Emergency Management Agency ("FEMA") or the Small Business Administration ("SBA") or Increased Cost Compliance "ICC" (singularly, a "Disaster Program" and collectively, the "Disaster Programs") where those funds or reimbursements would have been the basis for the calculation of HOMEOWNER 's award under the grant agreement executed between the State and the HOMEOWNER under the Reconstruction, Rehabilitation, Elevation and Mitigation Program (the "RREM Program") and that are determined in the sole discretion of the CDBG-DR Program to be a duplication of benefits ("DOB") as provided in this Agreement.

When the HOMEOWNER first becomes aware of any such payment or reimbursement, whether they arise from insurance, FEMA, the SBA, ICC or any other funding source, he/she shall immediately notify and forward the proceeds of this payment and/or reimbursement to the STATE, which will determine in its sole discretion if such a payment or reimbursement constitutes a DOB. If some or all of the Proceeds are determined to be a DOB, that portion shall be paid to or retained by the STATE as provided in this Agreement.

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HOMEOWNER agrees to assist and cooperate with the STATE if it elects to pursue any of the claims HOMEOWNER has against insurers for reimbursement of DOB Proceeds under any such policies. HOMEOWNER's assistance and cooperation shall include but shall not be limited to: allowing suit to be brought in the name of or on behalf of the HOMEOWNER and providing any additional documentation with respect to such consent, allowing for his/her deposition(s), providing documents, producing records and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by the STATE. HOMEOWNER further agrees to assist and cooperate in the STATE receiving and/or seeking to collect any DOB Proceeds that the HOMEOWNER would be entitled to under any applicable Disaster Program.

If requested by the STATE, HOMEOWNER agrees to execute any additional documents and instruments as may be requested by the STATE to further and better assign the HOMEOWNERS rights to the STATE and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the STATE to consummate and make effective the purposes of this Agreement.

HOMEOWNER explicitly agrees to allow the STATE to request from any company with which HOMEOWNER held insurance policies, or other entity to which the HOMEOWNER applied for or is receiving funds related to damage to the HOMEOWNER's PROPERTY, including but not limited to, FEMA, the SBA or any other entity, any of the following information or documents: public or confidential information or documents determined to be reasonably necessary by the STATE to monitor/enforce its interest in the rights assigned to it under this Agreement and the grant agreement. The HOMEOWNER further agrees to provide written consent to the STATE for such company or entity to release such information to the STATE.

If HOMEOWNER hereafter receives any DOB Proceeds in excess of the specific amount listed on the DOB Affidavit, and if the HOMEOWNER's RREM Grant award would have been less if these DOB proceeds had been taken into account at the time of the DOB calculation, the HOMEOWNER hereby agrees to immediately reimburse such amount to the STATE.

In the event that the HOMEOWNER receives or is scheduled to receive any Proceeds not listed on its DOB Affidavit ("Subsequent Proceeds"), HOMEOWNER shall immediately notify the State and pay

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such Subsequent Proceeds directly to the STATE which shall determine the amount, if any, that such Subsequent Proceeds are to be considered "Subsequent DOB Proceeds."

Subsequent DOB Proceeds shall be disbursed as follows:

1. If the HOMEOWNER has received full payment of the Grant, any Subsequent DOB Proceeds shall be retained by the STATE.
2. If the HOMEOWNER has received no payment of the GRANT, any Subsequent DOB Proceeds shall be used by the STATE to reduce payments of the Grant Proceeds to the HOMEOWNER and all Subsequent DOB Proceeds shall be returned to the HOMEOWNER.
3. If the HOMEOWNER has received a portion of the Grant Proceeds, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (A) Subsequent DOB Proceeds shall first be used to reduce the remaining payments of the Grant, and Subsequent DOB Proceeds in such amount shall be returned to the HOMEOWNER and (B) any remaining Subsequent DOB Proceeds shall be retained by the STATE.
4. If the STATE makes the determination that the HOMEOWNER does not qualify to participate in the RREM Program or the HOMEOWNER determines not to participate in the Program, the Subsequent DOB Proceeds shall be returned to the HOMEOWNER and this Agreement shall terminate.

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Once the STATE has recovered an amount equal to the Grant paid to or on behalf of the HOMEOWNER, the STATE will reassign to HOMEOWNER any rights assigned to the STATE pursuant to this Agreement.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

APPLICANT:

\_\_\_\_\_

Signature

\_\_\_\_\_

Name (Print)

Date: \_\_\_\_\_

CO-APPLICANT:

\_\_\_\_\_

Signature

\_\_\_\_\_

Name (Print)

Date: \_\_\_\_\_

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT: RREM Policy on Documentation of Property Owner Reimbursement**

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**NUMBER:** 2.10.55

**EFFECTIVE:** December 2013  
**REVISED:**

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**APPROVAL**



**Stephen P. Grady**  
**Assistant Director, Housing Recovery Programs**

  
**Stacy Bonaffons**  
**Assistant Commissioner**  
**Howard McCoach**  
**Director, Sandy Recovery Division**

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**PURPOSE:**

The purpose of this policy is to specify the documentation to be required for RREM reimbursement to homeowners for pre-award costs (pursuant to CPD-13-05: Guidance for Charging Pre-Award Costs of Homeowners, Businesses, and Other Qualifying Entities to CDBG Disaster Recovery Grants) .

**This policy is an addition to Section 4: Duplication of Benefits, Reimbursement and Award Calculation of the RREM policies and procedures approved November 2013, and subsequently amended. This is to be added to Section 4.3 – Required Documents on page 49.**

**POLICY:**

This policy clarifies the documentation that will be used to substantiate the amount of “pre-award” costs to be awarded as reimbursement to RREM program participants.

To document the reimbursement amount the following documents are to be reviewed and maintained in the RREM program participant’s file:

1. A copy of the RREM contractor’s assessment of Work In Place (WIP).
2. A signed certification by the home owner that:
  - a. The amount of the Work In Place estimate is more than or equal to the amount expended by the homeowner to repair/replace his property.



STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT: RREM Policy on Documentation of Property Owner Reimbursement**

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**NUMBER:**

2-10-55

**EFFECTIVE: December 2013**

**REVISED:**

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- b. An affirmation by the homeowner that he/she has receipts, contracts and other documentation in his/her possession to document these expenditures.
- c. An affirmation by the homeowner that he/she will maintain this documentation for a period of not less than five (5) years.
- d. An affirmation by the homeowner that all construction ceased at the date of application submission.

**SUBJECT:** Federal Funding Accountability and Transparency Act (FFATA) Reporting

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**NUMBER:** 2.10.59


**EFFECTIVE:** February 2014

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**APPROVAL**   
Stacy Bonaffons  
Assistant Commissioner

  
Howard McCoach  
Director, Sandy Recovery Division

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**PURPOSE:**

This policy sets forth the requirements for reporting on CDBG-DR awards that are covered under Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

**POLICY AND REQUIREMENTS:**

The FFATA sub-award reporting system collects data from Federal prime contractors on sub-awards they make. The Prime Grant Awardee (New Jersey Department of Community Affairs) is required to report on all sub-contracts utilizing CDBG-DR funds if the contract exceeds \$25,000.

In accordance with 2 CFR Chapter 1, Part 170 "Reporting Sub-Award and Executive Compensation Information," Prime Awardees awarded a federal grant are required to file an FFATA sub-award report by the end of the month following the month in which the prime awardee awards any sub-grant or sub-award greater than or equal to \$25,000. Executive compensation reports are also required if the federal threshold is met or exceeded. If an initial award is below \$25,000 but subsequent grant modifications result in a total award equal to or over \$25,000, the award will be subject to the reporting requirement as of the date the award exceeds \$25,000. If the initial award equals or exceeds \$25,000, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the award continues to be subject to the reporting requirements of the Transparency Act and this guidance.

Sub-awardees will be required to report the following information for themselves and any sub-awardees or contactors receiving awards funded with CDBG-DR funds:

- Name of the entity receiving the award;
- Amount of the award;

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- information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number, program source, award title descriptive of the purpose of each funding action;
- location of the entity receiving the award and primary location of performance under the award, including city, State, congressional district, and country;
- Unique identifier of the entity receiving the award and the parent entity of the recipient, should the entity be owned by another entity; and
- Names and total compensation of the five most highly compensated officers of the entity if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in Federal awards; and \$25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. See FFATA § 2(b)(1).

This Guidance delineates first-tier sub award and executive compensation reporting requirements associated with Federal contracts and grants awarded on or after October 1, 2010.

“Sub awards” are defined as either subcontracts or grants-specific sub awards. A “subcontract,” means a subcontract awarded directly by a contractor to furnish supplies or services (including construction) for performance of a prime contract, but excludes supplier agreements with vendors, such as long-term arrangements for materials or supplies that would normally be applied to a contractor’s general and administrative expenses or indirect cost.

For grants, a “sub award” means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that:

- A. the prime recipient awards to an eligible sub-recipient; or
- B. sub-recipient at one tier awards to a sub-recipient at the next lower tier.

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Specifically, this Guidance delineates **first-tier sub award and executive compensation reporting requirements** associated with Federal contracts and grants as follows:

*For contracts*, based on the FAR Interim Final Rule published on July 8, 2010:

- Starting March 1, 2011, any newly awarded subcontract must be reported if the prime contract award amount was \$25,000 or more.

*For grants*, both mandatory and discretionary grants, equal to or over \$25,000, and awarded on or after October 1, 2010 must be reported by the prime awardee. The **following are not subject** to the Transparency Act's reporting requirements:

- Federal awards to individuals who apply for or receive Federal awards as natural persons (i.e., unrelated to any business or non-profit organization he or she may own or operate in his or her name);
- Federal awards to entities that had a gross income, from all sources, of less than \$300,000 in the entities' previous tax year; and
- Federal awards, if the required reporting would disclose classified information.

For grants, a "sub award" means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that:

- A. the prime recipient awards to an eligible sub-recipient; or
- B. sub-recipient at one tier awards to a sub-recipient at the next lower tier.

The term "sub award" does not include procurement of property and services needed to carry out the project or program. Further, a sub award may be provided through any legal agreement, including an agreement that the prime recipient or a sub-recipient considers a contract.

This Guidance delineates first-tier sub award requirements and does not include awards made by first-tier sub awardees to lower tier sub awardees.

Sub awardees have an obligation to the Department of Community Affairs to provide all information required for such reporting. This includes:

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- sub awardee entity information,
- sub awardee DUNS number,
- sub awardee Parent DUNS number, if applicable, and
- Relevant executive compensation data, if applicable.

All relevant information regarding sub-awardees must be submitted by November 1, 2013 for any existing covered sub awards, and by end of the month following the month the sub award or obligation was made for any covered sub awards going forward.

Information should be submitted to:

Department of Community Affairs,  
Attn: Assistant Director for Compliance and Monitoring,  
(Email: )

A module will be constructed in SIROMS to facilitate data submission, and sub awardees will be advised as soon as it is available.

**SUBJECT: Check Handling Policy**

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**NUMBER: 2.10.61**

**EFFECTIVE:**

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**REVISED:**

**May 2014**

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**PURPOSE:**

The purpose of this policy is to standardize Sandy Recovery Division policy and procedures and to identify the responsible individuals to address the following:

- Voided or Returned checks
- Stop payment requests
- Uncashed checks exceeding 180 days (stale checks)
- Payments received from beneficiaries post-grant signing

**POLICY:**

All actions related to checks involving CDBG-DR funds **must** be initiated by one of the Assistant Directors of the Sandy Recovery Division, and approved by either the Director, Deputy Director or designee of that Unit; and follow the procedures outlined in this document as the circumstance dictates.

Any check received must be deposited on the same day as received in accordance with OMB Circular 94-24-OMB, Deposits by State Agencies, and DCA policy.

**PROCEDURE:**

*Returned checks:*

For checks that are returned to the Sandy Recovery Division as “undeliverable” either by the post office for incorrect address or by an applicant/homeowner, the initial point of contact is the SRD Finance Unit. These checks come into several DCA divisions including, but not limited to the Sandy Recovery Unit, the DCA Mail Room and the DCA Department Fiscal Office. **ALL returned checks are to be immediately**

**SUBJECT: Check Handling Policy**

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**delivered to the SRD Fiscal Unit.** They will record the check, complete and attach a deposit slip and forward to the DCA Department Fiscal Office.

The SRD Finance Unit will advise the Office of Compliance and Monitoring of the returned check. Compliance and Monitoring will conduct an initial investigation and create a record that can be maintained. The Office of Compliance and Monitoring will also be responsible for notifying the program originating the check and SRD Fiscal Unit.

*For beneficiary payments received:*

For all checks that are received in the Sandy Recovery Division, the initial point of contact is the SRD Finance Unit. These checks come into several DCA divisions including, but not limited to the Sandy Recovery Unit, the DCA Mail Room and the DCA Department Fiscal Office. **ALL returned checks are to be immediately delivered to the SRD Fiscal Unit.** They will record the check, complete and attach a deposit slip and forward to the DCA Department Fiscal Office.

The SRD Finance Unit will advise the Office of Compliance and Monitoring of the payment received. Compliance and Monitoring will create a record that can be maintained of the beneficiary payment. The Office of Compliance and Monitoring will also be responsible for notifying the program originating the check and SRD Fiscal Unit, to ensure that the proper program and beneficiary receive credit for the payment.

*For checks remaining uncashed:*

All New Jersey Department of Treasury checks issued both directly to or on behalf of beneficiaries expire and become null and void if not cashed within 180 days of issuance. The SRD Office of Compliance and Monitoring or SRD Operations Escrow Unit will contact any applicant who has not cashed their check by day 150 of issuance. The procedure to be followed by SRD staff or their designee is outlined below.

The SRD Office of Compliance and Monitoring or SRD Operations Escrow Unit will monitor the aging of all checks issued to program beneficiaries, including those issued to contractors on behalf of beneficiaries. For any check that remains uncashed for 150 days, the following procedure will be followed.

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1. The SRD Office of Compliance and Monitoring or SRD Operations Escrow Unit will generate a letter that is sent via certified mail to the beneficiary (see Attachment A). The beneficiary is advised to contact the Sandy Recovery Hotline if their check was never received or if it has been lost.
2. For those beneficiaries contacting the Sandy Hotline regarding a check that was never received or a lost check for which they are seeking a replacement, the Sandy Hotline operator will refer the beneficiary to the SRD Office of Compliance and Monitoring or SRD Operations Escrow Unit. The SRD Office of Compliance and Monitoring or SRD Operations Escrow Unit will follow the procedure described above to initiate stop payment on the missing check; and a replacement check will be requested.
3. If, after 15 days, no response is received from the beneficiary, the SRD Office of Compliance and Monitoring or SRD Operations Escrow Unit sends a second letter is sent via certified mail (Attachment B).
4. At 180 days, if the SRD Office of Compliance and Monitoring or SRD Operations Escrow Unit has not been contacted by the beneficiary requesting a replacement check, a stop payment order will be issued on the original check and no further benefits paid to the beneficiary pursuant to the original transaction.

*For stop payment or check trace requests:*

The procedure to trace or stop payment on a check (including checks not cashed within 180 days) issued on the Sandy CDBG-DR account is as follows:

SRD Compliance and Monitoring:

1. Identify need for check tracing or stop payment.
2. Contact SRD Fiscal Unit to verify check appears in open payment status on NJCFS WREC table
3. Prepare **SRD Check Trace and Stop Payment Request Form** (Attachment C).
4. Photocopy completed form and place In pending file



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5. Forward original completed form to the one of the following:
  - a. Assistant Director Housing Recovery Programs
  - b. Assistant Director Non-Housing Recovery Program
  - c. Assistant Director Finance
  - d. Assistant Director Compliance and Monitoring
  - e. Assistant Director of Operations

SRD Assistant Director

6. Receive request
7. Approve the request and sign form
8. Forward to SRD Director or designee

SRD Director, Deputy Director or Designee

9. Receive request
10. If approve, sign form
11. Prepare and release advisory notification to payee
12. Forward copy of advisory notification and signed form to SRD Finance

SRD Finance

13. Receive request
14. Screen print NJCFS payment record screens OPVH, OPVL, and WREC
15. Complete OMB Cash Accounting – Check Tracer Form (see attached) as follows:
  - a. Dept: 022
  - b. Local Office: *leave blank*
  - c. Agency: Community Affairs
  - d. Address: 101 South Broad Street, Trenton, NJ 08625
  - e. Requested by: Michelle McNellis
  - f. Telephone No. 609-292-4079
  - g. Original Check Status: *Select One*
  - h. Under Payee/Check Information, complete the following fields:
    - i. Last Name or Vendor:

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- ii. First/Middle:
- iii. Street Address:
- iv. City/State/ZIP:
- v. Check No:
- vi. Amount:
- vii. Check Date:
- viii. SSN or Tax ID
- ix. Instructions: *Select One*

16. Photocopy completed package and place in pending file

17. Forward original package to DCA Department Fiscal

DCA Department Fiscal Office

18. Receive request

19. Verify accuracy of request

20. Email scanned request to OMB Cash Accounting

\*\*\*\*OMB Processing\*\*\*\*

21. Retrieve check (if re-issue is involved)

22. Contact SRD Finance to advise of check availability (if re-issue is involved)

SRD Fiscal – Only if check is re-issued

23. Retrieve check from DCA Department Fiscal Office

24. Retrieve pending file

25. Note check number and data on pending file

26. Photocopy copy of OMB Cash Accounting – Check Tracer form and advisory notification to payee

27. Place pending file in closed file

28. Attach check copy of OMB Cash Accounting – Check Tracer form and advisory to payee and forward to SRD Program Staff

SRD Program Staff

**SUBJECT: Check Handling Policy**

---

**NUMBER: 2.10.61**

**EFFECTIVE: February 2014**  
**REVISED:**

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**SANDY CDBG-DR**

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29. Receive check and copy of OMB Cash Accounting – Check Tracer Form and advisory notification to payee
30. Retrieve pending file
31. Attach OMB Cash Accounting – Check Tracer form and advisory notification to pending file
32. Note check number and date on pending file
33. Place original check in mail bin
34. Update SIROMS original transaction record to include new check number and issuance date and other pertinent information
35. Place pending file in closed file

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT: Check Handling Policy**

---

**NUMBER: 2.10.61**

**EFFECTIVE: February 2014**

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**SANDY CDBG-DR**

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**ATTACHMENT A**

Name

Street

City

Application # \_\_\_\_\_

On \_\_\_\_\_ (date) you were mailed a check providing you with funding pursuant to your signed grant agreement. Our records show that, as of today, the check remains uncashed. This check has an expiration date 180 days from the date of issuance. In 30 days, the check will become void and you will no longer be able to cash it.

If you never received the check or if the check has been lost, please contact the Sandy Hotline at \_\_\_\_\_. Tell the operator that you are in need of a replacement check, and the operator will connect you with the appropriate party to process your request.

If you have decided not to participate in the \_\_\_\_\_ program, please notify us at \_\_\_\_\_ so we may withdraw your application.

**You have 30 days to respond to this request before a stop payment order will be issued on the check.**

Thank you for your prompt attention to this matter.

Sincerely,

Laura Shea  
Deputy Director  
Sandy Recovery Division

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT: Check Handling Policy**

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**NUMBER: 2.10.61**

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**ATTACHMENT B**

Name

Street

City

Application # \_\_\_\_\_

On \_\_\_\_\_ (date) you were mailed a letter notifying you that the check that was provided to you pursuant to your signed grant agreement remains uncashed.

You have not responded to this letter and our records show that, as of today, the check remains uncashed. This check has an expiration date 180 days from the date of issuance. In 15 days, the check will become void and you will no longer be able to cash it.

If you never received the check or if the check has been lost, please contact the Sandy Hotline at \_\_\_\_\_. Tell the operator that you are in need of a replacement check, and the operator will connect you with the appropriate party to process your request.

If you have decided not to participate in the \_\_\_\_\_ program, please notify us at \_\_\_\_\_ so we may withdraw your application.

**Please be aware that this is your last opportunity to respond. If we do not hear from you in 15 days a stop payment order will be issued on the check.**

Sincerely,

Laura Shea  
Deputy Director  
Sandy Recovery Division

**ATTACHMENT C**

**SRD Check Trace and Stop Payment Request Form**

Requested by \_\_\_\_\_

Assistant Director Approval \_\_\_\_\_

Director/Designee Approval \_\_\_\_\_

---

Payee information:

Name \_\_\_\_\_

Street Address \_\_\_\_\_

City/State/ZIP \_\_\_\_\_

Check Number \_\_\_\_\_

Amount \_\_\_\_\_

Reason for trace or stop payment request:

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**SUBJECT:** Confidentiality Policy

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**NUMBER:** 2.10.62

**EFFECTIVE:** February 2014  
**REVISED:**

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**PAGE 1 OF 2**

**APPROVAL:**



**Peter B. Lijoi, Director  
Information Technology**



**Stacy Bonnaffons  
Assistant Commissioner**



**Howard McCoach  
Director, Sandy Recovery Division**

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**PURPOSE:**

This policy governs access to and treatment of confidential applicant information.

**POLICY:**

In administering CDBG-DR funded Superstorm Sandy recovery programs offered by the Department of Community Affairs (DCA), employees of the Department, partner agencies, contractors and other State Departments have access to confidential applicant information. This Confidentiality policy is created to assure that this information remains secure and is used in the appropriate manner.

All confidential documents including SIROMS (Sandy Integrated Recovery Operations and Management System) documents are to be secure from unauthorized access and inappropriate use. The information is never to be divulged for a non-business purpose. Failure to abide by this policy may result in an administrative action by the Department of Community Affairs and sanctions by the United States Department of Housing and Urban Development (HUD).

All individuals who are provided access to confidential applicant information are responsible for the protection of passwords information, equipment, case files and communication pathways. Specifically, employees, contractors and other users are responsible for adhering to the following procedures:

1. User ID's and user passwords are for individual use only and are to be maintained as confidential information.

**SUBJECT: Confidentiality Policy**

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**NUMBER: 2.10.62**

**EFFECTIVE: February 2014**  
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2. The file of record is not to be removed from the office without prior consent by the employee/contractor's supervisor.
3. Employees /contractors are to provide barriers between unauthorized persons and documents or computer media containing private data. Files are to be kept in file cabinets and computer screens are to be positioned so unauthorized individuals cannot read the screens.
4. Any files or documents that leave the office must be secured and send to a specific designee.
5. Inactive files are to be disposed of per the approved record retention and disposition schedule.
6. Employees/contractors are to notify their supervisor and the Supervisor of Field Operations immediately regarding any suspected violation or breach of security or confidentiality.
7. If any of the confidential information becomes the subject of an OPRA request, the individual should refer the request directly to DCA's Legal Counsel.

All client information is subject to the Federal Privacy Act of 1974 (5 U.S.C.552a). This act states:

*"Personal information may be used only by authorized persons in the conduct of official business. Any individual responsible for unauthorized disclosure of personal information will be prosecuted to the maximum extent possible under law."*

All staff and contractors with access to confidential applicant information must acknowledge that they have received, read and understand this policy.

I, \_\_\_\_\_ have read the Confidentiality Policy and agree to maintain all information as confidential and to use the information only to determine eligibility for all Sandy Recovery Divisions programs administered and overseen by the Department of Community Affairs.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Department/Contractor



**SUBJECT:** Duplication of Benefits

---

**NUMBER:** 2.10.73

**EFFECTIVE:** March 2013

**REVISED:** June 2013

**REVISED:** January 2014

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**SANDY CDBG-DR**

**PAGE 1 OF 7**

**APPROVAL:**



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Timothy J. Cunningham  
Director, Sandy Recovery Division

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**PURPOSE:**

1. To determine the programmatic policy and requirements for ensuring non-duplication of benefits and identifying the amount of eligible assistance for physical improvements in CDBG-DR funding;
2. To clarify how duplication of benefits calculations are to be handled with funds not under the property owner's control; and
3. To outline the policy and procedures for handling funding received by grantees, beneficiaries and businesses post grant signing.

The Department of Community Affairs (DCA) and all its subrecipients are required to establish a duplication of benefits policy that explains and describes all methods and procedures to prevent the duplication of benefits in accordance with 42 U.S.C. 5155(a).

Note: This policy revision also incorporates Policy 2.10.50 “**Accounting for Third Party Benefits Received Post Grant Signing.**” Any additional edits will be incorporated into this policy document ONLY.

**POLICY:**

The Federal Register Notice, dated March 5, 2013 awarding Community Development Block Grant – Disaster Recovery (CDBG-DR) funds to the State of New Jersey establishes the

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requirement that each grantee must have a procedure that identifies processes for each of the following:

*“.....verifying all sources of disaster assistance; determining an applicant’s unmet need(s) before awarding assistance; and ensuring beneficiaries agree to repay the assistance if they later receive other disaster assistance for the same purpose. The procedures should also indicate which personnel or unit are responsible for the task.”*

The notice further states:

*“Duplication of benefits. Section 312 of the Stafford Act, as amended, generally prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which he has received financial assistance under any other program or from insurance or any other source. To comply with this law and provisions of the Appropriations Act, each grantee must ensure that each activity provides assistance to a person or entity only to the extent that the person or entity has a disaster recovery need that has not been fully met.”*

**CDBG-DR funding is considered to be the *funding of last resort*. Beneficiaries of CDBG-DR funding are expected to have exhausted all other possible resources before resorting to CDBG-DR funding for any project or activity. All subrecipients and programs that receive CDBG-DR funding are required to have in place policy and procedures to prevent duplication of benefits and to comply with the requirements of the Stafford Act.**

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**SUBJECT:** Duplication of Benefits
 

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**PROCEDURE:***Duplication of Benefits Calculation:*

If an entity (homeowner, property owner, eligible entity, business or unit of government) has requested assistance for physical repairs and they have not maximized the amount of assistance under their specific program category, the next step is to determine the unduplicated, maximum level of assistance. The public agency or non-profit organization administering the CDBG-DR funded program will conduct an analysis and make a determination regarding the amount (if any) assistance may be available to an eligible applicant. The policy detailed herein complies with the Duplication of Benefits Guidance provided by U. S. Department of Housing and Urban Development (HUD) published in the Federal Register, Volume 76. No 221, dated November 16, 2011.

The table below illustrates the duplication of benefits calculation:

<b>Formula</b>
<b>Renovation/ New Construction/ Fixtures/ Installed Equipment Capital Expenses</b> (taken from the application and the same number as is used above when determining Renovation/New Construction Expenses)
<b>Minus</b> insurance for Physical Damage, i.e., National Flood Insurance, private insurance
<b>Minus</b> SBA for specific UP codes relevant to Construction/ Fixtures
<b>Minus</b> Other Federal, State other Governmental or nonprofit Recovery Benefits for this purpose
<b>Equals</b> Gap or need for Renovation/New Construction assistance or Initial <b>Grant Award</b>

**SUBJECT:** Duplication of Benefits

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<b>Minus</b> Additional funding from third party sources <b>NOT</b> originally calculated above prior to determination of award
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<b>Equals Revised Grant Award</b>
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If the result of this analysis is **negative or zero**, the entity does not need assistance for the given project or activity because those needs have been served by insurance, governmental sources and/or nonprofit sources. If the result of this analysis is a **positive** number, the entity requires assistance and the identified need would constitute the maximum CDBG-DR assistance. If, as the result of this analysis, the entity does not need assistance from a CDBG-DR program, the grantee or sub recipient shall issue a written determination that includes contact information to address both questions related to the analysis and a method for pursue an appeal.

Once the needs gap is determined, the public agency or non-profit organization administering the CDBG-DR funded program shall complete the analysis of this funding request or application by reviewing the following requirements:

- *That all proposed costs are reasonable, using the methodology prescribed in the program's policies and procedures*
- *That the project is financially feasible and utilizing CDBG-DR resources will result in a project that meets a national objective.*

**SUBJECT:** Duplication of Benefits

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*Subrogation Agreement and Ongoing Monitoring for Receipt of Benefits:*

The public agency or non-profit organization staff shall develop and incorporate a subrogation provision into all written funding agreements with any entity receiving CDBG-DR funds. This written subrogation provision must stress the importance of the beneficiary formally notifying the public agency or non-profit organization administering the CDBG-DR funded program should additional benefits be received at any time prior to grant close out.

The public agency or non-profit organization staff shall verify the continuing accuracy of the duplication of benefits provision each time one of the identified events occurs during the time the beneficiary remains active in the program:

1. At initial determination of grant award or assistance;
2. At execution of a grant or loan agreement or amendment thereto;
3. At grant close out.

*For funds not under program applicant's control:*

The Federal Register Notice on Duplication of Benefits Volume 76, No 221, dated November 16, 2011 (FR-5582—01), further stipulates:

“Funds are not available to the person or entity if the person does not have legal control of the funds when they are received and are used for a non-duplicative purpose. For example, if a homeowner’s mortgage requires any insurance proceeds to be applied to reduce the lien balance, the bank/mortgage holder (not the property owner) has legal control over those funds. Therefore, the homeowner is legally obligated to use insurance proceeds for that purpose and does not have a choice in using them for another purpose,

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such as to rehabilitate the house. Under these circumstances, insurance proceeds do not reduce assistance eligibility.”

*For funds received post grant or loan agreement signing:*

This policy acknowledges that some beneficiaries or entities who have been determined eligible for CDBG-DR assistance may receive additional benefits from third party sources (private insurance, National Flood Insurance, FEMA, or non-profit organizations ) after their initial Duplication of Benefits calculations have been completed and their written grant or loan agreement is executed.

If a public agency or non-profit organization who administers the CDBG-DR program receives notification by a receipt of additional or new benefits, procedures shall be adopted that are no less stringent than those contained herein. Additionally, the public agency or non-profit organization shall ensure that the Subrogation agreement or provision incorporated into any funding agreement include the following procedures:

1. The appropriate public agency or non-profit organization staff shall conduct an updated Duplication of Benefits analysis to determine if the additional assistance received requires an adjustment of the CDBG-DR assistance being provided.
2. If the updated Duplication of Benefits analysis results in a material change to the original CDBG-DR assistance awarded (either a reduction in the original assistance or requires a repayment), then the public agency or non-profit organization shall execute a grant or loan amendment reflecting said determination. When the amendment to the written grant or loan agreement is required, the beneficiary or entity shall be notified in writing of (1) revision in grant award and (2) whether any subrogation is required:
  - a. *If subrogation is required*, this means beneficiary or entity’s recalculated grant award or loan is LESS THAN the funds already disbursed. Written notification

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shall be sent to the explaining the amount to be repaid and the procedures for submitting the repayment.

- b. *If subrogation is not required*, this means that beneficiary or entity's recalculated grant award or loan is MORE THAN the funds already disbursed. Written notification shall be sent to applicant explaining the recalculation and the procedures for executing the necessary grant or loan agreement amendment.

Each public agency or non-profit organization responsible for administering a CDBG-DR funded programs, project or activity shall adopt a written Duplication of Benefits policy and have written procedures, no less stringent than those detailed herein, that determine how addresses how the Stafford Act requirements will be met.

**SUBJECT:** Prohibited Flood Disaster Assistance - Flood Insurance Requirement

---

**NUMBER:** 2.10.76

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**APPROVAL:**



\_\_\_\_\_  
Laura Shea, Director  
Sandy Recovery Division

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**PURPOSE:**

This document sets forth the policy and procedure used to verify that no recipient of CDBG-DR funds is prohibited from receiving this disaster recovery assistance as a function of:

1. The applicant having previously received disaster recovery assistance for the property under the Stafford Act, after September 14, 1994, which required them to obtain and maintain adequate and necessary flood insurance; and
2. Failed to maintain adequate and necessary flood insurance coverage.

This policy applies to recipients of funding from RREM, LRRP, New Jersey Housing and Mortgage Finance Agency, the New Jersey Economic Development Authority, or any other recipient of CDBG-DR funds.

**POLICY:**

Consistent with the provisions of the Stafford Act, as impacted by the National Flood Insurance Reform Act of 1994 and the Riegle Community Development and Regulatory Improvement Act of 1994, the Department of Community Affairs and its subrecipients have adopted the following policy, as applicable.

The Act(s) state that no disaster recovery assistance made available in a flood disaster area may be used to make a payment (including a loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time since September 14, 1994 has received federal flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

If a transfer of property ownership has occurred, the transferor had a duty to notify the new owner in writing of the requirement to obtain and maintain flood insurance. If such notification occurred and the new owner failed to obtain and maintain appropriate flood insurance, then they are deemed ineligible



**SUBJECT:** Prohibited Flood Disaster Assistance - Flood Insurance Requirement

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for additional Federal disaster assistance. If the transferor failed to notify the new owner of the flood insurance requirements, and as a result, the new owner fails to obtain flood insurance and incurs damage, and federal disaster relief is provided to the new owner, the transferor will be required to reimburse the Department of Community Affairs which will in turn reimburse the Federal Government for the full amount of Federal disaster relief provided to the new property owner.

The State will notify the homeowner of their responsibility related to the Act and will encourage that grant or loan documents clearly state these requirements for all recipients of Sandy CDBG-DR funds. Each grant or loan agreement shall contain certifying language signed by the applicant or beneficiary confirming their acknowledgement and understanding of this requirement. (Exhibit B).

**PROCEDURE:**

This policy has **immediate** effect.

All applicants to CDBG-DR programs will be required to respond to specific flood insurance questions either at the time of application or in the course of application processing, or prior to disbursement of CDBG-DR funds. Exhibit A contains the recommended Flood Insurance Certification questions to be completed and signed by applicants/awardees of CDBG-DR applicable programs.

The Department of Community Affairs, the New Jersey Housing and Mortgage Finance Agency, the New Jersey Economic Development Authority and all other affected sub recipients, including public agencies and non-profit organizations funded under the Sandy CDBG-DR programs, will take the necessary steps to implement this policy and to retain affirmative documentation in project files.

See Exhibit C for listing of Federally Declared Disasters in which flooding occurred.

**SUBJECT:** Prohibited Flood Disaster Assistance - Flood Insurance Requirement

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**EFFECTIVE:** June 2014

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**Exhibit A**

**FLOOD INSURANCE CERTIFICATION**

<p><b>BENEFIT FROM PREVIOUSLY-DECLARED DISASTER:</b>          Have you applied for, and received, any flood event related assistance for damage to this property from any Federal source for any previous Presidentially-declared disaster (occurring after September 14, 1994) that required the mandatory purchase of flood insurance pursuant to National Flood Insurance Program (NFIP) regulations?</p> <p>If YES, proceed with this section.          If NO, do not proceed.</p>	<p align="center"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>1. For which flood disaster event(s) did you receive federal funds (i.e. FEMA, SBA, NFIP) for rehabilitation or structure damage to your home?</p>	
<p>2. How much federal assistance related to flood did you receive?</p>	
<p>3. Were you carrying flood insurance at the time of Superstorm Sandy?</p>	<p align="center"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>4. Is the insurance coverage currently in effect?</p>	<p align="center"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

**WARNING: Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government.**

<b>Signatures:</b>		
<i>Signature-Head of Household</i>	<i>Print Name</i>	<i>Date</i>
<i>Other Household Member</i>	<i>Print Name</i>	<i>Date</i>
<i>Other Household Member</i>	<i>Print Name</i>	<i>Date</i>

**SUBJECT:** Prohibited Flood Disaster Assistance - Flood Insurance Requirement

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**Exhibit B**

Grant or Loan Agreement Language:

I, \_\_\_\_\_ (applicant/beneficiary) certify that it has not received any prior federal disaster funds conditioned on obtaining flood insurance or, if it has received prior federal disaster funds conditioned on obtaining flood insurance, applicant/beneficiary has maintained the requisite flood insurance.

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**SUBJECT:** Prohibited Flood Disaster Assistance - Flood Insurance Requirement

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**Exhibit C**

<b>Federally Declared Disaster</b>	<b>Impacted Counties</b>
<b>Hurricane Sandy - October 30, 2012 (DR-4086, EM-3354)</b>	<b>Atlantic County, Bergen County, Burlington County, Camden County, Cape May County, Cumberland County, Essex County, Gloucester County, Hudson County, Hunterdon County, Mercer County, Middlesex County, Monmouth County, Morris County, Ocean County, Passaic County, Salem County, Somerset County, Sussex County, Union County and Warren County.(PA and IA)</b>
<b>New Jersey Severe Storms and Straight-Line Winds - July 19, 2012 (DR-4070)</b>	<b>Atlantic County, Cumberland County and Salem County (PA only no IA)</b>
<b>New Jersey Severe Storm - November 20, 2011(DR-4048)</b>	<b>Bergen County, Cape May County, Essex County, Hunterdon County, Middlesex County, Morris County, Passaic County, Somerset County, Sussex County, Union County and Warren County.(PA only no IA)</b>
<b>New Jersey Remnants of Tropical Storm Lee - October 11, 2011 (DR-4039)</b>	<b>Hunterdon County, Mercer County, Passaic County, Sussex County and Warren County.(PA only no IA)</b>
<b>New Jersey Severe Storms and Flooding - September 15, 2011(DR-4033)</b>	<b>Cumberland County, Gloucester County and Salem County.(PA only no IA)</b>
<b>New Jersey Hurricane Irene - August 31, 2011(DR-4021)</b>	<b>Atlantic County, Bergen County, Burlington County, Camden County, Cape May County, Cumberland County, Essex County, Gloucester County, Hudson County, Hunterdon County, Mercer County, Middlesex County, Monmouth County, Morris County, Ocean County, Passaic County, Salem County, Somerset County, Sussex County, Union County and Warren County.(PA and IA)</b>
<b>New Jersey Severe Storms and Flooding - April 2, 2010(DR-1897)</b>	<b>Atlantic County, Bergen County, Burlington County, Cape May County, Cumberland County, Essex County, Gloucester County, Mercer County, Middlesex County, Monmouth County, Morris County, Ocean County, Passaic County, Somerset County and Union County.(IA and PA)</b>

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Federally Declared Disaster	Impacted Counties
New Jersey Severe Storms and Flooding Associated with Tropical Depression Ida and a Nor'easter - December 22, 2009 (DR-1867)	Atlantic County, Cape May County and Ocean County(PA only, no IA)
New Jersey Severe Storms and Inland and Coastal Flooding - April 26, 2007 (DR-1694)	Atlantic County, Bergen County, Burlington County, Camden County, Essex County, Hudson County, Mercer County, Middlesex County, Passaic County, Somerset County, Sussex County, Union County and Warren County. (IA and PA)
New Jersey Severe Storms and Flooding - July 7, 2006(DR-1653)	Hunterdon County, Mercer County, Sussex County and Warren County.(IA and PA)
New Jersey Severe Storms and Flooding - April 19, 2005(DR-1588)	Bergen County, Essex County, Gloucester County, Hunterdon County, Mercer County, Morris County, Passaic County, Sussex County and Warren County.(IA only, no PA)
New Jersey Tropical Depression Ivan - October 1, 2004 (DR-1563)	Hunterdon County, Mercer County, Sussex County and Warren County.(IA and PA)
New Jersey Severe Storms and Flooding - July 16, 2004 (DR-1530)	Burlington County and Camden County.(PA and IA)
New Jersey Severe Storms, Flooding And Mudslides - August 17, 2000 (DR-1337)	Morris County and Sussex County.(IA and PA)
New Jersey Hurricane Floyd - September 18, 1999 (DR-1295)	Bergen County, Essex County, Hunterdon County, Mercer County, Middlesex County, Morris County, Passaic County, Somerset County and Union County.(IA and PA)

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**SUBJECT:** Prohibited Flood Disaster Assistance - Flood Insurance Requirement

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Federally Declared Disaster	Impacted Counties
New Jersey Coastal Storm - March 3 1998 (DR-1206)	Atlantic County, Cape May County and Ocean County.(IA and PA)
New Jersey Flooding - September 23, 1997(DR-1189)	Atlantic County(IA and PA)
New Jersey Severe Storms/Flooding - November 19, 1996 (DR-1145)	Hudson County, Middlesex County, Morris County, Somerset County and Union County.(IA only)

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SANDY RECOVERY DIVISION**

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**SUBJECT:** Policy and Procedures Governing Permanent Displacement under the Uniform Relocation Act

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**NUMBER:** 2.10.85

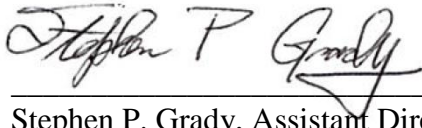
**EFFECTIVE:** April 2015

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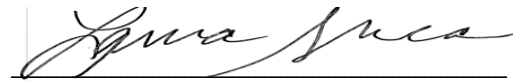
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**APPROVAL**



Stephen P. Grady, Assistant Director  
Housing Recovery Programs



Laura Shea  
Assistant Commissioner



Samuel Viavattine  
Director, Sandy Recovery Division

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**PURPOSE:**

The purpose of this document is to provide the policy and procedures that will govern the implementation of permanent displacement provisions of the Uniform Relocation Act (URA).

**POLICY:**

The policy provides relocation assistance to any person as defined at 49 CFR 24.2 (a) (9) (i) that is permanently displaced as a result of a federally-assisted project involving acquisition, demolition, and/or rehabilitation. Displaced persons for the purposes of all Sandy Recovery Division programs include tenants.

Applicants must comply with all URA requirements for notices and applicable services. Designated staff members (hereinafter "Relocation Specialist") will work with each applicable property owner to assist in complying with the URA requirements. A Relocation Specialist will review eligibility and determine:

- Reimbursement for moving expenses;
- Reimbursement for reestablishment expenses (businesses only); and/or
- Payment for the added cost of renting or purchasing comparable replacement housing.

The Department of Community Affairs (DCA) shall be responsible for the payment of all permanent displacement relocation costs associated with the acquisition, demolition, and/or rehabilitation of

**STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS •  
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federally-assisted projects in the Reconstruction, Rehabilitation, Elevation, and Mitigation (RREM) Program, Landlord Rental Repair Program (LRRP), and Low-to-Moderate Income (LMI) Program.

**PROCEDURE:**

1. Determination and notification of eligibility for relocation;
2. Survey of persons to verify relocation eligibility, including establishing original occupancy date;
3. Interview to determine relocation needs of tenants;
4. Notification of relocation eligibility and permanent displacement assistance;
5. Provision of permanent displacement relocation services;
6. Appeals; and
7. Recordkeeping.



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*Determination of Eligibility*

Permanent displacement occurs when a person (household, business, or non-profit organization) is required to move as a direct result of a federally-assisted project. It would not include persons evicted for cause, who do not have the legal right to occupy, or who occupied a property for the purpose of obtaining relocation benefits.

*Notice of Relocation Eligibility*

The Housing or Landlord Advisor contacts applicants to determine if the units (or rented rooms) are currently occupied or have been occupied up to sixty (60) days before the date of application. If so, the Housing or Landlord Advisor verifies that the General Information Notice (GIN) was provided to the tenants. If not, the Housing or Landlord Advisor explains the GIN process to the applicant(s) who must notify the tenants and obtain the required tenant acknowledgement.

Once received, the applicant submits either the certified mail return receipt signed by the tenant or a tenant acknowledgement letter, if the GIN was hand-delivered. If these documents are not received within thirty (30) days from delivery of the GIN, the Housing or Landlord Advisor contacts the applicant to follow up.

The application cannot move forward until the tenant acknowledges receipt of the GIN. If the tenant acknowledgement is not received within sixty (60) days, the application is deemed incomplete and the applicant is notified.

Once it is determined that there will be tenants in need of relocation assistance, a Relocation Specialist is assigned to work with the applicant and tenants to ensure a compliant process and to provide ancillary relocation assistance (counseling, housing search assistance, etc.).

The Relocation Specialist completes the following:

- a) Collects documentation and verifies information from the applicant about tenants, those currently occupying units (or rented rooms) or up to sixty (60) days prior to the submission of the application. Additionally, the Housing or Landlord Advisor is to obtain information from the applicant about tenants who occupied units (or rented rooms) at the date of the storm.
  - i. Under Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, a date of storm (DOS) tenant, an individual who was occupying an applicable unit (or

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rented room) at the time of the storm (October 29, 2012), has the right to return to a program-assisted unit (or rented room) once construction is complete. In the instance in which a unit (or rented room) is currently occupied by a program applicable tenant and the DOS tenant wishes to return, but, thus, cannot, then that DOS tenant is permanently displaced. In the instance in which a unit (or rented room) will not be reconstituted upon completion of construction then that DOS tenant is permanently displaced.

- b) For properties with occupied units (or rented rooms), the Housing or Landlord Advisor contacts the applicant to discuss the applicability of the relocation requirements to his/her property.

All notices must be written in plain, understandable language. In an instance where an applicant or Relocation Specialist is aware that a tenant does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English because of their national origin, the Relocation Specialist will facilitate services for the tenant so that they are able to understand in a language most familiar to them that describes their rights and obligations. Notices must be either hand delivered with receipt documented or sent by certified or registered mail, return receipt documented. Hand delivery may be preferable because it gives the Relocation Specialist and the applicant the opportunity to explain the relocation process face to face and answer questions.

The *Notice of Relocation Eligibility* includes the following:

- Project name;
- Owner contact person and contact information;
- Relocation Specialist contact name and contact information;
- The nature and extent of advisory and counseling services available (see below);
- The amounts and types of financial assistance available (see below);
- A clear statement that the Relocation Specialist must inspect replacement housing chosen to assure that it is decent, safe, and sanitary and free from unreasonable adverse environmental hazards, as defined by the HUD Housing Quality Standards (HQS), and that relocation payments can be made only for replacement housing that passes inspection;
- A clear statement that the household will not be required to relocate without at least ninety (90) days advance written notice for permanent relocation;
- A clear statement that self-relocation without coordination with the Relocation Specialist may jeopardize the availability of funding; and
- Fair Housing information.

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The tenant should be required to sign an acknowledgement of receipt of this information and a copy provided to the Relocation Specialist for the client file.

*Survey of Displaced Persons*

A Relocation Specialist, with assistance from the applicant, must identify persons who may become displaced and perform surveys and interviews with each of those individuals early in the planning phase of the project. The purpose of these planning surveys and interviews is to determine who is eligible for relocation assistance and determine their housing and financial needs.

Typical information obtained includes:

1. Names of occupants and their relationships, identification of head of household;
2. Exact address of dwelling;
3. Telephone number(s) of residents;
4. Determination of language access assistance for persons with limited English proficiency ;
5. Age, sex, marital status, and minority group classification of each person;
6. Date person first occupied the dwelling (documented by rent payment or utility receipt);
7. Housing data, including size of current dwelling by number of rooms and square feet;
8. Employment status and place of employment;
9. Family income and assets, broken down by each wage earner in the household;
10. Financial obligations and debts, including dependents, loans, charge accounts;
11. Current housing-related expenses;
12. Housing preferences (e.g., neighborhood, rental or purchase, subsidized housing);
13. Special housing needs (e.g., proximity to day care or medical facilities);
14. Health status and health coverage; and

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15. Household problems and deficiencies (such information is generally obtained through observation, rather than direct questioning; for example, lack of furniture, drug addiction, alcoholism, poor housekeeping standards).

To determine accurately the household's ability-to-pay for replacement housing, it will be necessary to verify the income information provided during the interview(s).

*Advisory and Counseling Services*

All advisory services are designed to keep households and businesses informed of their status, options, and choices. Advisory services include information provided orally and in writing. DCA expects the Relocation Specialist will work with applicants and tenants to develop sound rapport with those to be relocated to minimize the possibility of confusion and concern.

The Relocation Specialist will be responsible for the following activities as needed to ease the relocation process:

- Personally interview each household or business to be displaced, determine specific relocation needs and preferences, explain the relocation assistance and advisory services, the related eligibility requirements, and the procedures for obtaining relocation assistance and advisory services;
- Ensure that prior to displacement, comparable replacement dwellings will be available for displaced persons;
- Supply information concerning federal and state housing programs and services;
- Ensure that the relocation process does not result in different or separate treatment on account of race, color, religion, national origin, sex, age, familial status, handicap, or source of income; and

In addition to the services specifically related to the relocation itself, the Relocation Specialist will also provide information about non-housing services that could be helpful. The Relocation Specialist may provide information directly or may provide referrals to public or private agencies that could assist with:

- Family and personal counseling;
- Access to medical care;
- Information on social security, food stamps, veterans' benefits, or other similar financial assistance programs;

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- Transportation needs;
- Employment counseling and job training;
- Aging issues;
- Financial management and planning;
- Family planning; and
- Legal aid.

*Moving and Related Expenses*

All tenants who are permanently displaced are eligible for moving and related expenses, either as a fixed payment *or* documented reasonable expenses. The Relocation Specialist in conjunction with the applicant will assist tenants who are to be displaced to organize moving arrangements.

The fixed payment consists of moving expense and dislocation allowances, as set by the Sandy Recovery Division *Uniform Relocation Act Cost Structure*.

The following actual reasonable and documented expenses are eligible for reimbursement:

- Transportation of the displaced person and personal property to the replacement housing (transportation costs beyond fifty [50] miles are not eligible);
- Packing, crating, unpacking, and uncrating of personal property;
- Insurance of displaced person's personal property in connection with the move;
- Deposits and credit checks; and
- Replacement value of property lost, stolen, or damaged in the process of moving.

*Replacement Housing Payment*

A replacement housing payment (cost differential) is meant to minimize any negative financial effects of permanent displacement.

Replacement housing payments (RHP) are available to occupants who have actually and lawfully occupied the applicable unit receiving federal funds for at least ninety (90) days prior to displacement.

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The RHP is calculated as using the lessor of the difference between the monthly housing cost of the original unit and the monthly rental payment plus utilities of the newly-occupied and approved unit or a currently available, comparable replacement housing unit multiplied by forty-two (42) months.

*Identification of Replacement Housing Needs and Resources and Securing Replacement Housing*

One of the purposes of surveying displaced persons discussed earlier is to provide the data needed to determine replacement housing needs. All replacement housing must be comparable.

There are two key criteria to comparable replacement housing:

- The replacement unit must be decent, safe, and sanitary. The regulations define this as the replacement unit must meet local housing or occupancy codes. The only times that local housing or occupancy codes do not define decent, safe, and sanitary are when such codes do not exist or when the replacement unit is Section 8 assisted. In the latter instance, Section 8 Existing HQS define decent, safe, and sanitary. The unit must also be free of architectural barriers, if serving a person with a disability.
- Second, the replacement unit must also be functionally equivalent. This means that the unit to which a tenant is relocated must be substantially the same or comparable (with respect to the number of rooms and living space unless additional or larger rooms are needed to meet the decent, safe, and sanitary criteria, i.e., two persons per sleeping/living space).

Having identified the replacement housing needs, the Relocation Specialist must take an inventory of available housing resources. In doing this, the Relocation Specialist must be aware of fair housing criteria that must be met when relocating low-income and minority persons. The regulations encourage DCA to identify comparable replacement housing that may be available to low-income or minority tenants in areas that do not have significant concentrations of either low-income or minority households if such opportunities are available.

Up-to-date information on the availability and prices of comparable replacement rental housing and comparable sales must be provided. All units must be inspected using the HUD HQS inspection form and certified as meeting code before being placed on a referral list.

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Some tenants will not wait for the Relocation Specialist to locate suitable units. They will search for their own units and relocate themselves. Occupants who relocate themselves risk not receiving the compensation to which they are entitled. This can happen because:

- The occupants do not know they are entitled to it and fail to apply;
- The Relocation Specialist is unable to trace them to their new quarters; or
- The new quarters are substandard (in which case the tenants will receive moving expenses only).

**Completing Relocation and Processing Claims**

The Relocation Specialist shall refer at a minimum, one comparable replacement dwelling to the displaced person. Where possible, three or more available replacement dwellings should be referred in a timely matter. The displaced person must be afforded the opportunity to enter into a negotiated lease agreement.

***90-Day Notice of Permanent Relocation (90 days prior to relocation)***

This notice will be sent to the tenant at least ninety (90) days prior to the date by which the property must be vacated, and indicate that a second notice will be issued at least thirty (30) days in advance of the date the property must be vacated.

***30-Day Notice of Permanent Relocation (30 days prior to relocation)***

This notice will be sent to the tenant at least thirty (30) days prior to the date by which the property must be vacated, and indicate that a third notice will be issued at least ten (10) days in advance of the date the property must be vacated.

If the notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than ninety (90) days after such dwelling is made available. The timing of the notices is very important. If a notice is sent in anticipation of a construction start date and there are unforeseen delays, the Relocation Specialist should inform the occupant of the delay and indicate the expected date that a property must be vacated.

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***Notice to Vacate (10 days prior to relocation)***

In addition to the Notices of Relocation that are to be sent by a representative of the program, an applicant is required to send a Notice to Vacate. The Notice to Vacate a property is to be sent to a tenant a minimum of ten (10) days prior to start of construction. The applicant is to obtain written confirmation of receipt that the tenant received the Notice to Vacate. The evidence of receipt should either be signed by the tenant on the original copy of the Notice to Vacate, or if that is not possible then a separate Certification of Receipt that acknowledges that the Notice to Vacate was delivered should be obtained from the tenant and included in the file.

***Continuation of Assistance***

Prior to and following the move, the Relocation Specialist continues to work with the tenants by inspecting units, certifying they meet code; assisting in the review of the leases as appropriate; assisting or preparing claim forms; verifying that claims have been processed; and documenting claims to confirm payment.

***Time Limitations for Filing Claims***

All claims may be filed up to eighteen (18) months following the completion of the move. If there is undisbursed relocation assistance at the time of project closeout, the Relocation Specialist will calculate maximum payments for each potential claimant, document as unpaid costs, maintain documentation in the files, and note amount of unpaid costs on the *Final Financial Report*.

***Relocation Payments***

The Relocation Specialist is responsible for ensuring that all payments are made in a timely fashion. The Relocation Specialist should confirm that the recipient has signed a letter acknowledging receipt of relocation payments.

Lump sum payments are prohibited. In the event of the death of the claimant(s), the remaining amount set aside for relocation costs shall be used to cover current housing expenses; be disbursed to remaining household members; or pay the obligation of a deceased person's estate for the replacement unit.

If a person makes a claim for payment that must be denied because the unit is substandard, the Relocation Specialist must inform the claimant why the claim is being denied and indicate the assistance available for bringing the current unit up to code.



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The regulations mandate that a claim for payment be submitted within a period of eighteen (18) months after permanent and involuntary displacement. The Relocation Specialist should strictly adhere to this limitation and fully document its initial notification of this requirement and all subsequent reminders.

*Complaints and Appeals*

Written complaints and appeals shall be considered regardless of form.

***Actions That May Be Appealed***

Persons being displaced may file an appeal if they believe the Relocation Specialist has:

- Made a mistake in determining eligibility for payment;
- Made an error in figuring the amount of payment;
- Been unfair in refusing to waive the time limit for filing a claim or the purchase and occupancy requirements;
- Not provided a reasonable choice of comparable replacement housing;
- Not properly inspected the replacement housing; or
- Failed to comply with the provisions concerning the notice of right to continue in occupancy.

Appeals will first be forwarded to the DCA Program Specialist. If the Program Specialist is unable to resolve the issue, the tenant will be provided with information on his/her right to appeal, and the process to be followed.

Appeals are limited to actions or decisions that the individual making the appeal (petitioner) believes to be in conflict with stated program policies or to be based on contestable facts. Program policies established by DCA are not appealable.

***Appeals Process***

Appeals must be submitted in writing to Superstorm Sandy Appeals, P.O. Box 32117, Newark, NJ 07102. The request must contain the following information:

- Tenant's name;
- Tenant's mailing address;
- Tenant's telephone number;

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- Email address (if available);
- The reason(s) the decision or action is being appealed;
- Documentation that supports the request to overturn the decision or action; and
- Application number.

Appeals will be received and processed by the DCA Appeals staff. Appeals will be date stamped when received and placed on a log for tracking. An acknowledgement of receipt will be sent by mail to the petitioner. DCA will review appeals relating to actions or decisions made by the Relocation Specialist. (This staff is independent from the staff that originally made the decision being appealed.)

DCA Appeals staff will review the appeal documentation presented by the petitioner and by the Relocation Specialist. If necessary, DCA Appeals staff will contact the petitioner to allow him/her to provide additional documents, or to be interviewed to determine the merits of the petitioner's appeal.

If appropriate, the DCA Appeals staff will overturn the action or decision and a notification will be sent to the petitioner specifying the corrective action to be taken.

If the DCA Appeals staff determines that the action or decision should stand, the staff will prepare a statement and documentation to support the decision for the submission of the appeal to Sandy Recovery Division management. For contested cases where ineligibility has been determined, the Director of the Sandy Recovery Division will render a decision and notify the petitioner of the decision in writing. For non-contested cases, the DCA Commissioner will issue a Final Agency Decision.

The decision of the Director of the Sandy Recovery Division may be appealed by submitting a petition for a formal hearing before the Office of Administrative Law (OAL) within thirty (30) days of service of the DCA's final decision. Only contested cases will be forwarded to the OAL. The written request must be addressed to the Director, Sandy Recovery Division, Department of Community Affairs, P.O. Box 823, Trenton, NJ 08625.

If an appeal is forwarded to the OAL, a formal hearing before an Administrative Law Judge (ALJ) will be held. The ALJ will issue an initial decision for review by the DCA Commissioner.

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***Final Decision***

For contested cases, the Commissioner will review the initial decision by the OAL and issue a final decision, accepting, modifying, or rejecting the ALJ's initial decision. The OAL decision and the final decision will both be sent to the petitioner at the address provided.

Non-contested cases will not be referred to the OAL. The Commissioner will instead issue a Final Agency Decision which will be appealable directly to the New Jersey Superior Court, Appellate Division.

***Time Limit***

The time limit for a person to file an appeal is thirty (30) days after the person receives the written notification of the Relocation Specialist's determination.

**Recordkeeping**

The Relocation Specialist must maintain a separate relocation file for each displaced person for at least five (5) years after project closeout or after the person has received his/her final relocation payment, whichever is later.

Each separate relocation case file shall be documented sufficiently to demonstrate full compliance with the information specified above.

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**APPROVAL:**



David Mazzuca, Assistant Director  
Housing Recovery Programs



Laura Shea  
Assistant Commissioner



Samuel R. Viavattine  
Director, Sandy Recovery Division

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**PURPOSE:** This policy describes the actions that the Sandy Recovery Division (SRD) takes to address beneficiary complaints and concerns regarding contractor fraud, poor workmanship, and failure to commence and complete work in a timely manner, pursuant to contract, for the Reconstruction, Rehabilitation, Elevation and Mitigation (RREM) Program, the Landlord Rental Repair Program (LRRP) and the Low-to-Moderate Income (LMI) Homeowners Rebuilding Program. (The RREM, LRRP and LMI Programs are collectively referred to as “Housing Programs” hereafter.) This policy statement supplements Policy Number 2.10.3, “Detection of Fraud, Waste, and Abuse.”

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**POLICY:** In its role as grantee of Community Development Block Grant-Disaster Recovery (CDBG-DR) funds, the Department of Community Affairs (DCA), SRD, has adopted policies and procedures to prevent and address issues of fraud, poor workmanship, and failure to commence and complete work in a timely manner pursuant to contract.

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### **Education and Prevention**

The SRD's initial goal is to prevent contractor fraud and other construction-related concerns for grant beneficiaries through education and prevention. Although the SRD does not have a direct contractual relationship with builders, it has developed educational and due diligence measures that are designed to reasonably prevent fraud and other contractor problems by providing Sandy grant beneficiaries with information regarding the prevention of and protection from construction-related problems. Such measures include:

- A tip sheet from the Office of the Attorney General, Division of Consumer Affairs ("Consumer Affairs") entitled "Avoid Home Repair Scams" is distributed to all beneficiaries in the Housing Programs.
- The housing counseling agencies under contract to DCA, along with other homeowner assistance groups, are provided with information and training on how to help program beneficiaries to prevent contractor problems, and how to deal with issues that may arise.
- Educational information to assist program beneficiaries to avoid common repair scams and effectively manage their contractors is posted on the reNewJerseyStronger website with a direct link to the Consumer Affairs website to report issues and concerns. Property owners in Housing Programs are provided tip sheets: "Avoid Home Repair Scams," "Managing Your Project," and "Insurance and Bonding" at their grant signing and pre-construction meetings. Housing Advisors, Landlord Advisors and Project Managers explain the contents of these tip sheets in detail with property owners and answer any questions. Property owners are asked to sign an acknowledgement to confirm they were provided this information and were provided an opportunity to review it and ask questions prior to grant signing.
- Property owners are told that their Housing Advisor and/or Landlord Advisor is available to answer any questions they may have regarding contractor demands and issues.
- For any beneficiary who has not yet selected a contractor, the Housing Advisor and/or Landlord Advisor can share a roster of prequalified contractors that were verified to possess the following qualifications:

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- Current license and registration as new homebuilder or home improvement contractor, respectively, with the State of New Jersey; and
- Demonstrated knowledge of SRD and HUD requirements.

With respect to Pathway C beneficiaries, DCA and the RREM Project Managers assist the property owner in the development of a scope of work, contract pricing, and monitoring of construction. This process involves the following steps:

- Contractor must submit all approved permits, insurance documents and bonds to the RREM Project Manager before a notice to proceed can be issued;
- Local building inspectors perform code inspections and RREM Project Managers perform on-site inspections at 33%, 66% and final completion for reconstruction projects, and 50% and final completion for rehabilitation projects;
- Interim construction payments are made directly to the contractor upon satisfactory inspection of work and meeting interim progress timelines. No advance payments are made. Reimbursement is only provided for work performed accompanied by unconditional releases of liens; and
- Property owner must agree that final work is complete and satisfactory and sign documents to that effect prior to the release of retainage.

In addition, Housing Programs require that any contractor used by a beneficiary must meet the following requirements:

- Registered as a business in New Jersey;
- Possess a current, valid new homebuilder license or home improvement contractor registration with the State of New Jersey;
- Not be debarred by the federal government or State of New Jersey; and
- DCA, at its sole discretion, reserves the right to preclude a contractor from participation in any CDBG-DR program if the contractor has been the subject of a State action while performing as a contractor with any CDBG-DR funded program.



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For Pathway B beneficiaries who have selected their own contractors, the SRD nonetheless has implemented safeguards to prevent contractor fraud. After signing their grant, beneficiaries are assigned a Project Manager to assist with construction and invoice questions, as well as program requirements. The Project Manager will also discuss the contractor fraud tip sheet with the property owner at the mandatory pre-construction meeting. Among other protections:

- The property owner must present a contract to the Project Manager with a contractor that meets the requirements outlined on page 3;
- The property owner must submit a Contractor Addendum, signed by their validated contractor, acknowledging that the contractor and any subcontractors it may use are fully aware of the applicable Federal and program requirements;
- Ten (10) percent of the grant award is held as retainage for the RREM and LMI Programs and twenty (20) percent for LRRP to ensure all work is completed up to program standards. Release of retainage (final payment) is contingent on a successful final inspection by the Project Manager, which includes a review of the ECR, any scope adjustments, and all final closeout requirements;
- The property owner may request two (2) interim construction payments for RREM and LMI. The property owners must provide photographs of the work and receipts for the work, subject to approval by the Project Manager;
- In the event that the procedures above are unable to prevent fraud and other contractor issues arise the following policies and procedures will apply.

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**Process for Sandy Division Response to Contractor Complaints from Property Owners**

Recognizing that complaints from property owners regarding their contractors come to the State and SRD through multiple channels, this process is designed to ensure that there is a central collection point for all contractor complaints. SRD Constituent Services will be responsible for the management of contractor complaints that come to DCA/SRD either directly from property owners or from another source (e.g. Governor's Office, Legislators, Long Term Recovery Groups, etc.). Constituent Services will forward complaints concerning the program or program management to the appropriate housing program designee.

Consumer Affairs can accept complaints only from persons having a contractual relationship with the contractor. Any SRD staff, including the Housing Advisors, Project Managers and Constituent Services staff should direct property owners to contact the Consumer Affairs Office directly to file a complaint. Consumer Affairs will then make a determination regarding whether a contractor complaint rises to the level of a violation of any of the laws that it administers and enforces and will notify the person who filed the complaint.

For any property owner filing a complaint with SRD Constituent Services, he/she will be directed to contact Consumer Affairs if the concerns cannot be resolved by the Housing Advisor or other SRD staff. All complaints related to contractors will be recorded in the Constituent Services module in SIROMS from which the weekly "Contractor Complaint Log" is generated for distribution.

**Fraud**

Pursuant to HUD requirements, the State Executive Order No 125, and existing DCA policy on the Detection of Fraud, Waste and Abuse (Policy Number 2.10.3), DCA has designated the Director of Auditing as the Department's Accountability Officer as it relates to contractor fraud allegations. The Accountability Officer is responsible for developing and approving investigative protocols and referring any allegations of fraud to the proper criminal authorities for prosecution, in this case the Sandy Fraud Task Force. (See Attachment A for the relevant State fraud statutes.) If a program



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beneficiary believes that they have been defrauded by a contractor, they will be advised to take the following steps:

- Immediately file a complaint with Consumer Affairs to report the allegation of fraud;
- Provide copies of all available documentation requested by Consumer Affairs;
- Cooperate fully with Consumer Affairs to assist in its investigation and enforcement action, if indicated;
- Should Consumer Affairs determine that the complaint does not involve a violation of any of the laws it administers or enforces and instead involves a “contract dispute,” pursue civil litigation against the contractor to secure a judgment to recover funds or to direct that the contractor perform; and
- Cooperate fully with law enforcement officials in the criminal prosecution of the contractor, if indicated.

If the property owner follows the steps outlined above, DCA will determine whether it is possible to recalculate the “unmet need” resulting from funding “no longer being available” due to contractor fraud.

In situations where fraud is indicated, the Project Manager will inspect the property to verify the amount of work completed and to estimate how much work remains to complete the rehabilitation or reconstruction. This estimate will be compared with the estimated cost to repair on record. SRD will also perform a new “duplication of benefits” analysis and if there is a current unmet need remaining as a result of the fraud, the grant amount may be revised. Property owners will be required to provide a legal document in which a government agency alleges the crime of fraud against the contractor, such as an arrest warrant, a Criminal Complaint or an Indictment, as evidence that the property owners cannot avail themselves of grant monies previously distributed. When presented with the allegations of contractor fraud, if the State provides the beneficiary with CDBG-DR funding to complete their housing project, then the beneficiary must enforce the judgment and sign a Subrogation Agreement to reimburse the State with any funds received as a result of any civil, administrative and/ or criminal action and/ or agree to designate the State as “payee” on any restitution agreement.

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The Project Manager, working with the property owner, will validate a replacement contractor to ensure construction continues per the normal program workflow. Property owners will not receive any additional disbursements following re-inspection until a replacement contractor is validated and a new executed contract is on record.

**Poor Workmanship and Failure to Perform in a Timely Manner**

For Pathway B and C beneficiaries, who are not satisfied with either the quality of work performed by their contractors or timeliness of completion, should, after logging their complaint with Constituent Services, file a complaint with Consumer Affairs pursuant to the provisions of the New Jersey Consumer Fraud Act, specifically the New Jersey Home Improvement Contractor Registration Act, N.J.S.A. 56:8-136 et. seq. (See Attachment B for details.) As noted earlier in this Policy, SRD Constituent Services will record and track the complaints in SIROMS as to create a centralized system of record that will facilitate requisite follow-up.

In situations where Consumer Affairs alleges a possible contract dispute or civil violation under Pathway B, SRD Housing Recovery staff will inform beneficiaries that they can pursue, at their own discretion, civil litigation against the contractor to secure a judgment to recover funds or to direct that contractor to perform.

In situations where Consumer Affairs alleges a possible contract dispute or civil violation under Pathway C, SRD Housing Recovery staff may take one or more of the following actions:

- Conduct a site visit to the property with the property owner and the contractor to determine if corrective action is necessary; and
- If corrective action is necessary, the RREM Project Manager will re-inspect the property to identify the scope of work completed to date, the remaining scope of work, and any additional scope of work related to poor workmanship, if applicable;
- If the re-inspection results in addressing “unforeseen conditions” not originally included in the scope of work, the Project Manager may initiate a change order, if appropriate; and

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- The Project Manager will conduct progress inspections in accordance with Pathway C standard procedures.

In the event a Pathway C contractor fails to comply with the agreed upon corrective actions, or is not performing work in a timely manner, SRD Housing Recovery staff shall take one or more of the following actions:

- Assist the property owner to provide written notice to the contractor's bonding company regarding contractor performance and seek their assistance to resolve the issues;
- Consult with the Assistant Director of Housing Recovery Programs to remove contractor from the pool of approved contractors (Pathway C only); and/or
- Replace the contractor.

Consumer Affairs and the SRD will work collaboratively, as appropriate, on complaints and to remove non-performing contractors from the pool of recommended contractors. At the request of the Attorney General, the SRD may share beneficiary information to assist in the Attorney General's investigation of contractors receiving CDBG-DR funds.

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**Attachment A**

Title 2C. The New Jersey Code of Criminal Justice

Subtitle 2. Specific Offenses

Part 2. Offenses Against Property

Chapter 20. Theft

I. General Provisions

*N.J. Stat. § 2C:20-4 (2015)*

**§ 2C:20-4. Theft by deception**

A person is guilty of theft if he purposely obtains property of another by deception. A person deceives if he purposely:

**a.** Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind, and including, but not limited to, a false impression that the person is soliciting or collecting funds for a charitable purpose; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

**b.** Prevents another from acquiring information which would affect his judgment of a transaction; or

**c.** Fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship.

The term "deceive" does not, however, include falsity as to matters having no pecuniary significance, or puffing or exaggeration by statements unlikely to deceive ordinary persons in the group addressed.

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**HISTORY:**

L. 1978, c. 95; amended L. 2003, c. 43, § 1, eff. Apr. 16, 2003.

**NOTES:**

Cross References:

Mandatory minimum prison term for public officer, employee convicted of certain crimes; waiver, reduction, see *2C:43-6.5*.

Forfeiture of pension, retirement benefit for conviction of certain crimes; definition, certain, see *43:1-3.1*.

Additional requirements for registration see *56:8-122*.

Related Statutes & Rules:

ADMINISTRATIVE CODE:

1. *N.J.A.C. 13:45A-17.6* (2013), CHAPTER ADMINISTRATIVE RULES OF THE DIVISION OF CONSUMER AFFAIRS, Disclosure statement.

2. *N.J.A.C. 13:45D-3.3* (2013), CHAPTER TELEMARKETING: DO NOT CALL Disclosure statement.

3. *N.J.A.C. 10:69-9.15* (2013), CHAPTER AFDC-RELATED MEDICAID, Eligibility fraud by applicants and beneficiaries.

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Title 2C. The New Jersey Code of Criminal Justice

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Part 2. Offenses Against Property

Chapter 20. Theft

I. General Provisions

*N.J. Stat. § 2C:20-9 (2015)*

**§ 2C:20-9. Theft by failure to make required disposition of property received**

A person who purposely obtains or retains property upon agreement or subject to a known legal obligation to make specified payment or other disposition, whether from such property or its proceeds or from his own property to be reserved in equivalent amount, is guilty of theft if he deals with the property obtained as his own and fails to make the required payment or disposition. The foregoing applies notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition. An officer or employee of the government or of a financial institution is presumed: (a) to know any legal obligation relevant to his criminal liability under this section, and (b) to have dealt with the property as his own if he fails to pay or account upon lawful demand, or if an audit reveals a shortage or falsification of accounts. The fact that any payment or other disposition was made with a subsequently dishonored negotiable instrument shall constitute prima facie evidence of the actor's failure to make the required payment or disposition, and the trier of fact may draw a permissive inference therefrom that the actor did not intend to make the required payment or other disposition.

**HISTORY:**

L. 1978, c. 95; Amended by L. 1987, c. 76, § 32.

**Cross References:**

Violations, certain; theft, see *2A:102-16*.

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Sentence of imprisonment for crime; ordinary terms; mandatory terms., see *2C:43-6*.

Mandatory minimum prison term for public officer, employee convicted of certain crimes; waiver, reduction, see *2C:43-6.5*.

Forfeiture of pension, retirement benefit for conviction of certain crimes; definition, certain, see *43:1-3.1*.

Additional requirements for registration, see *56:8-122*.

Related Statutes & Rules:

ADMINISTRATIVE CODE:

1. *N.J.A.C. 13:45A-17.6* (2013), CHAPTER ADMINISTRATIVE RULES OF THE DIVISION OF CONSUMER AFFAIRS, Disclosure statement.

2. *N.J.A.C. 13:45D-3.3* (2013), CHAPTER TELEMARKETING: DO NOT CALL, Disclosure statement.

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**Attachment B**

Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, etc., in Sales or Advertisements or Merchandise

*N.J. Stat. § 56:8-136 (2015)*

**§ 56:8-136. Short title [Contractors' Registration Act]**

This act shall be known and may be cited as the "Contractors' Registration Act."

**HISTORY:**

L. 2004, c. 16, § 1, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5).

**NOTES:**

Effective Dates:

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

Cross References:

Identification badge required for certain contractors [Effective August 19, 2014], see *56:8-138.1*.

Related Statutes & Rules:

ADMINISTRATIVE CODE:

1. *N.J.A.C. 13:45A-17.1* (2013), CHAPTER ADMINISTRATIVE RULES OF THE DIVISION OF CONSUMER AFFAIRS, Purpose and scope.



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2. *N.J.A.C. 13:45A-17.5* (2013), CHAPTER ADMINISTRATIVE RULES OF THE DIVISION OF CONSUMER AFFAIRS, Initial and renewal applications.

3. *N.J.A.C. 13:45A-17.7* (2013), CHAPTER ADMINISTRATIVE RULES OF THE DIVISION OF CONSUMER AFFAIRS, Duty to update information.

4. *N.J.A.C. 13:45A-17.9* (2013), CHAPTER ADMINISTRATIVE RULES OF THE DIVISION OF CONSUMER AFFAIRS, Refusal to issue, suspension or revocation of registration; hearing; other sanctions.

5. *N.J.A.C. 5:23-2.15* (2013), CHAPTER UNIFORM CONSTRUCTION CODE, Construction permits--application.

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Title 56. Trade Names, Trade-Marks and Unfair Trade Practices  
Chapter 8. Frauds, etc., in Sales or Advertisements or Merchandise

**GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY**

*N.J. Stat. § 56:8-137* (2015) <sup>1</sup>

**§ 56:8-137. Definitions relative to home improvement contractors**

As used in this act:

"Contractor" means a person engaged in the business of making or selling home improvements and includes a corporation, partnership, association and any other form of business organization or entity, and its officers, representatives, agents and employees.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Home elevation" means any home improvement that involves raising an entire residential or non-commercial structure to a higher level above the ground.

"Home elevation contractor" means a contractor who engages in the practice of home elevation.

"Home improvement" means the remodeling, altering, renovating, repairing, restoring, modernizing, moving, demolishing, or otherwise improving or modifying of the whole or any part of any residential or non-commercial

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property. Home improvement shall also include insulation installation, home elevation, and the conversion of existing commercial structures into residential or non-commercial property.

"Home improvement contract" means an oral or written agreement for the performance of a home improvement between a contractor and an owner, tenant or lessee, of a residential or noncommercial property, and includes all agreements under which the contractor is to perform labor or render services for home improvements, or furnish materials in connection therewith.

"Residential or non-commercial property" means any single or multi-unit structure used in whole or in part as a place of residence, and all structures appurtenant thereto, and any portion of the lot or site on which the structure is situated which is devoted to the residential use of the structure.

**HISTORY:** L. 2004, c. 16, § 2, eff. Dec. 31, 2005 (eff. date).

Effective Dates:

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

Section 5 of L. 2014, c. 34 provides: "This act shall take effect on the first day of the second month after the date of enactment, but the State may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act." Chapter 34, L. 2014, was approved on Aug. 15, 2014.

Amendment Note:

2014 amendment, by Chapter 34, inserted the definitions of "Home elevation" and "Home elevation contractor"; and inserted "home elevation" in the second sentence of the definition of "Home improvement."

## Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

### Chapter 8. Frauds, etc., in Sales or Advertisements or Merchandise

*N.J. Stat. § 56:8-138.1 (2015)*

#### **§ 56:8-138.1. Identification badge required for certain contractors**

**a.** Every contractor required to register under the "Contractors' Registration Act," P.L.2004, c.16 (C.56:8-136 et seq.) shall have in his possession an identification badge, issued pursuant to subsection b. of this section, whenever the contractor is performing, or engaging, or attempting to engage, in the business of making or selling home improvements. The identification badge shall be plainly visible and worn on the upper left

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corner of his torso when the contractor is performing, or engaging, or attempting to engage, in the business of selling home improvements.

b. Upon the application of a registered contractor, the director shall issue, or cause to be issued, a personalized identification badge to the contractor. The identification badge shall include a color photograph of the contractor's face, the contractor's name, the contractor's registration number, and the name of the contractor's business displayed in a manner that will be plainly visible and permit recognition when worn by the contractor. The badge shall include a statement, written in such a way as to be plainly visible when worn by the contractor that the badge is not for an electrical contractor, plumbing contractor or HVACR contractor license. The identification badge shall be made in such a way and of such material that any attempt to alter the badge will result in it being immediately, permanently and obviously ruined. The photograph included on the identification badge shall be taken no more than four weeks before the date upon which the identification badge is issued. A contractor shall apply for and obtain a new identification badge at least once every six years.

c. The director may charge the contractor a reasonable fee to cover the costs of the identification badge issued pursuant to this section.

d. A contractor who has been issued an identification badge pursuant to subsection b. of this section and whose registration has been suspended, revoked, or has not been renewed, shall, within three days of that suspension, revocation or nonrenewal, surrender the identification badge to the director.

e. A person who knowingly exhibits or displays an identification badge issued pursuant to subsection b. of this section and is not at that time registered as a contractor pursuant to the "Contractors' Registration Act," P.L.2004, c.16 (*C.56:8-136 et seq.*), including any contractor who has had his registration revoked, suspended, or not renewed, is guilty of a crime of the fourth degree.

**HISTORY:**

L. 2013, c. 144, § 1, eff. Aug. 19, 2014.

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*N.J. Stat. § 56:8-138.2 (2015)*

**§ 56:8-138.2. Home elevation contractors, rules, regulations; fees; penalties**

a. In addition to complying with the other requirements of the "Contractors' Registration Act," P.L.2004, c.16 (*C.56:8-136 et seq.*), no person shall offer to perform, or engage, or attempt to engage in the business of home elevation unless registered with the division as a home elevation contractor.

b. The division shall adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1 et seq.*), to effectuate the provisions of P.L.2014, c.34 (*C.56:8-138.2 et al.*) with regard to registration of home elevation contractors, and may establish fees for this purpose. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1 et seq.*) to the contrary, the Division of Consumer Affairs may adopt immediately upon filing with the Office of Administrative Law rules and regulations for this purpose, which shall be effective for a period not to exceed 270 days following the date of enactment of P.L.2014, c.34 (*C.56:8-138.2 et al.*), and may thereafter be amended, adopted, or readopted, by the division in accordance with the requirements of the "Administrative Procedure Act".

c. In addition to any other civil or criminal penalty that may apply, any person who makes a false statement in connection with the process for registration as a home elevation contractor pursuant to this section or in regard to any statement required to be made pursuant to section 7 of P.L.2004, c.16 (*C.56:8-142*) shall be liable for a civil penalty of not less than \$ 10,000 or more than \$ 25,000. Such penalty may be imposed by the director and shall be collected by summary proceedings instituted in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (*C.2A:58-10 et seq.*).

d. In addition to any other action that may be authorized by law, the director may suspend or revoke the home improvement contractor registration and home elevation contractor registration of any person who violates any provision of P.L.2014, c.34 (*C.56:8-138.2 et al.*).

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**HISTORY:**

L. 2014, c. 34, § 1, eff. Oct. 1, 2014.

Effective Dates:

Section 5 of L. 2014, c. 34 provides: "This act shall take effect on the first day of the second month after the date of enactment, but the State may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act." Chapter 34, L. 2014, was approved on Aug. 15, 2014.

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Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

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*N.J. Stat. § 56:8-138 (2015)*

**§ 56:8-138. Registration for contractors; application, fee.**

**a.** On or after December 31, 2005, no person shall offer to perform, or engage, or attempt to engage in the business of making or selling home improvements unless registered with the Division of Consumer Affairs in accordance with the provisions of this act.

**b.** Every contractor shall annually register with the director. Application for registration shall be on a form provided by the division and shall be accompanied by a reasonable fee, set by the director in an amount sufficient to defray the division's expenses incurred in administering and enforcing this act.

**c.** Every contractor required to register under this act shall file an amended registration within 20 days after any change in the information required to be included thereon. No fee shall be required for the filing of an amendment.

**HISTORY:**

L. 2004, c. 16, § 3, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5); amended 2004, c. 155, § 1, eff. Nov. 8, 2004.



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Effective Dates:

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

Effective Dates:

Section 2 of L. 2013, c. 144 provides: "This act shall take effect on the 365th day following the date of enactment." Chapter 144, L. 2013, was approved on Aug. 19, 2013.

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*N.J. Stat. § 56:8-139 (2015)*

**§ 56:8-139. Act applicable to contractors who publicly advertise.**

Except for persons exempted pursuant to section 5 [C.56:8-140] of this act, any person who advertises in print or puts out any sign or card or other device on or after December 31, 2005, which would indicate to the public that he is a contractor in New Jersey, or who causes his name or business name to be included in a classified advertisement or directory in New Jersey on or after December 31, 2005, under a classification for home improvements covered by this act, is subject to the provisions of this act. This section shall not be construed to apply to simple residential alphabetical listings in standard telephone directories.

**HISTORY:**

L. 2004, c. 16, § 4, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5); amended 2004, c. 155, § 2, eff. Nov. 8, 2004.

Publisher's Note:

The bracketed material was added by the Publisher to provide a reference.

Effective Dates:

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

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*N.J. Stat. § 56:8-140 (2015)*

**§ 56:8-140. Inapplicability of act.**

The provisions of this act shall not apply to:

a. Any person required to register pursuant to "The New Home Warranty and Builders' Registration Act," P.L. 1977, c. 467 (*C. 46:3B-1 et seq.*);

b. Any person performing a home improvement upon a residential or non-commercial property he owns, or that is owned by a member of his family, a bona fide charity, or other non-profit organization;

c. Any person regulated by the State as an architect, professional engineer, landscape architect, land surveyor, electrical contractor, master plumber, or any other person in any other related profession requiring registration, certification, or licensure by the State, who is acting within the scope of practice of his profession;

d. Any person who is employed by a community association or cooperative corporation;

e. Any public utility as defined under *R.S. 48:2-13*;

f. Any person licensed under the provisions of section 16 of P.L. 1960, c. 41 (*C. 17:16C-77*); and

g. Any home improvement retailer with a net worth of more than \$ 50,000,000, or employee of that retailer.

**HISTORY:**

L. 2004, c. 16, § 5, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5).

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L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

**Cross References:**

Act applicable to contractors who publicly advertise., see *56:8-139*.

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*N.J. Stat. § 56:8-141 (2015)*

**§ 56:8-141. Additional requirements; refusal to issue or suspend or revoke registration; grounds.**

In addition to any other procedure, condition or information required by this act:

a. Every applicant shall file a disclosure statement with the director stating whether the applicant has been convicted of any crime, which for the purposes of this act shall mean a violation of any of the following provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes, or the equivalent under the laws of any other jurisdiction:

- (1) Any crime of the first degree;
- (2) Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or
- (3) Any other crime which is a violation of *N.J.S. 2C:5-1, 2C:5-2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2, 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S. 2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through 2C:37-4.*

b. The director may refuse to issue or may suspend or revoke any registration issued by him upon proof that the applicant or holder of the registration:

- (1) Has obtained a registration through fraud, deception or misrepresentation;
- (2) Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- (3) Has engaged in gross negligence, gross malpractice or gross incompetence;
- (4) Has engaged in repeated acts of negligence, malpractice or incompetence;
- (5) Has engaged in professional or occupational misconduct as may be determined by the director;
- (6) Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by this act. For the purpose of this subsection a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- (7) Has had his authority to engage in the activity regulated by the director revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- (8) Has violated or failed to comply with the provisions of any act or regulation administered by the director;

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(9) Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare.

c. An applicant whose registration is denied, suspended, or revoked pursuant to this section shall, upon a written request transmitted to the director within 30 calendar days of that action, be afforded an opportunity for a hearing in a manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.).

d. An applicant shall have the continuing duty to provide any assistance or information requested by the director, and to cooperate in any inquiry, investigation, or hearing conducted by the director.

e. If any of the information required to be included in the disclosure statement changes, or if additional information should be added after the filing of the statement, the applicant shall provide that information to the director, in writing, within 30 calendar days of the change or addition.

f. Notwithstanding the provisions of paragraph (6) of subsection b. of this section, no individual shall be disqualified from registration or shall have registration revoked on the basis of any conviction disclosed if the individual has affirmatively demonstrated to the director clear and convincing evidence of the individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) The nature and responsibility of the position which the convicted individual would hold;

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the individual when the offense was committed;

(6) Whether the offense was an isolated or repeated incident;

(7) Any social conditions which may have contributed to the offense; and

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision.

**HISTORY:**

L. 2004, c. 16, § 6, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5).

Effective Dates:

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L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

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*N.J. Stat. § 56:8-142 (2015)*

**§ 56:8-142. Proof of commercial general liability insurance, cargo, other insurance, posting of bond; requirements**

a. On or after December 31, 2005, every registered contractor who is engaged in home improvements shall secure, maintain and file with the director proof of a certificate of commercial general liability insurance in a minimum amount of \$ 500,000 per occurrence.

b. Every registered contractor engaged in home improvements whose commercial general liability insurance policy is cancelled or nonrenewed shall submit to the director a copy of the certificate of commercial general liability insurance for a new or replacement policy which meets the requirements of subsection a. of this section before the former policy is no longer effective.

c. Every home elevation contractor engaged in performing home elevations, in addition to the insurance required pursuant to subsection a. of this section, shall secure and maintain cargo or other insurance that specifically covers home elevation activities, in a minimum amount of \$ 1,000,000 per occurrence to cover damages or other losses to the homeowner, lessee, tenant or other party resulting from a home elevation, except as otherwise provided in this subsection. The Director of the Division of Consumer Affairs in consultation with the Department of Banking and Insurance may promulgate rules and regulations to implement this subsection, which rules and regulations also may require that home elevation contractors secure and maintain additional insurance of such kind and in such amounts as the director may determine in consultation with the Department of Banking and Insurance. In addition to or as an alternative to the insurance required by this subsection, the director may also require the posting of a bond in favor of the owner, lessee, tenant or other party to the home improvement contract for home elevation. Every bond and insurance policy required to be maintained under this subsection shall provide that the issuer of that bond or

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policy shall give the director written notice of cancellation or non-renewal of the bond or policy within 10 days of the cancellation or non-renewal.

**d.** A home elevation contractor, prior to entering into an agreement to perform a home elevation, shall provide proof of insurance to the homeowner including the issuing insurer, policy number, type, and amount of insurance coverage maintained by the contractor in accordance with this section.

**HISTORY:** L. 2004, c. 16, § 7, eff. Dec. 31, 2005 (eff. date).

Effective Dates:

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

Section 5 of L. 2014, c. 34 provides: "This act shall take effect on the first day of the second month after the date of enactment, but the State may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act." Chapter 34, L. 2014, was approved on Aug. 15, 2014.

Amendment Note:

2014 amendment, by Chapter 34, added c. and d.

Cross References:

Contracts, certain, required to be in writing; contents., see *56:8-151*.

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*N.J. Stat. § 56:8-143 (2015)*

**§ 56:8-143. Refusal to issue, renew, revocation, suspension of registration; procedures.**

**a.** The director may refuse to issue or renew, and may revoke, any registration for failure to comply with, or violation of, the provisions of this act or for any other good cause shown within the meaning and purpose of this act. A refusal or revocation shall not be made except upon reasonable notice to, and opportunity to be heard by, the applicant or registrant.

**b.** The director, in lieu of revoking a registration, may suspend the registration for a reasonable period of time, or assess a penalty in lieu of suspension, or both, and may issue a new registration, notwithstanding the revocation of a prior registration, if the applicant is found to have become entitled to the new registration.

**HISTORY:**

L. 2004, c. 16, § 8, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5).

**Effective Dates:**

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

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*N.J. Stat. § 56:8-144 (2015)*

**§ 56:8-144. Display of registration number; requirements.**

a. All registrants shall prominently display their registration numbers within their places of business, in all advertisements distributed within this State, on business documents, contracts and correspondence with consumers of home improvement services in this State, and on all commercial vehicles registered in this State and leased or owned by registrants and used by registrants for the purpose of providing home improvements, except for vehicles leased or rented to customers of registrants by a registrant or any agent or representative thereof.

b. Any invoice, contract or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided pursuant to section 14 [C.56:8-149] of this act.

**HISTORY:**

L. 2004, c. 16, § 9, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5).

**Publisher's Note:**

The bracketed material was added by the Publisher to provide a reference.

**Effective Dates:**

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

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*N.J. Stat. § 56:8-145 (2015)*

**§ 56:8-145. Applicability of act to out-of-State contractors.**

The provisions of this act shall apply to any person engaging in any of the activities regulated by this act in this State, including persons whose residence or principal place of business is located outside of this State.

**HISTORY:**

L. 2004, c. 16, § 10, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5).

**Effective Dates:**

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

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*N.J. Stat. § 56:8-146 (2015)*

**§ 56:8-146. Violations, fourth degree crime.**

**a.** It is an unlawful practice and a violation of P.L. 1960, c. 39 (*C. 56:8-1 et seq.*) to violate any provision of this act.

**b.** In addition to any other penalty provided by law, a person who knowingly violates any of the provisions of this act is guilty of a crime of the fourth degree.



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**HISTORY:**

L. 2004, c. 16, § 11, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5).

**Effective Dates:**

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

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*N.J. Stat. § 56:8-147 (2015)*

**§ 56:8-147. Supersedure of municipal ordinance, regulation.**

a. This act shall supersede any municipal ordinance or regulation that provides for the licensing or registration of contractors or for the protection of homeowners by bonds or warranties required to be provided by contractors, exclusive of those required by water, sewer, utility, or land use ordinances or regulations.

b. No municipality shall issue a construction permit for any home improvement to any contractor who is not registered pursuant to the provisions of this act.

**HISTORY:**

L. 2004, c. 16, § 12, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5).

**Effective Dates:**

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.



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*N.J. Stat. § 56:8-148 (2015)*

**§ 56:8-148. Municipal powers preserved.**

This act shall not deny to any municipality the power to inspect a contractor's work or equipment, the work of a contractor who performs improvements to commercial property, or the power to regulate the standards and manners in which the contractor's work shall be done.

**HISTORY:**

L. 2004, c. 16, § 13, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5).

Effective Dates:

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

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Title 56. Trade Names, Trade-Marks and Unfair Trade Practices

Chapter 8. Frauds, etc., in Sales or Advertisements or Merchandise

*N.J. Stat. § 56:8-149 (2015)*

**§ 56:8-149. Public information campaign, toll free number.**

a. The director shall establish and undertake a public information campaign to educate and inform contractors and the consumers of this State of the provisions of this act. The public information campaign shall include, but not be limited to, the preparation, printing and distribution of booklets, pamphlets or other written pertinent information.

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b. The director shall provide a toll-free telephone number for consumers making inquiries regarding contractors.

**HISTORY:**

L. 2004, c. 16, § 14, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5).

Effective Dates:

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

Cross References:

Display of registration number; requirements., see *56:8-144*.

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*N.J. Stat. § 56:8-150 (2015)*

**§ 56:8-150. Applicability of C.56:8-1 et seq.**

Nothing in this act shall limit the application of P.L. 1960, c. 39 (*C. 56:8-1 et seq.*), or any regulations promulgated thereunder, in regard to the registration or regulation of contractors.

**HISTORY:**

L. 2004, c. 16, § 15, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5).

Effective Dates:

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

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*N.J. Stat. § 56:8-151 (2015)*

**§ 56:8-151. Contracts, certain, required to be in writing; contents.**

a. On or after December 31, 2005, every home improvement contract for a purchase price in excess of \$ 500, and all changes in the terms and conditions of the contract, shall be in writing. The contract shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including but not limited to:

- (1) The legal name, business address, and registration number of the contractor;
- (2) A copy of the certificate of commercial general liability insurance required of a contractor pursuant to section 7 [C. 56:8-142] of this act and the telephone number of the insurance company issuing the certificate; and
- (3) The total price or other consideration to be paid by the owner, including the finance charges.

b. On or after December 31, 2005, a home improvement contract may be cancelled by a consumer for any reason at any time before midnight of the third business day after the consumer receives a copy of it. In order to cancel a contract the consumer shall notify the contractor of the cancellation in writing, by registered or certified mail, return receipt requested, or by personal delivery, to the address specified in the contract. All moneys paid pursuant to the cancelled contract shall be fully refunded within 30 days of receipt of the notice of cancellation. If the consumer has executed any credit or loan agreement through the contractor to pay all or part of the contract, the agreement or note shall be cancelled without penalty to the consumer and written notice of that cancellation shall be mailed to the consumer within 30 days of receipt of the notice of cancellation. The contract shall contain a conspicuous notice printed in at least 10-point bold-faced type as follows:

**"NOTICE TO CONSUMER**

**YOU MAY CANCEL THIS CONTRACT AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO CANCEL THIS CONTRACT, YOU MUST EITHER:**

**1. SEND A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR**

**2. PERSONALLY DELIVER A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION TO:**

(Name of Contractor)

(Address of Contractor)

(Phone Number of Contractor)

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If you cancel this contract within the three-day period, you are entitled to a full refund of your money. Refunds must be made within 30 days of the contractor's receipt of the cancellation notice."

**HISTORY:**

L. 2004, c. 16, § 16, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5); amended 2004, c. 155, § 4, eff. Nov. 8, 2004.

**Publisher's Note:**

The bracketed material was added by the Publisher to provide a reference.

**Effective Dates:**

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

**ADMINISTRATIVE CODE:**

1. *N.J.A.C. 13:45A-17.11* (2013), CHAPTER ADMINISTRATIVE RULES OF THE DIVISION OF CONSUMER AFFAIRS, Ownership and use of registration number; replacement and duplicate certificates.

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*N.J. Stat. § 56:8-152 (2015)*

**§ 56:8-152. Rules, regulations.**

The director, pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (*C. 52:14B-1 et seq.*), shall promulgate rules and regulations to effectuate the purposes of this act.

**HISTORY:**

L. 2004, c. 16, § 17, eff. Dec. 31, 2005 (eff. date; amended 2004, c. 155, § 5).

**Effective Dates:**

L. 2004, c. 155, § 5, effective November 8, 2004, amended section 18 of L. 2004, c. 16 to extend the effective date of L. 2004, c. 16 from the 180th day following enactment, or November 9, 2004, to December 31, 2005.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Fidelity Bonding Requirements: Non-governmental, Non-State Affiliated, Nonprofit Organizations Receiving CDBG-DR Awards

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**NUMBER:** 2.10.91

**EFFECTIVE:** June 2016

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**APPROVAL:**



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Samuel R. Viavattine  
Deputy Commissioner  
Sandy Recover Division



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Laura Shea  
Assistant Commissioner  
Sady Recovery Division

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**POLICY:**

Grant awards of \$50,000 or more made to non-governmental, non-State affiliated, or nonprofit organizations must be secured against the possibility of theft by means of a Fidelity Bond in the amount of at least \$50,000

**PROCEDURE:**

The subrecipient agreement will establish if a Fidelity Bond will be required, and if so, the dollar amount of the Bond. This policy and procedure establish guidelines pertinent to this determination.

Fidelity Bonding is required whenever:

1. The award amount is \$50,000 or greater;
2. The award recipient agency is a non-governmental, non-State affiliated, or nonprofit organization.

Fidelity Bonds are to be written to cover a potential minimum liability of at least \$50,000, and must remain in force for the entire term of the grant award. If warranted, the Grant Program Manager may require a greater amount to ensure risk coverage.

Evidence of the Fidelity Bond must be provided prior to the disbursement of any CDBG-DR funds to the awardee.



STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Budget & Finance – Overview of Financial Management Policies and Procedures

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**NUMBER:** 2.10.92

**EFFECTIVE:** June 2016

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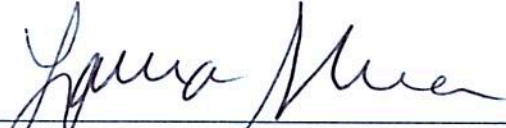
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**APPROVAL:**



Samuel R. Viavattine  
Deputy Commissioner  
Sandy Recover Division



Laura Shea  
Assistant Commissioner  
Sandy Recovery Division

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**POLICY:**

This document addresses financial management policies and procedures that guide the management of New Jersey's Community Development Block Grant –Disaster Recovery (CDBG-DR) awards within the Sandy Recovery Division (SRD). Specifically this policy addresses how the SRD Budget and Finance Department will process, track, document and report expenditures.

(Note: This policy serves as a consolidation and replacement of the following policies: 2.10.33, 2.10.38, 2.10.39, 2.10.40, and 2.10.41.)

**Overview**

**Financial management structure**

The State of New Jersey's, Department of Community Affairs (DCA), Sandy Recovery Division has established the SRD Budget and Finance Department, separate and apart from DCA's Fiscal Office, to manage and process all financial data for the CDBG-DR programs. The following procedures provide an overview of the general functions and responsibilities of the SRD Budget and Finance Department.

The SRD Budget and Finance Department is tasked with the responsibility of:

- a) Processing all Direct Program funding as well as related contractor and vendor payments;
- b) Forecasting funding expenditures by Program and Activity;
- c) Reporting financial and performance metrics on a quarterly basis to the Department of Housing and Urban Development (HUD);
- d) Reconciling State expenditures and Drawdowns of Federal funds in HUD's Disaster Recovery Grants Reporting (DRGR) system on a monthly basis.

All payment and supporting documentation is submitted to the SRD Budget and Finance Department for various levels of review and approval before CDBG-DR funds are drawn, through DRGR from the U.S. Treasury.

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The SRD Budget & Finance Department is overseen by the CFO of SRD and consists of two separate groups; 1) Finance group and 2) Controller group.

The Finance group oversees the financial needs related to:

- 1) Program funding forecasts;
- 2) Activations and obligations of grant fundings;
- 3) Reporting on both financial and performance metrics; and
- 4) General finance needs of the myriad of SRD managed programs, various subrecipients and agencies that are activity involved in managing the CDBG-DR funded Sandy Recovery program efforts.

The Controller group is primarily divided into two (2) separate teams that work closely together but serve different functions:

- 1) Funds Request/DRGR Team;
- 2) Transaction Accounting Team

**The Funds Request/DRGR Team** serves two functions;

- 1) Processing Funds Requests/Reimbursements from approximately thirty (30) SRD CDBG-DR funded programs; and
- 2) Processing and managing draw-downs through HUD's DRGR system.

**The Transaction Accounting Team:**

1. Reviews invoices submitted to SRD from participating agencies or contractors/vendors.

The Controller group also manages the quarterly submission in HUD's DRGR system of the Quarterly Performance Report (QPR), as well as the reconciliation process for three (3) disparate systems, the NJ State Consolidated Financial System (NJCFSS), SRD's Sandy Integrated Recovery Operations and Management System (SIROMS) and HUD's DRGR system.



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## **Financial Management Platform (SIROMS)**

### **Objectives**

SIROMS is designed to meet the following objectives:

- Support SRD and its partners and subrecipients in the implementation of the Sandy Recovery Action Plan and program delivery;
- Assist the SRD to deliver disaster relief services in a flexible, scalable, and efficient manner;
- Provide management and oversight capability to the SRD over the CDBG-DR funded programs being implemented as part of Sandy Recovery Action Plan;
- Provide a shared technology infrastructure with financial services to support grant management, reporting and documentation for CDBG-DR funded disaster recovery activities; and
- Facilitate compliance with State and Federal regulations.

To achieve these objectives the system consists of the following support functions:

- Supports collaboration between SRD and its partners and subrecipients with program documentation, training materials, notifications, and financial support services;
- Supports program set up, associated budgets, obligations and expenditures;
- Tracks the fund request process through the Funds Request Module (FRM);
- Facilitates DRGR data entry and establishes standardized reporting for each program;
- Assist SRD and its subrecipients to monitor and meet the HUD mandated national objectives and goals of the program;
- Supports forecasting and budgeting processes in accordance with the Sandy Recovery Action Plan;
- Supports the QPR reporting to HUD;
- Supports the Governor's Transparency Reporting Objectives
- Supports programmatic and fiscal management;
- Supports program delivery through intake and eligibility, and grant management processes;
- Provides for ongoing compliance and monitoring functions and auditing services; and
- Tracks vendor contracts, task orders, purchase orders and invoices.

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## **TRANSACTIONS**

### **Process Flow:**

#### **Funds Request Process:**

The funds request process is a four (4) step approval process that begins with the submitter of the fund request through final payment. The approval stages cover areas within SRD (Contract, Policy and Finance) as well as within DCA Fiscal (payment approval).

The process for submitting a fund request through SIROMS is as follows:

- Program Originator logs on to SIROMS FRM
- Program Originator [agency/program] submits funds request form
- Program Approver provides first level approval
- SRD Policy group provides second level approval
- SRD Finance group provides third level approval
- DCA Fiscal Approver publishes fiscal transfer and the funds request is generated

The FRM contains an on-line form that allows the originator of the funds request to directly enter the information required, along with the ability to upload any necessary attachments. Submitters of invoices into the CIM module scan and upload their supporting documentation at the time of invoice submission.

Once submitted into the system, SIROMS tracks the status of the request at each stage of approval. Initially the “Program Approver” is alerted via a “To Do List” site to the presence of a request in the system. The system also enables the “Program Approver” to view the status and history of any request. Once the review is complete, the system allows an “Program Approver” to electronically sign the form. Once approved at this stage, the submission is moved to the “To Do List” for the “SRD Policy Approver” and the “SRD Financial Approver”. These two individuals review the request and have the ability to either approve the request (with electronic signature) or return the request for additional information or clarification. After both the “Policy Approver” and “SRD Fiscal Approver” approves the request, it moves to the “To Do List” of “DCA Fiscal”. This final DCA Fiscal review and approval completes the Fund Request process.



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## **Invoicing Process/Documentation**

### **Transaction Accounting Team – Invoice Review**

Once a contractor or vendor submits has an invoice ready for payment, it is entered into the Contractor Invoice Module (CIM) of the SIROMS system along with all appropriate supporting documentation. At this time, the appropriate State Contract Manager initiates the reviews and approval process of the invoice. Once the invoice approval process begins, the SIROMS systems notifies SRD Budget and Finance Department's Transaction Accounting team that an invoice has reached their stage for review. The Transaction Accounting team reviews each invoice along with all supporting documentation that has been scanned into the SIROMS. Once reviewed and approved by Transaction Accounting team, the invoice moves forward in the system to DCA's Fiscal final approval and payment.

### **Program Income**

The Program Income Policy (SRD 2.10.6) identifies the process for receipt and expenditure of program income. SRD records the receipt of program income within the specific Sandy Recovery program that generated the revenue. Regardless of which program or subrecipient generated the program income, the use of any available receipted program income will be used to pay the first available fund request generated within SIROMS, regardless of the program responsible for that funds request.

### **Returned Funds**

SRD's policy of utilizing available Returned Funds requires the Funds Request/DRGR Team to utilize credits in an expeditious manner against the next available DRGR draw-down of CDBG-DR funds. SRD actively manages this process by using the outstanding credits against the next available draw-down, regardless of which program was responsible for generating the credit.

## **Reporting**

The SRD Budget and Finance Department reports weekly to the Sandy Recovery Division management and the participating agencies on the expenditures for each program funded by Sandy CDBG-DR program. Additionally, the department is responsible for consolidating the performance information provided by the agencies (quarterly) and then reporting that information to HUD through the QPR.



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This report, that is available at <Http://www.renewjerseystronger.org>, is also used to demonstrate to the public the progress of the CDBG-DR expenditures. DCA also maintains a website that provides the public with the Action Plan, all amendments, and all prior QPR that have been submitted to HUD; these can be found at <http://www.nj.gov/dca/divisions/sandyrecovery/action/>

In addition the Governor's Office maintains two Disaster Recovery websites to provide updated information to the public on the recovery effort and on all contracts awarded using CDBG-DR funds. The addresses for these sites are:

<http://www.state.nj.us/gorr/> and  
<http://nj.gov/comptroller/sandytransparency/contracts/sandy/approved/contracts.html>

In addition to its external quarterly reports to HUD and the websites referenced above, SRD Budget and Finance Department generates a variety of internal reports either on a daily, weekly or quarterly basis.

## Quality Controls

It is the responsibility of SRD to ensure that the information reported is complete and accurate to the best of their knowledge. For this reason, the Budget and Finance Department has implemented multiple levels of review and quality control. For additional information on procedural controls in addition to the funds request process noted previously, please refer to SRD Policy 2.10.31 – Invoice Submission.

## Record Keeping

CDBG-DR Program Recordkeeping requirements can be found in SRD Policy 2.10.41. These requirements are consistent with New Jersey State retention policies and meet or exceed the requirements of 24 CFR 570.490. In addition, record keeping requirements are found in nearly every aspect of CDBG-DR program implementation as it is necessary to document compliance with a variety of applicable laws and requirements including meeting a national objective, financial management, and the environmental review processes, to name a few.

All information and documentation that passes through the SRD Budget and Finance Department is stored and maintained either as original documents (paper), electronically on DCA's S: shared drive or within the SIROMS system. This Department is able to produce documentation or information to support its work.

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**APPROVAL:**

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Samuel R. Viavattine  
Deputy Commissioner  
Sandy Recovery Division

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Laura Shea  
Assistant Commissioner  
Sandy Recovery Division

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**OVERVIEW:**

The State of New Jersey (hereinafter referred to as “N.J.”, “State” or “Grantee”) is an intended recipient of Community Development Block Grant – National Disaster Resiliency Competition Grant (“CDBG-NDR”) funds made available pursuant to the Disaster Relief Appropriations Act of 2013, Public Law 113-2 (“Appropriations Act”) and distributed by the U.S. Department of Housing and Urban Development (“HUD”). HUD’s procurement standards for state entities are codified at 2 C.F.R. §§200.317-200.326, attached hereto as Appendix A. 2 C.F.R. §200.317 provides that “a state must follow the same policies and procedures it uses for procurements from its non-Federal funds.” *See also* 24 C.F.R. § 570.489(g) (when procuring goods and services using CDBG funds, “the State shall follow its procurement policies and procedures”).

Pursuant to the CDBG-NDR Federal Register Notice, 81 Fed. Reg. 36557 (June 7, 2016), the effect of the State’s “procurement processes/standards must be equivalent to the effect of procurements under 2 C.F.R. 200.318-200.326, meaning that they operate in a manner providing fair and open competition.” 81 Fed. Reg. 36557 (June 7, 2016).

All procurement activities shall adhere to the principles and standards governing Federal grant distribution or their equivalent in State law, and all applicable State procurement laws, including but not limited to Executive Order 125 (Christie 2013).

All procurements using CDBG-NDR funds will be processed pursuant to State procedures through the Division of Purchase and Property (“DPP”). N.J. Department of the Treasury Circular 13-15-DPP, Purchases from Federal Supply Schedules or Schedules of Other Federal Procurement

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Programs (effective February 5, 2013, or as may be amended), sets forth the procedure for establishing a State contract based on the pricing offered through a federal procurement program, including but not limited to the U.S. General Services Administration (“GSA”), the Department of Veterans Affairs (“VA”), and the Defense Logistics Agency (“DLA”). DPP, within the N.J. Department of the Treasury, is the State’s central procurement agency and is the entity responsible for Circular 13-15-DPP, as well as other procurement-related circulars and guidance at N.J.A.C. 17:12. Although DCA and other State agencies may possess their own statutory procurement authority, all procurements using CDBG-NDR funds will be processed through DPP to ensure compliance with 2 C.F.R. §200.317 and fair and open competition.

To be clear, New Jersey does *not* purchase *through* GSA eBuy or other federal procurement schedules; rather, State law authorizes the Director of DPP to “promulgate the Federal Supply Schedules of the Federal General Services Administration or schedules from other federal procurement programs . . . as an **alternate price guide** for the purchase of goods and services,” which in turn permits DPP to create a State contract based upon the federal pricing. See N.J.S.A. 52:34-6.1. The overarching purpose of this process is to obtain goods and services that are most advantageous to the State, price and other factors considered, while maintaining a level playing field for all vendors through competition and transparency.

For reference, DPP statutes are found at N.J.S.A. 52:34-6 et seq., and administrative regulations pertaining to DPP operations are found at N.J.A.C. 17:12 et seq.

All other non-Federal entities, including subrecipients of the State who are not State entities, will follow 2 C.F.R. §§200.318 “General procurement standards” through 200.326 “Contract provisions.”

The State hereby submits that its procurement processes provide for fair and open competition and are therefore equivalent to the effect of the procurement standards set forth in 2 C.F.R. §§200.318-200.326. To allow HUD to evaluate the overall effect of the State’s procurement standards in

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accordance with 81 Fed. Reg. 36557 (June 7, 2016), the following crosswalk indicates where the State's procurement standards align with provisions of 2 C.F.R. §§200.318–200.326:

**2 C.F.R. §200.213 Suspension and Debarment**

**2 C.F.R. §200.213:** *“Non-Federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.”* Before awarding a contract using CDBG funds, DCA consults the Federal System for Award Management (“SAM”) for listings of contractors suspended, proposals for debarment and debarment. DPP maintains a central debarment list and its causes for debarment are set forth at N.J.A.C. 17:12-6.3, Causes for debarment of a person(s). In addition, Section 2.10 of the State's Standard Terms and Conditions, which are applicable to all contracts entered into by the State, requires that “[t]he contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.” SAM notwithstanding, the State's administrative regulations, coupled with the State's Standard Terms and Conditions, will effectively eliminate any debarred or suspended entity from consideration for a disaster recovery contract award.

**2 C.F.R. §200.317 States.**

**2 C.F.R. §200.317:** *“When procuring property and services under a grant, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds.”* With respect to GSA procurements, Circular 13-15-DPP is the source of guidance for navigating this process, regardless of funding source. A copy of this circular is attached for reference as Appendix B.

**2 C.F.R. §200.318 General Procurement standards.**

**2 C.F.R. §200.318(a):** *“The non-Federal entity must use its own documented procurement procedures which reflect applicable State, and local laws and regulations, provided that the*

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*procurements conform to applicable Federal law and the standards identified in this section.”*

Circular 13-15-DPP was crafted in accordance with State law and DPP regulations. The procurements conducted pursuant to this procedure also comply with applicable Federal laws. DPP copies the Department of Defense (DOD) GSA procurement process to ensure full and open competition. DPP procurement specialists review procurements on a case-by-case basis to ensure compliance with subject-specific Federal laws (e.g. Davis-Bacon Act for public works procurements). Procurement specialists also monitor State and federal debarment lists and political contribution databases for “Pay to Play” conflicts prior to awarding contracts.

**2 C.F.R. §200.318(b):** *“Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.”* While it is no longer a requirement for non-Federal entities to maintain a contract administration system, DPP maintains a Contract Compliance and Audit Unit, which is authorized by N.J.A.C. 17:12-4 to request and audit records related to State procurements, either as discovery related to a complaint or for any other reason to ensure that contractors are performing in compliance with contract terms and conditions. In addition, vendors and agencies are required to submit reports to DPP on a regular basis to ensure that the contracts are performed in accordance with the specified terms.

Additionally, the independent Office of the State Comptroller is responsible for auditing and monitoring the solicitation of proposals and the awarding of State contracts that involve “a significant consideration or expenditure of funds or are comprised of complex or unique components. . . .” See N.J.S.A. §§ 52:15C-7 and 52:15C-10. Pursuant to Executive Order Number 125 (“EO 125”), the State Comptroller reviews all Sandy-related procurements and contract amendments.

**2 C.F.R. §200.318(c)(1):** *“The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.”* All State employees are bound by the Uniform Ethics Code, which outlines the code of conduct for all employees and is borne from New Jersey’s Conflict of Interests Law. The State Ethics Commission administers and enforces the Conflicts of Interest Law, N.J.S.A. 52:13D-12, *et seq.* The Commission consists of seven



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(7) members, four (4) public members appointed by the Governor to staggered terms and three (3) Executive Branch employees who are appointed by and serve at the pleasure of the Governor. Additionally, the New Jersey Code of Local Government Ethics Law (N.J.S.A. 40A:9-22.1) provides a written code of standards of conduct which governs the performance of employees engaged in the award and administration of contracts.

The State also maintains a *Plain Language Guide to Ethical Business Conduct for Companies Transacting Business with the State of New Jersey* (“Guide”). This Guide covers a wide range of business practices and procedures, setting forth basic principles to guide all employees, officers, and directors of companies transacting business with the State of New Jersey. The Guide is publicly available on the Department’s website at [http://www.state.nj.us/treasury/purchase/ethics\\_guide.shtml](http://www.state.nj.us/treasury/purchase/ethics_guide.shtml)

In addition, the Department of the Treasury requires that all employees involved in the “drafting, reviewing, evaluating or making contract awards, or substantively assisting in any of those tasks, or authorizing payments under those contracts” must complete a *Personal and Business Relationships Disclosure Form*, which is reviewed and approved by the Department’s Ethics Liaison Officer. These forms must be completed annually and employees are subject to discipline and/or prosecution for submitting false information. In addition, DPP requires all employees that serve on Evaluation Committees to complete a form that requires committee participants to maintain confidentiality and screen participants for potential conflicts of interest. This process is documented in a Divisional Standard Operating Procedure.

**2 C.F.R. §200.318(c)(2): “If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest.”**

The Department of Community Affairs and DPP are State entities and do not have any parent, affiliate, or subsidiary organizations that are not State entities.

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**2 C.F.R. §200.318(d):** *“The non-Federal entity’s procedures must avoid acquisition of unnecessary or duplicative items.”* With respect to GSA procurements, DPP regulations at N.J.A.C. 17:12-1A.5 mandate that Federal supply schedule-based contracts shall only be promulgated when the following conditions have been met:

1. The price of the good and/or service being procured is no greater than the price offered to Federal agencies;
2. The State receives the benefit of any contract price reductions, whether statutory, regulatory or contractual in nature, during the term of the contract; and
3. The price of the good and/or service under consideration for purchase via a Federal supply schedule contract is not equal to or greater than the State contract price for the same or equivalent goods or services, unless the Director determines that the best interests of the State are served by use of the proposed Federal supply schedule-based contract.

Goods and services obtained through these contracts must be procured in a way that is most advantageous to the State, price and other factors considered.

**2 C.F.R. §200.318(e):** *“To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into State and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.”* To further leverage the economy of scale provided by the Federal supply schedules, DPP regulations permit local use of State contracts based on Federal supply schedules pursuant to N.J.A.C. 17:12-2.3.

**2 C.F.R. §200.318(f):** *“The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.”* The State makes every effort to utilize Federal excess and surplus property when doing so is consistent with State law and Department policy.

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**2 C.F.R. §200.318(g):** *“The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.”* The State makes every effort to utilize value engineering clauses for applicable construction projects when doing so is consistent with State law and Department policy.

**2 C.F.R. §200.318(h):** *“The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.”* Procurement specialists and evaluation committee members carefully and thoroughly review proposals and mandatory forms to ensure that procurements are awarded to responsible bidders. State law requires that bidders provide evidence of ownership disclosure, political contributions and disclosure of investments in Iran. In addition, Department policy mandates that bidders provide disclosure of investigations or other adverse actions prior to award. Proposals are evaluated based on a number of factors, including the bidder’s ability to successfully perform the contract. Procurement specialists are also responsible for monitoring State and federal debarment lists as well as political contribution databases for “Pay to Play” conflicts prior to awarding contracts.

DPP maintains a central debarment list and its causes for debarment are set forth at N.J.A.C. 17:12-6.3, Causes for debarment of a person(s). In addition, Section 2.10 of the State’s Standard Terms and Conditions, which are applicable to all contracts entered into by the State, requires that “[t]he contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.” These administrative regulations, coupled with the State’s Standard Terms and Conditions, will effectively eliminate any debarred or suspended entity from consideration for a disaster recovery contract award. The State must ensure compliance with 2 C.F.R. §200.213 “Suspension and debarment.”

Additionally, the independent Office of the State Comptroller is responsible for auditing and monitoring the solicitation of proposals and the awarding of State contracts that involve “a significant consideration or expenditure of funds or are comprised of complex or unique components. . . .” See N.J.S.A. §§ 52:15C-7 and 52:15C-10. Pursuant to EO 125, the State Comptroller reviews all Sandy-related procurements and contract amendments.

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**2 C.F.R. §200.318(i):** *The non-Federal entity must maintain records sufficient to detail the history of procurement.*” As part of DPP’s pre-approval process, agencies are required to research the various federal program schedules to identify vendors that sell the desired goods or services and must obtain price quotes from at least three viable vendors by giving all solicited vendors the same opportunity to provide a price quote and the same information regarding work to be performed as well as the conditions of the proposed Federally-based contract to ensure that all vendors are on a level playing field. If agency due diligence reveals that fewer than three vendors offer the required good or service, the agency must document this fact. All research, vendor selection determination and supporting documentation are provided to DPP which is made part of the permanent file and retained by DPP for a minimum of 7 years.

**2 C.F.R. §200.318(j)(1):** *“The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of: i) the actual cost of materials; and ii) direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.”* Every effort is made to avoid the use of time and material contracts. In the limited instances where these contracts are used, the contract complies with the conditions set forth in this subsection. All contracts awarded for recovery efforts will require a task-order process on firm fixed price or a not to exceed basis before any expenditure of funds under that contract.

**2 C.F.R. §200.318(j)(2):** *“Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.* Pursuant to EO 125, before a contract related to Sandy is awarded, and any amendments to a Sandy contract are reviewed by the State

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Comptroller. In the limited instances where time and materials contracts are utilized by DPP, a “not to exceed” ceiling price for the contract is established in compliance with federal regulations. The State Comptroller also maintains a Transparency website on which is posted all Superstorm Sandy contract-related documents, including but not limited to, Requests for Quotations, Proposals and the value of awards. To help foster effective oversight on a daily basis, each State Contract Manager must pass an online exam sponsored by DPP that addresses the responsibilities and best practices of contract management.

**2 C.F.R. §200.318(k):** *“The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements.”* All issues arising out of and pertaining to procurements are handled either by the State Contract Manager or DPP. Protests are handled by DPP Hearing Officers, pursuant to procedures set forth at N.J.A.C. 17:12-3. Complaints are handled by DPP’s CCAU unit pursuant to procedures set forth at N.J.A.C. 17:12-4. With regard to protest procedures, the State Contract Manager is also empowered to deal with various administrative procurement issues. Awards through a GSA RFQ are made by the Procurement Bureau within DPP. All protests of Procurement Bureau awards to the Director are handled by DPP Hearing Officers, pursuant to procedures set forth at N.J.A.C. 17:12-3. Protests handled by DPP Hearing Officers are then appealable to the Appellate Division of the New Jersey Superior Court.

**2 C.F.R. 200.319 Competition**

**2 C.F.R. §200.319(a):** *“All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements.”* The overarching purpose of the State’s procurement process is to obtain goods and services that are most advantageous to the State, price and other factors considered, while maintaining a level playing field for all vendors through competition and transparency.

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DPP, through its previous interactions with FEMA in the development of the debris removal contracts, is fully aware of the need to maintain full and open competition and a level playing field for all participants in the procurement process. Specifications, requirements, scopes of work, and requests for proposal are developed by the using agencies in concert with DPP and are developed in such a way as to ensure fair and open competition. In the event that a procurement is so complex or technical that development of specification requires the assistance or engagement of a contractor by the State, that contractor would be excluded from competing that procurement or participating as a subcontractor in any resultant contracts.

**2 C.F.R. §200.319(b):** *“The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals . . . .”* To combat the perception of local favoritism that can be inferred from such local preference laws, many states have promulgated statutes and regulations to enforce reciprocal action against states and localities. New Jersey is no exception. N.J.A.C. 17:12-2.13, Preference laws; out-of-State vendors, states in part that “. . . the Director shall apply on a reciprocal basis against an out-of-State bidder any in-State preference which is applied in favor of that bidder by the state or locality in which the bidder maintains its principal place of business.”

**2 C.F.R. §200.319(c):** *“The non-Federal entity must have written procedures for procurement transactions.”* DPP advises bidders of the criteria to be used in the evaluation of proposals and these criteria are clearly described and outlined in the procurement documents. The criteria are weighted by the procurement specialist prior to the proposal submission date and these weights are not disclosed to the bidders until an award has been made. The procurement document sets forth a written description of the technical requirements necessary for bidders to submit a responsive proposal, including but not limited to, delivery and submission requirements, forms and certifications to be included with the proposal, and submittals comprising the technical and price proposals. The procurement documents further set forth the general evaluation criteria to be used in the technical evaluation of the proposals. In addition, a pricing evaluation model is generally set forth in the procurement documents which serve as the basis for the ranking of bidder submitted price proposals.

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**2 C.F.R. §200.319(d):** *“The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.”* Currently, DPP does not maintain any prequalification lists for vendors or otherwise related to the procurement of goods or services administered through DPP. In the event that DPP adopts a prequalification procedure in the future, this process will be developed with an eye toward maximizing full and open competition. At times, DPP may procure a multiple award contract to a pool of contractors that have succeeded our advertised competitive process. In those instances both a task-order based process and a “mini-bid” process will occur before any work is performed under that type of contract.

**2 C.F.R. §200.320 Methods of procurement to be followed.**

It is difficult to compare each specific standard in this subsection with specific State policies; however, the process set forth in Circular 13-15-DPP is equivalent to the effect of Federal standards set forth in this section by ensuring full and open competition and a level playing field for all bidders by requiring quotes from at least three viable sources, publication of evaluation criteria, clearly written scope of services, a thorough technical evaluation of proposals, and awards to responsible vendors whose proposals are most advantageous to the State, price and other factors considered. When the Procurement Bureau within DPP conducts an RFQ posted through GSA, the regular procurement lifecycle is completed, albeit in a condensed timeframe. After the RFQ is posted, a question and answer period is conducted. The RFQ contains standard terms and conditions and Best and Final Offers (similar to Final Proposal Revisions) are requested from bidders determined to be in the competitive range. After the intent to award is issued, unsuccessful bidders may request a debriefing and if necessary, may submit a protest to the Director. Protests are heard in accordance with N.J.A.C. 17:12-3. It is the State’s intention to use the Procurement Bureau to the maximum extent practicable for all HUD grant funded procurements.

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Pursuant to Circular Number 16-02-DPP, Delegated Purchase Authority, DPP establishes thresholds for simplified procurement methods for purchases that do not exceed \$40,000. Micro-purchases, or those valued at less than \$1,000 can be issued without price competition. Purchases between \$1,000 and \$17,500 may be accomplished by soliciting three (3) telephone quotations, internet quotations, or signed facsimile quotations. All vendors are provided with the same information on the good or service to be acquired and the same terms and conditions to assure fair competition. The date and time for each quote is noted and retained. For purchases valued at less than \$40,000 but more than \$17,500, an agency must solicit a minimum of three sealed written quotes. The Agency Request for Proposal, which includes the deadline for submissions, is distributed to all vendors at the same time. The agency establishes internal control procedures for the acceptance, security, review and evaluation of the sealed quotes. Generally, the vendor with the lowest price is entitled to award, provided that the vendor's proposal fully conforms to the terms and conditions of the agency's specifications and the State's Terms and Conditions.

**2 C.F.R. §200.321 Contracting with small and minority businesses, women's business enterprises and labor surplus area firms.**

State law prohibits the establishment of set-aside goals based on race or gender. The State has adopted a goal that 25% of contracts (by dollar value) should be awarded to small businesses, however, and when appropriate, DPP will designate certain contracts or subcontracting opportunities as "Small Business Set Asides." DPP strongly encourages the use of small, minority, women and veteran-owned New Jersey businesses and invites the successful bidders to utilize resources that match the needs of prime contractors with these vendors.

**2 C.F.R. §200.322 Procurement of recovered materials.**

Pursuant to 2 C.F.R. §200.317, the State will comply with this subsection and section 6002 of the Solid Waste Disposal Act.

**2 C.F.R. §200.323 Contract cost and price.**

It is difficult to compare each specific standard in this section with specific State policies; however, the State's policy overall is equivalent to the effect of the standards set forth



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in this section with respect to GSA procurements as DPP regulations at N.J.A.C. 17:12-1A.5 mandate that Federal supply schedule-based contracts shall only be promulgated when the following conditions have been met:

1. The price of the good and/or service being procured is no greater than the price offered to Federal agencies;
2. The State receives the benefit of any contract price reductions, whether statutory, regulatory or contractual in nature, during the term of the contract; and
3. The price of the good and/or service under consideration for purchase via a Federal supply schedule contract is not equal to or greater than the State contract price for the same or equivalent goods or services, unless the Director determines that the best interests of the State are served by use of the proposed Federal supply schedule-based contract.

Therefore, this cost analysis must be undertaken by the agency prior to submission to DPP as part of the pre-approval process outlined in the Circular. Goods and services obtained through these contracts must be procured in a way that is most advantageous to the State, price and other factors considered. When the Procurement Bureau itself conducts an RFQ posted through GSA, the regular procurement lifecycle is completed, albeit in a condensed timeframe. After the RFQ is posted, a question and answer period is conducted. The RFQ contains standard terms and conditions and BAFOs are requested from bidders determined to be in the competitive range. Depending on the dollar value of the procurement, a DPP pricing analyst will also review the reasonableness of the pricing prior to award. After the intent to award is issued, unsuccessful bidders may request a debriefing and if necessary, may submit a protest to the Director. Protests are heard in accordance with N.J.A.C. 17:12-3.

**2 C.F.R. §200.324 Federal awarding agency or pass-through entity review.**

It is difficult to compare each specific standard in this section with specific State policies; however, the State's practice is equivalent to the effect of the standards set forth in this section as agencies must submit to DPP a pre-approval package, including among other items, the specification, Federal supply schedule, proposed vendor(s), and cost analysis. Prior to contract creation, DPP will thoroughly review the package and conduct a pre-award review with the agencies to ensure that a level playing field and full and open competition were maintained.

**SUBJECT:** Procurement Policy – CDBG-NDR

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**2 C.F.R. §200.325 Bonding requirements.**

This section is largely inapplicable to State procurements based on Federal supply schedule pricing. If the service being procured requires bonding to protect the State's interests, the Procurement Bureau will include applicable bonding in accordance with the provisions of this subsection.

**2 C.F.R. §200.326 Contract provisions**

Pursuant to 2 C.F.R. §200.317, the State will comply with this section and ensure that every purchase order or other contract includes any clauses required by this subsection.