

**ONE YEAR LATER: EXAMINING THE ONGOING  
RECOVERY FROM HURRICANE SANDY**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON EMERGENCY  
MANAGEMENT, INTERGOVERNMENTAL RELATIONS,  
AND THE DISTRICT OF COLUMBIA

OF THE

COMMITTEE ON  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

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# ONE YEAR LATER: EXAMINING THE ONGOING RECOVERY FROM HURRICANE SANDY

WEDNESDAY, NOVEMBER 6, 2013

U.S. SENATE,  
SUBCOMMITTEE ON EMERGENCY MANAGEMENT,  
INTERGOVERNMENTAL RELATIONS,  
AND THE DISTRICT OF COLUMBIA,  
OF THE COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 2:33 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Mark Begich, Chairman of the Subcommittee, presiding.

Present: Senators Begich, Landrieu, Booker, and Paul.

Also present: Senators Schumer, Menendez, and Gillibrand.

## OPENING STATEMENT OF SENATOR BEGICH

Senator BEGICH. Thank you for being patient. We are waiting just a couple more minutes, and then we will start. But I thank you all for being here. Just hang tight. Thanks.

[Pause.]

Good afternoon and welcome to the Subcommittee on Emergency Management, Intergovernmental Relations, and the District of Columbia. We thank you all for being here.

We are here today to examine the recovery in the Northeast one year after Hurricane Sandy came ashore on October 29, 2012. As we mark this solemn anniversary, we owe it to ourselves and to those who were lost a year ago to continue to learn from Hurricane Sandy to improve disaster response and recovery across the country.

As we all know, the next big disaster can happen at any time anywhere. In my home State of Alaska, we have had our fair share of disasters from the Gulf of Alaska earthquake to the *Exxon Valdez* oil spill. More recently, we saw a devastating flood along the Yukon River. The village of Galena continues to face challenges, but their ongoing recovery is a testament in the same type of Federal, State, and local coordination that was so crucial in the months following Hurricane Sandy.

As co-chair of National Preparedness Month, which wrapped up at the end of September, I believe it is also important to remember that individuals play a large role in preparing their communities for disasters.

Following Hurricane Sandy, we saw citizens from around the country donate their time, money, resources, and expertise to help

the affected area. Nonprofit organizations like the Red Cross mobilized volunteers and leveraged nongovernmental resources. It is this whole-of-community response that proves to be the best practice following large disasters.

Alaskans take care of our own neighbors in times of need, which is why I voted to support the much needed funding for disaster relief following Hurricane Sandy. We understand that the interconnected infrastructure is both this country's biggest asset and our biggest vulnerability. While all disasters begin locally, their effects can reach far beyond established geographic boundaries.

One of the most critical aspects of the recovery process following a disaster is learning from mistakes and integrating those lessons learned. Since Hurricane Katrina, the Federal Emergency Management Agency (FEMA) has worked with other members of the Federal family to institutionalize recovery reforms. The agencies released the National Disaster Recovery Framework (NDRF), and it is already being used today in States across the country, including my home State of Alaska.

All the agencies represented here today have illustrated a fierce commitment to response and recovery. I applaud their efforts, but we can do better, and our responsibility as an oversight committee is to make sure that we do better.

One area that I believe requires additional oversight from the Congress is the financial management of the Hurricane Sandy supplemental funding. In January, Congress approved more than \$50 billion to aid with response and recovery efforts being performed by 19 Federal agencies. Assuring this money is spent in a timely fashion is critical. As we know, there are many communities and individuals still in need over a year from the storm. We must also ensure that taxpayer dollars are being spent wisely.

As stewards of the public money, Federal agencies must be accountable for their expenditures and must be prepared to communicate exactly how these funds are being used. I do not advocate for burdensome reporting requirements that slow down recovery, but controls must exist to protect our national investment. We must assure that laws and regulation that govern the preparedness, mitigation, response, and the recovery support robust and resilient communities across the country. This must be the top priority.

I look forward to hearing the testimony of the witnesses and today we are doing something a little different. When Senator Paul gets here, we will interrupt the flow and allow him his opening statement. We have also invited Members that are not on this Committee to participate; but were affected by Hurricane Sandy. We are also joined by Senator Landrieu here, whose community was clearly affected by Hurricane Katrina.

What I have asked Members to do is make sure you have—we will have your full statements in the record, and then a reminder that we also want to hear from many of our folks here to testify.

So we will start with Senator Landrieu. Then from there I will do it in order of appearance.

**OPENING STATEMENT OF SENATOR LANDRIEU**

Senator LANDRIEU. Thank you, Mr. Chairman. I am going to leave my comments briefly, submit my full statement to the record, and honor the delegation from the Northeast that is here. The work of Senators Schumer, Menendez, and Gillibrand was absolutely essential to this recovery effort, and the bill would not have been passed without their steadfast support in crafting legislation.

Of course, welcome, Senator Booker, to the Committee, former mayor right in the middle of the storm as it occurred, I am sure can bring some extraordinary expertise to the Senate and to this Committee as we struggle to build a better response to disasters of all sorts, man-made or natural, small, medium, and catastrophic, which was clearly the case with Hurricane Katrina and came very close in Hurricane Sandy.

So we have a long way to go, Mr. Chairman, but I appreciate the work of this special Subcommittee, because it is what mayors and county commissioners and chambers of commerce and individual families and, just consumers and residents and citizens count on us to do our best work in times of a disaster. They know that their government will be there for them and helping them to recover.

So I will submit my full statement to the record, but, again, I really thank the Northeast delegation for their extraordinary work in the recovery, and we managed to even get a little bit of money out of the bill for Louisiana to keep going with our ongoing permanent recovery of the many storms that hit our State.

Senator BEGICH. Thank you very much, Senator Landrieu.

Senator Paul does not have an opening statement, but I want to thank him for attending and being part of this. He is the Ranking Member, and it is important that we do continue to analyze all these issues related to the emergency response of our country.

So the order of attendance is I have Senator Booker next, and he is so new, you can tell by his sign plate. [Laughter.]

Or he just brought his own as a former mayor, I do not know, but we really appreciate—

Senator MENENDEZ. Mr. Chairman, it gets smaller though.

Senator BEGICH. Senator Menendez, you were not supposed to say that. We want him to learn that process. But we thank you for being here, and I will start with you. Then I will go to Senator Menendez, Senator Gillibrand, and Senator Schumer in that order.

**OPENING STATEMENT OF SENATOR BOOKER**

Senator BOOKER. First of all, I cannot thank you enough, Senator Begich and Senator Paul, for hosting this very important hearing. As you know, not only do I appreciate the opportunity to participate, but this is very clearly my first hearing as a Senator, and it could not be on a more important issue to the people of my State.

I would also like to thank those testifying, including a long-time friend of mine, Secretary Donovan, who has been a partner with me on many issues back when I was mayor, and I look forward to working with him even closer now to the benefit of our State. I look forward to hearing what he has to say as well as those others who are testifying today, especially Administrator Fugate, because we are going to be meeting later on this week to discuss the issues, and I appreciate you making time to do that.

In the aftermath of Hurricane Sandy, many of the people in this room played such critical roles, holding multiple hearings and advocating for a robust Federal response to ensure that New Jersey, New York, and all those States affected had the resources and support they needed. On behalf of the people of New Jersey, I thank everyone for their leadership and for your recognition that much urgent work had to be done.

I want to especially acknowledge my senior Senator, Senator Menendez. He is a true champion of our State, and in the storm, as a mayor who unfortunately had a significant impact in loss of life, he was truly a champion not only of the whole State but of every community that was suffering.

From day one, you were crisscrossing the State, Senator, surveying damage and shepherding desperately needed Federal resources to New Jersey. Now there is no denying the progress we have made. Federal agencies have approved more than \$5.67 billion in total Federal assistance in the form of individual assistance grants, Small Business Administration (SBA) low-interest loans, National Flood Insurance Program (NFIP) payments, and public assistance grants.

In New Jersey, we are resilient, we are determined, and we are incredibly resourceful. Our famous boardwalks have once again welcomed families and tourists to the Jersey Shore. Cities like Hoboken, Atlantic City, and, of course, Newark are coming back, bustling with activity. And families and business people continue to pick up the pieces and move forward.

Still, far too many are recovering, and it is challenging, and it is a daily struggle. From Little Ferry in North Jersey, where we were just last week, to Mantoloking on the shore, thousands remain out of their homes, and countless businesses that were washed away in the storm have not been reopened.

In July, I visited Ortley Beach. There were many signs of rebirth and renewal, and I ate in some of the restaurants, perhaps too many. But I also saw houses that stood like skeletons on the roadside, facades intact but insides gutted. And many of the residents I spoke to there on Roosevelt Avenue felt left behind and forgotten by Washington. They were still in pain. Many of them had challenges not just with D.C. but also with Trenton.

I know no one in this room has forgotten those families, but they remind us that we have still so much more work to do.

In New Jersey, we have an estimated gap of about \$28.3 billion between what is needed for a full recovery and what we are receiving in Federal support. This number considers residential and commercial sector support, reimbursement of municipalities, and critical mitigation activities. Though Congress passed a relief package in the aftermath of the storm, billions of dollars in Federal assistance have yet to make their way to families in need.

One State-run federally funded homeowner assistance package, the reconstruction, rehabilitation, elevation, and mitigation grant program, provides up to \$150,000 to individual families—critical dollars to help them rebuild their homes. Until last week, this \$600 million program had yet to make even a single payment.

The logjam in Federal fundings in my opinion is devastating. Indeed, the delay has literally put lives on hold, entire families up-

rooted from their homes, small businesses still shuttered, retirements postponed, and I have heard directly from many of those affected, painful stories of strong people struggling against still incredible odds, but determined to make it one way or another.

As I travel across my State, there is understandable concern. People ask why did the Hurricane Sandy take so long in the first place. They speak of a bureaucratic maze that forces those impacted by the storm to complete reams of what seems to be unnecessary paperwork sometimes just to be considered for Federal aid. They detail stringent Federal regulations that leave little to no flexibility to local officials who know their communities best. They worry of pending hikes in their flood insurance rates as well.

We must increase our sense of urgency to get funding out the door as quickly as possible while still remaining good stewards of taxpayer dollars and always protecting against fraud and abuse.

It is critical that we provide for accessible, sensible grant programs and specifications and to avoid something that has been championed by all the people to my right, flood insurance rates, the rising of flood insurance rates at a time when it would bring severe economic distress to too many families who are recovering after a disaster.

As this Committee knows too well, recovery from a national disaster of this magnitude is a very long process, and it is not easy. But as hard as it seems for those here who have been toiling for over a year to make this work, we can be sure that it is much harder for the thousands of New Jersey families and business owners. They are the ones who are deserving of a helping hand in the wake of this terrible storm.

So my commitment to them is to join with all of you to ensure that folks from the Maurice River to Little Ferry to Ortley Beach and everywhere in between get the help they certainly need, the help they rightfully expect, and the help that they definitely deserve.

I look forward to working hand in hand with State and local officials, my fellow Senators, and members of the Administration to make this recovery period as short, efficient, and successful as possible.

Thank you.

Senator BEGICH. Thank you very much.

I have Senator Menendez next.

#### **OPENING STATEMENT OF SENATOR MENENDEZ**

Senator MENENDEZ. Well, thank you, Mr. Chairman, and since you are going to include our full statement for the record, I am not going to go through it all, but there are a couple of points I want to highlight, particularly for the Committee's consideration as it moves forward in thinking about future disasters.

Let me just say I am thrilled to be here with my colleagues from New York who were extraordinary in our joint effort to fight for the resources for recovery in our area and continue to be that.

I remember that my late colleague Senator Lautenberg, a Member of the full Committee, was passionate about this issue, and I appreciate then-Mayor Booker doing an extraordinary job because people think it was only the shore of New Jersey, but cities in New

Jersey faced tremendous challenges, and he did an extraordinary job in responding to the crisis there, and that is when you really test the mettle of leadership, and we appreciate his leadership in this regard and look forward to having him work with us to continue to recover.

There are many successes, and I want to commend the Department of Housing and Urban Development (HUD) Secretary as the overall chair of this effort, the Transportation Department (DOT), FEMA. There are many successes. But there are also challenges. Recovery is not yet a reality. Full recovery is not a reality for the people of New Jersey. There are many people who are hurting, Mr. Chairman, and they continue to languish. There are those for which either flood insurance did not exist, or if it existed, did not still make them whole. There are those who find themselves in new flood zones that mean that the ability to keep their home and what they have built a lifetime is now in the crosshairs because of new requirements to either raze their homes and/or a variety of other issues, as well as the challenges of flood insurance.

There is a responsibility to ensure that when we give out the taxpayers' money, even in a disaster, that we do it in a way that ultimately ensures the integrity of that money. But that has to be balanced by the urgency of now. And I appreciate that hopefully part of what the task force is doing is looking at how we do this prospectively so that we do not wait for a disaster to figure out what would be the appropriate programs that need to be set up in order to respond, because that process in trying to balance the integrity of the money with the need and the urgency of now has been somewhat of a challenge. And there is still too much money flowing to the State that has not quite flowed to the people of New Jersey. We need to do a better job of that.

And the one thing that I do want to take the balance of my time to talk about—and I appreciate virtually all of my colleagues sitting here and the Chair having joined us—is the question of not the natural disaster that we face but the man-made disaster that we may have if we do not rectify it, and that is the question of flood insurance. The reality is that for thousands of people in New Jersey, recovery is an around-the-clock effort, and New Jersey families as well as others in the Nation, as we saw by the broad bipartisan support we have for the legislation we are promoting, have been hit with a triple whammy. They were first flooded by Hurricane Sandy, and they lost their homes, their lifetime of effort, many of their memories of a lifetime. And then the second is that they have to face repair and mitigation costs. And then now, third, they are facing astronomical increases in flood insurance costs built into the flood reform bill that was passed before Hurricane Sandy hit.

Now, the fact is that the combination of updated flood maps and the phaseout of premium subsidies for the National Flood Insurance Program threatens to force victims out of their homes and destroy large segments of communities, if not some smaller communities and entire communities. Homeowners would be forced to pay premiums that are several times higher than the current rate. And those who cannot afford the higher premiums will either be forced

to sell or be priced out of their home, which will drive down values, property values, and local revenues at the worst possible time.

So I want to take the opportunity to promote the bipartisan legislation that seeks to take a timeout, that seeks to say, OK, we asked FEMA to do an affordability study, they have not had the time and the resources to finish it. Well, we should not have premium increases until that affordability study is done and we find an affordability mechanism so that, in fact, we can keep the solvency of the program but also create affordability so people do not lose their homes and be the victims of a natural disaster. And that, Mr. Chairman, I think is one of the most urgent things that sits before the Senate that I look forward to your help and the help of my colleagues here to achieve.

Senator BEGICH. Thank you very much. Senator Gillibrand.

#### **OPENING STATEMENT OF SENATOR GILLIBRAND**

Senator GILLIBRAND. Thank you, Mr. Chairman. Thank you, Ranking Member Paul and Members of the Subcommittee. I also want to give a special thanks to Senator Landrieu, who I have dubbed the “third Senator from New York” during Hurricane Sandy because she was such a vociferous advocate for our families. She made sure that we could fix as many things in advance to make sure recovery flowed, to make sure all of the logjams she experienced with Hurricane Katrina did not happen in New York and New Jersey and other States. She is someone who really understands these programs, what works, what does not work, and I just want to thank her for her continued focus on recovery and preventing—and creating resiliency, and her leadership on this really is extraordinary, and I just want to thank her.

I also want to thank Senator Menendez and Senator Schumer and Senator Lautenberg, who obviously is not with us. You have never seen tougher, stronger champions than my colleagues who put themselves in the shoes of every family and advocates for what they need most. And I just want to thank them for their leadership.

I know that Senator Booker will also not only stand in Senator Lautenberg’s shoes but be able to be that same strong advocate at a time of grave need. He has shown it as mayor. I know you will show it as Senator, and I want to welcome you to this fight.

Obviously the road to recovery is long and hard, but New Yorkers are strong. We rebuild. We rebuild better, we rebuild stronger. But the damage was severe. We lost 61 lives. We lost hundreds of thousands of small businesses. We lost 300,000 homes, and I remember Senator Landrieu, who suffered far more in loss of life, really could not quite conceive of the loss that we suffered in businesses and homes because our population was so dense. And so our road to recovery is difficult and different, and the solutions are difficult and different, and I think the work that you are doing is essential for us to meet our goals.

Now, Congress has worked hard on a couple of problems and done a few things that were necessary. We did extend the critical deadline to give Hurricane Sandy survivors the time they needed to document the losses, which is difficult for a lot of families. We did ease regulations that would have prevented substantially dam-

aged homes from accessing recovery funds. We also received assurances from the Army Corps of Engineers (ACE) that they will fund the critical shore protection projects at full Federal expense, and this is something Senator Schumer was very aggressive on very early on, because there were a lot of projects that the Army Corps had already designated as necessary that we wanted to make sure got funded, and he made sure that was the case.

But we have to do so much more, and that is exactly what the Senators who have already talked have touched upon. We have to continue to ensure that the red tape does not get in the way of reimbursements. We need to make sure these communities that have been affected can get the financing and the money that they need. We have to make sure that homeowners, individual homeowners, receive the kind of resources they actually need to rebuild.

The Senate must pass legislation that we have cosponsored to delay the added burden of the disastrous flood insurance premium increases. These increases are set to take effect, and no one can afford them. They are unaffordable for nearly every New Yorker that I have spoken to, absolutely out of reach. So you cannot have a flood insurance program that is too expensive for everyday Americans that need flood insurance. It just does not work. So we must do that. When FEMA has completed this study, we can then look at it, and Congress can make a plan for how to make the rates affordable.

Even as the homeowners are rebuilding, they are seeing these rates increase. They could force many New Yorkers not to be able to rebuild because they will not be able to buy the insurance, so they will not get the permitting, and they are out of a home. They are homeless.

As we continue to recover from Hurricane Sandy, we need to strengthen the resiliency on future storms. This is not the first and it is not the last superstorm. We know this. And as we see storms come in more violently, more damaging, more lives lost, we know what is to come. So when we rebuild, we have to rebuild for the future storm. Every dollar that we invest to strengthen our homes, businesses, and infrastructure saves \$4 in potential recovery costs down the line.

Early this year, Senator Wicker and I introduced a bill to do this. It is called the STRONG Act. We introduced in the Environment and Public Works (EPW) Committee. It is a bipartisan bill. It is the kind of bill that builds on the progress that Mary Landrieu and others have been making on these storm recovery efforts.

It also is something that engages the local government by requiring the Federal Government to develop national resiliency strategies and to assess where there are gaps and use best practices that are being developed around the country.

We have come a long way in the last year, but as I said, we have so much more to be done. When I read reports of how few homeowners have actually been able to rebuild, it breaks your heart. New Yorkers want to rebuild. They want to rebuild stronger. But they do need Federal help.

Thank you so much for your dedication.

Senator BEGICH. Thank you very much. Senator Schumer.

**OPENING STATEMENT OF SENATOR SCHUMER**

Senator SCHUMER. Thank you, Mr. Chairman. First, let me thank you for your diligence. You have been a great force in helping us as we have had our troubled times. Senator Landrieu, as has been mentioned, has been invaluable. We have learned from the mistakes that were made in Hurricane Katrina, and she was our guide as we went through this. I want to thank my colleagues here. We were a great team and did basically the impossible: getting \$60 billion. We were held up for too long a period of time by some, but getting that amount of money in programs that are really going to work was one of the accomplishments I think we can be proudest of in our legislative careers. And I want to welcome Senator Booker. He will fill Frank Lautenberg's large shoes and be a valuable member of our bi-State team.

I would like to say to at least the five of you, I have worked closely in making sure things worked, and you have done a great job. You have been exemplary public servants, four at the Federal level, one at the city level. And I thank you for that and look forward to continuing working. I look at each of you and can think of accomplishments that we have done together in terms of negotiating and getting things done, so thank you to Shaun Donovan, John Porcari, Craig Fugate, and Jo-Ellen Darcy. To Cas Holloway, you have done a great job as head of the city, and I have not dealt with Ms. Tighe because she is oversight. She is supposed to watch what we are doing. So keep an eye on us.

Well, there is so much to say here. First, there is a question everyone asks: How is it going? It is going overall very well. The amount of money that has been spent and allocated is large. And at least up to now—and let us hope it continues—we have not seen a major misspending of money. We want to avoid the scene of trailers being unused, which happened despite Mary Landrieu's great efforts in Louisiana. And then what she warned us of as well, lots of money sitting there that could not be used. And so the way we structured these programs, particularly the community development block grant (CDBG) but the Army Corps' programs, the Transportation programs, the FEMA programs as well, was to make sure that the money would go where it had to go and go quickly, but without wasting money.

And so I know there is a move, all the money should be spent in 3 months. If that were happening, there would be still millions of people—or thousands of people complaining that they did not get what they needed because it would not have been allocated carefully and properly, and there would have been lots of—our newspaper reporters would have been writing about all the misspent money. We have not seen that. And so it is taking longer than we would like, and it is certainly true that homeowners have not gotten the money that we would have liked to see have gotten more quickly. But I believe while the first year was one of laying the structure and recovery, making sure the roads were cleared, making sure people had electricity, making sure rents were paid for the hundreds of thousands of people who were pushed out of their homes, the second year—the first year was recovery, but the second is rebuilding, and the money is flowing and flowing well, and flow-

ing, I think, in a way that it will be better used than in any major public disaster in the history of this country.

Our homeowners will see \$1.4 billion. We told many of them, we all did together, lay out the money to rebuild, and you will be repaid. And the combination of the FEMA program, which is fairly rigid, and the CDBG program, which is more flexible, will lead to that happening.

Now, it could not happen immediately for a lot of reasons. First, people did have to rebuild. Second, we were not going to pay when private insurance should step up to the plate, so we had to see how much private insurance people were getting. But what we made sure of is, if your damage was \$100,000 and your FEMA money was \$10,000 and your private insurance was \$40,000 and you had a \$50,000 gap, that the CDBG money will be there. Good thing.

Second, we worked really hard to make sure that there were mitigation processes put in housing and transportation and in everything else we did. So when we rebuild, we will be much more resilient against a future storm, which has been said will happen. And we have done that, and that makes a great deal of sense, too.

So I predict that this second year of Hurricane Sandy recovery will be a year when people see lots of rebuilding, and by the end of year two, people will be a whole lot happier with the program than they are at the end of year one. But it is because of the good work that we all did together, the five of us here—Cory, of course, doing his work in Newark. The five of us here at the Federal level and those of you back there, it has been a strong team effort that I believe will be regarded as one of the most successful efforts in terms of getting a large area to recover from a powerful, horrible storm as well and as quickly as possible.

Senator BEGICH. Thank you very much, Senator Schumer.

What I would like to do is go through the panel, and I am sure many of us will have questions, but, again, we want to thank you for being here. Thank you for your work on a daily basis on the disasters that we are faced with across the country.

The first one we have to speak is Secretary of HUD, Secretary Donovan, who has served in the position since 2009. Thank you for coming to Alaska as you have done before. Prior to work in the Administration, he served as Commissioner in the New York City Department of Housing Preservation and Development, so I know you have a personal concern about what happens in New York. So let me turn it over to Secretary Donovan.

**TESTIMONY OF THE HON. SHAUN DONOVAN,<sup>1</sup> SECRETARY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Secretary DONOVAN. Chairman Begich, Senators Landrieu, Schumer, Menendez, Gillibrand, and Booker, it is a great pleasure to be joining you today, and I want to begin by remembering that last week on the 1-year anniversary of Hurricane Sandy, our Nation paused to remember all those who lost their homes, their businesses, and, most tragically, lost their lives.

I remember visiting the region soon after the storm struck and being stunned by the breadth of destruction: \$65 billion in damage

<sup>1</sup>The prepared statement of Mr. Donovan appears in the Appendix on page 43.

and economic losses, 650,000 homes damaged or destroyed, 9 million people lost power. It was clear that the road to recovery would be long and difficult. But if you know anything about the people from this region—and I am proud to count myself as one of them—it is that they are resilient. They may get knocked down, but they always get back up.

After Hurricane Sandy, they began the work of putting their lives and communities back together, and President Obama quickly pledged his support of these local efforts in order to ensure a full recovery. So he created the Hurricane Sandy Rebuilding Task Force to maximize Cabinet-level coordination in support of the work to rebuild this region. I have been enormously proud to chair this effort as we work to achieve two basic goals: one, to get the assistance that you all fought so hard to make a reality to communities as quickly as possible, to meet the immediate needs; and, second, to ensure that the region rebuilds stronger and smarter than before so that it is better equipped to deal with future storms.

Let me begin with the work of getting assistance to communities quickly and effectively. As you know, in January President Obama, working with all of you in the Congress, State and local leaders, fought tirelessly to get \$50 billion in Hurricane Sandy supplemental funding in order to aid victims of the storm. And ever since, it has been a priority of the Administration to get these dollars into communities as quickly and responsibly as possible. That is why we thought it was critical to include several measures in the supplemental that facilitated more efficient spending of these dollars, and I want to particularly call out Senator Landrieu for all her help and assistance on this. A few examples:

Giving HUD the authority to reduce duplicative environmental reviews. As a result of these and other measures, we made great progress on a number of fronts. More than 230,000 people and small businesses have received direct assistance from FEMA, the Small Business Administration, the Department of Labor (DOL); more than 99 percent of Hurricane Sandy-related National Flood Insurance policy claims totaling more than \$8 billion have been paid out to roughly 143,000 policy holders who filed claims; 97 percent of public beaches in the affected region were open by Memorial Day 2013, sending a strong message that the shore was ready for business. And when you include the National Flood Insurance Program, the Administration has allocated nearly \$40 billion in funding for recipients with roughly \$13.5 billion of this already paid out.

HUD in particular has allocated \$10 billion in community development block grants, including an allocation that took place within 8 days of the signing of the Hurricane Sandy supplemental into law. This represented the fastest ever allocation following the signing of an appropriations bill.

So relief is getting to communities, but as you have all said, we know it can never be fast enough. That is why we have been creative in finding ways to work with local partners to expedite the rebuilding process. This includes the Small Business Administration's work to accelerate application processing times, which has fallen from 61 days during Hurricane Katrina to 42 days during Hurricane Sandy, a drop of about one-third.

The use of a streamlined permitting and review process for complex large infrastructure projects that is based on a model which has reduced implementation times by 50 percent. Just one example, cutting 3 to 5 years off of projects like the Tappan Zee Bridge.

The alignment of the Federal Housing Administration (FHA) and the Federal Housing Finance Agency (FHFA) for closure prevention policies in disaster-affected areas, making it easier for homeowners to get the help they need to stay in their homes at such a critical time in their lives.

And the establishment of a uniform minimum flood risk reduction standard across the Federal Government for major Hurricane Sandy rebuilding projects in floodplains, representing the first time a Federal Governmentwide standard has been set that accounts for the effects of rising sea levels.

And moving forward, we will continue to look for new ways to remove unnecessary barriers and headaches, ensuring that the billions that flow into the region are put into use as quickly and efficiently as possible.

This complements our other goal: rebuilding stronger and smarter so that the region is better prepared to withstand future storms. On August 19, the task force released our rebuilding strategy for the region, which included 69 recommendations to do just that. It included steps to harden our power grid and our fuel supply chain, to address the sustained outages in gas lines we saw during Hurricane Sandy, and steps to help families and small businesses rebuild in these new times.

The strategy also identifies ways to leverage additional private funds to support infrastructure projects. Investing in projects that will make our communities more resilient is vital to their safety. It is also good for our economy. As Senator Gillibrand pointed out, we know that for every dollar we spend, we save \$4 in avoided costs in future storms.

Every recommendation in this strategy has a detailed implementation plan, and I and my Department will be accountable to the region, to you, to see them through. And we will stay at it for as long as it takes, knowing that eventually we will emerge stronger and more vibrant than ever.

As I mentioned earlier, following Hurricane Sandy it was clear that the road to recovery would be long and difficult. A year later, I am proud to say we have made significant progress. Families have gotten back on their feet, businesses have reopened, communities are turning the page and looking toward the future with new hope. But we all know that much more work needs to be done, and all of us in the Obama Administration are committed to working with local partners and with all of you to continue to get assistance to those in the process of rebuilding, ensure the region is better prepared to withstand future extreme weather events, and work to improve our recovery efforts across the Nation.

These are our goals I look forward to working with this Committee on, and I look forward to answering your questions today. Thank you.

Senator BEGICH. Thank you very much.

The next person I have on the list, Mr. John Porcari, has served as the Deputy Secretary of DOT since 2009. Before becoming the

Deputy Secretary, he had served twice as the Secretary of the Maryland Department of Transportation.

Thank you very much for being here.

**TESTIMONY OF THE HON. JOHN PORCARI,<sup>1</sup> DEPUTY  
SECRETARY, U.S. DEPARTMENT OF TRANSPORTATION**

Mr. PORCARI. Thank you, Chairman Begich and Members of the Subcommittee. It is a pleasure to be here today to highlight the Department of Transportation's role in assisting the communities that were devastated by Hurricane Sandy just a year ago.

When the hurricane hit, the damage it caused did not just take a tragic human toll; it also dealt a devastating blow to the regional transportation system, which is the lifeblood of the region's economy. On the aviation side, three of the busiest airports in the country and 19,000 flights were affected. The highway system as well suffered significant damage. But what stands apart is this historic storm triggered the worst public transit natural disaster in the history of the United States.

In response to this disaster, Congress passed the Disaster Relief Appropriations Act, which included \$12.4 billion in assistance for transportation programs. It is worth noting that the assistance was reduced by \$650 million due to sequestration. More than \$10 billion of this went to fund the Federal Transit Administration's (FTA) new Public Transportation Emergency Relief Program, which had been proposed by President Obama back in 2011 and was later authorized by our transportation bill, MAP-21. This emergency relief (ER) program for transit was in place for about 30 days before the disaster hit.

In addition to helping transit agencies make immediate repairs, the ER program also supports mitigation activities that will improve resiliency and help transit infrastructure resist similar storms in the future.

Disaster relief appropriations funding also went to fix the rest of the transportation network as well: roads and bridges, restore Amtrak service, and as I mentioned, repair airport facilities at Newark, LaGuardia, and John F. Kennedy International Airport (JFK). To date, the Department of Transportation has allocated nearly \$7 billion for repairs and resiliency efforts in response to Hurricane Sandy.

We have learned a lot from the hurricane experience that will help us respond to future events.

First, a coordinated and efficient Federal response is essential. President Obama's Hurricane Sandy Rebuilding Task Force has helped all the Federal agencies involved work together to deliver the best possible outcomes for the communities affected by the storm. Secretary Donovan's leadership has been important in moving forward.

Second, Hurricane Sandy and other recent disasters underscore the Nation's vulnerability to extreme weather events under current climate conditions. That is why one of our top priorities moving forward is to better protect existing transportation infrastructure and equipment from the impact of future natural disasters. It just

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<sup>1</sup>The prepared statement of Mr. Porcari appears in the Appendix on page 50.

makes sense. If we are going to spend money rebuilding transportation, let us build it to last.

We will soon be issuing a Notice of Funding Availability for capital projects that will reduce the risk of damage of from future disasters in the region impacted by Hurricane Sandy. We are going to do that on a competitive basis. We believe these investments in resiliency will help reduce the need for any future recovery efforts. And as has been previously pointed out, research has shown that every dollar spent by FEMA on actions to reduce disaster losses now saves the Nation almost \$4 in avoided impacts. We are hoping to realize similar cost savings for the American taxpayer by ensuring that our transportation infrastructure is built to withstand future storms.

However, I must caution the need for resilience investments far exceeds the available funding. The FTA has only emergency relief funds available for Hurricane Sandy recovery efforts and nothing nationwide beyond that. That leaves us without any ability at the Department to address our next crisis, including future emergencies occurring outside this region.

Much of my own career has been at the State and local level, and I know firsthand how important it is to respond quickly and effectively. I strongly encourage Congress to appropriate funds so that when the next disaster strikes and takes public transportation systems offline, we will be in a position to respond immediately.

I thank the Subcommittee for inviting me to testify. I would be happy to answer any questions. Thank you.

Senator BEGICH. Thank you very much.

The next speaker is Mr. Craig Fugate, who was confirmed for the FEMA Administrator in 2009 after serving as the Director of the Florida Division of Emergency Management. In 2004, he managed the largest Federal disaster reason in Florida history as four major hurricanes impacted the State in quick succession.

Thank you very much. Good to see you again.

**TESTIMONY OF THE HON. W. CRAIG FUGATE,<sup>1</sup> ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. FUGATE. Thank you, Mr. Chairman and Senator. Secretary Donovan laid out a lot of the numbers, so I want to come back to what you have done to set the stage for what we were able to do as a Federal Government and then our next steps.

I am going to start with something that you are not hearing a lot about but I think it is important we talk about, and that has been the continued support and funding from Congress to State and local governments through homeland security grants and emergency management preparedness grants, building the capability at the State and local level to manage the initial impacts of these types of disasters. Without that, the Federal Government could not have done its job if our State and local partners were not able to do theirs. So this is one thanks for the investment over time, specifically since 9/11. Those investments are paying off in in-

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<sup>1</sup>The prepared statement of Mr. Fugate appears in the Appendix on page 58.

creased capability and resiliency our communities have against all hazards.

The second piece was we would not have been prepared to respond as FEMA without the Post Katrina Emergency Management Reform Act (PKEMRA), and I doubt very much I would be here testifying, because that law substantially changed what FEMA's mission was, requirements of the person that is chosen to lead the organization, as well as the tools required to not wait until States are overwhelmed before the Federal Government can mobilize. This put us in the position under the President's leadership to move resources and supplies before any State was hit by this storm, before we knew how devastating this was going to be. Again, those tools set the stage for the response and support of State and local government.

We oftentimes talk about the money and the supplemental, which overshadows something I think is very fundamental, a change to the Stafford Act. The Sandy Recovery Improvement Act addressed many of the issues that we still had that became impediments to recovery. Probably one my best examples was in debris management. We were actually increasing the cost of removing debris because we had rules and policies that said if you use your folks and your Public Works Department to pick up debris, we are not going to reimburse you for those costs, only their overtime. But if you hire a contractor to do that, we will pay you the full cost share on that. And it was these tools that we began to implement. We have used them in disasters post. These were not Hurricane Sandy specific, but Hurricane Sandy certainly became the catalyst of how we would be better stewards of getting money out effectively to empower local and State governments to rebuild faster without losing the ability to maintain the fiduciary responsibility of ensuring that the dollars go toward the things they were intended to go.

We have used these not only now in Hurricane Sandy, but some of these we were allowed to go to previous disasters, where we have been able to use cost-estimating tools in Vermont to do a big challenging project there. We have been able to do some things that quite honestly they always made sense, but you gave us the tools. Although it was only a few tribes impacted and this came after Hurricane Sandy, I think for our sovereign federally recognized tribes, also something that was very unheard of is you finally gave federally recognized tribal governments the recognition of the sovereignty that no longer requires them to go through a State to request declarations. We implemented that program after the law was signed. In fact, the first tribal government that came in was the Eastern Band of the Cherokee Indians. We did not wait for the rules to catch up. We did not wait for our procedures to catch up. We fully implemented the law as you intended, and we have now successfully executed disaster declarations at the request of tribal governments.

We have a lot of work to do. We tend to look at one-year marks, but I knew going in that this was going to be a multi-year recovery. I think Senator Schumer said it right, that the first year is oftentimes those initial steps where you see a lot of progress in the beginning, and then it starts to slow down because now we are starting to move into rebuilding. From the President's direction on

down, we want to make sure is we rebuild for the future and not the past.

We know that we can make these improvements and make investments that may cost a little bit more on the front end, but we can assure the delivery of critical services and infrastructure in the future.

Last, Senator Martinez, again, we agree. The Administration's position on the reauthorization of the Flood Insurance Program, we need to have affordability. But we found that in the legislation passed we did not have the tools to allow us to build in affordability before the increases took place. We look forward to working with Congress to get a tool that allows us not to keep kicking the can down the road but address affordability for people that live in their homes. We also want to ensure we are not building back the same way, putting people in future generations at risk.

Thank you.

Senator MENENDEZ. Mr. Chairman.

Senator BEGICH. Yes?

Senator MENENDEZ. Martinez was my former colleague from Florida, but— [Laughter.]

Mr. FUGATE. Sorry, Senator Menendez.

Senator BEGICH. It was a Freudian slip.

Senator MENENDEZ. We are both Cuban, but we do not all look the same.

Mr. FUGATE. Sorry.

Senator BEGICH. Great. Thank you very much. And let me also say that I really appreciate the work you did with the tribes. That is a huge opportunity, so thank you for that.

The next person I have is Ms. Jo-Ellen Darcy who is the Assistant Secretary of the Army (Civil Works), which has primary supervision over the U.S. Army Corps of Engineers. Prior to her appointment, Ms. Darcy served as the senior environmental adviser to the Senate Finance Committee responsible for environment, conservation, and energy issues.

Good to see you again. Thank you.

**TESTIMONY OF THE HON. JO-ELLEN DARCY,<sup>1</sup> ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS), U.S. DEPARTMENT OF ARMY**

Ms. DARCY. Thank you, Senator Begich, and thank you for the opportunity today to testify on the Corps' continued work on the recovery from Hurricane Sandy.

Federal support during the response to Hurricane Sandy was unprecedented. The Corps was part of an interagency team to include State and local governments which provided technical assistance and rapid response activities across the impacted areas. The Disaster Relief Appropriations Act of 2013 provided the Corps with \$5.35 billion to address damages caused by Hurricane Sandy. This money is being used to reduce future flood risk and increase the long-term sustainability of the coastal ecosystem and communities while reducing the economic costs and risks associated with large floods and storms.

<sup>1</sup>The prepared statement of Ms. Darcy appears in the Appendix on page 73.

The Corps has made significant progress in the year since Hurricane Sandy and in the time since the passage of the appropriations bill.

The Corps' Hurricane Sandy recovery program has three major components: First, it is our near-term component that supports emergency operations and repair and restoration of previously constructed Corps projects along the coastline, dredging of Federal navigation channels and repair of Corps-operated structures; second, an investigations component that expedites the completion of ongoing studies at full Federal expense and funds the North Atlantic Coast Comprehensive Study; third, our construction component rehabilitates, repairs, and constructs projects to reduce future flood and storm damage risk in smarter and more sustainable ways.

As part of the near-term component, the Corps started beach repair and restoration of existing projects along the Atlantic coast in February 2013 and is scheduled to conclude these actions by the fall of 2014. To date, the Corps has placed approximately 12 million cubic yards of sand to repair dunes and berms and will continue work to restore them to their original design conditions. Also, the Corps has obligated almost \$390 million to restore damaged projects. Of the total 33 projects in this phase, 7 are completely restored, 22 have awarded construction contracts, and 4 are in the design or the pre-award stage.

Near-term efforts also include addressing the storm's impacts to our navigation infrastructure. The Corps' operations and maintenance work began in February 2013, and most projects are scheduled for completion by the spring of 2015. By the end of fiscal year (FY) 2013, the Corps had obligated over \$160 million for this work with 35 projects completed and 28 in construction.

For the investigations component, the Corps is using funding to expedite completion of 18 flood and storm damage reduction studies in the Northeast that were underway when Hurricane Sandy occurred. Twenty million dollars of the investigations funding is for the Comprehensive Study, which will assess 31,000 miles of the North Atlantic coastline, bringing together experts in coastal planning, engineering, and science from more than 90 governmental, academic, and nongovernmental entities. The Comprehensive Study team has developed a draft framework that is currently under review, and the results of the study we think will inform our future planning efforts.

The Corps was also directed to conduct a Performance Evaluation Study to evaluate the effectiveness of completed Corps projects during Hurricane Sandy and to include summary recommendations for future improvements. I signed the transmittal of this report this morning, so it should be here on the Hill by now.

The third component of the program will construct projects that were previously authorized but not constructed at the time of Hurricane Sandy's landfall, potential projects identified for implementation following the investigation process, and projects that will fall within our Continuing Authorities Program (CAP). Planning, design, and expedited reevaluations are underway for the 18 previously authorized but not yet constructed projects, the Corps anticipates construction will begin in early 2014.

The Corps expects to complete construction work on roughly half of these flood risk reduction projects by mid-2015. Of the identified Continuing Authority Projects, Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia are currently scheduled to receive beach erosion and coastal storm damage risk reduction projects, and we expect 70 percent of this work to be completed by 2016.

There will always be a residual risk for Americans who live in coastal regions. Expected changes in sea level rise, extreme weather, and other impacts due to climate change are likely to increase the risks facing these areas. Together with the National Oceanic and Atmospheric Administration (NOAA) and FEMA, the Corps of Engineers has developed a sea level rise tool to help communities anticipate the implements of sea level rise. We will use base flood elevation maps from FEMA, the coastal mapping capabilities of NOAA, and a sea level rise calculator from the Corps of Engineers. This tool yesterday was recognized by the President and was awarded the Green Government Climate Change Champion Award. So the collaboration between our agencies as a result of Hurricane Sandy has already produced a future-looking sustainability tool that we can all use throughout the Federal Government.

In addition, NOAA and the Corps of Engineers are working together to help rebuild more resilient and sustainable coastal communities. While working on post Hurricane Sandy recovery efforts in New York and New Jersey, NOAA and the Corps jointly developed a set of infrastructure systems rebuilding principles in order to promote a unified strategy for activities in restoring the coast. Collaborative efforts on all levels continue to explore and implement solutions that reduce risk from coastal storms, such as appropriate land use planning, non-structural solutions, and well-communicated evacuation planning.

Mr. Chairman and Members of the Committee, I thank you for the opportunity and look forward to any questions.

Senator BEGICH. Thank you very much.

Our next speaker is Ms. Kathleen Tighe currently serves as the Chair of the Recovery Accountability and Transparency Board while continuing her position as Inspector General (IG) for the Department of Education. The Board has been charged with tracking Federal dollars being spent on the Hurricane Sandy recovery.

Thank you for being here.

**TESTIMONY OF THE HON. KATHLEEN S. TIGHE,<sup>1</sup> CHAIR,  
RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD**

Ms. TIGHE. Thank you very much. Mr. Chairman, Senators, I want to thank you for the opportunity to appear before you today. As Chair of the Recovery Board, I will be speaking to you about the Board's role in the oversight of funds expended in support of Hurricane Sandy recovery efforts.

The Board was created in February 2009 as part of the Recovery Act. It consists of 12 Inspectors General, and its mission is to provide transparency of the use of recovery funds and to prevent and detect fraud, waste, and abuse. We meet this mission by managing

<sup>1</sup>The prepared statement of Ms. Tighe appears in the Appendix on page 79.

the FederalReporting.gov website through which recipients of recovery funds report and by displaying that spending information in unique ways on our public website, Recovery.gov. We also developed the Recovery Operations Center (ROC), as a central data analytics service to support fraud detection and prevention. The ROC has the ability to rapidly aggregate and analyze large, complex volumes of data, to screen for potential risks or identify targets, and provide deeper investigative information in the support of audits, investigations, and prosecutions.

While the Board was originally due to sunset on September 30 of this year, the Hurricane Sandy legislation extended the Board through September 2015, with additional duties for the Board to develop and use our resources and oversight mechanisms to detect and remediate fraud, waste, and abuse of funds related to Hurricane Sandy.

Our oversight efforts related to Hurricane Sandy have focused on applying the techniques and processes developed by the ROC to examine the spending, primarily working with our IG partners. In coordination with the Department of Homeland Security Office (DHS) of Inspector General, we conducted a review of 104 entities that received Hurricane Sandy debris removal contracts from 32 cities in New York and New Jersey totaling over \$329 million. Among the particular risk indicators we reported to DHS the Office of Inspector General (OIG) were firms whose owners had Federal and State tax liens, one that had previously been listed on the Federal list of suspended or debarred bidders, and companies that had filed for Chapter 7 bankruptcy and had Federal tax liens.

In addition to this work, we have provided assistance to DHS OIG on its investigations of other FEMA Hurricane Sandy public assistance grants and to other OIGs in their Hurricane Sandy work. For the State of Rhode Island, we undertook a proactive analysis of 10,000 potential Hurricane Sandy contractors against our databases that would show potential risks and reported information back to that State.

In addition to our work in the ROC, we are using our website, FederalTransparency.gov, to attempt to collectively display what information is available on Hurricane Sandy spending. We visually display Hurricane Sandy-awarded contracts from the Federal Procurement Data System and agency award information, as well as links to FEMA spending by State and State Hurricane Sandy websites. We also display the Department of Justice's (DOJ) disaster fraud reporting hotline.

We are currently in the final stages of moving the Hurricane Sandy information to our Recovery.gov website to be able to better use the functionalities of that website.

Since commencing our work on our Hurricane Sandy mission, we have identified a series of challenges that we continue to face. The first is obtaining accurate and complete Hurricane Sandy spending data. With no mandated centralized reporting, such as we had in Recovery, access to standardized data is limited. While the Federal Procurement Data System and USASpending have information related to Hurricane Sandy, each has its limitations.

For example, on USASpending, Hurricane Sandy grants and loans lack a unique identifier, making it problematic to accurately extract and analyze Hurricane Sandy awards.

In addition, the lack of sub-recipient data will further complicate our work. Given the types of Hurricane Sandy grants expected to be awarded, prime recipients of these awards oftentimes will be a State or a municipality, but historically, the majority of fraud occurs below this level by entities performing the actual work.

That concludes my testimony. Thank you for the opportunity to discuss the activities of the Board, and I look forward to answering any questions.

Senator BEGICH. Thank you very much.

For our last speaker, again, I want to thank you for being here. Before I mention you and your title, I want to make sure that folks know for the record we did invite representatives of both the New York State and New Jersey State governments. They declined the invitation to testify today, so we are happy that a local government person is here, Cas, and I appreciate that. As the Deputy Mayor for Operations oversees a number of offices, including the police department, fire department, and Office of Emergency Management. And I was going to say Mayor Michael Bloomberg, but you had an election last night so I am not sure what it is today, but we are glad you are here, and we appreciate it, especially from a local perspective, so please.

**TESTIMONY OF CASWELL F. HOLLOWAY,<sup>1</sup> DEPUTY MAYOR FOR OPERATIONS, CITY OF NEW YORK**

Mr. HOLLOWAY. Thank you very much, Mr. Chairman, and just for clarification, the inauguration is January 1, so I still have my job for the next 55 days. [Laughter.]

Senator BEGICH. Good.

Mr. HOLLOWAY. And so does the mayor.

Senator BEGICH. OK. Very good.

Mr. HOLLOWAY. Good afternoon, Mr. Chairman and Senators. Thank you for being here. Thanks for the opportunity to testify about the role and effectiveness of Federal aid to New York City's recovery from Hurricane Sandy.

I want to begin by thanking you on behalf of Mayor Bloomberg and all New Yorkers for answering New York City's call after the unprecedented devastation caused by Hurricane Sandy. From President Obama and members of his Cabinet, including Secretary Donovan who is here today; to entire agencies of the Federal Government, particularly FEMA, HUD, and the Army Corps of Engineers; to assets including generators, fuel, food, and many others; to the billions of dollars in recovery aid that Congress made available through the Disaster Relief Appropriations Act of 2013, what I will refer to as "the Sandy recovery bill," the Federal Government has been there for New York City since well before Hurricane Sandy made landfall on the New Jersey coast last October 29.

Hurricane Sandy was the worst natural disaster ever to strike New York City. It took the lives of 44 New Yorkers, caused unprecedented damage to public infrastructure and private property, and

<sup>1</sup>The prepared statement of Mr. Holloway appears in the Appendix on page 88.

triggered an enormous and ongoing public and private response. I will touch briefly on the role of Federal aid in three specific components of the city's recovery: before and up to 5 months after the storm; the second-stage housing recovery efforts that are underway now and will continue for the next 12 to 18 months; and the city's long-term plan to protect and mitigate against the climate-related impacts that have become an increasingly frequent part of everyday life.

I will start with the pre-and immediate after Hurricane Sandy aid.

Our partnership with Federal agencies began well before Hurricane Sandy moved up the east coast of the United States and took that leftward hook that would subject New York City to the storm's most devastating impacts. As the city implemented its Coastal Storm Plan, FEMA and the National Weather Service (NWS) were embedded with us at the city's Emergency Operations Center, and I was there for days, so I can attest we had much support. Although the storm did tremendous damage, the pre-storm evacuation operation was largely successful, and post-storm surveys indicate that most New Yorkers knew about the storm, knew if they lived in a vulnerable area, and knew they should evacuate if they lived in an evacuation zone.

After the storm, together with FEMA and the New York National Guard, we removed an estimated 700,000 tons of storm debris through some of the contracts that Ms. Tighe just mentioned; fueled more than 25,000 emergency and essential vehicles through a partnership with the National Parks and the Defense Logistics Agency (DLA); distributed more than 2.1 million Meals Ready to Eat and canvassed more than 100,000 households in affected areas to distribute food and water, sanitary items, and to make referrals to health care and case management services.

As we reported to you when Congress took up the Sandy Recovery Act, the city suffered an estimated \$19.5 billion in damages due to the storm, including nearly \$5 billion in direct recovery costs. Hundreds of homes were totally destroyed; thousands of families were displaced. Given the unique density of New York City and the challenge of relocating thousands of families, Mayor Bloomberg made it a priority to get people back into their homes.

Thanks to the creativity of Craig Fugate and his team at FEMA, we developed what FEMA called the Shelter and Temporary Essential Power program (STEP). In New York City, we call it "Rapid Repairs." Rapid Repairs was a truly innovative approach to temporary emergency shelter that is based on a simple premise: The best temporary shelter is permanent shelter. STEP enabled the city to hire contractors to make emergency heat, hot water, and power repairs to victims' own homes. In only 110 days since we went into the first home on November 21, the city was able to complete repairs on 11,800 homes and multi-family buildings. That enabled roughly 54,000 New Yorkers to return to their homes. And our survey data indicates that most people, the vast majority, are back in their homes in New York City, although many still need to recover, have additional recovery to do.

I note that all Federal dollars have been accounted for, and we want to make sure that they are properly spent. It has been a pri-

ority for New York City since the beginning, and we have established monitoring programs overseen by the city's Department of Investigation for each of the housing initiatives we have undertaken. We will continue this rigorous oversight, and we can provide reporting at any level that the Committee would like.

While Rapid Repairs helped thousands of New Yorkers to move back into their homes, that was just the beginning. Thousands of families need much more work to be done to make a full recovery and make their homes better able to withstand severe storms and other climate impacts. Thanks to \$16 billion, unfortunately, due to sequestration—of community development block grant funding under the Sandy Recovery Act, and the leadership of Shaun Donovan and the Federal Recovery Task Force, we launched “Build It Back,” a \$700 million program, in June with the city's first allocation of CDBG funding, and the basic idea is to help homeowners continue that recovery.

As of October 31, nearly 26,000 families have signed up for the program, and approximately 500 of those had homes that were destroyed. We have encouraged many New Yorkers to seek this help, and we are glad that they have done so. Of course, the overall need and demand does exceed supply, so we will need additional allocations to make sure that the neediest get funding and support first. We have prioritized by income level and those who are the most damaged.

We estimate that between 55 and 60 percent of all of these applicants are in our first priority group, and we are focusing on them. Right now we are actually working, and we have 8,000 people who are going through insurance verification processes, Tier 2 environmental assessments, and Secretary Donovan has been very helpful in trying to streamline those processes so that we can take advantage of all the work the Federal Government has done.

At the homeowner and building level, perhaps the greatest remaining challenge for New Yorkers is the affordability of flood insurance. Members of this Committee are well aware of it. The city commissioned an independent study that shows that only 35 percent of property owners in the floodplain who were required to have flood insurance actually had it. Premiums could go up for the new FEMA maps that are going to be coming out from an average of \$430 a year to \$5,000 to \$10,000 a year, so we are encouraged by the legislation that is working its way through to delay until affordability can be addressed in a real way.

Of course, the greatest long-term challenge we face is protecting New Yorkers over the long term. At the same time that we were getting families back into their homes and repairing the city's infrastructure, the mayor commissioned study of the likely impacts that New York City will face between now and the 2050s. The result is this plan, “A Stronger, More Resilient New York.” I brought some extra copies for the Committee, and you can get it on our website at NYC.gov. It has 257 separate initiatives to protect New York City's 520 miles of coastline, as well as critical infrastructure and service networks over the long term. Hurricane Sandy took out huge segments of the power grid, 95 percent of the telecommunications network in lower Manhattan. It took out Hospital Row on First Avenue, closing down hospitals around the city. This plan is

an achievable, affordable way to mitigate most of these impacts when the next big storm or other climate event, whether it is a flood, downpours, or drought, hits New York City. And we are on track to complete 43 critical milestones before the end of the year.

The Army Corps of Engineers is also one of our most important partners in this effort. We estimate that more than 1.5 million cubic yards of sand were lost during Hurricane Sandy; 600,000 cubic yards have been put back; 3 million more cubic yards are on the way. And I have to say, having worked with the Army Corps for the last 7 years, the work that they are doing on the beach right now is the fastest I have ever seen them operate, without exception.

Senator BEGICH. Can I have you summarize? Because you are little over the limit, and I want—

Mr. HOLLOWAY. Yes. Sorry about that.

Senator BEGICH. But do not worry. Your statement will also be included in the record.

Mr. HOLLOWAY. Great. Finally, I just want to note, New York City cannot do all of this recovery alone. There are many areas over which we have little or no control: the power grid, telecommunications, and other critical networks. And so we want to work with Congress, with additional allocations that we will get to make sure that we can implement this plan. Clearly we have a long way to go, and we will need additional allocations. But if the support we have received from Congress and the Federal Government so far is any indication, I am confident we will be able to meet those needs and better prepare New York for whatever climate challenges come next. And I am happy to answer any questions.

Senator BEGICH. Fantastic. Thank you very much.

What I would like to do is go to the Ranking Member, and then I will come back to me, and then I will go down to the other two Members that are here. Senator Paul.

Senator PAUL. Thank you, and thank you for coming today. I grew up in Texas on the Gulf Coast, so I know a lot about hurricanes from personal experience, but we appreciate all of you trying to help in the aftermath of the terrible hurricane.

A question for Secretary Donovan. Do you think that Hurricane Sandy relief funds ought to be spent on TV ads?

Secretary DONOVAN. I assume what you are referring to, Senator, is that there has been an effort in a number of States, not just in Hurricane Sandy but historically as well, in many prior storms to encourage economic development. And we did see a small amount of CDBG money that was used for an economic development campaign to encourage people back to the beaches. The evidence—

Senator PAUL. Do you think it is a good idea or a bad idea that—

Secretary DONOVAN. The evidence—

Senator PAUL [continuing]. We spend Hurricane Sandy relief funds on TV ads?

Secretary DONOVAN. The evidence that we have seen is that those campaigns are effective in growing economic development in those areas, and, therefore, they actually reduce the cost of recovery to the Federal Government.

Senator PAUL. I do not think we need to argue about whether ads work. Ads work. But do you think ads for Hurricane Sandy relief should be spent on TV ads? Yes or No. I mean, good idea? Bad idea?

Secretary DONOVAN. As I said, we looked at the evidence, and we have seen that encourages economic development. What I would say is——

Senator PAUL. My understanding is that you all gave——

Secretary DONOVAN [continuing]. That community development——

Senator PAUL. You all had to give a waiver to do——

Secretary DONOVAN. Senator, if I could just——

Senator BEGICH. Go ahead.

Secretary DONOVAN. The community development block grant is a very flexible program. This is clearly within the legal boundaries of what Congress has determined the program can be used for, and it was demonstrated to us that this could be an effective tool and actually lower the cost to the Federal Government.

Senator PAUL. It gives a little bit of a black eye to something that maybe a lot of it is going to a good purpose. But I would say that if I were in your position, I would have said no, we are not going to spend ads.

Here is another problem. Some of these ads, people running for office put their mug all over these ads while they are in the middle of a political campaign. In New Jersey, \$25 million was spent on ads that included somebody running for political office. You think there might be a conflict of interest there? That is a real problem, and that is why when people who are trying to do good and trying to use taxpayers' money wisely, they are offended to see our money spent on political ads. That is just offensive.

In New York you actually have a rule. They are not allowed to do it. So New York did the same thing, which I still object, but at least they did not put someone's face on the ad, and their family, and it looks like a bio ad. I think, oh, yes, come to New Jersey, but it is, like, I do not want to pay for ads for someone's advertising out of the Hurricane Sandy relief fund. It gives the whole thing a black eye.

But it is not just Hurricane Sandy relief funds. We spent \$684 million advertising for Obamacare. Well, it is a fairly contentious issue that was very partisan and passed by one party. Should we then get to spend taxpayer money advertising for political purposes? I do not think a penny of taxpayer money should go to advertising, TV advertising.

Here is the other criticism: People have pointed out it has taken a while for some of the money to get to people. I think it was, like, one article said one house or one homeowner in one instance coming to your department, yet the money the TV advertisers sure got through pretty quickly. I mean, when people want to advertise and promote themselves, all of a sudden, boom, money is on TV and so is their ad.

So I would just ask that all of you who are civil servants—and I know you want to do the right thing—reconsider whether or not it is a good idea. My understanding is it took a waiver from your

office to use these grants for this and that the TV ads had to be approved in that sense by your office.

The other thing is that there have been community development grants given to something called a River Festival in Manhattan. I sure hope that none of this money is going to it and that I do not find out in a year that the River Festival got money for this, because the River Festival is full of all kinds of great and groovy things like performance art, a bunch of people showing up and holding their cell phone up and playing the same songs. That would be a lot of fun. I would love to attend that. But I hope we are not going to find that Hurricane Sandy relief money went to stuff like that, because as you said, community block grants can go to anything. And so I sure hope that someone is watching the taxpayer's dollar.

That is all I have. Thank you.

Senator BEGICH. Thank you very much.

Secretary Donovan, can I followup? I wanted to make sure we are clear on one thing. CDBG money, as a former mayor—and I think now Senator Booker would say the same thing—it cannot be used for anything. There are limitations. Is that correct?

Secretary DONOVAN. That is exactly correct. I did not say it could be used for anything.

Senator BEGICH. Right. That is—

Secretary DONOVAN. It has very clear statutory purposes, and we reviewed and made sure that it did meet those purposes. If Congress determines that economic development campaigns should not be included, then obviously that could be added to legislation. But currently they are within the bounds of the law.

Senator BEGICH. Let me get to a broader question. FEMA—and I think I know the answer to this, but I want to have the three agency people other than FEMA answer this, because I think FEMA—when I look at the money of appropriated, obligated, expended, you are fairly high up there. You have moved the money out there. The other agencies, it is kind of in process or not as much in the percentages compared to what is appropriated. So maybe if I can start with Secretary Donovan and then go to the next two, just so I understand why there is a lag. I want to make sure I hear this for the record because I understand FEMA because you have to get in there—you do not have the luxury of waiting 3 years and bringing the money then after the fact. So help me understand that, because that is one of the questions that I get a lot of times when they see the reports and they say they have gotten it appropriated, where is the money being spent?

Could I start with you, Secretary Donovan?

Secretary DONOVAN. Absolutely, and I think this is a very important point. One of the things that is critical to understand about CDBG is by law it is only allowed to be used on needs that are not met by other funding sources, and so—

Senator BEGICH. So you are the last bucket.

Secretary DONOVAN. We are the third step, effectively, for homeowners, for small businesses first—and I think we have seen very consistently that FEMA moved very quickly to make that first allocation, but only up to \$30,000 can be used for homeowners, for example.

Senator BEGICH. Right.

Secretary DONOVAN. And that takes care of the moderate damage. You must make sure that your insurance company has paid their full claim, and that process needs to happen. And then only when those two have been utilized can we then make CDBG available, and that is why CDBG only began to pay out more recently.

Let me just give you one comparison. At the point where we are today since the appropriation was made by Congress, we are more than 20 percent faster in Hurricane Sandy than we were under Hurricane Katrina; we are more than 300 percent faster than we were in Hurricane Ike on CDBG. And so, clearly, we have improved the process. Are there things we could do legislatively or within our own power to make it faster? Yes. We are working on many of those things. But, relatively speaking, I think we have both been faster and more careful in the way we are using CDBG money in this story.

Senator BEGICH. And as I move to Mr. Porcari, can I ask you, some of those ideas at some point legislatively or regulatory, can you share those with the Committee at some point? So if there are things we could be doing to help that in the future as we continue and improve that flow, that would be, I think, helpful.

Secretary DONOVAN. Absolutely, and I would just compliment the Committee on having made many changes for Hurricane Sandy that have sped up spending already.

Senator BEGICH. Very good. I was going to ask you, if I have time, I will ask you about the bridge issue and how you used the techniques. I want to know more about that.

Mr. PORCARI. Mr. Chairman, thanks for an excellent question. The transportation funding that was provided in the supplemental is being used for very specific transportation purposes, and I will just quickly go through mode by mode.

The Federal Aviation Administration (FAA), with a direct appropriation, for example, has repaired the damage to the three major airports in the region. That is work that we have done ourselves or with contractor forces.

The Federal Highway Administration (FHWA) first released money within hours of requests under what we call "quick release authority" to get the work started on building the highway system.

And then its Emergency Relief Program operates on a reimbursable basis, so the work gets done, and it is done by State or local governments, and the Federal Government reimburses at the end. That is the way that we protect and make sure that we get the project built the way it should be, and in this case with some resiliency for the future.

The Transit Program, we have made extensive use of what we call "pre-award authority," so specific transit projects as part of the Hurricane Sandy recovery have been given pre-award authority where the transit agency will be rebuilding those facilities according to Federal requirements and then reimbursed as part of the process. That is a way to get the project underway quickly and make sure we get the product that the taxpayers deserve.

Senator BEGICH. Very good. Jo-Ellen.

Ms. DARCY. As I said in my opening statement, we have several buckets of money.

Senator BEGICH. Right.

Ms. DARCY. Some for investigations, which is ongoing studies, as well as our comprehensive studies, so the spend-out rate on that is not as quick as would be for our emergency money. The emergency money we had we have expended nearly all our expenditures, and that will be completed in the early part of next year. Those were the repairs to our existing projects; repairing the sand dunes that had been devastated.

And the third bucket of money is for construction. We had 18 projects that were authorized but unconstructed, and some of those projects had been authorized several years ago. What we are doing now is looking at those projects to see whether in the light of climate change and sea level rise, those projects are still—will be sustainable and resilient. The study is the floor of the process and the less expenditure. But once we go through that study process, do the pre-construction engineering and design, which is a smaller amount of money, and get to the actual construction, that is when you will see the outlays on these projects.

Senator BEGICH. Very good. I have one quick question, and then I am going to go to the members, and we are trying to do 5-minute rounds here, so I will try to be quick.

Cas, let me ask you a question. Of course, I am going to speak in a moment. I am going to substitute myself back to my mayor days. The frustration I always had with the State organizations was they would get this money, and then you would hope and pray it would come down to you at some point in some rational, deliverable way. Can you give me your sense of how that worked? Or could there have been—and maybe later you could give some recommendations. How did that work? When that money—CDBG, I do not know in this case if it went directly to State or local, I do not know how that went here. But can you tell me how that worked when money went to the State and then you are down there waiting for it?

Mr. HOLLOWAY. Well, in this case, Mr. Chairman, the funding—actually New York City got its own direct allocation.

Senator BEGICH. They did.

Mr. HOLLOWAY. Which was great for us, because the level of damage that we sustained and our ability to take those resources and really start working with them immediately is really strong. So, far, the allocations that have come, there is a separate allocation for the State of New York, and New York City has gotten its own allocations. From that perspective it has been great.

Senator BEGICH. So that has worked.

Mr. HOLLOWAY. Yes.

Senator BEGICH. Fantastic. Let me stop there, and I do have additional questions, but let me go to Senator Booker and then Senator Gillibrand.

Senator BOOKER. If we may, the Senator from New York, who has a wonderful view of New Jersey, would like to go first because she has some place to go.

Senator BEGICH. Please.

Senator GILLIBRAND. Thank you, Mr. Chairman. Thank you very much, Senator Booker.

I appreciate all the work you have done, and every single one of you has done extraordinary work in terms of getting money flowing, getting large projects done, getting things up and running, and I appreciate it.

But what I hear from my constituents is not good. I hear so many stories of constituents who cannot rebuild, who have not gotten money. There is so much red tape that they cannot possibly find their way through. And so I want to ask each of you some issues of red tape that concern me that hopefully you can give me the road forward so I can let my constituents know that relief is possible.

Secretary Donovan, this one seems very difficult. A number of my constituents were dismayed to learn that because they accepted Small Business Administration loans that they are now ineligible for CDBG funding. Now, I understand the need to make sure there is no duplication in getting Federal benefits, and we want to protect against fraud. And that is absolutely critical to the integrity of this program. But is there any distinction that could be made between grants and loans under the duplication of benefits regulations? And under the current Federal regulations, what are the options for Hurricane Sandy-affected homeowners who accepted SBA loans but who believe they are at a financial disadvantage relative to homeowners who chose not to accept an SBA loan?

Secretary DONOVAN. Senator, this is something that your office raised with us and that others did, and we actually made clear that even if a homeowner or business had been approved for a loan, they were still eligible for SBA assistance. So, in fact, it is not accurate that they are ineligible.

Senator GILLIBRAND. But they have been told they are ineligible, so is that something we can fix in terms of those communicating with—

Secretary DONOVAN. Let me be clear, though. Like everything else in CDBG, it is up to local communities to determine exactly how they use these funds, and one thing that we have encouraged communities to do—and I want to be clear about what situation the homeowners you are talking to. If a homeowner, if a small business can afford to repay a loan, we do not think—and we have made clear—that communities should make grants available because these are precious limited dollars, and so what we have encouraged communities to do is to do an evaluation. And I have heard frustrations from business owners, homeowners. They say, well, somebody else is getting a grant, I am getting a loan. Well, the fact is if they can afford that loan, then we encourage communities to do an underwriting and to evaluate that and to use grants only where a homeowner or a business cannot afford to repay a loan.

And so that is the guidance that we have given, but we do leave flexibility for communities to make that determination.

Senator GILLIBRAND. Well, I would appreciate that you make that guidance very clear when someone is looking at an SBA loan. They need to know what limitations they will be under in the future. It needs to be clearer.

Secretary DONOVAN. I agree there was confusion, and we have absolutely worked with your office, and you have raised this before to try to clarify that as much as possible.

Senator GILLIBRAND. Thank you.

Secretary DONOVAN. We are happy to do that more.

Senator GILLIBRAND. Deputy Mayor Holloway, so we have read a lot of news stories, and we have done yeoman's work on so many infrastructure issues and done excellent work. But for homeowners, there is still enormous challenges because, while FEMA caps the payment out at 30K, very few people receive the full payout. Their home might have been destroyed, and they are eligible for a grant of \$8,000.

So, while we do our best, it is not enough for these homeowners to rebuild. And, in fact, there are families that are still homeless a year out, and that is horrible.

So specifically for Breezy Point, Staten Island, and the Rockaways, how quickly do you think CDBG money will get to homeowners? And what percentage of those areas have actually received any CDBG money?

Mr. HOLLOWAY. Well, so each of those areas, having been there many times and worked with, particularly in Breezy Point, the homeowners association, we have done a lot to try to advance building. It is not only getting the money. It is being able to actually build, put things in the ground. And so we have been able to advance that.

I think that in terms of FEMA recovery, that really is a case-by-case determination of their assessment of what the damage is. We now have 26,000 families that have signed up for Build It Back, and we are in some stage of financial assessment for them. So as Secretary Donovan said, the CDBG money is money of last resort, which means that you have to do an insurance verification; you have to figure out whether they have any other FEMA money, any funds from any other sources. We are working closely with insurance companies, but we have 1,400 requests for verification from one company in particular that have not been met. And these steps in this process—which we are not opposed to in any way because you do have to make sure that the dollars are going to people who actually need it, but they do take time.

Now, I think we have had some CDBG money flow, but I will say the mayor is not satisfied that it has gotten to enough people yet. I think you will see, I am confident you will see, between now and the end of the year, we will begin to ramp up to hundreds and then ultimately thousands who will be getting that funding.

Senator GILLIBRAND. Thank you. Well, let me address some of the red tape that your mayor is probably experiencing with regard to Administrator Fugate. So FEMA worked with the local—these localities to submit project work sheets, which makes them eligible for reimbursement. And over the last year, many of these project work sheets have still not been paid, and these delays have caused setbacks to local projects and bottom lines, many of them borrowing while they await payment.

Do you know how long—or how many project work sheets FEMA is still processing and what the anticipated timeframe for turning those around is?

Mr. FUGATE. Senator, it depends upon the project. A project work sheet is a tool to determine what is damaged and what is going to be needed to make repairs. We have prioritized working with the

State. Some of the first projects were going to be all the debris and all of the emergency costs that were expended. Those were dollars that went out the door immediately. And so as we have been going through that, we have to have documentation to demonstrate the costs so that we can satisfy the requirements that they did the work, it was expended, and we reimbursed that.

Most of the emphasis has been on the initial cost. There are some that still need more documentation—but if you have specifics, we will work on them.

Now, the rebuilding piece of those project work sheets is going to take more time because once we get in the permanent work, we have several different tools we are trying to use to speed this process up, but we still have to go and work through processes to ensure that is it over 50 percent, are we going to be able to mitigate this, and what is the longer-term requirements to rebuild?

Senator GILLIBRAND. Thank you, Administrator. My time has expired, but for Assistant Secretary Darcy, obviously Long Island is so important, and people are very concerned about the time it is taking for the stabilization projects within the Fire Island to Montauk Point (FIMP) study to be started and to know when these emergency stabilization projects will be done.

Can you just give a quick update about where we are in that process?

Ms. DARCY. For the Fire Island to Montauk Point?

Senator GILLIBRAND. Correct.

Ms. DARCY. Well, we have begun some of the emergency response, which was part of rebuilding what was there. We are currently reviewing the Fire Island to Montauk Point, which as I mentioned is an authorized but unconstructed project. So we have to relook at it to make sure that it is in today's sea level rise and climate change lens that we are looking through and building it to the right dimensions. We are committed to doing some expedited review processes for all of these projects.

Senator BEGICH. Thank you very much. Senator Booker. And we will probably have time for another round if there are available questions.

Senator BOOKER. Senator Begich, I just want to say again thank you for holding this hearing. I have a lot of affection for you even though we have only been colleagues for 6 days. [Laughter.]

But that affection is born from the fact that you know what it is like to be a mayor and the difficulties you have grappling with real issues on the ground every single day. People do not know what a Secretary's number, they do not know necessarily what a legislator's number is, but they know where you live, and it is something that I take very seriously. And I just want to say to the panel assembled, I am grateful that you are here. I have only been here for 6 days. I still have that new Senator smell, I am told, but I have had a chance to deal with the Secretary on multiple occasions as mayor, and I think the Obama Administration has many stars, and frankly none of them shine brighter than you do.

The frustration my office already has is that we are dealing with lots and lots of people who feel this sense of discontent, ill at ease, frustration, and a lot of stories, and we are unraveling them, and your team, the team assembled here, has been in credible with my

office. Again, Mr. Fugate, I look forward to meeting with you and bringing to you a lot of the individual concerns that are not necessary to go through here because you have made yourself so available, and I am sure I can expect the ability to meet with all of you as I deal with what is a sense of urgency from my office.

Secretary Donovan thank you very much. You can call me "Cory." I know the best thing about you is that your head is with the entire State, but you married a New Jerseyan, so your heart is with New Jersey, I am sure.

Secretary DONOVAN. As your colleague says, I married up.

Senator BOOKER. Yes, you did marry up most exceptionally. So for me in my office—and we plan on spending a lot of time in the district over this next month meeting with a lot of families, because many of them do not know who to call. They are so frustrated. They do not feel like they can rely on government anymore. They have gone through some of the red tape and gotten nowhere. And so as we stood—so the two points I want to make, to the Chairperson, I am hoping that we can do more of these as the recovery continues because this is not going to be finished in a month, in 2 months, in 5 months, but this is very good as we move forward.

Senator BEGICH. Very quickly on that, I will tell you one of the goals of this Subcommittee and another Subcommittee that I chair is one of the roles the Senate should do more of is oversight like this. So we are not waiting for a crisis to occur, but, 6 months from now or a year from now, we are going to have these same conversations because we want to keep track of how it is going, and if there are legislative and regulatory changes we need to make, we should be trying to do that in concert with what is going on. So, absolutely, the idea is to have oversight and to work with agencies to improve what they are doing, but also make sure people on the ground are getting what they supposedly had thought they were getting.

Senator BOOKER. Right, and my hope is—

Senator BEGICH. And that should not count against your time, what I just consumed.

Senator BOOKER. I appreciate that.

Senator BEGICH. I am telling that to the staff, whoever is the clock holder.

Senator BOOKER. The Senate is a generous institution, I am finding. So the—

Senator BEGICH. He is new. [Laughter.]

Senator BOOKER. So the point for my team right now is that sense of urgency you get from being a mayor is the sense of urgency we are going to treat this problem with, because we have families in crisis, we have challenging counties on the western shore of New Jersey who really feel like they have been left out of this equation, who still feel like there is everything from debris still in bodies of water to houses still destroyed. And so my hope with everybody as we set up our internal benchmarks is that we will be able to continue to touch base over a regular period of time to make sure that your professionals, your extraordinary professionals, are operating with that constant sense of urgency and driving your teams as hard as possible to meet the needs of the State of New Jersey.

And so in the 90 seconds that I have remaining, to my friend and, again, our leader, I have learned a lot from and have a lot of respect, when we stood together just about 2 weeks ago when I was still Senator-elect, we talked about the next tranche being released, and it was interesting, though, afterwards I heard from the mayors assembled and some others, some of their individual frustrations.

And so my hope is—obviously there is going to be a third tranche, and you have done a lot to expedite funding compared to what happened in previous—you brought it to a whole new level. But my concern is it still does not seem fast enough. And I am wondering, Secretary Donovan, in the few seconds I have remaining, could you just talk generally about things you are doing to further expedite it and help me understand sort of your expectation on that third tranche which is so critical?

Secretary DONOVAN. Senator, thank you for your leadership in Newark as well. The city is much stronger, many families that would not have gotten help without your leadership. I know there is still pain there, but thank you for your leadership locally.

Senator BOOKER. Thank you.

Secretary DONOVAN. And I know you are going to bring the same energy to the Senate as well.

I think the problem with talking about these is this is blocking and tackling hundreds of small decisions that are made along the way, and so I could give you a list of 20 or 30 key changes that we have made that have made a difference. Just one example. There was some cruel irony that anyone who started rebuilding themselves would not then be eligible for CDBG help. We changed that with urging from many of your colleagues so that now somebody can get reimbursed. That is just one small example.

Historic preservation reviews and the environmental, we followed on with FEMA's good work, made a programmatic agreement that sped that up significantly. So there are hundreds of small things like that.

I think the areas where I would say big picture are most important, the insurance process, not just on flood insurance and having enough reviewers and other things in a very dense area like New York or New Jersey, but also getting homeowner policies aligned so that families can know—often they get their insurance, and then they cannot even get access to it because their bank is there. And that is something that we have worked a lot on. I think that is critical. And then the environmental reviews.

The Committee did something very important in giving us the authority when FEMA puts money into a project to just accept their environmental review. We do not have that authority for any other agency. It is something we think legislatively ought to be done. That is an example. I would be happy to provide you a longer list.

Senator BOOKER. OK. Thank you.

Senator BEGICH. I will let you go ahead, Senator Schumer, and I will get back—if you are able to stay, we will give you another round here, but Senator Schumer?

Senator SCHUMER. Thank you, Chairman.

The first question is to Assistant Secretary Darcy. I am really worried about more bureaucracy getting in the way of doing FIMP,

of doing Rockaway, of doing Fire Island. One of the problems we have is the Office of Management and Budget (OMB). Even though we gave the Secretary the authority to approve general reevaluation reports without extra review by OMB, they seem to be demanding review. I have called OMB about this. We have talked about it. But I am really worried about their getting in the way of both the FIMP study, Fire Island to Montauk, and East Rockaway Inlet to Rockaway Inlet Reformulation Studies. If they have to re-evaluate everything, it is going to slow things down too much, and that gives me worry about another storm.

Could you tell us what is happening? What is your view, your candid view, of OMB's, shall I say, meddling here and what we can do to speed things up?

Ms. DARCY. One thing that we are doing, Senator Schumer, with both the limited reevaluation reports as well as the general reevaluation reports, is we are having monthly meetings with CEQ and OMB, with our division commander, who is sitting right behind me, General Savre, to give them a status report on a monthly basis of where we are on each of the 18 projects that you were referring to that were in the Interim 2 report so that we can all know what the status is, where we are, if we see problems coming up. That will help to speed that review because it will be ongoing before there is even a final product.

Senator SCHUMER. But it is my understanding—and I was one of the, probably the lead author of this legislation—that we did not need OMB approval for the things that were already authorized, like FIMP. Are they seeking such approval? And is it standing in the way? I do not mind you consulting with him. That is fine with me.

Ms. DARCY. At this stage, Senator, as I say, we are going to be consulting with them and reviewing this, but we will follow the law as it was—

Senator SCHUMER. So, without being too confrontational to your dear friends at OMB, you are agreeing with me that the law does not require their approval.

Ms. DARCY. That is correct.

Senator SCHUMER. Thank you. Very good answer. [Laughter.]

Senator BEGICH. That was the perfect answer.

Ms. DARCY. Oh, really?

Senator BEGICH. Yes.

Ms. DARCY. I am not sure I feel real comfortable about it.

Senator SCHUMER. Yes. [Laughter.]

Perfect from this side of—

Senator BEGICH. Let me just say, if I can, for Senator Schumer, your honesty and your forthrightness is greatly appreciated.

Senator SCHUMER. Right. OK. Next we will go to Secretary—

Senator BEGICH. They are hoping they are not picked. I can feel it.

Senator SCHUMER. To Secretary Porcari, another fine—and I mean it. You guys and gals have done a very good job. Porcari is from Rochester, so that explains a lot of it. But in any case, two questions on highway stuff. When can we expect an announcement of the remaining \$5 billion in FTA emergency relief funds? And, more importantly, Federal highway relief money cannot be used for

mitigation, like on Ocean Parkway; that is why we turned to other funds to help us with Ocean Parkway on Long Island. But are you considering using any of your authority to use FTA money for resiliency on other transportation modes? You can do that should you wish, as I understand it. It was not used on Ocean Parkway, but it should be used in other places on Long Island and in New York City. Tell me a little about that.

Mr. PORCARI. You are correct, Senator. First, the authority exists under the act for the Secretary to transfer money to another mode.

Senator SCHUMER. Right.

Mr. PORCARI. First, to answer your question on the next tranche of transit money—and, again, that is the single biggest need in the transportation network, as you well know. We have a Notice of Funding Availability that is in internal review right now. We will have that completed very quickly. It will be for \$3 billion, specifically awarded on a merit basis for resiliency projects. We will coordinate it with the task force by, for example, making sure that we have Corps and HUD and FEMA and other reviewers looking at that from a systems perspective to make sure—because this \$3 billion is honestly a fraction of the need that is needed out there in the transit network.

Senator SCHUMER. Right.

Mr. PORCARI. The thinking is also that there are rail projects that may well fall into that same category. There are shared use facilities, which you are well aware of, like Substation 41, which is an Amtrak-owned substation but serves both New Jersey Transit and Intercity Passenger Rail, and either through the award process directly or through the Secretary's transfer authority, there may be rail projects. We do not anticipate going beyond Transit and Intercity Passenger Rail projects with that.

Senator SCHUMER. Right. I just hope you will keep an open mind with the remaining \$2 billion in terms of resiliency, using your authority to transfer so we can build better to avoid the next storm. Very important.

Mr. PORCARI. Resiliency will certainly be our focus, and we know, given the vulnerability of the whole transportation network but, in particular, the transit system that—and what we know about sea level rise, for example, we have a lot of work to do.

Senator SCHUMER. You bet.

Could I ask one more question with your indulgence, Mr. Chairman.

Senator BEGICH. You will also have time for a second one.

Senator SCHUMER. OK. Great. This goes to first Mr. Holloway and then Shaun Donovan. As is obvious—it is not news—homeowners are complaining they are not getting the money quickly enough. There are all kinds of reasons for that, and as I said, I think the second year they are going to be much happier with the monies in the pipeline and flowing. The spigot is now open. But what, in your opinion, Mr. Holloway—and I am sure this would be true for your colleagues in Long Island and West Chester as well—is the biggest red tape problem getting in the way of aid to homeowners and projects at the Federal level?

Mr. HOLLOWAY. Well, I will start by saying that there has been a lot of red tape that previously had existed that has been cleared

up, and so that has been tremendous. I think that it is a challenge to—since CDBG is essentially the backstop, it is a challenge to get to the backstop.

Senator SCHUMER. Right.

Mr. HOLLOWAY. Now, that is not to say that that is necessarily HUD's issue, but getting verification from insurance companies, getting everybody's financial conditions in order is very challenging to do. And so if I had to say what would relieve that issue, figuring out the right way without opening up the specter of, duplication of benefits and all of those things, which have really driven a lot of—the creation of a lot of process to basically get enough data to say, OK, we are pretty sure we are pretty good at—that your 85 percent, we can give you some portion of the funding even if you are not at the end of the verification process. I know that would be difficult to do, but that is the challenge.

Senator SCHUMER. And, yes, a lot of that—we do not want to pay when insurance has already paid. Would you agree with that, Secretary Donovan?

Secretary DONOVAN. I think it is absolutely the center of many of the things that appear as red tape to homeowners, whether they are necessary or just, frankly, unnecessary delays.

One of the things that, as we started to work through this, my team began developing is something I call a “program in a box.” One of the problems that you have is that each State or locality developing—particularly smaller localities. New York City has, high capacity—I am a little biased here, but as high capacity as any city in the country. But for many of the smaller communities that have been hit to create a brand-new program to figure out how to do these checks and other things is a major barrier. And so what we have begun to work on is a program in a box where literally we could say here is the model, just adopt it, and it will allow you to move faster. I do not think that takes care of, by any means, all of the issues, but it certainly could remove some of the unnecessary red tape.

And then I think it is worth going back and thinking about, on duplication of benefits, are there things that we can do to simplify and streamline that while still not running afoul of, basically subsidizing insurance companies.

Senator SCHUMER. Right. Thank you, Mr. Chairman. Thank you, Senator Booker.

Senator BEGICH. Thank you very much.

Let me have a couple quick ones, and then I will go to Senator Booker. It dawned on me as we were talking that in your testimony you mentioned what the impact of sequestration was to some of the resources. So in this next round we are about to hit, the CR in January and potential sequestration if we cannot get a budget, will that have an impact on the additional resources you have?

Secretary DONOVAN. Generally speaking, Senator, it was a one-time reduction of 5 percent.

Senator BEGICH. OK.

Secretary DONOVAN. So specifically for the \$16 billion—

Senator BEGICH. You have already had the reduction—

Secretary DONOVAN [continuing]. It was a 5-percent reduction down to 15.2, and that is pretty much across the board.

Senator BEGICH. And that is—everyone else—OK. Good.

Let me, Ms. Tighe, if I can ask you a question. When you were talking, you had suggested some reporting process that really are not in place. Are you going to prepare at some point—or could you prepare, I guess—for this Committee kind of what those items you would recommend to ensure that at least there is more transparency in reporting of how the expenditures are being done so people like yourself and others can review them in a more accurate way, and if that is done by regulation or legislation? That is the first question.

The second question is: Have you, in what you have been seeing and looking at, uncovered any questions or hot spots that might say here is an area we better be looking at today in regard to some of these expenditures? And if the answer is yes to that, is that occurring? Does that make sense, that last question?

Ms. TIGHE. Yes, it does. Mr. Chairman, we are happy to send you information on specific recommendations that we would make, but just to sort of give you—one thing we really learned from Recovery is that the public is very interested in where money is going, really specifically where it is going and what it is being used for. And a lot of our impetus is on transparency of information.

It seems like an easy fix to us to do what the Federal procurement database already does, which is when a hurricane or a special event hits, they give it a special code. Why can't we do that on USASpending.gov so that we know what on that website is being spent for Hurricane Sandy? It just seems easy to us. It is—

Senator BEGICH. What do they say?

Ms. TIGHE. Well, we have asked the question and, it had to be something that was done right out of the box. It is not something we can do now. It is not something—and I—

Senator BEGICH. Well, let me pause you there.

Ms. TIGHE. Please.

Senator BEGICH. We have four agencies here.

Ms. TIGHE. Yes.

Senator BEGICH. So your statement is good, so I guess here is my question, if I can pause you for a second, to the four agencies. Can you set up a system now or into the future that whenever—I mean, to assume there is no disaster coming would be a mistake. There will be one at some point. Can you do this simple system here?

Secretary DONOVAN. So, Senator, let me address this, because we have been working with the Recovery Accountability and Transparency Board on this. We have set up a system to collect data. We do have a website available monthly with information on spending. I think the issue is not that we cannot do that. It is that to get to the level of detail and information that the Inspector General was talking about requires additional steps. And so we do believe—and, in fact, it was part of our Sandy Recovery Task Force report—that we ought to have a legislative requirement for future appropriations like this that we create a project management office and that there are data requirements in terms of—

Senator BEGICH. But do you need a legislative requirement? Why don't you just do it?

Secretary DONOVAN. The simple answer is that because of—the extent of work was enormous to get to that reporting for—it means

inserting in hundreds of systems across the Federal Government particular lines or codes, and that is not something you can do overnight. It takes significant investment.

Senator BEGICH. Ms. Tighe wants to jump in. Let me go back to her for a second.

Ms. TIGHE. Well, I must confess to not knowing the mechanics of what happens on the Federal Procurement Data System, but every contract let by the government, it is really a system that the General Services Administration (GSA) has set up in the Federal Procurement Data System that you have to just fill in a box that says, yes, this is a Hurricane Sandy, it gets a national interest action code, I think it is called. I think we are really talking about something that I think USASpending itself could generate. I do not know if it has to mean, changes to thousands of agencies' systems feeding data. And I know that the HUD task force has done a good job, and they do have a website that does discuss spending. It is just that it is at a very high level, and the Secretary is right that what we are really talking about is a level that is much more granular.

Now USASpending has some of that. It is just that, it does not separately capture or you cannot, search by, hey, what is a code for Hurricane Sandy? There is really no reason why the major portal we have for Federal spending cannot do that. I do not think it is—and I am not a person who can tell you what the mechanics are of having that done, but I think it can be done without actually legislation, I do not think. There just has to be a decision made to do it.

Senator BEGICH. Let me hold you at that, because I have run out of time, but let me ask you that last—the first part of the question, and that is, can you produce for the Committee that shopping list?

Ms. TIGHE. Absolutely.

Senator BEGICH. OK. Would you submit that? Then if you can indicate if you think it is regulatory or legislative, so that can help us do a little understanding of what we can do here or what we can press to have happen.

Ms. TIGHE. We will.

Senator BEGICH. Fantastic.

Senator BEGICH. Let me go to Senator Booker for your next round.

Senator BOOKER. Sure. I have one more question, but I take solace from the fact that this Committee as well as other ones that have jurisdictional oversight will have other hearings in the future, because obviously this is probably one of the worst top two storms that has hit our country in the last century in terms of its impact, damage, and cost, and especially in our region, in the greater New Jersey region, which is one of the most productive in terms of our national gross domestic product (GDP) and important from an arts and cultural perspective. This is obviously something of great concern not just to our region but to the country as a whole. So I am glad—and just want to, again, Mark, for the record, my gratitude that everyone robustly shook their heads up and down about their willingness to meet with me directly and work in close conjunction with my office as we try to tackle these problems.

The one thing I will bring up—and I know, again, I am looking forward to meeting with Mr. Fugate and being able to discuss this issue, but I guess I am confused. I know at the municipal level things sometimes do not make sense, but this is the national level, and I am sure things are a lot more rational here in Washington. And so, the thing that has chilled my understanding of what is going to happen to my region when the flood insurance rates go so up, it is going to devastate, completely devastate areas of New Jersey, and not only will it affect homeowners, but they will not even be able to sell their homes because who is going to buy their homes, often with such high insurance levels?

From my understanding, and just my beginning to dig into this personally, when Biggert-Waters passed, it required FEMA to do a study about the insurance affordability and the impact it would have on the region. And it seems like a critical thing, before you allow the phasing in of these incredibly high insurance rates, that we would know sort of what we are going to do to that region.

So I guess just for a matter of the record for now and something that we could definitely get into more when we talk, could you let me understand what is going on with that study and what it really says about the devastating impact, potential devastating impact this could have to regions like mine?

Mr. FUGATE. Yes, Senator. The goal of Biggert-Waters was to move toward an actuarially sound insurance program that would encourage private sector participation because we would no longer subsidize rates below market value. There were many pieces to that, and generally, when you would see legislation that would tie a specific action before further action would go, the language would have been written so that the affordability study would have been a requirement before you went to the next steps. The way the legislation was written, it was all done concurrently. So the phase-in of the rates was not tied to an affordability study being done. It was an affordability study was to be completed but not hold up any of the other implementations. This is the area we have come back and worked, and Senator Menendez had asked for technical drafting assistance on the initial funding that we were given and timeframes. We went to the National Academy of Science, they informed us that in the timeframes given and the funding provided they could not complete the study.

Senator BOOKER. So help us understand this. Does that even in any way seem rational to you to let the phasing in happen without even understanding and having the study completed?

Mr. FUGATE. The ability to not phase in was not permitted in the legislation. There were certain timeframes that we were required to implement those phase-ins to start moving toward actually based—a year ago, we had already done secondary homes, commercial, and repetitive loss. The next steps were for those people that are currently subsidized, begin phasing them in over a period of time. And then the one that is causing the most immediate problem is for those folks we are seeing map changes where there is a very limited phase-in. All of these changes were predicated upon when the legislation was passed, you had certain timeframes to get that done, and the only delays was the regulatory process of implementing those rules for that.

So the affordability study, although still required; again, we provided the technical drafting assistance that we needed to be able to expend the funds that the National Academy of Science said would be required and allow the timeframes they stated it would be allowed, and then postpone the increases for those areas until that study is done.

Senator BOOKER. So that sounds like a recommendation, in other words, it makes sense to do the study. The study right now is not being done, nor do we have the money to do the study. But yet we are still moving forward with the phasing in. It sounds like you are saying that the advisable thing to do would be to do it right, to actually understand—to do the study, allocate whatever resources are necessary so we understand and we do not fly into this blind and hurt a lot of people.

Mr. FUGATE. Again, understand that as the legislation was signed into law, we have been implementing the law as it has been designed. This is an area that, when Senator Menendez in the previous hearing that I testified on flood insurance, he specifically asked for us to support technical drafting assistance, and that is exactly what we have been working on, is how do we make insurance so that we do not subsidize risk beyond which there is a return of benefit to the taxpayer, but obviously the intended goal should not also be place people out of their homes because we make insurance so unaffordable for existing homeowners.

Senator BOOKER. I understand that. I guess what I am missing is the link, and I will talk to Senator Menendez about this. I guess I am missing the link. So, in other words, you have provided the technical assistance, but it is still not done.

Mr. FUGATE. It still will require legislative action to change this to be signed into law, because as we understand the law, we were not given any flexibility in implementing the timeframes once we had the regulations done that the affordability study was not—the increases were not dependent upon the affordability study being done. It was written in such a way that it was all being done concurrent.

Senator BOOKER. So you are saying it is really on the legislature to act in order for this to be done the way it should have been done.

Mr. FUGATE. Senator, as I testified last time, we have not found any way to delay those implementations without the assistance of Congress giving us the ability to suspend some of those increases until such time as an affordability study is done.

Senator BOOKER. So we are rushing forward with this, not knowing the impact it is going to have, not knowing if we have even struck the right balance. That to me just seems a million percent wrong and damaging. Would you agree?

Mr. FUGATE. Well, I would agree, as I have testified, that if we do not address affordability, our risk is we are not going to be able to move this program to a sound basis. We will continue to subsidize risk and encourage growth and development where we probably should not be building that way. And we are going to put people out of their homes.

Senator BOOKER. Right.

Mr. FUGATE. So there is a balance here that has to be struck between looking at affordability but not artificially creating a situa-

tion that we are subsidizing risk at such a low rate we continue to increase our vulnerabilities to future disasters. We have to change how we are building. But it should not be at the expense of people in their homes forcing them out in the short run, but understand that in the long term we have to look at how we build in coastal communities in such a way that people's homes are not threatened every time we face a storm.

Senator BOOKER. And I agree with you, but the frustrating thing for me is you have to know before you go, and we are acting without having the knowledge base necessary to make sound decisions, and we could end up with a situation profoundly devastating. That is very frustrating.

Secretary DONOVAN. Senator, if I could make two points here. One is that this is an issue the Administration raised when Biggert-Waters was passed. In our statement of Administration Policy on this, we raised the fact that there was not an affordability provision that would allow us to protect folks. It is an issue that we raised in the Sandy Task Force report. And I just want to echo Craig's point that this is something that we need to act on without undermining what is an important step forward in making the program something that does not encourage development in places that—and I think it is important we strike that balance, and I think even it is possible that we could get some authority to start doing this even before the affordability study is done, if we can work correctly with you to get the right legislation.

Senator BOOKER. I would agree with that, and I know that my colleagues from New York as well as the Chairman probably would agree with that as well, so thank you.

Senator BEGICH. Thank you very much.

Let me add to that, and then we will close this hearing, and that is, we have a piece of legislation, as you know, that is pending, and it dawns on me as I am sitting here, I am hopeful that you have reviewed that legislation that would delay the implementation based on the affordability study done. But I would ask, if you have not given input on that, at least to this Committee—you may have to individual members—I would greatly appreciate that, because what you are experiencing, Senator Booker, is a piece of legislation that was not crafted well. It was crafted with a good intent, but there are pieces of the equation that were discovered after the fact that now we are trying to fix. The problem is the Administration is bound by the law of what they must go through. If we went back in time, I bet you there would be a different discussion going on, knowing the facts we know today, but we are in this quandary. We have a bill pending. I know Senator Menendez has. I know I am a cosponsor, and the whole idea is to partially unwrap this to get us to the affordability study, get to an affordability of rates, and then deal with the rate structure, because there has to be reform. I think the Administrator has made it very clear. Everyone knows this. We have to have some reform there, but we have to get to the affordability and also the timetable. So it is one of these pieces of the legislation that, when you look at it today, you go, "Why didn't we" fill in the blank? Now we are trying to fill in the blank, but the clock is working much faster for them to administer versus us legislatively. There is a pending bill, and we are anxious to try to

find a vehicle to move it. The Senate has a version; the House has no version as far as we know right now.

So let me say the record will stay open until November 21 for additional questions that Members may have and submit to the Committee. I do want to thank the panel. Usually we break panels into two, but we thought because of all the uniqueness and experiences you all have it was important to have you all at the table.

Thank you for being here. Thank you for being part of this hearing. And, again, to Senator Booker and to other folks from New Jersey and New York that were here, we will have continued efforts to follow this and make sure we are on the right track with the expenditures and activity with Hurricane Sandy because I think it is a good learning opportunity to make sure we improve our systems.

So thank you all for being here. I appreciate it. The Committee now is adjourned.

[Whereupon, at 4:33 p.m., the Subcommittee was adjourned.]



# APPENDIX



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410

**Written Testimony of Shaun Donovan  
Secretary, United States Department of Housing and Urban Development (HUD)**

**Hearing before the Subcommittee on Emergency Management, Intergovernmental  
Relations, and the District of Columbia, Committee on Homeland Security and  
Governmental Affairs, United States Senate**

**One Year Later: Examining the Ongoing Recovery from Hurricane Sandy**

**Wednesday, November 6, 2013**

Chairman Begich, Ranking Member Paul and Members of the Subcommittee, thank you for the opportunity to testify today regarding the ongoing effort to rebuild in the region impacted by Superstorm Sandy.

Because Sandy was one of the most devastating and costly natural disasters in our history, the President recognized that the response required an additional focus on rebuilding efforts coordinated across Federal agencies and State, local, and tribal governments to effectively address the enormous range of regional issues.

On November 15, 2012, President Obama announced that I would lead the coordination of Federal efforts to support the long-term rebuilding effort, and the President issued Executive Order 13632 on December 7, 2012, establishing the Hurricane Sandy Rebuilding Task Force, and appointed me to serve as its chair. Executive Order 13632 charged the Task Force to “work to ensure that the Federal Government continues to provide appropriate resources to support affected State, local, and tribal communities to improve the region’s resilience, health, and prosperity by building for the future.”

My responsibilities in this role occurred in concert with the National Disaster Recovery Framework (NDRF) and involved cooperating closely with the Federal Emergency Management Agency (FEMA) and the other agencies involved in recovery efforts.

The focus of the Task Force was coordinating Federal support as State, local and tribal governments identify priorities, design, and implement individual rebuilding plans.

Sandy and the Nor'easter that followed have had immense and varied impacts across much of the eastern United States, with damage most severe in New York, New Jersey, Connecticut, Rhode Island, and Maryland. Within the United States, the storm caused over 150 fatalities, major flooding, structural damage, and power loss to over 8.5 million homes and businesses, directly affecting more than 17 million people as far south as Puerto Rico, as far north as Maine.

Sandy caused tens of billions of dollars in damage and is estimated to be the second most costly storm in American history. Thousands of businesses and more than 650,000 homes were damaged or destroyed. State, local and tribal governments are addressing damage to roads, bridges, mass transit and other essential infrastructure, including electrical, water, and waste water treatment facilities, public hospitals, and shorelines.

In addition to my concern as a citizen and as a member of this Administration, this is personal to me. I grew up in the region. I was born and raised in New York and worked on housing issues there, including serving as Mayor Bloomberg's Commissioner of the New York City Department of Housing Preservation and Development. I also worked on housing issues for Prudential Mortgage Capital in New Jersey, and my wife is originally from New Jersey. Many of my friends have been directly affected by the storm's devastation. In light of my deep roots in the region, I am particularly concerned with the devastation that Sandy has caused, and I am especially honored to have the opportunity to help with recovery and rebuilding efforts.

I have seen much of the damage first-hand, talked with State and local officials and citizens living with the aftermath of the storm, had discussions with Senators and Representatives from the area, and have met with other Federal officials working on the recovery effort. Everyone involved in the recovery and rebuilding has demonstrated extraordinary dedication and courage. Just as remarkable are the actions by average people I have spoken with – individuals who have demonstrated a different brand of heroism by simply reaching out to help their neighbors, even as they were facing their own losses. I have seen bravery and determination that inspires me and my colleagues to work even harder, respond quicker, and develop more creative solutions.

With that mission in mind my testimony today will cover: 1) an assessment of the ongoing recovery efforts; 2) a brief background on the formation and role of the Hurricane Sandy Rebuilding Task Force and 3) the role of the supplemental funding provided by Congress.

#### **Ongoing Response and Recovery Efforts**

Before I describe the Task Force's activities and the funding made available by Congress in January, it is important to note the unprecedented cooperation that has been taking place since Sandy struck among Federal, State, local, and Tribal authorities. HUD, FEMA and other parts of the Department of Homeland Security (DHS), as well as the Departments of Transportation, Health and Human Services, Interior, Commerce, Energy, and Agriculture, plus the Small Business Administration (SBA) and the U.S. Army Corps of Engineers (USACE) and other agencies are all working together.

For example, as a result of coordination under the National Response Framework (NRF), within a week after Sandy hit there were almost 11,000 National Guard and 17,000 Federal responders on the ground from FEMA, the Department of Defense, USACE, HUD, Department of Transportation, Department of Energy, and HHS, as well as tens of thousands of utility workers from across the nation. The Federal Housing Administration and Federal Housing Finance Agency worked to protect thousands of families who, though no faults of their own, were at risk of home foreclosure as a result of Sandy – first by putting in place a foreclosure moratorium and then by cutting red tape to offer families streamlined home loan modification.

As of September 2013, FEMA and the SBA have served over 225,000 households and individuals and more than 5,000 businesses. Additionally, 99.5% of Sandy-related National Flood Insurance Policy claims totaling over \$7.9 billion have been paid out to the more than 143,000 policyholders who filed claims.

The start of the 2013 summer tourist season was one of the most closely watched indicators of the recovery. And I'm proud to say that thanks to the hard work of FEMA, the Army Corps of Engineers and so many others, on Memorial Day 2013, 97% of public beaches from New Jersey through Connecticut had re-opened—sending a strong message to many Americans that the shore was open for business.

#### **The Role of the Hurricane Sandy Rebuilding Task Force**

Our efforts on Sandy have been shaped by the lessons learned in past disasters while also working to streamline administrative processes and assist families, businesses and communities in an efficient and effective manner. The Administration has recognized that our experience during Hurricane Katrina and other disasters highlighted the need for additional guidance, structure, and support to improve how we as a Nation address disaster-related recovery and rebuilding challenges. In September 2009, then-Homeland Security Secretary Janet Napolitano and I were charged with leading work on this effort and establishing a Long Term Disaster Recovery Working Group, composed of more than 20 Federal agencies.

HUD, DHS, and the Working Group consulted closely with State, local and Tribal governments as well as experts and stakeholders, and they worked to improve the Nation's approach to disaster recovery and to develop operational guidance for recovery efforts.

As a result, in September 2011, FEMA published the National Disaster Recovery Framework (NDRF). The NDRF addresses the short, intermediate, and long-term challenges of managing disaster-related recovery and rebuilding. It sets forth flexible guidelines that enable Federal disaster recovery and restoration managers to operate in a unified and collaborative manner and to cooperate effectively with State, local, Tribal, and territorial governments.

There are three primary lessons that are guiding our efforts to support local community rebuilding efforts.

First, it is vitally important that both near and long-term recovery and rebuilding efforts start immediately following a disaster and that the Federal government takes a coordinated regional approach to the delivery of assistance to its State, local, and tribal partners. To ensure that this happens, HUD and FEMA are leading regional coordination efforts working in coordination with the Federal Disaster Recovery Coordinators under the NDRF, and focusing on rebuilding.

Second, this must be an "All-of-Nation" approach to rebuilding. While the Federal government has a key role to play in recovery, State, local, and Tribal governments must be the leaders in this effort. To ensure the Task Force's efforts maintained a local focus, we quickly established an Advisory Group composed of 37 elected officials from impacted communities in New York, New Jersey, Rhode Island, Maryland and Connecticut. We were also in constant contact with other State and local officials -which gave us real-time information about the rebuilding challenges communities faced. The Task Force sunset on September 30, 2013, on time and significantly under budget. Now, FEMA and other agencies that perform Recovery Support Functions, as described in the NDRF, will continue the Federal rebuilding coordinating efforts, in addition to the coordination work led by HUD and FEMA.

Third, the recovery effort must include rebuilding in a more resilient fashion rather than simply recreating what was already there so that we are prepared for future disasters. One of the most critical concerns we heard from our local partners was that communities needed clear, accessible information about current and future flood risk. As one CEO who lost critical facilities to Sandy flooding put it, "just tell me how high to rebuild." In order to gather the best information on the risks the region faces, the National Oceanic and Atmospheric Administration and the Army Corps of Engineers developed a tool which allows local planners and decision makers to click on a map and see projections of the impacts of rising sea levels as much as a century into the future. To ensure this science would be put into practice, the Administration established a single Flood Risk Reduction Standard that applied to all rebuilding projects funded by Sandy-Supplemental dollars.

But we have not just armed communities with the best available data – we have also worked to connect communities with the most innovative engineering, planning and design ideas from around the world. That's why we launched Rebuild By Design, a multi-stage regional design competition, specifically to develop innovative projects to protect and enhance Sandy-affected communities. Everybody has a part to play in building a stronger region, and we will continue to foster and encourage new ideas and learn from our recovery partners across the country and the globe.

#### **The Task Force and Supplemental Funding**

Rebuilding must be a community-driven effort, with a community-based vision at its heart. But supporting that vision through financial means is a key part of the Federal role – one that has consistently been present for communities experiencing disaster.

On January 29, President Obama signed the Disaster Relief Appropriations Act (DRAA) of 2013. The supplemental funding bill included funds for FEMA and USACE projects, Transportation, support for the Small Business Administration and its disaster loan program, Community Development Block Grant-Disaster Recovery (CDBG-DR), funds to be provided to communities, and funding for a range of other critical priorities.

As of September 2013, Federal agencies have announced nearly \$32 billion and obligated over \$11.8 billion in DRAA funds to help communities rebuild after Sandy. Including National Flood Insurance funding, more than \$13.5 billion already has been disbursed to recipients. More than \$2 billion in infrastructure funds are at work in dozens of projects across the region.

On October 28, I announced \$5 billion in additional CDBG-DR grants for the Sandy-affected region, bringing the total CDBG-DR funding available there to \$10.4 billion. The first \$5.4 billion of these funds was allocated within 8 days of the signing of the Sandy supplemental into law, representing the fastest ever allocation following the signing of a disaster appropriations bill. Using these funds, based on grantee reports to date, we know that more than 26,000 households have already been assisted through CDBG housing programs across the region, with an estimated pay out of more than \$157 million to beneficiaries.

In addition to the funds allocated by HUD, funding from other Federal agencies related to Sandy recovery has so far included:

- More than \$3.2 billion in FEMA assistance to State, local and tribal governments for emergency protective measures, debris removal, and repair and replacement of infrastructure in the hardest hit areas, plus more than \$74 million in FEMA Hazard Mitigation grants to implement long-term mitigation measures to minimize or prevent future damage;
- Approximately \$5.7 billion made available from the Federal Transit Administration and more than \$500 million announced by the Federal Highway Administration for recovery efforts
- \$569 million in grants from the EPA to New York and New Jersey for improvements to wastewater and drinking water treatment facilities;
- The Department of Labor's Employment and Training Administration provided \$70.3 million in National Emergency Grants, supporting disaster recovery and humanitarian relief efforts while providing temporary employment to 4,000 individuals.
- More than \$50 million in Disaster Care Management assistance to connect disaster survivors to resources and services of multiple agencies; and
- \$9 million obligated by the Department of Agriculture for 22 projects that covered emergency food assistance and infrastructure and economic programs, some of which helped repair, rehabilitate, and rebuild farmland, watersheds, and flood plains

HUD also has allocated an additional \$580 million to other State and local governments to assist in their recovery from major disasters in 2011, 2012 and 2013.

In addition, although DOE did not receive significant funding from the Sandy Supplemental, the agency plays a key role in several of the Hurricane Sandy Task Force Implementation activities to ensure that investments in energy infrastructure maximize resilience and has committed \$1.2 million of program funds to recovery efforts. This work includes providing technical assistance to design and help finance microgrid strategies for improving the reliability and resiliency of the local electric grid, mitigate future impacts to the liquid fuel supply chain, encourage Federal and State cooperation to improve electrical grid policies, and develop a resilient power strategy for wireless and data communication infrastructure.

Recovery will never be fast enough for affected families, homeowners, and other victims of this terrible storm. And because so much of the recovery from Sandy involves long-term construction and infrastructure projects, funds will need to continue to be spent over years to come. But receiving the supplemental appropriation from Congress has been critical for planning and commitment of funds for significant recovery projects to move forward. Federal agencies have moved forward and obligated billions of dollars in funds and helped to provide real relief to victims of the superstorm.

The Task Force authored a Rebuilding Strategy document that was released in August that establishes recommendations that will help guide the tens of billions of dollars in funding from the Sandy Supplemental Appropriations Act that continue to flow to the region. In total, the Rebuilding Strategy includes 69 recommendations, many of which have already been adopted. They are divided into several policy priorities related to housing, small business and infrastructure issues that were identified through the Task Force's public engagement with local leaders and community groups and were developed in direct coordination with our partners across the Federal Government.

In addition to providing the necessary resources to continue ongoing response and recovery efforts, the DRRA also provides funding to help impacted communities effectively mitigate future risk of disaster to prevent losses of this magnitude from recurring.

We have solid evidence that sea levels are rising and that the risk of large scale disasters and catastrophic losses is increasing due to increasing development along our coasts and changes in demographics and climate. Our best science tells us that these trends will continue, that as sea levels continue to rise, this will further increase risks from storm surges and the intensity of extreme weather events, so it is vital that communities rebuild in a way that mitigates the risks posed by current storms and under future conditions.

Investing in mitigation is critical not only for the future of our communities – it is also cost effective. The National Institute for Building Safety's Multi-hazard Mitigation Council has estimated that for every dollar invested in hazard mitigation, a savings of four dollars is

achieved. Disaster survivors currently have access to post-disaster Hazard Mitigation Grant Funds in coordination with their State and local hazard mitigation plans to assist in taking protective mitigation actions against future events. Such investments are critical in a time of constrained resources. In addition, it is critical to maximize the impact of every dollar of supplemental funding.

To that end, the Rebuilding Strategy outlines a process for coordinating infrastructure projects across the entire region by bringing all of the relevant Federal, State and local players to the table to discuss those projects and map connections and interdependencies between them. This process will help us save money, improve the effectiveness of these projects and accelerate the pace at which they're built. All major CDBG-funded infrastructure projects will be included in this process. The Strategy also highlights how the alignment of Federal funding and increased leverage of non-Federal funds for infrastructure projects are important to the success of disaster recovery in the Sandy-affected region.

The newest round of CDBG-Disaster Recovery funding will be critical to the rebuilding efforts in the region. At HUD we will be working closely with the grantees to ensure that resulting projects are the product of coordinated planning efforts and meet needs identified by the grantees in comprehensive risk assessments.

I look forward to continuing to work with this Subcommittee, others in Congress and our Federal, State, local, and tribal partners to help make local rebuilding visions a reality, to support communities that are rebuilding in a way that makes them stronger, more economically competitive and better prepared to withstand the next storm and risks far into the future, and to help inform how the Federal government responds to disasters in the future.

Thank you again for the opportunity to testify today. I am happy to answer any questions you may have.

**STATEMENT OF  
JOHN PORCARI  
DEPUTY SECRETARY  
U.S. DEPARTMENT OF TRANSPORTATION**

BEFORE THE  
**SUBCOMMITTEE ON EMERGENCY MANAGEMENT, INTERGOVERNMENTAL  
RELATIONS, AND THE DISTRICT OF COLUMBIA  
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
U.S. SENATE**

HEARING ON

*One Year Later: Examining the Ongoing Recovery from Hurricane Sandy*

**November 6, 2013**

Chairman Begich, Ranking Member Paul, and Members of the Subcommittee:

Thank you for inviting me to appear before you today to highlight the Department of Transportation's (DOT) role in assisting communities devastated by Hurricane Sandy just over one year ago.

This historic storm triggered the worst public transit disaster in the history of the United States. At the height of the event, it disrupted more than half of our nation's transportation services, and impacted more than one-third of the nation's transit ridership in the days following the storm. The storm affected 24 states, including the entire eastern seaboard from Florida to Maine and west across the Appalachian Mountains to Michigan and Wisconsin.

We worked with our state partners and the private sector to proactively address the challenges posed by the impending superstorm—and these efforts made a tremendous difference in our ability to respond swiftly and responsibly, with the goal of helping the region restore access to vital transportation services for the millions of people who depend on them daily.

New York City's subway system was shut down on October 28, a day in advance of the storm surge, and remained closed through November 1. Washington DC Metro service, both rail and bus, were cancelled, as well as Maryland Transit buses, light rail, Amtrak, and MARC train service.

The storm also caused widespread disruptions to the nation's air traffic, particularly at airports located from Washington, DC to Boston, MA. The ripple effects of Hurricane Sandy contributed to the cancellation of nearly 19,000 commercial flights nationwide scheduled for October 28-29<sup>th</sup>. The storm also caused significant damage to navigational aids and other critical aviation infrastructure, particularly in the New York City metropolitan area.

**Initial Response Efforts**

Immediately following the storm, we worked closely with our federal and state partners to ensure fast, efficient transport of power sources, fuel, and supplies to speed recovery efforts. Working with other agencies and the White House, we administered a host of waivers, special permits, and other regulatory flexibilities to expedite operations in the aftermath of the storm.

Despite the storm's significant impact on the nation's aviation system, the Department's Federal Aviation Administration (FAA), working with the affected airlines, airport authorities, and other key aviation stakeholders, was able to return air traffic in the impacted areas to normal operations by Wednesday morning, October 31, except at the NYC metropolitan airports, which were the hardest hit. The agency and its partners were able to largely resume normal air traffic operations at NYC's major airports by Friday, November 2. In parallel, the FAA also worked with the Federal Emergency Management Agency (FEMA) and other federal and State interagency partners to facilitate response and recovery air missions using numerous flight advisories addressing airspace stretching from Florida to Maine.

In addition to deploying staff to the region to begin damage assessments, our Federal Transit Administration (FTA) worked closely with FEMA and the General Services Administration (GSA) to secure as many as 350 buses to replace lost commuter rail and transit service in New Jersey. Working with FEMA, FTA engaged its staff and project management oversight contractors to conduct continuing damage assessments and cost-validation work for both operating and capital costs associated with restoring and rebuilding transit capacity.

The Department's Maritime Administration (MARAD) was able to dispatch vessels for emergency relief. The Federal Highway Administration (FHWA) initially provided \$59 million in quick-release emergency relief funds within weeks of the storm to get roads, bridges, and tunnels on the path toward recovery.

**The Disaster Relief Appropriations Act**

On January 28, 2013, Congress passed the Disaster Relief Appropriations Act, which authorized \$60.4 billion to fund federal resources for response, recovery, and hazard mitigation assistance in all affected states. The appropriation included funding for flood insurance payments, repairs to homes and public infrastructure, and funds to help affected communities prepare for future storms. Of this amount, the Department of Transportation's programs received \$13.1 billion. This funding was further reduced by about \$650 million due to sequestration reductions required by the Budget Control Act.

The Disaster Relief Appropriations Act provided \$10.2 billion to FTA for a new Public Transportation Emergency Relief Program authorized last year as part of Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21). This new program provided a critical framework for addressing the devastation caused by the Hurricane Sandy disaster. Of the total amount provided to FTA's Emergency Relief program, up to \$4.7 billion may be used for mitigation activities that would strengthen the damaged infrastructure to withstand similar events in the future. In order to ensure proper management of these funds, \$5.7 million of the total provided is to be transferred to the Office of the Inspector General for oversight activities. FHWA's Emergency Relief Fund

received \$1.9 billion from the Disaster Relief Act. \$612 million is available for Hurricane Sandy relief and \$390 million for other events. Approximately \$919 million is available for future emergency relief needs.

The Federal Railroad Administration's (FRA) received \$112 million from the Disaster Relief Act in funding to assist Amtrak. Of the total amount, \$30.4 million was provided for repairs related to the consequences of Hurricane Sandy. The remaining \$81.7 million was provided to address needed resilience efforts to better protect Amtrak infrastructure from the impacts of future storms.

The FAA received \$28.5 million in Facilities and Equipment funds from the Disaster Relief Act to repair damage to FAA facilities, power systems, and equipment at eighteen locations that include three of the Nation's top 3 airports – LaGuardia, John F. Kennedy International, and Newark Liberty International.

#### **Progress to Date**

Since Hurricane Sandy, we have allocated almost \$7 billion across four DOT-operating administrations and have been coordinating closely with our federal, state, and local partners to speed the restoration of transportation mobility in affected states.

To date, the FHWA has provided \$672 million in emergency relief funding to states and for federal lands impacted by the storm. This includes funding to replace all the docks at Liberty Island destroyed by the storm and allowing the park to reopen in time for Independence Day. Critical coastal routes such as 15 miles of Ocean Parkway on New York's Long Island and 12 miles of Route 35 along the coast of New Jersey were heavily damaged. Ocean Parkway was fully reopened on April 25. Route 35 in New Jersey opened to traffic in February with temporary lanes and is progressing well with permanent repairs, including features to protect it against future storms.

Thus far, FTA has allocated \$5.7 billion to affected transit agencies for Sandy recovery activities and anticipated resilience projects. None of these rapid, early accomplishments to restore service would have been possible if FTA did not have the proper mechanism in place to facilitate action. The Emergency Relief Program is that mechanism, and I commend the Committee for granting our request in the Moving Ahead for Progress in the 21st Century Act to establish this essential program. When we proposed this program in the President's FY2012 budget, we envisioned it as an important mechanism for strengthening FTA's authority, on par with FHWA, to provide timely disaster assistance to transit agencies whose assets are damaged or destroyed. The program has more than proved its purpose in the wake of Hurricane Sandy, and with your support, the FTA's response stands as a model for federal disaster assistance and a powerful reminder of what our nation can accomplish when we all work together.

FRA provided \$30.4 million to Amtrak to repair damage along its heavily-traveled Northeast Corridor, as well as \$185 million in resilience funding to the Hudson Yards Right-of-Way Preservation project to help pave the way for two flood-resistant tunnels under the Hudson River, connecting New York and New Jersey. These efforts are significant not only in the recovery, rebuilding, and strengthening of the critical infrastructure of not just New York and New Jersey, but also to the entire Northeast Corridor. However, it is important to note that Amtrak cannot use

approximately \$81.7 million of funding for Northeast Corridor recovery and resilience due to a requirement that prohibits Amtrak from using any funds for capital and debt service grants for operating expenses, even temporarily. The practical effect of this provision is that Amtrak must forgo the completion of critical mitigation projects in order to fund operations.

The FAA has allocated \$28.5 million in emergency relief funding in states impacted by Sandy to repair critical FAA infrastructure, relocate equipment above the flood zone where practical, and take additional steps to protect National Airspace System (NAS) infrastructure from future floods. Additionally, the FAA worked closely with the Port Authority of New York and New Jersey and the Connecticut Department of Transportation to assess the damage and make recommendations for repair of the Engineered Materials Arresting System (EMAS) at John F. Kennedy International Airport, LaGuardia Airport, and Groton-New London Airport. As a result, each airport is currently in the process of replacing or repairing the EMAS beds. EMAS beds are an important safety system designed to safely stop aircraft from overrunning a runway.

#### **Other Accomplishments**

Our Senior Advisor for Accessible Transportation worked closely with FEMA to ensure that timely repairs and upgrades to public transportation and paratransit services were made in order to meet the needs of people with disabilities.

We established a “One-Stop Shop” Information Website during the hurricane response to expedite oversize/overweight vehicle permitting and assist with toll information, waivers, and other transportation related issues. Based on the success of this website, we developed a Department-wide Emergency Preparedness, Response, and Recovery Information Website that can be accessed at [www.dot.gov/emergency](http://www.dot.gov/emergency). During emergency situations, we will post information related to transportation permits, waivers, and other regulations and authorities that are applicable during an emergency to assist all public and private transportation organizations. The website contains links to each of our operating administration’s emergency websites and the Emergency Support Function – 1 (Transportation) Partner agencies. During emergencies, a link to the website will be located on our main webpage ([www.dot.gov](http://www.dot.gov)).

#### **Coordination with Hurricane Sandy Rebuilding Task Force**

As a result of the extreme devastation caused by the storm, President Obama convened a Hurricane Sandy Rebuilding Task Force, composed of the leaders of federal agencies responsible for various aspects of the recovery. Housing and Urban Development Secretary, Shaun Donovan, chairs the Task Force and we were an active participant. We worked with the other Task Force agencies to issue the Hurricane Sandy Rebuilding Strategy report in August 2013, laying out key principles for recovery, as well as recommendations for federally supported recovery efforts. Those recommendations will be incorporated in our forthcoming competitive resilience funding program.

We were proactive in implementing the Federal Flood Risk Reduction Standard adopted by the Task Force for all Sandy-related transportation repairs and resilience projects funded by the supplemental spending bill. FTA has included the standard in its interim final rule for its Emergency Relief Program. The implementation of this standard means that all transportation

infrastructure built in the Sandy impacted region will adhere to a higher standard, which accounts for the latest floodplain and sea level rise data. One example of how we are implementing this standard is elevating mechanical equipment so it is not damaged by future flooding. We have also extended the resilience principles to our efforts responding to and recovering from the Colorado floods. Rebuilding in a resilient manner will be our standard for all future events.

### **Improving Infrastructure Resilience**

Hurricane Sandy and other recent disasters underscore the nation's vulnerability to extreme weather events under current climate conditions. Scientific evidence indicates climate change is already altering the intensity, duration, and timing of extreme meteorological events in some regions of the U.S., including floods, droughts and heat waves, and these effects are expected to intensify over time.

Our first and highest priority for fostering resilience among transit systems is to better protect existing transit facilities and equipment from the impact of the next disaster. Taxpayers should not be asked to pay for the restoration and recovery of public transportation assets a second or third time. And transit riders should not have to put up with the stress, cost, and inconvenience of having the same transit facilities destroyed by one storm after another.

We issued a report just before Hurricane Irene and more than a year before Hurricane Sandy: "Flooded Bus Barns and Buckled Rails: Public Transportation and Climate Change Adaptation." This report provides professionals with information and analysis relevant to making U.S. public transportation assets and services more resilient to climate change impacts. The report provides examples of adaptation strategies and discusses how transit agencies might incorporate climate change adaptation into their organizational structures and existing activities, such as asset management systems, planning, and emergency response.

Our first allocation of emergency relief funds provided \$2 billion to help protect, repair, reconstruct, and replace public transit equipment and facilities. The second allocation included an additional \$3.7 billion in funds to four of the area's most affected transit agencies, of which \$1.3 billion has been allocated for locally prioritized resilience projects. This funding is primarily targeted to resilience improvements that could be accomplished in tandem with investments to repair infrastructure damaged in the storm, thereby better preparing them to withstand future disasters. We will soon issue a Notice of Funding Availability for capital projects that will reduce risk of damage from future disasters in the region impacted by Hurricane Sandy. This funding will be available on a competitive basis and allocated consistent with all relevant regional and local planning efforts.

These new competitive resilience grants will be modeled in part on our successful Transportation Investment Generating Economic Recovery (TIGER) program and evaluated based on published criteria. We are taking appropriate elements of the TIGER model and addressing the Infrastructure Resilience Guidelines, and other resilience principles, to develop a specific program for the Sandy-affected region. The overall goal of the new program is to ensure the region's transportation systems can continue to serve their critical function in the face of future disasters and the impacts of climate change.

The President's Climate Action Plan describes our efforts to enhance resilience as part of the rebuilding process following Hurricane Sandy and we will continue to build upon these efforts as directed in the November 1, 2013 Executive Order on Preparing the United States for the Impacts of Climate Change. Federal investment in the improved resilience of public transportation systems is intended to reduce the economic and social consequences of future disasters, including both the potential cost of rebuilding after the next storm and the social and economic consequences of suspended or inoperable transit service on the public. In the New York-New Jersey region, it is particularly important to focus on regional investments that protect the larger transit network—a network that serves more transit passengers than any other region of the country. Absent adequate regional coordination and planning, investments to protect one rail yard against rising waters might only serve to flood a neighboring rail yard that supports services to an even greater number of passengers. As such, we will be particularly supportive of regional solutions that address the protection of the transit network on the whole.

We have already coordinated funding development and implementation with FEMA, and will continue to do so with the development of our competitive program. The NOFA will provide for consultation with FEMA and other members of the Task Force in the review of project proposals, and we will be working with our state and local partners to implement a full spectrum of mitigation methods to secure roadways and transit systems from extreme weather events in the future, and to explore creative solutions to addressing flood and storm risks in locations vulnerable to repetitive loss, as well as evaluating existing transportation infrastructure for latent defects.

In collaboration with state and local transportation agencies in Connecticut, New Jersey, and New York, we have launched an initiative that will assess the damage from Hurricane Sandy on the region's transportation systems and help learn how to enhance the region's resilience to extreme weather in the long term. The initiative will leverage lessons learned from Sandy and other recent storms, as well as future climate projections, to develop feasible, cost-effective strategies to reduce the transportation system's vulnerability to future extreme weather events. To date, FHWA has established a group of state and local project partners and, in coordination with FTA and FRA, this group is currently working to collect and analyze information on transportation assets damaged by Hurricane Sandy and to identify specific assets for further study.

In summary, significant resources were authorized in the Disaster Relief Act to fund resilient transportation infrastructure investments. Even so, the need for resilience investments exceeds the resources available. As a result, the Federal Government has an interest in the limited resources available being targeted to those projects that offer the greatest possible benefits--disaster resilience prominent among these.

#### **Next Steps**

As discussed in his Climate Action Plan and his resulting November 1, 2013 Executive Order on Preparing the United States for the Impacts of Climate Change, President Obama directed federal agencies to identify and remove barriers to making climate-resilient investments; identify and remove counterproductive policies that increase vulnerabilities; and encourage and support smarter, more resilient investments through agency grants, technical assistance, and other

programs, in sectors from transportation and water management to conservation and disaster relief.

First, we need to build our transportation systems so that they are more resilient in the face of high winds and storm surges. As the most significant damage was to tunnels, we need to design highway, rail, and subway tunnels so that they are more resistant to flooding, permit safer egress of those that are in the tunnels at the time of the event, and make it easier to rebound and reopen quickly after an event. New York's Metropolitan Transportation Authority (MTA) had taken some steps, in response to past flooding due to intense rainstorms and Hurricane Irene in 2011, to make subway tunnels more flood-proof. These efforts have included raising station entrances and ventilating grates, improving pumps, and pre-deploying pumps and personnel to speed MTA's emergency response capability. Unfortunately, these efforts were clearly not enough and we need to do more.

Second, as a next step, we need to provide transportation agencies with better information, new designs, and tools to enhance the resilience of their infrastructure. We are conducting research to help identify vulnerable infrastructure and ways of increasing resistance to damage. For example, throughout 2013, the FHWA is working with 19 state and regional partners and other federal agencies to test approaches for assessing vulnerability of local transportation infrastructure to climate change and extreme weather and how to improve resilience. Additionally, our Turner Fairbank Highway Research Center has a focused research and development program to develop hazard mitigation technologies and methodologies to improve the capability of our highway bridges and structures to resist flooding, storm surges and wind hazards.

We also need to design and plan for more redundancy into our transportation system, to enhance regional resilience so that when one part of the system goes down, other parts can pick up the slack. We could see the importance of this in the reaction to Hurricane Sandy. When the subway tunnels went down, we were able to deploy more transit buses. We enhanced the effectiveness of transit buses by creating more bus-only lanes. We relied more on ferry service, and established dedicated transit bus lines to transport passengers to the ferry terminals.

Third, we need to address these problems in a regional way. Particularly for the New York metropolitan area, which extends across parts of three states, the need for a regional approach is critical. Local agency collaboration occurred only in the aftermath of the storm. The Port Authority of New York and New Jersey, the North Jersey Transportation Planning Authority, and the New York Metropolitan Transportation Council, of course, provide venues for regional planning and coordination. Such regional planning and coordination must address regional concerns so that joint applications for the competitive grant awards can be developed such that an investment in protection and resilience could cross local jurisdictional boundaries. Other coordinating mechanisms, such as the Northeast Corridor (NEC) Commission, the I-95 Corridor Coalition, and the Coalition of Northeastern Governors, provide additional opportunities to coordinate transportation and resilience planning.

One promising effort is our NEC FUTURE program – an effort to define, evaluate, and prioritize future investment alternatives for the Northeast Corridor through the year 2040. This program will develop a Passenger Rail Corridor Investment Plan to guide investments in the Northeast

Corridor over the next 30 years. NEC FUTURE gives us the opportunity to develop a more resilient rail network in this corridor that provides redundancy for other passenger modes and grows out of a regional dialogue with states and other stakeholders in the corridor.

Part of that regional effort is the Gateway Project to expand rail capacity from New Jersey into New York Penn Station. This project, which would double passenger rail capacity between Newark and New York and expand capacity at Penn Station by 50 percent, is vital to meeting the future transportation needs of the New York region and to building in the redundancy needed to preserve transportation capacity in the face of events such as Hurricane Sandy. It would involve building a new tunnel under the Hudson River that would be designed to prevent flooding and to permit rapid recovery from emergencies and disruptions. It would also help protect Penn Station and other rail tunnels against future flooding.

An important caution is in order, however. Hurricane season is once again upon us. And, at present, the FTA has only those emergency relief funds that were made available exclusively for Hurricane Sandy. The President's FY 2013 and 2014 budget requests each sought \$25 million to capitalize the Emergency Relief program for disasters throughout the country. To date, Congress has not appropriated those funds. I strongly encourage the Congress to appropriate those funds so, when the next disaster strikes and takes public transportation systems offline, FTA will be in a position to respond immediately.

### **Conclusion**

The bottom line is that we have resources available to identify at-risk infrastructure and fund resilient transportation investments. There is extensive collaboration among federal, state and local agencies to implement strategic resilience investments in tandem with the primary investment goal of providing for the recovery and rebuilding of the Hurricane Sandy region.

These investments will help reduce the need for a future recovery bill. Research has shown that every dollar spent by FEMA on actions to reduce disaster losses saves the nation almost \$4 in avoided impacts. We are hoping to realize similar cost savings to the American taxpayer by ensuring that our transportation infrastructure is built to withstand future storms.

We look forward to continued efforts to make meaningful progress with our transportation partners as they propose essential public transportation projects to further expedite recovery from Hurricane Sandy and lay the foundation for a more resilient future. We stand ready to provide the funds appropriated for this purpose as expeditiously as possible, while maintaining stringent oversight of taxpayer dollars. As we prepare the launch of our competitive resilience funding program, we will continue to work with our local, state, and federal partners to ensure that we rebuild Sandy-impacted infrastructure in a resilient manner.

I thank the Subcommittee for inviting me to testify today and would be happy to respond to any questions that you have.

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STATEMENT

OF

CRAIG FUGATE  
ADMINISTRATOR  
FEDERAL EMERGENCY MANAGEMENT AGENCY  
U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE  
THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
SUBCOMMITTEE ON EMERGENCY MANAGEMENT, INTERGOVERNMENTAL  
AFFAIRS AND THE DISTRICT OF COLUMBIA  
U.S. SENATE  
WASHINGTON, D.C.

**“ONE YEAR LATER: EXAMINING THE ONGOING RECOVERY FROM HURRICANE  
SANDY”**

Submitted  
By

Federal Emergency Management Agency  
500 C Street, S.W.  
Washington, D.C. 20472

November 6, 2013

**Introduction**

Chairman Begich, Ranking Member Paul and Members of the Subcommittee, I am Craig Fugate, the Administrator of the Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA). I am grateful for the opportunity to be here today.

When Hurricane Sandy made landfall, battering dozens of states along the East Coast with strong winds and record storm surges, FEMA was there. We were on the ground before and during Hurricane Sandy supporting our state and local partners, and we will be there for as long as it takes to help the survivors and their communities rebuild.

To help communities rebuild, FEMA works through its programs and within its authorities to find creative ways to meet needs. To date, more than \$1.4 billion of Individual Assistance (IA) has been approved for individuals, as well as approximately \$3.2 billion in Public Assistance (PA) for state and local governments impacted by Hurricane Sandy. The U.S. Small Business Administration (SBA) has approved an additional \$2.4 billion in low-interest disaster loans. The Disaster Relief Appropriations Act of 2013 also included \$16 billion in Community Development Block Grant (CDBG) program-Disaster Recovery funding provided by the U.S. Department of Housing and Urban Development (HUD).

It is important to note that FEMA acts in support of its partners on the state, local, tribal, and territorial levels during disaster recoveries. Disaster response and recovery begins at home, and is a responsibility that is shared among our whole community partners – federal, state, local, tribal, and territorial governments as well as non-governmental entities and individuals – and is guided by the National Response Framework (NRF) and the National Disaster Recovery Framework (NDRF). We value our partners for the unique talents and resources they bring to survivors and recovery efforts, and will continue to work with them to strengthen our communities.

This testimony will discuss our response and recovery efforts related to Hurricane Sandy, as well as how FEMA is helping communities build back stronger and more resiliently.

**Pre-staging Commodities, Capabilities and Employees**

The Post-Katrina Emergency Management Reform Act (PKEMRA) gave FEMA the authority to pre-stage initial response resources in preparation for response operations and prior to a disaster declaration. We are grateful to Congress, and in particular to members of this Subcommittee, for those authorities, which have made us even more effective in carrying out our mission of helping communities prepare for, respond to, and recover from disasters.

In the days before the storm hit, the Agency worked with threatened communities to update incident response plans and pre-stage supplies to support response efforts, in addition to working with our public and private partners to assist citizens and first responders as they prepared for the storm. On October 28, 2012, one day before the storm made landfall, President Obama signed

emergency declarations for Connecticut, the District of Columbia, Maryland, Massachusetts, New Jersey, and New York, making federal support available to save lives, as well as to protect property, public health, and safety. On October 29, 2012, the President signed disaster emergency declarations for Delaware, Rhode Island, Pennsylvania, Virginia, and West Virginia. These declarations allowed FEMA to provide resources directly to the state, tribal, and local governments affected by the storm.

Before the storm made landfall, FEMA and its emergency management partners also prepared for the establishment of shelters, Disaster Recovery Centers (DRCs), and Joint Field Offices (JFOs) in the affected areas.

To ensure resources were available quickly throughout the region, FEMA established Incident Support Bases in Massachusetts and New Jersey, as well as five federal Staging Areas in New York – pre-staging commodities, generators and communications vehicles. Pre-staged commodities available to survivors included: 892,000 liters of water; 561,000 meals; 11,900 blankets and cots; 183 generators; 30 infant and toddler kits, which each support up to 10 infants or toddlers with items such as diapers, baby food and formula; two Durable Medical Equipment (DME) kits; and two Consumable Medical Equipment (CME) kits.

This level of preparedness is no accident. Over the past several years, FEMA has worked closely with state, local, tribal, and territorial governments across the country – including those directly in Hurricane Sandy's path – to develop catastrophic, worst-case scenario plans that are flexible and scalable for incidents of all magnitudes.

The day before the storm made landfall, FEMA had also deployed 1,032 personnel in anticipation of the hurricane's impacts.

As a result of these efforts, the Agency was able to support a prompt, coordinated response that brought to bear the full resources of federal, state, local, and tribal governments, in conjunction with our private sector partners.

### **Response**

In Hurricane Sandy's immediate aftermath, more than 23,000 people sought refuge in temporary shelters and more than 8.5 million customers lost power. The storm flooded numerous roads and tunnels, blocked transportation corridors, deposited extensive debris along the coastline, and displaced hundreds of thousands of people.

In response, the President expedited disaster declarations, speeding federal response and recovery support to affected states, localities, and tribes in the immediate aftermath of the storm. FEMA coordinated the federal government's response to the storm and support for the critical emergency needs of the affected states.

These disaster declarations allowed FEMA to quickly organize a massive and coordinated federal, state, local, and tribal response to Hurricane Sandy, guided by the National Response Framework, and within seven days 17,000 federal responders were on the ground, including more than 5,000 FEMA employees – representing one of the largest personnel deployments in FEMA’s history. Those 17,000 staff also included 1,100 DHS Surge Capacity Force personnel, composed of employees who volunteered from across the Department and its components, marking the first time deployment of this resource. Efforts are also made to ensure the safety and health of first responders and recovery workers who must work in extremely dangerous and unpredictable environments in order to restore services and meet the critical needs of the community.

The Agency coordinated with its partners to provide federal resources to the response effort, and to develop innovative programs to address power restoration, transportation, fuel distribution, and housing needs. To ensure federal coordination, FEMA and its federal partners tapped into an online crisis management system to communicate and plan the response effort.

The Agency moved to meet long-term survivor needs, working with state, local, tribal governments, partners from the public, the disability community, and private partners to respond quickly. In response to the storm, FEMA provided 20 million liters of water, 16 million meals, nearly two million blankets, and roughly 80,000 cots for survivors and responders, including the resources that were pre-staged prior to the storm making landfall.

At the peak of the response, 716 shelters were open with a population of nearly 27,000 in 16 states. FEMA, in collaboration with our interagency partners, moved to transition survivors out of shelters and into long-term housing solutions as quickly as possible.

FEMA also developed and implemented new ways to deliver services more efficiently. Following the storm, FEMA analyzed satellite and aerial imagery to determine what areas were inaccessible and expedited short-term rental assistance to residents that needed it most. In addition, FEMA employees – supplemented by DHS Surge Capacity Force and FEMA Corps members – went door-to-door, in some areas using tablet computers, to help residents sign up for disaster relief without leaving their homes, even if they had lost power and internet access.

FEMA also established the Energy Restoration Task Force to better coordinate federal, state, local, tribal, and private sector efforts to restore power to the impacted areas as quickly as possible. The Task Force assisted in supplementing a massive private power restoration effort. Electric utilities from across the nation executed mutual aid agreements to deploy more than 70,000 workers to the impacted areas – the largest ever dispatch of utility workers.

Today, FEMA supports the U.S. Department of Energy, institutionalizing these lessons learned in emergency management from Hurricane Sandy and ensuring key energy issues are addressed quickly.

**Recovery: Individual and Public Assistance**

When a major disaster strikes, the first steps agencies take are health and safety related – controlling damage, minimizing casualties, and meeting immediate needs of displaced survivors, including feeding, sheltering, reunification services, assistance to survivors with access and functional needs, as well as to survivors with household pets. FEMA also provided tele-registration services in 56 languages and distributed more than one million multilingual fliers, helping to ensure key messages reached a variety of audiences.

FEMA established a multi-agency task force that coordinated the delivery of sheltering and feeding resources – utilizing community-based local, state, and federal resources to their fullest potential. When these needs have been met, the focus shifts to helping survivors and businesses obtain vital information on recovery plans and available assistance from all potential sources – including non-governmental.

The recovery from Hurricane Sandy is guided by the NDRF, which was fully implemented following the storm. The NDRF is a guide that describes how the whole community works together following a disaster to best meet the recovery needs of individuals and families, communities, states, and tribes.

***Individual Assistance***

FEMA's Individuals and Households Program (IHP) has provided assistance to more than 182,000 disaster survivors in New York, New Jersey, and Connecticut. Forms of assistance included financial assistance for eligible home repair or replacement, personal property loss, as well as medical and funeral expenses resulting from the disaster.

Through the IHP, FEMA has approved over \$1.4 billion including more than \$1.2 billion for housing assistance and over \$200 million in assistance for other needs. Housing in many communities was significantly impacted due to the widespread effects of Hurricane Sandy, which presented a considerable challenge given that many of those communities were in densely populated areas where housing resources are scarce. FEMA deployed several programs to accomplish the overarching goal of helping people move back into their homes or, as appropriate, identify alternative housing solutions, as quickly as possible.

First, to address the high cost of living in the region, FEMA increased the amount of rental assistance available to survivors in New York and New Jersey to 125 percent of the published Fair Market Rent rate, increasing the assistance by 25 percent to account for unique circumstances. This increase made an additional 3,000 rental resources available to survivors across New York and New Jersey.

Second, FEMA convened a Hurricane Sandy Catastrophic Disaster Housing Task Force to support the state-led task forces' efforts to plan for survivors' temporary and long-term housing needs on

November 6, 2012. Task force areas of activity included the identification and assessment of existing federal housing resources and the use of geospatial analysis to model damaged housing areas and map available resources.

Third, due to the high cost of available rental resources, the length of lease agreements required in many New York counties and other factors, FEMA and HUD entered into a Sandy-specific interagency agreement to deliver the Disaster Housing Assistance Program (DHAP). DHAP, which was designed based on lessons learned from Hurricanes Katrina, Ike, and Gustav, aimed to assist survivors in finding intermediate affordable housing solutions as they rebuilt their lives.

Fourth, FEMA authorized an emergency pilot program to enable survivors to shelter themselves in their damaged homes. The pilot program, Sheltering and Temporary Essential Power (STEP), paid for those temporary and necessary repairs that helped restore power, heat, and hot water to primary residences prior to permanent repairs, such as securing broken windows and covering damaged roofs. As a result of the program, thousands of survivors were able to return to their homes prior to making these permanent repairs, also helping FEMA to address housing needs in the densely populated areas that the storm impacted.

#### ***Public Assistance***

The PA program awarded grants to assist state, local, and tribal governments, as well as certain private nonprofits, with response and recovery efforts. As of October 18, 2013, FEMA has obligated over \$3.2 billion in Hurricane Sandy PA grants.

In addition to assistance for emergency protective measures and debris removal, FEMA's PA program provides funding for the repair, restoration, reconstruction, or replacement of infrastructure that is damaged or destroyed by a disaster.

As of October 18, over 3,300 requests for PA projects have been approved and more than \$2.1 billion has been obligated in New York. In New Jersey, over 4,900 PA projects have been approved and nearly \$930 million has been obligated. Eleven additional states were declared for Public Assistance due to the effects of Sandy and have been obligated approximately \$150 million in assistance.

Given the significant structural damage that Hurricane Sandy left in its wake, debris removal – which is funded through FEMA's PA program – was paramount in getting hard hit communities on the road to recovery as quickly as possible.

To enable and incentivize more rapid recovery, FEMA implemented a rule that allowed for reimbursement of salaries for state and local employees performing Sandy debris removal work over a 30 day period following the storm. This rule contributed to the success of debris removal in the affected areas, with more than 95 percent of debris removed within approximately three months of the storm hitting New York and New Jersey.

To date, FEMA has approved 1,560 projects in these two states to help remove storm debris and restore disaster-damaged roads, bridges, and other infrastructure.

FEMA is working through its PA program to support communities in other ways as well, providing financial reimbursement to local governments through Expedited Payments, which help local communities recover more quickly. FEMA obligates a portion of the federal share of the estimated cost of work under Category A (Debris Removal) and Category B (Emergency Protective Measures), as estimated during the preliminary damage assessment.

Additionally, FEMA is supporting local governments whose budgets became strained as a result of the storm, offering Community Disaster Loan Program (CDL) funding for affected communities. The CDL program provides federal loans to local governments that are having difficulty providing government services because of a loss in tax or other revenue following a disaster. Thus far, FEMA has provided 60 loans totaling \$174 million to communities impacted by Hurricane Sandy.

To aid in the recovery, FEMA and the Army Corps of Engineers also worked with state and local governments to reopen 97 percent of public beaches from New Jersey through Connecticut by Memorial Day 2013 – sending a strong message to thousands of Americans that the shore was open for business.

FEMA is also aggressively applying the Sandy Recovery Improvement Act (SRIA) programs as they relate to Public Assistance, which I will discuss shortly.

#### **Recovery: Sandy Task Force**

The Hurricane Sandy Rebuilding Task Force was established to provide an additional level of cabinet-level coordination and synchronize the efforts of federal agencies to support local communities as they rebuild.

Under the leadership of the Secretary of HUD Shaun Donovan, the Task Force developed, and published on August 19, 2013, a rebuilding strategy that lays out a series of recommendations that will ensure unified federal assistance to the Sandy-impacted region – and that will encourage resilient rebuilding approaches for communities across the country.

As a member of the Task Force, FEMA has worked closely with its federal partners, and within the National Disaster Recovery Framework, to complement Recovery Support Functions (RSF) and FDRC field efforts to leverage solutions to interagency issues. An advisory group comprised of state, local, and tribal elected officials from the most heavily-impacted jurisdictions was established to advise the Task Force, and ensure that the rebuilding and recovery effort reflected the input of those communities. Thirty-four elected officials or their designees provided input and local perspectives for the Rebuilding Strategy. A scaled-back element of the Task Force's

Program Management Office will continue to function within the construct of the NDRF, with HUD leadership and with FEMA staffing support. It has four primary objectives:

1. Coordinate across agencies on financial management policy;
2. Track financial and performance information about the 60 programs funded in the supplemental appropriation;
3. Present analyses of these data to the public; and
4. Support the oversight community in their efforts to prevent waste, fraud, and abuse.

As part of its role in the Task Force, FEMA is working closely with HUD to identify housing resources, provide the best housing support to disaster survivors, support underserved communities with any required new standards, and serve as a crucial base of knowledge and guidance in disaster housing missions. FEMA looks forward to continuing to work with the Task Force in its mission to help survivors recover from Hurricane Sandy.

#### **Recovery: The Sandy Recovery Improvement Act (SRIA)**

In January 2013, Congress passed and President Obama signed SRIA into law, authorizing several significant changes to the way FEMA delivers disaster assistance. SRIA is one of the most significant pieces of legislation impacting disaster response and recovery since the Post-Katrina Emergency Management Reform Act of 2006 and builds upon the Robert T. Stafford Emergency Relief and Disaster Assistance Act.

The Act, and the additional authorities it provides, aided the ongoing recovery efforts associated with Hurricane Sandy, as well as in the recent floods in Colorado.

SRIA's various provisions are intended to improve the efficacy and availability of FEMA disaster assistance and make the most cost-effective use of taxpayer dollars.

To date, thirteen of the seventeen provisions have been completed, implemented as pilot programs, or made otherwise available for immediate use. These provisions include:

- **Public Assistance Alternative Procedures for Permanent Work:** This pilot program provides substantially greater flexibility in how applicants can formulate and execute public assistance projects. For instance, this pilot will allow FEMA to accept project cost estimates that have been verified by licensed engineers, and the agency can fund an entire project based on these estimates rather than actual costs. Applicants may also combine projects or pursue alternate projects without penalty. The alternative procedures are designed to expedite assistance, increase flexibility, lower administrative costs, and speed recovery.
- **Public Assistance Alternative Procedures for Debris Removal:** This package of incentives is designed to speed debris removal and encourage pre-disaster debris planning, including sliding scale cost share adjustments for rapid debris removal; a one-time, two

percent additional cost share adjustment if an acceptable debris management plan is in place before the disaster; reimbursement for force account labor used in conducting debris removal; and retention of proceeds from recycling debris by the applicant. FEMA first implemented these procedures following the devastating tornadoes in Oklahoma in May 2013, and the statutorily-authorized pilot was implemented nationwide on June 28, 2013. With these incentives in place, in Oklahoma, more than 40 percent of the debris was removed within the first 30 days, allowing the community to start rebuilding more quickly.

The debris pilot will last for one year, with the option to extend the pilot if operations warrant. The pilot program will serve as a bridging strategy and data collection effort to inform any development of federal regulations promulgated pursuant to the Administrative Procedure Act, which affords interested members of the public an opportunity to participate in the rulemaking and submit comments.

- **The Hazard Mitigation Grant Program (HMGP):** SRIA amended the statutory provision for HMGP to enable FEMA to: (1) set up a pilot program to enable states to administer certain aspects of the program if specific conditions are met; (2) provide not more than 25 percent of the amount of the estimated cost of hazard mitigation measures before eligible costs are incurred; and (3) streamline environmental and historic preservation review processes. FEMA issued guidance for all of these procedures in the spring of 2013.
- **Federally-Recognized Tribal Governments:** SRIA provided federally-recognized tribal governments the option of requesting an emergency or major disaster declaration directly from the President, through the FEMA Regional Administrator, instead of through a state. Thus far, the President has issued major disaster declarations for five tribes: the Eastern Band of Cherokee Indians; the Navajo Nation; the Standing Rock Sioux Tribe; the Karuk Tribe; and the Santa Clara Pueblo Tribe. With these declarations, Public Assistance and/or Hazard Mitigation Grant Program funding is being provided directly to the tribes.
- **Dispute Resolution/Arbitration:** SRIA mandated FEMA to establish a Dispute Resolution/Arbitration pilot program for Public Assistance disputes. A final rule implementing the program was published in the Federal Register on August 16, 2013. This program will be available for disputes of at least \$1,000,000, where the applicant bears a non-federal cost share, arising from disasters declared after October 30, 2012, and the applicant has completed a first appeal with FEMA. Requests for arbitration may be made until December 31, 2015. At the same time, FEMA has established a new Public Assistance Appeals Branch at FEMA Headquarters to ensure timely, specific and well-reasoned first and second appeals decisions, and to provide a feedback loop to Public Assistance Program management.

- **Recommendations for Reducing Future Losses:** SRIA required FEMA to submit to Congress recommendations for the development of a national strategy for reducing future costs, loss of life, and injuries associated with extreme disaster events in vulnerable areas of the United States. FEMA provided these recommendations to Congress in September 2013.

In addition to these achievements, FEMA is currently developing specific implementation procedures for each new authority and will continue implementation through a combination of a grantee engagement, potential rulemaking and/or the development of policy or other guidance documents.

#### **Hazard Mitigation and the National Flood Insurance Program**

Three additional federal programs are making significant contributions to whole community recovery and rebuilding efforts: the National Flood Insurance Program (NFIP), the Risk Mapping, Assessment and Planning Program (Risk MAP) and the Hazard Mitigation Grant Program (HMGP).

##### ***NFIP***

Established by Congress in 1968, the NFIP was created to provide affordable flood insurance to help lessen the devastating consequences of flooding.

In the aftermath of Hurricane Sandy the NFIP has serviced over 143,000 insurance claims totaling over \$7.9 billion dollars. More than 99 percent of the homeowners who made the decision to protect themselves by investing in flood insurance have received payments that are helping them to rebuild their homes, businesses, and communities.

In New Jersey alone, 99 percent of the 74,000 flood insurance claims made have been closed and over \$3.8 billion paid to New Jersey residents.

The NFIP's ability to respond to the post-disaster needs of its policy holders was demonstrated by the creation of a rapid claims process and a series of programmatic changes that significantly reduced the procedural burden on policyholders. These changes included allowing advance payments of claims prior to inspections and written estimates to preserve health and safety, which authorized the advance of up to \$25,000 for certain mechanical elements of the building and an additional \$5,000 for necessary doors and windows. The grace period was also extended for payment of NFIP renewal premiums.

In addition, the NFIP established community Flood Response Offices to service policyholders as well as Adjuster Certification Workshops and on-site Adjuster Briefings that educated an

expanded corps of Insurance Adjusters on program changes made specifically to meet the needs of communities impacted by the storm.

***Risk MAP***

FEMA's Risk MAP program provides communities with flood information and tools they can use to enhance their hazard mitigation plans and take action to better protect their citizens.

Two of the principal tools developed and distributed by this program are the Nation's Flood Insurance Rate Maps and the associated Base Flood Elevation (BFE) and Advisory Base Flood Elevation (ABFE) information.

In both New York and New Jersey, FEMA worked with the Federal Disaster Recovery Coordinator (FDRC) to ensure senior management and partners at the federal, state, and local levels were aware of the development and release of flood advisory data that could significantly influence rebuilding and restoration decisions.

The Task Force is working with state and local partners to evaluate and use advisory data to understand the impacts of rebuilding decisions on insurance rates and to use the data in considering building codes and other intermediate and permanent efforts to recover, reduce and mitigate future risk.

***HMGP***

FEMA and its partners also recognize the need to work together to ensure the post-storm recovery efforts, and the rebuilding that is taking place across the region, take into account our best understanding of future risks. Thus, these efforts are designed to minimize these risks and ensure the long term safety, resilience and prosperity of the affected communities.

Informed by State and Local Hazard Mitigation Plans, as well as tools provided by the Risk MAP program, the HMGP provides grants to states, local governments and tribes for long-term hazard mitigation projects following a major disaster declaration. The purpose of the program is to reduce the loss of life and property in future disasters by funding hazard mitigation measures during the recovery phase of a natural disaster.

Funding is available to implement projects in accordance with state, local, and tribal priorities and may be used for projects that will reduce or eliminate losses from future disasters – in short, for projects that help us rebuild stronger.

Thus far, the HMGP has provided nearly \$75 million to communities impacted by Hurricane Sandy, helping impacted communities integrate sound building practices and risk analysis in their rebuilding efforts.

In both New York and New Jersey, FEMA hazard mitigation staff is working closely with State Hazard Mitigation Officers to discuss the states' priorities, types of projects available and how best to proceed within that framework. We are also coordinating efforts with several of the other 11 declared States.

In partnership with other members of the whole community, FEMA is also supporting the implementation of hazard mitigation efforts at every available opportunity. For example, FEMA is providing technical assistance, updated maps and guidance to communities along the shore that are creating redevelopment plans, helping them to rebuild stronger based on sound advice and best available data.

#### **Lessons Learned from Hurricane Sandy**

Earlier this year, the DHS Office of the Inspector General released its report on FEMA's response to Hurricane Sandy. I was pleased that the Inspector General praised the Agency for how we assisted our state and local partners. I also asked the Agency's senior leadership team to conduct our own review of FEMA's efforts. In July of this year, FEMA released a Hurricane Sandy After-Action Report that reviewed all aspects of the Agency's preparations for, immediate response to, and initial recovery from the October 2012 storm.

I established the Sandy Analysis Team to develop the Agency's after-action report. The team compiled an event chronology, analyzed more than 40 FEMA component submissions on lessons learned from the storm, and interviewed more than 200 personnel from FEMA and other federal departments, as well as state and local governments.

The Hurricane Sandy After-Action Report identifies the Agency's strengths and, more importantly, provides recommendations to improve FEMA's response and recovery efforts. The report identifies four central themes for improvement:

- **Ensuring Unity of Effort Across the Federal Response:** The severity of the storm underscored several areas for improvement related to FEMA's ability to coordinate federal operations, including integrating senior leader communications into response and recovery operations; coordinating resources through the Emergency and Recovery Support Functions (ESF and RSF respectively); refining the mission assignment process; and using analysis to drive operational decision-making.

Next steps include developing appropriate training, exercises, and outreach programs to foster greater coordination and communication among ESFs and RSFs, making the mission assignment process as efficient and transparent as possible, and improving efficiencies in the way FEMA provides support to large-scale events. Additional recommendations address implementation of the Agency's Lessons Learned/Continuous Improvement Program (LL/CIP).

In support of this effort, FEMA's National Exercise Division recently supported the National Security Staff in conducting of a Principals' Level Exercise (PLE) for Cabinet members to review their roles, responsibilities, and authorities within the NRF, the NDRF, and the National Continuity Policy (NCP). Conducted prior to the start of the 2013 hurricane season, the exercise examined issues identified during previous incidents, including interagency coordination during the 2012 hurricane season and, in particular, Hurricane Sandy. The discussion-based exercise focused on two central issues: the actions and mechanisms required to ensure a coordinated and rapid delivery of federal support prior to and following a major storm threatening the U.S. mainland and the actions and requirements necessary to ensure continuation of the National Essential Functions (NEFs) and Primary Mission Essential Functions (PMEFs) in each department and agency.

- **Being Survivor-Centric:** Leadership at FEMA adopted a "cut the red tape" posture to better serve survivors and communities, but opportunities remain, including meeting survivors' needs during initial interactions with FEMA; ensuring all survivors have equal access to services; and reducing the complexity of the public assistance program.
- **Fostering Unity of Effort Across the Whole Community:** Sandy highlighted the need for FEMA to improve coordination with tribal governments and clarify how the agency interacts with local governments in disasters affecting large urban areas.

Recommendations include anticipating cities' resource requirements and understanding their capabilities, coordinating directly with local jurisdictions when it supports a forward-leaning response, promoting better integration between states and large urban governments, including encouraging local and tribal participation in the Unified Coordination Group where appropriate, and preparing response teams to handle incidents where state, local and tribal jurisdictions require clarification of the roles and responsibilities or have differing priorities during an incident.

- **Developing an Agile, Professional, Emergency Management Workforce:** In response to Sandy, FEMA completed one of the largest personnel deployments in its history. FEMA is committed to supporting disaster survivors and their communities through the most effective and efficient means possible. In support of this commitment, FEMA has sought to expand, improve, and diversify its disaster workforce. One example of a successful improvement is the DHS Surge Capacity Force (SCF), which is comprised of employees who volunteered from various DHS components that are activated during catastrophic or large scale events when required. Currently the SCF has nearly 4,000 volunteers, all of whom receive basic FEMA disaster assistance training prior to deployment. Sandy marked the historic inaugural activation of the SCF, with more than 1,100 SCF volunteers deploying in support of response and recovery efforts. The contributions of the SCF

volunteers and other FEMA personnel in the areas of Community Relations and IA resulted in more than 182,000 survivors receiving more than \$1.4 billion in assistance.

Further, beginning in April 2013, FEMA undertook a one-year pilot project to restructure its Incident Management Assistance Teams (IMATs) to provide increased capability by representing more FEMA programs and interagency representatives and by leveraging the hiring flexibilities provided by the Robert T. Stafford Disaster Relief and Emergency Assistance Act. In order to boost its capacity to support disaster-affected states, tribes, and territories, FEMA re-structured and established two National and one Regional Pilot IMATs. The re-structured IMAT Pilot teams have been expanded to include 34 positions on the National teams and 15 positions on the Regional team. These teams completed a rigorous 12 week training program and are prepared to deploy now. These teams will represent 13 different FEMA offices with the potential for including up to nine representatives from ESFs and interagency partners. ESF partners have begun assigning personnel to these teams. This broad range of program representation at the field level will provide FEMA and its federal partners with increased capability to support its state and local partners in helping disaster survivors. At the completion of the one year pilot period, FEMA will review the pilot IMAT team performance in consultation with DHS, the National Security Staff (NSS), and the Office of Management and Budget (OMB) and determine whether the program should be revised or expanded.

FEMA is continuing implementation of the FEMA Qualification System, improving plans and processes to support the logistical and administrative needs of a large deployed workforce, and improving continuity of operations and devolution plans to account for large-scale deployments.

FEMA has established a senior-level Continuous Improvement Working Group to track implementation of the recommendations and next steps included in the report. Fifty-five percent of the report's recommendations already have been implemented, with 90 percent expected to be completed by year's end.

### **Conclusion**

Responding to and recovering from any disaster is a whole community effort that relies on the strength of federal, state, local, and tribal governments as well as non-governmental entities and individuals, in addition to FEMA – and Hurricane Sandy is no exception.

I would also like to take this opportunity to thank Congress for the PKEMRA, which made us even more effective in our efforts to help states and communities respond to Hurricane Sandy, as well as for SRIA, which is making a positive impact on the recovery process in affected regions.

While we are pleased by what has been accomplished so far in this whole community effort, there is still much work left to do.

We look forward to continuing to work with this Subcommittee, Congress, and our partners to help the impacted communities recover.

Thank you, I look forward to your questions.

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**DEPARTMENT OF THE ARMY**

**COMPLETE STATEMENT OF**

**HONORABLE JO-ELLEN DARCY  
ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)**

**BEFORE**

**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT  
AFFAIRS**

**SUBCOMMITTEE ON EMERGENCY MANAGEMENT,  
INTERGOVERNMENTAL RELATIONS, AND THE DISTRICT OF  
COLUMBIA**

**UNITED STATES SENATE**

**ON**

**ONE YEAR LATER: EXAMINING THE ONGOING RECOVERY FROM  
HURRICANE SANDY**

**NOVEMBER 6, 2013**

Mr. Chairman and Members of the Subcommittee, I am Jo-Ellen Darcy, the Assistant Secretary of the Army (Civil Works). Thank you for the opportunity to testify today on the U.S. Army Corps of Engineers (Corps) continued work on the recovery from Hurricane Sandy.

#### **INCIDENT**

Hurricane Sandy struck the Atlantic coastline in late October 2012 resulting in loss of life, severe damage to the coastline, power outages, and damage to infrastructure, businesses and private residences. The storm affected communities as far south as Florida, as far north as Maine, and as far west as Ohio. The north Atlantic coastline bore the brunt of the storm's energy and damages, with the New York City metropolitan area, Long Island, and the New Jersey Shore among those particularly hard hit.

#### **RESPONSE ACTIVITIES**

The support from the federal government during the response to Sandy was unparalleled, and the Corps was part of the larger team that provided technical assistance and rapid response activities across the impacted areas. In the days and weeks following the storm, the Corps mobilized more than 800 experts from around the Nation to respond to and support 68 Federal Emergency Management Agency (FEMA) mission assignments totaling more than \$350 million in New York, New Jersey, Massachusetts, Delaware, Ohio, Pennsylvania, Connecticut, West Virginia, and Rhode Island.

The Corps worked closely with the local, state, Tribal, and federal stakeholders and partners to remove almost 500 million gallons of salt water from flooded infrastructure, install more than 200 generators at facilities such as hospitals and police stations, remove millions of cubic yards of debris (900,000 in New York City alone), refurbish 115 transitional housing units, provide more than nine million liters of bottled water, and begin measures to repair damaged Corps projects along the coast. The Corps worked closely with the U.S. Coast Guard (USCG) to assess the impacts on our commercial navigation projects, and the affected ports were cleared and returned to operation.

The success of these efforts was a result of a dedicated and determined interagency team—including the Corps, the Navy, the USCG, the Department of Transportation, state and local governments, the New York City Metropolitan Transportation Authority, and many others.

#### **RECOVERY EFFORTS**

Congress passed and the President signed into law the Disaster Relief Appropriations Act of 2013 on January 29, 2013, Public Law 113-2 (P.L. 113-2). The Act appropriated

\$5.35 billion for the Corps to address damages caused by Hurricane Sandy and reduce future flood risk in ways that will support the long-term sustainability of the coastal ecosystem and communities and reduce the economic costs and risks associated with large-scale flood and storm events in areas along the Atlantic Coast within the boundaries of the North Atlantic Division of the Corps that were affected by Hurricane Sandy. That amount includes approximately \$3.46 billion for Construction, \$1.01 billion for Flood Control and Coastal Emergencies (FCCE), \$821 million for Operation and Maintenance (O&M), \$50 million for Investigations, and \$10 million for Expenses. The Corps has made significant progress in the year since Hurricane Sandy and in the time since P.L. 113-2 was enacted.

The Corps Hurricane Sandy recovery program is structured with three components: a Near-Term component that supports emergency operations and repair and restoration of previously constructed Corps projects along the coastline with FCCE funding and dredging of Federal navigation channels and repair of Corps operated structures with O&M funding; an Investigations component that expedites completion of ongoing studies at full federal expense and also funds the North Atlantic Coast Comprehensive Study (Comprehensive Study); and a Construction component to rehabilitate, repair and/or construct projects to reduce future flood and storm damage risk in a smarter and more sustainable way. We continue to make progress on all these efforts.

#### **NEAR-TERM**

Beach repair and restoration of existing projects along the Atlantic coast began in February 2013 and is scheduled to conclude by the fall of 2014. To date, the Corps has placed approximately 12 million cubic yards of sand to repair dunes and berms and work continues to ensure that these projects are restored to their original design conditions. In addition, investigations are underway as part of the North Atlantic Coast Comprehensive Study to determine what modifications may be needed in the future to further enhance the resilience and long-term sustainability of these risk reduction measures. Thus far, the Corps has obligated almost \$390 million of FCCE funding and projects are being completed on schedule. Of the total 33 FCCE projects, seven are completely restored, 22 have awarded construction contracts and four are in design or pre-award stage. The O&M repair of navigation channels and structures damaged in the storm, from Maine to Florida and inland to the Great Lakes, began in February 2013 and most projects are scheduled for completion by Spring 2015. At the end of Fiscal Year 2013, over \$160 million of the O&M funding was obligated and 35 projects have been completed with another 28 in construction.

#### **INVESTIGATIONS**

A portion of the Investigations funding is being used to expedite and complete 17 flood and storm damage reduction studies that were underway when Sandy occurred. Up to \$20 million of the Investigations allocation is funding the North Atlantic Coast

Comprehensive Study to assess the flood risks of vulnerable coastal populations in areas affected by Hurricane Sandy within the North Atlantic Division's boundaries. The Comprehensive Study team has developed a draft framework that currently is under review. The Study team will also develop various tools to assist with future planning efforts including economic depth-damage estimations, community resilience surveys, and regional sediment budgets.

A Performance Evaluation Study is also being conducted using Investigations funds. This report will evaluate the effectiveness of completed Corps projects during Hurricane Sandy and include summary recommendations for further improvements. The Performance Evaluation Report currently is under review and will be submitted to Congress as soon as that review is completed.

### **CONSTRUCTION**

The third component of the program uses appropriated Construction funding to implement projects that (1) previously were authorized but not constructed at the time of Hurricane Sandy's landfall, (2) projects identified for implementation following the Investigation process, and (3) projects that fall within the Continuing Authorities Program. Planning, design and expedited reevaluations are underway for the 18 authorized but not yet constructed projects and construction is anticipated to begin in early 2014. Construction work on roughly half of these flood risk reduction projects is expected to be completed by mid-2015. Of the identified Continuing Authority Projects, Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland and Virginia are currently scheduled to receive beach erosion and coastal storm damage risk reduction projects. We expect 70% of this work to be completed by 2016.

### **INTERAGENCY COLLABORATION**

The Corps routinely collaborates and coordinates with federal, state, local and Tribal partners to construct Corps projects and studies. The Corps is leading a unique collaboration with partners and stakeholders with the Comprehensive Study bringing together experts in coastal planning, engineering and science representing more than 90 governmental, academic, and non-governmental entities to develop a risk reduction framework for the 31,000 miles of coastline within the North Atlantic Division that were affected by Sandy. Entities represented on the team include Department of Homeland Security/FEMA, Department of the Interior/U.S. Geological Survey and Fish and Wildlife Services, Environmental Protection Agency, U.S. Department of Housing and Urban Development, Department of Commerce/National Oceanic and Atmospheric Administration, New Jersey Department of Environmental Protection, New York Department of Environmental Conservation, Ducks Unlimited, The Conservation Fund, and many, many more.

## **CHALLENGES FACED BY AFFECTED COMMUNITIES**

In the year since Hurricane Sandy, we have seen and heard from residents in impacted communities on some of the challenges with completing this risk reduction work. Most appreciate what the Corps and other federal, state and local teams have been able to accomplish during the response and recovery efforts.

Residents in some coastal communities have expressed concern that coastal storm damage risk reduction features such as dunes may negatively impact their property value due to the loss of ocean views. Additionally, there is a misconception that granting easements to private property to allow the construction of coastal storm damage risk reduction features could lead to the future construction of public boardwalks, bathrooms, or other amenities, which could further impact property value. The Corps and non-federal sponsors continue to communicate with the local communities on the purpose of the dunes and berms, which is to absorb wave energy and reduce the risk of wave overtopping that could damage property and infrastructure situated behind them; and to clear up misconceptions about the use of the real estate, which explicitly is for construction and maintenance of the storm damage risk reduction features. In addition, the local sponsors are preparing floodplain management plans for each project that will be provided to various zoning and regulatory agencies for their use to reduce the impacts of future floods and storms. These plans should help guide those agencies in preventing unwise future development in areas with high flood risks.

Tourists and seasonal residents who use beaches for recreation also may experience short-term impacts related to the Corps construction work. We are mindful of their concerns and strive to reduce the impacts to recreation by working with partners and contractors to close only small portions of beaches at a time for restoration work. The Corps is committed to providing sustainable, resilient risk reduction as quickly and safely as possible.

## **RESIDUAL RISK**

There will always be a residual risk for Americans who live in coastal regions. Over the long term, expected changes in sea-level rise, extreme weather, and other impacts due to climate change are likely to increase the risks facing these areas. Please keep in mind that regardless of how many storm damage risk reduction features are put in place—no matter how high, wide or strong they are constructed—there will always be those risks. We continue to communicate that to residents along the coast, so that they fully understand this residual risk.

Collaborative efforts on all levels continue to explore and implement solutions that reduce risk from coastal storms, such as appropriate land use planning, non-structural solutions (including elevating buildings and selective buy-outs) and well-communicated evacuation planning. Consistent with P.L. 113-2, the Corps' efforts are incorporating current science and engineering standards to construct new projects and modify

existing projects to provide a sustainable flood and storm damage risk reduction system that is technically feasible, economically justified and environmentally acceptable.

**CONCLUSION**

Mr. Chairman, Members of the Subcommittee, this concludes my testimony. I am happy to answer any questions you or other Members of the Subcommittee may have.

TESTIMONY OF THE HONORABLE KATHLEEN S. TIGHE  
CHAIRMAN, RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD  
BEFORE THE COMMITTEE ON HOMELAND SECURITY & GOVERNMENT AFFAIRS  
SUBCOMMITTEE ON EMERGENCY MANAGEMENT, INTERGOVERNMENTAL  
RELATIONS AND THE DISTRICT OF COLUMBIA  
UNITED STATES SENATE  
NOVEMBER 6, 2013

Chairman Begich, Ranking Member Paul, and members of the Committee, I want to thank you for the opportunity to appear before you *today*. As Chair of the Recovery Accountability and Transparency Board (Board), I will be speaking to you about the Board's role in the oversight of funds expended in support of Hurricane Sandy recovery efforts.

**Background of the Board**

The Board was created in February 2009 as a part of the American Reinvestment and Recovery Act (Recovery Act). The Board currently consists of twelve Inspectors General (IGs) and its ongoing mission, pursuant to the Recovery Act, is to provide transparency of the use of the funds made available by the Recovery Act and to prevent and detect fraud, waste and abuse. In December 2011, Congress expanded the Board's authority to allow for the development and testing of information technology resources and oversight mechanisms to enhance the transparency of and detect and remediate waste, fraud, and abuse in federal spending.

The Recovery Act requires recipients of Recovery funds to report on how they are using those funds and requires agencies to report on spending as well. Every quarter, recipients of Recovery funds must report centrally into the Board's reporting website – [FederalReporting.gov](http://FederalReporting.gov). We then display this spending information on our public web site, [Recovery.gov](http://Recovery.gov), that the Recovery Act required us to build and maintain. With easy access to Recovery spending information through a technological infrastructure that allows for the timely display of quality-controlled data in uniquely arrayed ways, the [Recovery.gov](http://Recovery.gov) web site has provided new levels of transparency in government spending. Together, [FederalReporting.gov](http://FederalReporting.gov) and [Recovery.gov](http://Recovery.gov) provide a continuing quality-assurance process of Recovery spending information that involves agencies, the Board, the Office of Management and Budget (OMB), and recipients.

In addition to enhancing the transparency of taxpayer dollars, the Board developed the Recovery Operations Center (ROC) as a central data analytics service to support fraud detection and prevention. ROC services are based on a combination of sophisticated analytics tools, a technology infrastructure including a secure central repository of multiple data sets, and a mix of highly trained analysts and technology specialists. The ROC primarily serves to enhance the capabilities of the IG community to provide oversight of individual IGs' respective departments or agencies, as well as other federal law enforcement entities, in their

oversight of Recovery funds and other federal funds that are within the scope of our authorities.

The ROC's strength is the ability to rapidly aggregate and analyze large, complex volumes of data to screen for potential risks or identify targets and to provide deeper investigative information, such as link analysis and discovery of non-obvious relationships, in the support of preventative activities, audits, investigations, or prosecutions. Customers are supported through collaborative work with ROC analysts, thus benefiting from the Board's infrastructure, skilled workforce, multiple advanced analytical tools, and proven tactics to quickly detect fraud in federal funding.

While the Board was originally due to sunset on September 30 of this year, last January's Disaster Appropriations Relief Act, 2013, Pub. L. No. 113-2, (Sandy Supplement) extended the Board through September 2015, with additional duties for the Board to develop and use information technology resources and oversight mechanisms to detect and remediate waste, fraud and abuse of funds related to the impact of Hurricane Sandy.

#### **Hurricane Sandy Oversight**

Because of the Board's work on Recovery, we were able to easily transition to oversight support for Hurricane Sandy spending. The Board's efforts to develop oversight mechanisms to prevent and detect fraud, waste, and abuse in Hurricane

Sandy spending have centered so far in three main areas: 1) we are applying the techniques and processes developed and implemented by the ROC to examine Hurricane Sandy spending, primarily working with our IG partners, 2) we are working with federal and state stakeholders to coordinate law enforcement efforts and to identify and obtain spending and other related data to be used in our fraud detection and risk identification efforts, and 3) we are using technologies developed throughout Recovery efforts to display available Sandy spending information.

#### Accountability

Through the ROC, the Board has undertaken a number of efforts to review Hurricane Sandy spending. For example, based on referrals from and in coordination with the Department of Homeland Security Office of Inspector General (DHS OIG), we conducted a review of 104 entities that received Hurricane Sandy debris removal contracts from 32 cities in New York and New Jersey totaling over \$329 million. Many of the ROC's specific findings for DHS OIG in these matters are considered law enforcement sensitive, but they include identification of:

- Debris removal companies whose owners had federal and state tax liens;
- Companies previously listed on the federal list of suspended or debarred contractors;

- Two contracting companies that filed for Chapter 7 bankruptcy in December 2010 that also had federal tax liens totaling more than \$1 million since 2011; and
- Companies with previous fraudulent activities receiving Hurricane Sandy-related debris removal contracts from cities where there is an indication that the CEOs of such companies have ties with city officials.

Along with the information we provided to DHS OIG that resulted in the opening of criminal investigations, we also gave it a report of high risk debris removal companies that the OIG is using to target audit work.

In addition to the debris removal work, among other activities, we have provided assistance to DHS OIG on its investigations of other Federal Emergency Management Agency (FEMA) public assistance Hurricane Sandy grants. We also are exploring opportunities to work with other OIGs, such as the Small Business Administration (SBA) OIG, to support their oversight efforts of Hurricane Sandy disaster assistance. For the State of Rhode Island, we undertook a proactive analysis of 10,000 potential Hurricane Sandy contractors against our data bases that would show potential risks, such as being delinquent on a federal debt or a debarred federal contractor.

## Coordination

After the passage of the Sandy Supplement, Board staff met frequently with the Hurricane Sandy Rebuilding Task Force Project Management Office (PMO) to discuss roles and responsibilities. We also organized and facilitated a joint Board, OMB, PMO, and OIG meeting to discuss the progress of current oversight activities. DHS OIG rejuvenated the Council of the Inspectors General for Integrity and Efficiency Disaster Assistance Working Group to share information and support IG community oversight efforts and invited the Board to co-chair that group. In addition, we reached out to state and local officials in the Hurricane Sandy-affected states who are and will be distributing and overseeing Hurricane Sandy funds.

The key issues discussed in all of these coordination efforts is the availability of and ability to share Hurricane Sandy spending information, particularly at the sub-recipient level, and the identification of potential data sources that may be relevant to remediating fraud, waste, and abuse. Unlike the Recovery Act, where the Board had access to standardized Recovery spending information based on recipient reporting through [FederalReporting.gov](http://FederalReporting.gov), no similar reporting structure for Hurricane Sandy exists. Rather, the Board must cull spending information from existing federal databases, such as the Federal Procurement Data System (FPDS) and [USASpending](http://USASpending.gov). As is discussed below,

there are limitations on the usefulness of this data. We have been working with DHS OIG to obtain usable data from the FEMA Emergency Management Mission Integrated Environment/National Emergency Management Information system that should provide basic project information at the municipality (or eligible nonprofit) level.

#### Transparency

To date, the Board has been using its web site, [FederalTransparency.gov](http://FederalTransparency.gov), to attempt to collectively display what information is available on Hurricane Sandy spending. We visually display Hurricane Sandy awarded contracts from FPDS and agency award information, as well as links to FEMA spending by state and state Hurricane Sandy web sites. We also display the Department of Justice's disaster fraud reporting hotline.

We are in the final stages of moving the Hurricane Sandy information to our [Recovery.gov](http://Recovery.gov) web site. [Recovery.gov](http://Recovery.gov)'s infrastructure, functionalities, and tools, such as maps, charts, and downloads will be leveraged and re-purposed from [Recovery](http://Recovery.gov) to Hurricane Sandy activities. Among other capabilities, the Hurricane Sandy portion of the site will include available spending data displayed on maps, in charts, and on graphs, which will reflect outlays by business class (small, HUB Zone, etc.) and by agency. The web site will also display obligation deadlines,

Board and OIG reports, and stories on Hurricane Sandy projects and federal activities to help citizens follow the reconstruction.

#### Challenges

Since commencing work in the winter of 2013 on our Hurricane Sandy mission, we have identified a series of challenges that we continue to face:

- Obtaining accurate and complete Hurricane Sandy spending data remains difficult for the Board. With no mandated centralized reporting mechanism, access to standardized data is limited.
- While FPDS and USASpending have information related to Hurricane Sandy spending, each has its limitations.
  - On FPDS, we are able to locate contracts related to Hurricane Sandy because FPDS assigns a unique identifier (National Interest Action code). However, FPDS does not consistently collect place of performance of awards, which inhibits the accuracy of mapping for transparency purposes.
  - On USASpending, Hurricane Sandy grants and loans lack a unique identifier, making it problematic to accurately extract and analyze Hurricane Sandy awards.
- The lack of sub-recipient data will further complicate the Board's work. Given the types of Hurricane Sandy grants expected to be awarded, prime recipients

of Hurricane Sandy awards oftentimes will be a state or municipality, but historically, the majority of fraud occurs below this level by entities performing the actual work. Some sub-recipient data can be gleaned on a case-by-case basis from disparate federal and state sources, but these records are often not accessible. Many sub-recipients remain unknown to oversight officials and the public, inhibiting full transparency and the Board's ability to perform more proactive analytical efforts.

That concludes my prepared testimony. Thank you for this opportunity to discuss the activities of the Board related to Hurricane Sandy oversight. I am happy to answer any questions you might have.

**Testimony of Caswell F. Holloway  
Deputy Mayor for Operations, City of New York  
Before the Subcommittee on Emergency Management,  
Intergovernmental Relations, and the District of Columbia  
Of the U.S. Senate Committee on Homeland Security and Governmental Affairs  
(November 6, 2013)**

Good afternoon and thank you for the opportunity to testify about the role and effectiveness of Federal aid to New York City's recovery from Hurricane Sandy.

I'd like to begin by thanking you on behalf of Mayor Bloomberg and all New Yorkers for answering New York City's call after the unprecedented devastation caused by Hurricane Sandy. From President Obama and members of his cabinet; to entire agencies of the federal government—particularly FEMA, HUD and the Army Corps of Engineers; to assets including generators, fuel, food, and many others; to the billions of dollars in recovery aid that Congress made available through the Disaster Relief Appropriations Act of 2013, the federal government has been there for New York City since well before Sandy made landfall on the New Jersey coast last October 29.

Sandy was the worst natural disaster ever to strike New York City. It took the lives of 44 New Yorkers, caused unprecedented damage to public infrastructure and private property, and triggered an enormous and ongoing public and private response. I will touch briefly on the role of federal aid in three specific components of the City's recovery: before and up to five months after the storm; the second-stage housing recovery efforts that are under way now and will continue for the next 12 to 18 months; and the City's long-term plan to protect and mitigate against the climate-related impacts that have become an increasingly frequent part of daily city life.

**Before Sandy and the Immediate Post-Storm Recovery**

Our partnership with federal agencies began even before Sandy moved up the East Coast of the United States and long before it took the leftward hook that would expose New York City to the storm's most devastating impacts. As the City implemented its Coastal Storm Plan, FEMA and the National Weather Service co-located with us at the City's Emergency Operations Center. Although the storm did tremendous damage, the pre-storm evacuation operation was largely successful, and post-storm surveys indicate that most New Yorkers knew about the storm, knew if they lived in a vulnerable area, and knew they should evacuate if they lived in the evacuation zone.

After the storm, together with FEMA and the New York National Guard, we removed an estimated 700,000 tons of storm debris; fueled more than 25,000 emergency and essential vehicles through a partnership with the National Parks Service and the Defense Logistics Agency; distributed more than 2.1 million Meals Ready to Eat (MREs), and canvassed more than

100,000 households in affected areas to distribute food and water, sanitary items, and to make referrals to healthcare and case management services.

As we reported to you when Congress took up the Sandy Recovery Act, the City suffered and estimated \$19.5 billion in damages due to Sandy, including nearly \$5 billion in direct recovery costs and damage to City infrastructure. Hundreds of homes were totally destroyed, and thousands of families were displaced. Given the unique density of New York City and the challenge of relocating thousands of families, Mayor Bloomberg made it a priority to get people back into their homes.

Thanks to the creativity of Craig Fugate and his team at FEMA, we developed what FEMA called the Shelter and Temporary Essential Power program (STEP). We call it Rapid Repairs. Rapid Repairs was a truly innovative approach to temporary emergency shelter that is based on the simple premise that the best temporary shelter is permanent shelter. STEP enabled the City to hire contractors to make emergency heat, hot water, and power repairs in victims' own homes. In the 110 days after the first work team entered a home, the City completed repairs to 11,800 buildings, enabling approximately 54,000 New Yorkers to return to their homes who might otherwise be in trailers or other temporary housing today; in the worst case, they might have left the City altogether (See Attachment 1—Rapid Repairs). The \$12 billion of funding that Congress allocated to DHS and FEMA in the Sandy Recovery Act will reimburse the City for providing emergency shelter through Rapid Repairs, and enable us to make billions of dollars of repairs and improvements to damaged City infrastructure.

I note that ensuring that all federal dollars are accounted for and properly spent has been a priority for New York City from the beginning and we have established monitoring programs overseen by the City's Department of Investigation for each of the housing initiatives we have undertaken. We will continue rigorous oversight of these programs until they are complete, and can provide any level of reporting that you would like in connection with any of them.

#### **Second-Stage Housing Recovery: Build it Back**

While Rapid Repairs helped thousands of New Yorkers to move back into their homes, that was just the beginning. Thousands of families need much more work to be done to make a full recovery—and make their homes better able to withstand severe storms and other climate impacts. Thanks to \$15.2 billion of Community Development Block Grant Funding in the Disaster Relief Appropriations Act of 2013 (the "Sandy Recovery Act")—and the leadership of Shaun Donovan through the Federal Sandy Recovery Task Force—in June New York City launched Build it Back. \$648 million of the City's first CDBG allocation is supporting housing recovery programs, and Build it Back is at the center of that effort.

As of October 31, 2013, nearly 26,000 families and businesses have signed up for the program (see Attachment 2 – Build it Back); approximately 500 of these are for homes that were completely destroyed by the storm. While we are encouraged that so many New Yorkers are seeking out this help, we know that the need for assistance exceeds the amount of aid currently available. To ensure that CDBG-DR funds are distributed first to those with the greatest needs, we developed a three-tier priority system for applicants:

- **Priority 1:** All eligible applications where owners/tenants are at or below 80% of Median Income (AMI), and all eligible applications where owners/tenants are at or below 165% of AMI and properties were destroyed or severely damaged;
- **Priority 2:** All remaining eligible applications where owners/tenants are at or below 165% AMI (i.e. whose properties suffered major-moderate damage from Sandy); and
- **Priority 3:** All eligible applications where owners/tenants have an income of more than 165% of AMI.

We estimate that between 55% and 60% of the 21,000 applicants that are owner occupied are Priority 1, though this number may fluctuate as we continue income verifications.

The Office of Housing Recovery Operations (HRO) was created by Mayor Bloomberg specifically to address housing needs after Sandy. We are currently working on eligibility reviews of more than 8,000 applicants to Build it Back, which includes an income review, a review of benefits received, Tier 2 environmental review, and damage assessments. Thanks to our close work together, some of the data requirements during the application and eligibility review process have been standardized to allow City and federal agencies to share client data to lessen the burden on affected households without sacrificing integrity standards that make sure that federal funding goes to people who really need it. I particularly want to thank Secretary Donovan and his team for innovations like this that enable us to leverage the work done by all federal agencies as part of their response to Sandy.

Multi-family and public housing also suffered damage from Sandy's wind and surge. The City's Department of Housing Preservation has engaged three Community Development Financial Institutions (CDFIs) to administer loans to buildings of more than 100 units to repair storm damage and build new resiliency mitigation measures, such as moving critical building systems above expected flood heights. On October 30, three large multi-family buildings received a total of \$2.5 million in relief aid. Other applications are now undergoing eligibility review, Tier 2 environmental reviews, and damage assessments.

At the homeowner and building level, perhaps the greatest remaining challenge for affected New Yorkers is the affordability of flood insurance. The Biggert-Waters Flood Insurance Reform Act of 2012 is designed to phase out subsidies to the National Flood Insurance Program. The City commissioned a study from RAND to help evaluate current flood insurance coverage and premiums and prepare for expected rate increases due to major reforms of the flood insurance program and updates to FEMA's flood maps. The study found that 35 percent of property owners in the floodplain who are required to carry flood insurance today do not have it. Under new FEMA flood maps that will be adopted shortly, thousands of new properties will now be considered in the floodplain and required to buy flood insurance, increasing owner's insurance premiums from an average of \$430 to \$5,000 to \$10,000 per year.

I'd like to thank Congressman Michael Grimm (Staten Island and Brooklyn) and Senator Menendez (NJ) for sponsoring legislation to delay the implementation of Biggert-Waters until

FEMA resolves these questions of affordability, and I encourage the House and the Senate to bring this legislation to a vote as quickly as possible.

**Making New York City Resilient for the Long Term**

Of course the greatest long-term challenge we face is protecting New Yorkers over the long term. At the same time that we were getting families back in their homes and repairing the City's infrastructure, the Mayor commissioned study of the likely climate impacts that New York City will face between now and the 2050s. The result was *A Stronger, More Resilient New York*, a comprehensive plan consisting of 257 initiatives to protect the City's 520 miles of coastline, and critical infrastructure and service networks over the long term. Sandy took out huge segments of the power grid and 95% of the telecommunications network in lower Manhattan, severely damaged the City's hospital network, and damaged thousands of buildings. Our resiliency plan is an achievable, affordable way to mitigate most of these impacts when the next big storm—or other climate event like a heat wave or a drought—hits New York City. We have allocated more than \$294 million of our first allocation of CDBG funding to resiliency measures, and we are on track to complete 43 critical milestones in the plan by the end of the year. Just last week Mayor Bloomberg and I visited Crescent Beach in Staten Island, where a reinforced dune is already under construction, and a portion of Beach Channel Drive where we are installing tide gates to prevent the backdoor flooding that damaged hundreds of homes in Belle Harbor and Neponsit in the Rockaways.

The Army Corps of Engineers is one of our most important partners in resiliency: we estimate that 1.5 million cubic yards of sand were lost in the Rockaways during Sandy. To date, 600,000 cubic yards have already been replenished; by next May the Army Corps will add another 2.9 million cubic yards. As part of this work, the City worked with the U.S. Army Corps of Engineers at the beach to add bigger dunes to help reduce wave action and storm surge risks. Over the next two years, the City will work with the U.S. Army Corps of Engineers on further improvements to the beachside, the bayside and within Jamaica Bay through the Rockaway Reformulation study. But as this committee knows, the Army Corps can only do what Congress authorizes it to do—and your continued assistance will be critical to ensure that the projects we develop move from study to design to reality.

The Army Corps is just one of the many partners the City will need as we continue to recover from Sandy and prepare New York for the future. We have limited or no direct control in many areas, including telecommunications, liquid fuels transportation and distribution, the power grid and others. The electric and telecommunications networks are particular vulnerabilities. On the power side we are participating directly in the Public Service Commission proceedings that will determine the utility rates for New Yorkers in coming years, and the extent to which resiliency will be addressed. Telecommunications systems are owned and maintained by private companies, and are subject to limited public safety rules and regulations. During Sandy, outages to telephone systems affected the capacity of our City's 311 system to receive calls, and thousands of New Yorkers were left without landline or wireless capabilities, preventing them from communicating with their families and workplaces. We have a number of constructive suggestions to address these vulnerabilities; I have attached a copy of testimony made by the City's Chief Information and Innovation Officer Rahul Merchant to the FCC for your

consideration (See Attachment 3—Statement of NYC Chief Information & Innovation Officer Rahul N. Merchant).

Clearly New York City has a long way to go and we will need additional CDBG allocations to ensure that the needs of those impacted by Hurricane Sandy are met. But if the support we have received from Congress and the Federal government so far is any indication, I'm confident that we will be able to meet those needs and better prepare New York City for whatever climate challenges may come next. I am happy to answer any questions.

## ATTACHMENT 1: RAPID REPAIRS

# NYC RAPID REPAIRS

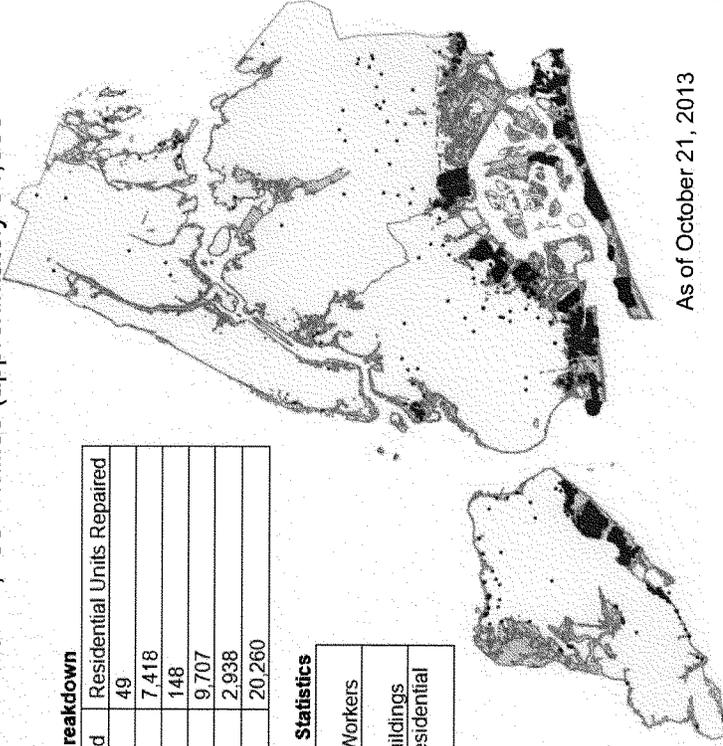
NYC Rapid Repairs served over 20,000 families (approximately 54,000 New Yorkers)

## NYC Rapid Repairs: Borough Breakdown

	Buildings Repaired	Residential Units Repaired
Bronx	36	49
Brooklyn	4,148	7,418
Manhattan	15	148
Queens	5,276	9,707
Staten Island	2,298	2,938
<b>TOTAL</b>	<b>11,773</b>	<b>20,260</b>

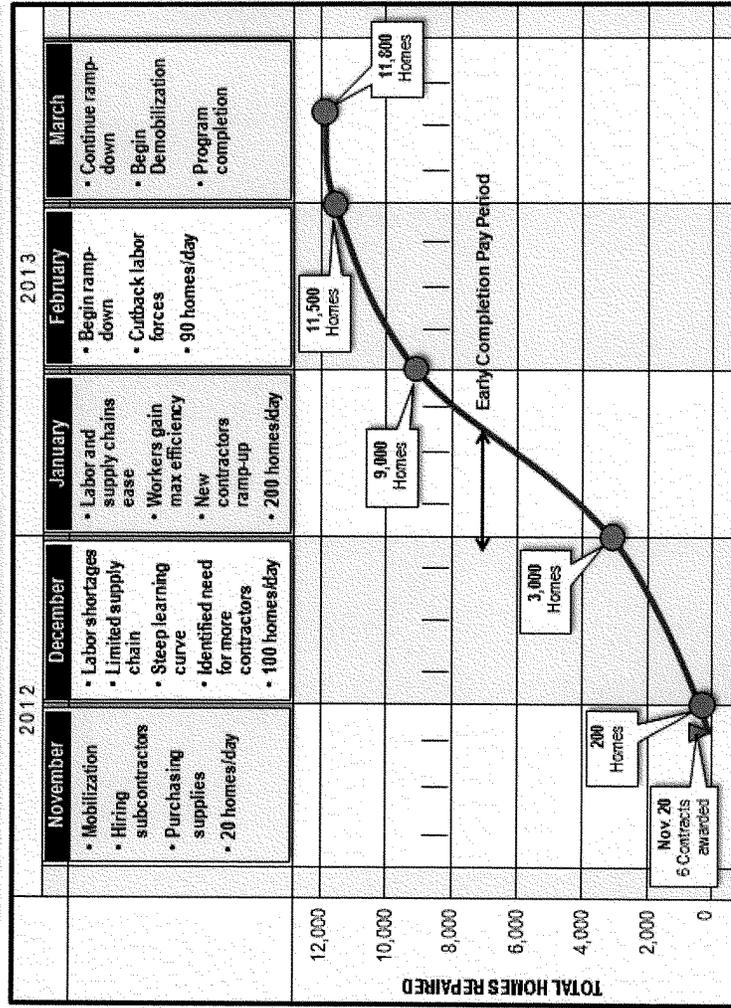
## NYC Rapid Repairs: Production Statistics

Average Daily # of Workers	1,500 Workers
Average # Buildings Repaired Per Day	103 Buildings
Average # Residential Units Repaired Per Day	177 Residential Units



As of October 21, 2013

# NYC RAPID REPAIRS PROGRESS



## **ATTACHMENT 2: BUILD IT BACK**

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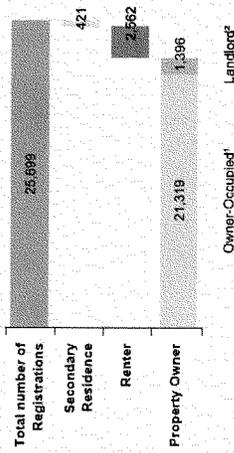
# BUILD IT BACK REGISTRATION



## Daily Registration Report

As of 11/04/2013 08:05 AM

### Number of Registrations



Owner-Occupied<sup>1</sup> Landlord<sup>2</sup>

### Registrations by Borough (excl. Secondary Residences)

	Property Owner Registrations		Total
	Owner-Occ.	Landlord	
Manhattan	173	70	243
Bronx	236	14	250
Brooklyn	6,720	430	7,150
Queens	9,325	558	9,883
Staten Island	4,865	324	5,189
<b>Total</b>	<b>21,319</b>	<b>1,396</b>	<b>22,715</b>

### Property Owner Registrations

Damage Level	1-2 units	3-4 units	5-99 units	100+ units	Unknown	Total
Entire structure	4,360	231	181	28	132	4,932
Roof and exterior only	4,256	201	80	16	120	4,673
Basement and 1st floor	4,156	299	229	73	158	4,915
Basement Only	3,950	317	156	11	106	4,580
<b>Note: All Repairs Complete</b>	<b>3,097</b>	<b>165</b>	<b>147</b>	<b>49</b>	<b>137</b>	<b>3,615</b>
<b>Total Property Owner Registrations</b>	<b>19,859</b>	<b>1,233</b>	<b>793</b>	<b>177</b>	<b>653</b>	<b>22,715</b>

Self-Reported Repairs, by value <sup>3</sup>	(77%)	(74%)	(68%)	(72%)	(73%)	(76%)
Less than \$5k	1,170	102	69	22	29	1,401
\$5k to \$25k	5,283	399	189	34	157	6,062
\$25k to \$50k	4,475	226	108	14	131	4,954
\$50k to \$100k	3,277	137	74	7	108	3,603
More than \$100k	1,028	52	80	50	53	1,273

1. Property owners (inclusive of condo / coop board representatives) that do not rent year round. 2. Property owners that rent year round and property managers. 3. Subset of property owners with self-reported repairs.

# **BUILD IT BACK REGISTRANTS**

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## Neighborhood Snapshots - Brooklyn By Zip Code as of Nov 04, 2013

Red Hook	
Total # of Buildings	4,848
BIB Registrations	192
Rapid Repairs Completed	115
Mold Removal Completed	10
Demolished*	0

Canarsie	
Total # of Buildings	14,650
BIB Registrations	2,157
Rapid Repairs Completed	1,616
Mold Removal Completed	179
Demolished*	0

Bergen Beach-Mill Basin	
Total # of Buildings	19,332
BIB Registrations	607
Rapid Repairs Completed	295
Mold Removal Completed	24
Demolished*	0

Brighton Beach - Manhattan Beach	
Total # of Buildings	7,974
BIB Registrations	2,030
Rapid Repairs Completed	1,267
Mold Removal Completed	123
Demolished*	0

Sheepshead Bay - Gerritsen Beach	
Total # of Buildings	12,101
BIB Registrations	1,088
Rapid Repairs Completed	930
Mold Removal Completed	105
Demolished*	0

Coney Island - Seagate	
Total # of Buildings	2,888
BIB Registrations	1,271
Rapid Repairs Completed	1,078
Mold Removal Completed	138
Demolished*	5

Resiliency Highlights	
• Restoration of streetslights along Coney Island boardwalk	
• 600,000+ cubic yards of sand added to area benches	
• Reconstructed Steeplechase Pier to reopen for community use	

\* - demolished by the City



**NYC Housing Recovery**

**Neighborhood Snapshots - Queens**  
**By Zip Code**  
 as of Nov 04, 2013

Arverne	
Total # of Buildings	2,229
BiB Registrations	1,029
Rapid Repairs Completed	978
Mold Removal Completed	74
Demolished*	2

Far Rockaway-Edgemere	
Total # of Buildings	6,711
BiB Registrations	1,743
Rapid Repairs Completed	1,206
Mold Removal Completed	144
Demolished*	1

Howard Beach	
Total # of Buildings	5,957
BiB Registrations	1,983
Rapid Repairs Completed	870
Mold Removal Completed	62
Demolished*	1

Belle Harbor	
Total # of Buildings	3,752
BiB Registrations	2,579
Rapid Repairs Completed	1,676
Mold Removal Completed	136
Demolished*	21

Broad Channel	
Total # of Buildings	1,961
BiB Registrations	1,211
Rapid Repairs Completed	891
Mold Removal Completed	61
Demolished*	15

Breezy Point	
Total # of Buildings	2,727
BiB Registrations	1,802
Rapid Repairs Completed	1,875
Mold Removal Completed	241
Demolished*	334

Resiliency Highlights	
<ul style="list-style-type: none"> <li>• Design competition to enhance resiliency of Arverne East</li> <li>• 3.6 million cubic yards of sand placed on Rockaway Beach</li> <li>• Constructed boardwalk islands to provide access to beach hub buildings</li> </ul>	

\* - demolished by the City

**Neighborhood Snapshots - Staten Island**  
**By Zip Code**  
 as of Nov 04, 2013



<b>Dongan Hills-South Beach</b>	
Total # of Buildings	10,736
BiB Registrations	1,287
Rapid Repairs Completed	794
Mold Removal Completed	51
Demolished*	26

<b>Tottenville</b>	
Total # of Buildings	4,170
BiB Registrations	144
Rapid Repairs Completed	60
Mold Removal Completed	3
Demolished*	8

<b>Oakwood Beach - Midland Beach - New Dorp</b>	
Total # of Buildings	16,682
BiB Registrations	3,363
Rapid Repairs Completed	2,173
Mold Removal Completed	180
Demolished*	41

<b>Resiliency Highlights</b>	
<ul style="list-style-type: none"> <li>• 26,000 linear feet of interim shoreline protection installed</li> <li>• Repaired 2.5 miles of boardwalk</li> <li>• Midland Beach - 2,400 linear feet of restored dunes</li> </ul>	

\* - demolished by the City

# Attachment 3

**STATEMENT OF NYC CHIEF INFORMATION & INNOVATION OFFICER RAHUL N. MERCHANT  
TO THE FEDERAL COMMUNICATIONS COMMISSION, PS DOCKET NO. 11-60  
REGARDING COMMUNICATIONS & HURRICANE SANDY  
THURSDAY, FEBRUARY 7, 2013**

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Chairman Julius Genachowski; Commissioner Robert M. McDowell, Commissioner Mignon Clyburn; Commissioner Jessica Rosenworcel; and Commissioner Ajit Pai.

**Introduction**

New York City government's internal IT and public-facing telecommunications systems and infrastructure, managed predominantly by the Department of Information Technology and Telecommunications (DoITT), withstood the worst Hurricane Sandy had to offer. Vital services such as the NYC 311 system and the City's official website, *NYC.gov* – which serve as lifelines for countless New Yorkers in need – were well-maintained and functioned with no interruption before, during, or after the storm. Internal systems – the City's Mainframe, Unix, Wintel, email, data, and radio systems – also remained up and running at all times.

However, systems administered and maintained by private sector companies – which either support City systems or provide services directly to the public – were negatively impacted by network and access failures. For example, due to flooding of critical Verizon facilities supporting landline voice traffic in lower Manhattan, for a time there were fewer than 200 telephone lines available for incoming calls to 311, and wait times increased to an average of more than seven minutes during and following the storm. The fact remains that in the modern, networked world, impacts to one or more systems – if they are substantial enough, or last long enough – will eventually cascade to the other systems that rely upon them.

In the days and weeks after the storm, DoITT aimed to assess the performance of its own systems as well as those of the city's private telecommunications providers, and is now participating in a citywide working group that will offer an assessment and recommendations for improvement as part the City's comprehensive Hurricane Sandy "after action" review.

While this review is still underway, it is clear that the City's telecommunications providers will need to make significant enhancements to their infrastructure, their information sharing practices, and their disaster recovery planning. Their charge must be not solely to restore capability and service to pre-storm levels, but to ensure sufficient resiliency and hardening so that the public – and the City agencies that serve them – may confidently rely on these systems in future catastrophic events.

While the telecommunication carriers, New York State, the Department of Homeland Security, the Federal Emergency Management Agency, FCC, and many others tirelessly worked shoulder-to-shoulder with the City of New York during and after the storm, it is critical that regulatory steps be taken to harden communications networks in the future. The City, its residents, and its business community, are dependent on communications services to report emergencies, interact with first responders, and maintain continuity of business and daily life before, during, and after any storm or disaster. With that reality comes the responsibility to make improvements gleaned from the hard lessons learned.

This statement focuses on the impact of various telecommunications outages on the City of New York; outlines the steps we took to prepare City systems for the coming storm; describes the efforts made to support the restoration of vital services in the wake of Hurricane Sandy; and concludes with some recommendations about the areas the FCC should focus on to improve the telecommunications infrastructure across the five boroughs – and anywhere vulnerable to the kind of devastation Sandy caused.

### **What New York City Experienced**

While City-run radio, data, and telecom networks performed remarkably well during the storm, there were major impacts on the commercial telecommunications infrastructure in New York City that resulted from a lack of sufficient backup power and, in some cases, destruction of key system infrastructure. From the field, from the Office of Emergency Management (OEM), and from our technical headquarters in Brooklyn, my team and I witnessed:

- Flooding of two critical central offices, or “COs” – both located in a flood plain in lower Manhattan – leading to severe outages of the Centrex service
- Call surges on public telecommunications networks
- Persistent network, telecom, and phone outages in services provided by the private sector to City agencies
- Lack of fuel for primary generators
- The need to establish a supply chain to ensure safe gas deliveries to backup generators at cell sites across the five boroughs.

Hurricane Sandy’s impact on the public’s ability to communicate, and the City’s ability to communicate with it, was significant. Network outages, service degradation, and overload in call volumes were problematic throughout the emergency. These commercial networks, when operational, serve as a vital link for New Yorkers in need of help and aiming to conduct their daily lives and businesses.

Among the most critical communications systems today are wireless networks. Wireless carrier infrastructure throughout the five boroughs consists of thousands of sites that rely both on continuous availability of antenna facilities and on backhaul connectivity via various transport media (i.e., fiber/wireline). We believe that wireless carrier networks providers experienced outages of approximately 25% throughout the duration of the hurricane.

These storm-related, commercial wireless network outages derived from three primary factors:

**Backhaul transmission infrastructure:** One of the most significant problems experienced in Hurricane Sandy and its aftermath was related to the failure of transmission and backhaul infrastructure, which supports connectivity to key central offices. This infrastructure was severely impacted by utility power failures as well as damage due to flooding. Much of this essential infrastructure is controlled by wireline telephone companies such as Verizon or other operators, and was beyond the control of the wireless carriers.

**Electrical power to antenna sites:** Operation of cell sites is dependent on commercial power. Commercial wireless carriers are not currently mandated to provide backup power at cell sites or throughout their infrastructure. Although industry best practices and feedback from the wireless carriers suggests that many do seek to provide backup power for up to eight hours, the actual backup power practices in place proved insufficient in some locations to sustain the fallout from a storm such as Hurricane Sandy.

**Call volume:** In addition to physical and equipment challenges, even where network sites were fully operable, call blocking was experienced by end users due to saturation and high volume of call traffic.

### **What New York City Did**

As Hurricane Sandy approached New York City, DoITT took measures outlined in its continuity of operations plan to brace its systems – websites, phone systems, and networks – for the worst.

**NYC.gov** – In anticipation of heavy traffic to *NYC.gov*, we moved to a static version of the website with plain HTML versions of all main portal pages, which were then cached to further increase capacity. As a result, the *NYC.gov* home page remained up and operational before, during, and after Hurricane Sandy. Between October 29 and October 31, *NYC.gov* handled 2.3 million visits, and 4.8 million page views. This is due to the City's multi-pronged approach to better accommodate peak-volume traffic in the wake of Hurricane Irene in 2011, including not only use of the cloud-based caching providers, but the doubling of Internet bandwidth as well as upgrading our servers – and adding new ones – to increase the number of users that could simultaneously access the portal.

**NYC 311** – The City's non-emergency government information and services system (NYC 311), located in lower Manhattan, was connected to OEM headquarters throughout the event for updates and communications, and had staff onsite at OEM as well. We pre-positioned a generator in the days leading up to the storm to power the NYC 311 call center should the surrounding area lose power. When it did – as well as when all landlines in lower Manhattan went down, which I will describe below – NYC 311 remained operational and accessible throughout the storm, with service to the public, while at times slow, uninterrupted throughout.

Calls to 311 during the storm were four times greater than the 2012 daily average, peaking as high as 274,000 in one day. Although average wait times to speak with a call taker increased during the Sandy period, 74 percent of all inquiries were resolved via Interactive Voice Response (IVR) messages within two minutes' time. Visits to 311 Online, the web counterpart to the call center, were seven times higher than the daily average for 2012, contributing to increased 24/7, self-service access to critical citywide information, services and assistance. NYC 311 personnel staffed the call center continuously, overcoming the MTA transit shutdown, power outages, and, for a time, a lack of heat and water. Many worked multiple shifts, staying at the call center when they were displaced from their own homes due to Sandy's impact.

While power outages and transit shutdowns could have reasonably been expected given the recent history of large storms hitting New York City, what was not expected was the duration of the power outage and the destruction of telecommunications infrastructure in lower Manhattan. I will describe this now, impacting as it did our otherwise well-prepared NYC 311 system and wireless networks.

First, the telecommunications infrastructure: At approximately 8:30 Monday evening, October 29<sup>th</sup>, when the power outages began in lower Manhattan, NYC 311 seamlessly failed-over to its pre-positioned generator as its staff continued taking calls with no impact to the public.

At approximately 9:15pm, Verizon's Broad Street Central Office – or "CO" – began experiencing various failures. The Broad Street CO is one of two that supported landline voice traffic to Manhattan south of Canal Street, and was key to NYC 311 operation as it provided half the total call-taking capacity of NYC 311.

Shortly after 9:15pm, as DoITT and NYC 311 staff began working on contingencies should the Broad Street CO fail, it was fully expected that the other lower Manhattan CO, on West Street, would sustain throughout the worst of the storm.

Early on the morning of Tuesday, October 30, at approximately 1:00am, Verizon's Broad Street CO suffered catastrophic failure due to seawater flooding into the site, immediately reducing by 50% the amount of simultaneous calls NYC 311 could handle. This was a highly suboptimal situation – wait times would necessarily increase significantly and some callers would experience busy signals – but NYC 311 was still taking and servicing calls. The worst, it was thought, was behind us.

At approximately 3:30am, however, Verizon's West Street CO began to fill with water. Despite a truck from the Department of Environmental Protection arriving within an hour to assist with pumping water out of the facility, by 8:30am the West Street circuits serving NYC 311 became completely unavailable as the facility powered down.

While the West Street CO would begin coming back online by Wednesday afternoon, with full service restored on Friday morning, if not for the remarkable improvisational talents of our NYC 311 and telecomm staff members – as well as those from Verizon – NYC 311 would have been unavailable to the public after 8:30 on Tuesday morning, October 30.

Instead, when the Verizon circuits failed, we employed a manual, coordinated effort and redesign to reroute the calls. Using the Verizon Customer Redirect Service, we directed Verizon to route all NYC 311 call traffic over "Citynet" (the City's institutional fiber backbone), to the Verizon Bridge St CO in Brooklyn to maintain business continuity.

**Wireless Technologies** – Among the most heavily-used DoITT-managed services during Hurricane Sandy were its wireless technologies, which provided a communication lifeline to City agencies during response and recovery activities. In preparation for the storm, we ensured fueling of generators and hardening of infrastructure at key network sites, and worked with our vendors to ensure technicians were readied in each borough to support restoration efforts as needed.

**Performance of Citywide Radio Systems** – DoITT maintains two distinct mission critical radio systems – 800 MHz and the Citywide Radio Network (CRN) – supporting more than 40 City agencies and some 25,000 radios with internal and interoperable communications among various jurisdictions (i.e. health care organizations/OEM, National Guard/Department of Health and Mental Hygiene). There was heavy reliance on these systems during and after Hurricane Sandy, as they were among the only reliable means of voice communications for critical response efforts in and around the impact zones.

DoITT was particularly involved with administering the communications system for the Healthcare Evacuation Center (HEC), a multi-jurisdictional agency operation at OEM that coordinated amongst hospitals, nursing homes, and adult care facilities during evacuation operations. Mission critical radio communications was essential in support of the HEC's goal of coordinating the safe movement of patients/residents between evacuating and receiving facilities before, during, and after the storm. While cell phone networks and landline phones were down in many hospital areas across the City, we ensured available and effective radio access as many hospital administrators had no way to communicate with OEM save for DoITT's radio system.

All told, system utilization increased by 116% for the 800 MHz system and by 262% for CRN, and each system scaled to meet this demand without incident. DoITT deployed more than 900 radios in total to approximately two dozen agencies, including OEM, Fire Department, Mayor's Office, Office of the Chief Medical Examiner, Department of Sanitation, Parks Department, and the National Guard. These radio systems maintained 100% uptime and reliability throughout the emergency, which can be attributed to backup generators and digital microwave technology that lessened dependency on power and telecommunications providers.

**Performance of Citywide Broadband Network** – The New York City Wireless Network, or NYCWiN, the City's dedicated high-speed broadband network for public safety and service, performed as designed during the storm and its aftermath. It exceeded public safety standards for resiliency, telecommunications redundancy and backup power. During the hurricane, uninterrupted network accessibility was provided as bandwidth utilization and number of connected users increased 33% and 23%, respectively, compared to the week prior.

Moving beyond DoITT-managed systems, the storm had a significant impact on commercially-provided voice and data services to City agencies – and thousands of their employees – located in lower Manhattan, and required that these agencies relocate their staff to available office space elsewhere. While DoITT-managed Voice over Internet Protocol (VoIP) phones allowed flexibility to redirect “down” work locations to alternate work sites, outages in private sector-provided Centrex phone systems limited our ability to route calls to other work sites since they run only through a single CO.

Since the storm, DoITT has facilitated the provisioning of network data and voice services at these new locations. We deployed hundreds of VoIP phones to maintain or restore business continuity, and we continue to migrate thousands of users for many of the agencies that are dependent on Verizon Centrex and may still be without phone service. This includes the New York City Board of Elections, which was required to facilitate voting for millions of New Yorkers on Tuesday, November 6.

**In the days following Sandy, DoITT also:**

- Distributed more than 700 wireless devices – in addition to the aforementioned 900 radios – to City agencies working on recovery efforts, including Blackberrys, MiFi hotspots, mobile phones, tablets, and iPads.
- Conducted calls with Verizon several times daily to discuss the status of restoration operations and the state of its network. These discussions allowed us to ensure that the City offered Verizon whatever it required to restore service, such as, for example, facility access for technicians making repairs, provision of pumping equipment, etc.
- Worked with telecom providers, cable companies, and several agencies to implement network and telecom components of the Disaster Assistance Centers in Brooklyn, Queens, and Staten Island. This included establishing broadband access to these locations, networking computer equipment and printers so that they could assist impacted communities.
- Helped coordinate with the city's major wireless telecommunications providers “National Disaster Recovery teams,” OEM, New York City Police Department, New York State Division of Homeland Security and Emergency Services, and the Federal Department of Homeland Security to deploy mobile cell platforms, such as Cells on Wheels (COWs), and Cells on Light Truck (COLTs) to areas where mobile service was either non-existent or significantly diminished. Additionally, we worked with these teams to secure emergency generators and charging stations to affected areas so that residents in the Rockaways and Staten Island could charge their mobile devices as well as provide a level of wireless service while main systems were being restored.

**What New York City Needs**

We are mindful that Hurricane Sandy was unprecedented in many ways, and equally cognizant that no system – however expensive, well-managed, or well-designed – will function flawlessly in every conceivable scenario. Still, even in a major emergency event, infrastructure can be designed to withstand water, wind, and sustained power outages. As we work with our telecommunication provider partners in the rebuilding process, now is the time to make the improvements necessary to ensure these systems are made as sturdy as the New Yorkers they serve.

### 1) Multiple & Affordable Communications Options

The single biggest thing we can do is to ensure that New Yorkers, especially our most vulnerable populations, have multiple, affordable ways of staying connected to the information and services available to them. This is important at all times; it is indispensable during emergency events.

This is so important because, as we saw during Hurricane Sandy, there is no sure way to predict which parts of the total telecommunications infrastructure will be impacted during a citywide event. As I described above, when COs supporting NYC 311 went down, the City was able to reroute landline voice traffic to NYC 311 call takers using VoIP, ensuring seamless continuity in service for New Yorkers. We were able to do so because that infrastructure, *that option*, was in place.

Similarly, when commercial wireless systems and networks failed after generators exhausted fuel supplies, or failed to work in the first place, government entities citywide were able to rely on DoITT-provisioned radios and other wireless devices to communicate. They were able to do so because our systems remained up and running, affording us the option to deploy them as required.

As it was for City government and the agencies we serve, so too must it be for the commercial carriers and the New Yorkers they serve.

Today, New York City enjoys a competitive marketplace, boasting 18 high-capacity and information services franchisees providing dozens of options to businesses in the City and three cable franchisees which, in addition to video service, provide broadband and phone to residents. But competition alone does not guarantee resilient, affordable service in an infrastructure-dependent network industry.

This is especially true as, in the wake of Hurricane Sandy, portions of the legacy copper infrastructure in New York City is being replaced by state-of-the-art fiber optic lines. While we welcome fiber optic infrastructure as a replacement to some of the damaged infrastructure in the City – especially in lower Manhattan and in Brooklyn – we need to ensure that upgraded technology does not lead to increased prices for comparable services, reduced options, or constrained competition. Customers who cannot afford fiber simply must – must – have affordable, resilient communications options available to them. Therefore, the rebuilding efforts now underway should not supplant an otherwise orderly transition to newer technologies along with preservation of the best aspects of long-established, lower-cost alternatives.

We must also ensure that awareness of service options for consumers and business is widespread. Commercial carriers and the public sector must do a better job of notifying their customers and constituents of options for restoration of telephone, cable television, and Internet service after emergency events. This is especially true if, in fact, such information will mean a faster restoration of these services for New Yorkers who need them most.

### 2) Resiliency & Backup Power

When there are significant, sustained power outages, the city's external telecommunications providers must have the equipment and protocols in place to ensure interoperability between their networks. And they must be able to quickly and smoothly coordinate deployment of excess capacity to affected areas. While full data capability may understandably take time to restore, New Yorkers, at a minimum, need to rely on the availability of uninterrupted voice and texting services for the duration of future citywide emergencies.

Indeed, New Yorkers need always, in an emergency, to be able to contact, by either wired or wireless phone, 911 and 311; and they need to be able to reach, via phone or text at least, their families and friends.

Therefore, in advance of future citywide events carriers should assist local officials and their communities in the planning for (and, as needed, the pre-staging of) telecommunications support assets such as COW, COLTs, and charging stations. This also entails helping identify and secure the physical areas for placement, as well as protocols to facilitate quick deployment, activation, re-fueling, etc. Once determined, the planned locations of these resources should be regularly and aggressively marketed by all telecom carriers via email, text, regular billing statements, etc.

Consideration should also be given to moving above-ground utility and telecommunication wiring below ground. Undergrounding some or all of the currently above-ground wiring can help better protect this infrastructure from damage caused by wind, ice, falling tree limbs, etc.

Beyond these considerations, in an age of increasingly severe weather events and related outages it is no longer enough to rely wholly on industry best practices as regards battery backup. To this day it remains unclear exactly how many hours of backup power commercial mobile wireless carriers provided their customers during the storm. And since the providers are not required to share this information with the City, as a general matter they do not. The balancing of costs against need is a valid exercise for the industry, but given the widespread dependency on communications systems, I submit that commercial communications providers *must* assure the public of resilient, robust networks capable of continuous service in emergencies – without passing those costs onto customers.

### 3) Information Sharing on Outages

While the City appreciates the informal information sharing its commercial telecommunications carriers have engaged in during and after the storm, it is crucial that any information on outages in an emergency be required as a matter of course, and, at a minimum, be given to first responders in affected communities at the very moment the information is divined. As such, the City believes that “carrier reporting,” pursuant to the FCC’s Disaster Reporting Information System, should be a requirement and not a voluntary exercise; moreover, that the FCC should ensure any relevant information collected that affects a severely-impacted community be shared immediately with first responders responsible for serving those impacted communities. This information should also be made publicly available to consumers so they may track the status repairs, obtain reasonable estimates as to when service might be restored, and compare performance across competing carriers.

### Conclusion

In what were exceedingly challenging circumstances during and after Hurricane Sandy, New Yorkers came together to persevere through some very dark hours. For their parts, the City of New York, as well as the city’s commercial telecommunications providers – despite some extraordinary factors both within and beyond their control – have worked tirelessly to maintain service where possible, and restore it quickly where not.

We can always do better. With the areas of focus I have offered here – multiple redundant and affordable communications options for the public, necessary investments in hardening network infrastructure and failover capabilities, and expanded information sharing – together we can work with our commercial providers, the FCC, and others to ensure a more prepared, resilient telecommunications infrastructure for New Yorkers.

# Hurricane Sandy Rebuilding Task Force

## Overview for Advisory Group

March 15, 2013

This document contains information that is not for public release. It is intended for the use of the members of the Advisory Group only. It is not to be distributed outside the Advisory Group. It is not to be used for any other purpose. It is not to be used for any other purpose. It is not to be used for any other purpose.

### Hurricane Sandy Rebuilding Task Force was established to support federal, state and local officials to rebuild stronger, safer and more resilient communities

- Created by Executive Order 13532 on December 7, 2012 to supplement FEMA's recovery efforts in the region
- Chaired by Secretary Shaun Donovan of the United States Department of Housing and Urban Development; members consist of 15 federal agencies.
- States that a fully coordinated effort requires Cabinet level attention
- Seeks "to ensure that the Federal Government continues to provide appropriate resources to support affected State, local, and tribal communities to improve the region's resilience, health, and prosperity by building for the future"
- Coordinates the federal investment of \$10 billion passed by Congress for the region impacted by Hurricane Sandy

#### Establishment

1. Executive Order 13532, section 1

# Agenda

- 11:00 AM Greetings
- 11:15 AM Welcome and Introductions
- 11:20 AM Task Force Overview and Purpose of Advisory Group
- 11:25 AM Distinguishing Roles of Task Force and Joint Field Offices
- 11:30 AM Overview of Policy Priorities
- 11:35 AM Discussion
- 12:15 PM Next Steps and Wrap Up

### A quick "double-click" on the Sandy Relief Bill's ~\$60 B in recovery spend, including ~\$10 B in National Flood Insurance Program funds.

Breakdown of recovery spend amounts (top-8 agencies)

Agency	Amount (\$ Millions)
Department of Housing and Urban Development	18,000
Department of Transportation	13,070
Department of Homeland Security/FEMA	12,071
Army Corps of Engineers	5,350
Small Business Administration	839
Department of Health and Human Services	805
Environmental Protection Agency	609
Other agencies	1,126
<b>Spend for all other agencies</b>	<b>9,141</b>

Agency	Count
NASA	15
Department of Justice	2
Social Security Administration	2
Legal Services Corporation	1

Source: Survey from the

2

3

### Initial Progress on Supplemental Funds

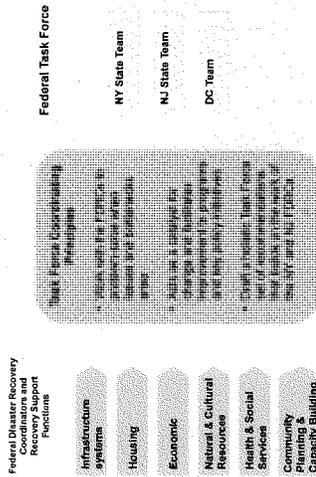
- Allocated first tranche of CDBG-DR funds (\$5.4B)
- Announced \$2B in FTA emergency funding to public transit authorities
- More than \$5.9B in National Flood Insurance Program payments made to policy holders
- \$1.9B obligated by Army Corps of Engineers
- Launched a Program Management Office to track federal dollars; working with OMB, TF agencies, IGs, and RATB

### Task Force has a DC and regional presence to effectively deliver national policy and region-specific rebuilding recommendations

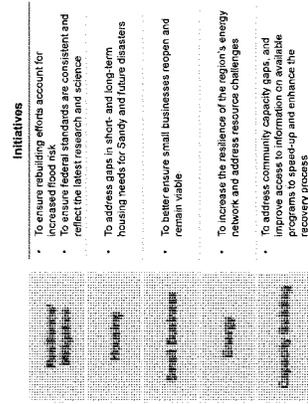
- Consists of heads of each of a series of executive departments, agencies, and offices, or their designated representatives
- Works closely with FEMA and within the National Disaster Recovery Frameworks (NDRF) framework
- Staffed by Washington DC-based team of policy advisors (including detailees), communications, legislative affairs, other support staff and State based teams
- Advisory Group, comprised of state, local, and tribal elected officials from the most impacted jurisdictions to advise the Task Force and ensure that the rebuilding and recovery effort reflects the input of these communities. We will engage you around key issues:
  - Issues in eastern medicine (NY, NJ, DC)
  - Possible working group calls for deeper dives on policy recommendations
  - Joint Task Force team for visits to your communities
  - Possible working group calls for an assessment of current vulnerabilities to extreme weather events and seeks to mitigate future risks
- Signature policy initiatives
- Plan for monitoring progress and providing transparency on how funds are spent
- Recommendations on Federal framework for disaster recovery
- Recommendations will include inputs from the NDRF and state and local plans

1. Executive Order - Establishing the Hurricane Sandy Rebuilding Task Force

### The Task Force is working closely with our federal National Disaster Recovery Frameworks partners on the ground to achieve this goal



### Sample policy initiatives that the Task Force is working on





# Hurricane Sandy Rebuilding Task Force

## Advisory Group Meeting

April 29, 2013

This document contains pre-decisional analysis, advice, and recommendations that are intended to assist in the decision-making process of the U.S. Department of Housing and Urban Development. It is not intended to be a contract, a binding agreement, or a statement of the U.S. Department of Housing and Urban Development's position. It is not intended to be a contract, a binding agreement, or a statement of the U.S. Department of Housing and Urban Development's position. It is not intended to be a contract, a binding agreement, or a statement of the U.S. Department of Housing and Urban Development's position.

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# Agenda

- 3:30 PM Greetings
- 3:40 PM Introductions & Federal Progress
- 3:45 PM Task Force Policy Priorities Update
- 3:55 PM Overview of Process for Strategy Document
- 4:05 PM Discussion on Flood Maps
- 4:30 PM CBBC-DR Action Plan Updates
- 4:55 PM Next Steps & Wrap Up

### Progress on funding and programs

#### Funding

- Allocated first tranche of CBBC-DR funds (\$5.4B) within 8 days and have approved the action plans from two grantees (NY, and NJ), and will continue to expedite the review as they are submitted
- Over \$3B announced for funds to Federal Highways Administration and the Public Transit Emergency Relief
- More than \$4.9B in federal funds obligated less than three months after supplemental budget passage, including:
  - \$4B obligated by DHS
  - \$200M obligated by DOT
  - \$180M obligated by SBA
  - \$425M obligated by DOT
  - \$15M obligated by USACE
  - \$11M obligated by NASA
- More than \$7.1B in National Flood Insurance Program payments made to policy holders
- We anticipate that \$5.2B in CBBC-DR funds will be approved for NY, NJ and NYC by the end of April. The remaining \$0.2B reserved for CT, MD, and HI pending plan submission and review in the coming weeks.

\*Data pre-decisional and confidential\*

### Progress on funding and programs (cont.)

#### Programs

- Worked with SBA and state/local governments to launch a data sharing agreement to ensure more effective allocation of dollars to small businesses by grantees
- Released toolkits for toolkits for homeowner rehab, buyout, and counseling
- Announced a unified, administration-wide flood risk reduction standard for all federally funded major rebuilding projects in the region
- Worked with FEMA and HUD to announce rental assistance program for NY survivors
- Worked with FHA and FHFA (Fannie Mae and Freddie Mac) to announce extended mortgage assistance

\*Data pre-decisional and confidential\*







## Hurricane Sandy Rebuilding Task Force

### Advisory Group Meeting

June 6, 2013

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### Agenda

- Greetings (5 minutes)
- Welcome by White House Principal (5 minutes)
- Introductions & Federal Progress (10 minutes)
- Discussion of Strategy Document by Secretary Donovan (40 minutes)
- Overview of Timeline (5 minutes)
- Q&A (10 minutes)
- Wrap Up (10 minutes)

## Hurricane Sandy Rebuilding Task Force

### Advisory Group Meeting

June 6, 2013

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### Task Force Strategy Document

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### TASK FORCE UPDATE: ACCOMPLISHMENTS TO DATE

#### Measuring progress

January-May 2013, SEA and FEMA programs have combined to assist 69,099 individuals/households and 2,947 businesses with Sandy funds.

**SBA Disaster Loans Programs (data as of 5/22/13)**

- \*SBA's Disaster Loan Program\* has approved \$751,591,000 in Sandy loans to 16,193 households and 2,947 businesses
- \*Total Individuals/Households Assisted: 16,193
- NY: 9,428 | NJ: 5,626 | CT: 289 | All Other States: 840
- \*Total Businesses Assisted: 2,947
- NY: 1,372 | NJ: 1,179 | CT: 66 | All Other States: 328
- \*Net Loan Approval Amount: \$781,591,000 | Gross Principal Disbursed Amount: \$125,912,659

**FEMA's Disaster Relief Fund (data as of 6/3/13)**

- \*FEMA's Disaster Relief Fund has approved \$2,937 registrations for individuals and households with Sandy funds:
- NY: 32,132 | NJ: 19,344 | CT: 946 | All Other States: 502

**Other Programs**

- \*FEMA's Disaster Relief Fund has approved \$7,495,444,197 in payments
- \*Re-opening of New Jersey and New York businesses and households before Memorial Day 2013

\*Because the supplemental funds for SBA's newly reauthorized Small Business Administration Disaster Loan Program Account, the numbers shown here for other disaster victims beyond those affected by Hurricane Sandy.

### Task Force Strategy Document

#### Summary

- A long-term rebuilding strategy for the Federal Government's effort in coordinating a region-wide recovery that will address:
  - Accomplishments such as Flood Standards, DHAP, Toolkit, FHA/FHA Alignment
  - Policy initiatives that will be executed to mitigate against greater risk from extreme weather events
  - Sandy-specific recovery programs
- A plan for monitoring the progress of Federal recovery and rebuilding efforts to ensure transparency and accountability of the rebuilding plans through coordination across Federal agencies.
- Recommendations to guide future Federal Government engagement in disaster recovery and rebuilding efforts based on best practices, as well as proposed legislative or regulatory changes to improve recovery.
- Primary audience: the President, Federal agencies, and local stakeholders, to guide rebuilding and planning for the next disaster.
- Executive Summary will allow for accessibility to a wider audience, and frame the Task Force's work.

\*Task pre-decisional and confidential\*

How should these be supported/produced?  
Are conditions, 9/2013

### Task Force Strategy Document

#### Principles

- Through the work of the Task Force, the following principles emerged to guide the specific work necessary for a Government-wide and region-wide approach to long-term rebuilding:
  - EACs/Inclusiveness
  - Resilience and Sustainability
  - Regional Coordination
  - Leadership and Local Priority
  - Capacity Building
  - Innovation
  - Leveraging Resources
  - Data Driven and Transparency
  - Timeliness and Flexibility

Task force document, not confidential

### Task Force Policy Initiative Process

Over the past 6 months, the Task Force has been involved in developing and executing policy initiatives and recommendations at different levels. The Strategy Document will include all these key projects. A list of key initiatives and recommendations below.

Projects	Task Force Role	Other Agency Participants
Infrastructure, Regional Coordination	Leading	FHIA, HUD, FEMA, DOT, USACE, EPA, DOI
Infrastructure, Design Competition	Leading	HUD
Capacity Building	Co-leading with FEMA & local partners	EDF, DHS, HUD, DOT, DOE, HHS, DOI, SBA
Housing	Co-leading with HUD	EDF, DHS, HUD, FEMA
Small Business & Economic Revitalization	Co-leading with SBA	EDF, HUD, FEMA, Treasury, GSA, DOE, USACE
Insurance	Co-leading with FEMA	EDF, FEMA, HUD
Data Sharing	Coordinating	EDF, SBA, HUD, FEMA
Permitting	Coordinating	EDF, HUD, SBA, DHS, DOT, DOE, HHS, DOI, EPA, EPA, USACE, DOI, BSEE
Liquid Fuels	Technical Assistance	EDF, DOE, DOD, EPA, HHS
Infrastructure Finance Opportunities	Technical Assistance	EDF, DOE, DOT, EPA, FEMA, USACE

Task force document, not confidential

### Capacity Building

#### Overview

The scope and scale of Hurricane Sandy demonstrated that no government is fully prepared for disaster recovery, though some are better prepared than others.

#### Short-term Initiatives

- **Regional Coordination:** Encourage multi-jurisdictional and/or regional consortiums and support their capacity to access federal and state resources (i.e. NJ Local Partnerships Program and Long Island Regional Consortium).
- **Leverage Private and Philanthropic Sectors:** Actively support funder Collaboratives in New York and New Jersey to fill capacity gaps that government funding cannot address.

#### Future Improvements to Federal Process:

- **Local Disaster Recovery Mission (LDRM):** Encourage support for the onboarding of LDRMs that have the capability and competence to manage long-term recovery efforts.
- **Federal Coordinating Teams:** Build federal interagency coordinating teams in regional offices and augment these teams with a Resilience Centre of recovery specialists.
- **Training and Tools:** Build a suite of data, tools, training opportunities and coordinated technical assistance across federal agencies for recovery capacity building purposes.

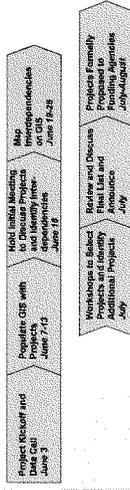
Task force document, not confidential

## Regional Resilience Coordination Process

### Overview

To meet the most of our investments in mitigation and resilience we must address the interdependencies of current and future infrastructure projects in the region. The Task Force has been working to ensure the effective coordination of large infrastructure projects in this complex and interconnected region.

### Timeline



"Data, pre-decisional, and confidential"

## Design Competition

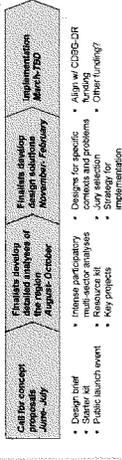
### Overview

The Task Force will launch a multi-stage regional design competition to promote resilience for the Sandy-affected region at the end of June. Integrated analyses will define the design teams' scope. The competition will create a collaborative process with experts, professionals, and local jurisdictions (including CDBG-DR grantees) to identify and evaluate innovative, locally-sustainable and locally-contextual solutions that increase resilience and bring a better understanding of regional interdependencies that can be modeled across the U.S.

### How to get involved

- Participate in charrette process.
- Help with project selection and refinement.

### The process: broad analysis to specific solutions



"Data, pre-decisional, and confidential"

## Additional Initiatives and Policy Recommendations

### Small Business & Economic Revitalization

- To better ensure small businesses reopen and remain viable
- Continued process improvements to SBA Disaster Loan Program to build on the significant improvements that have been made since Hurricane Katrina.
- Local and Small Business Contracting

### Infrastructure - Finance Opportunities

- Explore options that leverage dollars further and encourage investments in mitigation
- Assist grantees in establishing entities that encourage private-sector involvement in infrastructure (e.g., New York state infrastructure bank, green bank, mitigation banking)

### Infrastructure - Liquid Fuel Availability

- To ensure the availability of gasoline and diesel fuel in the days and weeks after a disaster
- Develop a comprehensive set of recommendations including policy changes, increased information sharing, and selective hardening of key infrastructure.

### Insurance

- Encourage States to explore pre-funding disaster recovery and transitioning catastrophic risk to the insurance and capital markets and exploring options for affordability.

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## Additional Initiatives and Policy Recommendations

### Housing

- To address gaps in short- and long-term housing needs for Sandy and future disasters
- Align CDBG-DR recipients
- Rental rehabilitation units
- Alignment of FEMA/FHA policies & procedures

### Data Sharing

- Recommendations that cause delays and inefficiencies when FEMA, HUD, and SEA share information with one another and with state and local governments
- Develop recommendations that will improve communication between federal data providers and those requesting their data. These recommendations will seek to streamline the agreement process, address issues related to privacy and examine some of the regulatory requirements related to the dissemination of federal data.

### Permitting

- We're working to improve coordination of federal permitting and review processes, and provide with ongoing oversight to ensure the projects are delivered successfully and without delay.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-1000

ASSISTANT SECRETARY FOR CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

The Honorable Robert Menendez  
United States Senate  
Washington, DC 20510-3005

APR 28 2014

Dear Senator Menendez:

On behalf of Secretary Donovan, thank you for your letter of April 8, 2014, regarding the frontloading of environmental and historical preservation reviews. The letter requested a clarification regarding the timing of those reviews for the State of New Jersey's Reconstruction, Rehabilitation, Elevation, and Mitigation (RREM) program financed by Community Development Block Grant-Disaster Recovery (CDBG-DR) funding. The following information is from the Department of Housing and Urban Development's (HUD) Office of Community Planning and Development.

You are correct that applicants seeking reimbursement in the RREM program can resume housing rehabilitation once the environmental and historical preservation reviews are completed. As stated in previous guidance, work must stop at the time of application for environmental and historical preservation purposes unless the work is covered by a pre-existing contract. Once the state has completed the environmental and historical preservation reviews, the applicants can resume the work of repairing or rebuilding without jeopardizing their eligibility for reimbursement, even if the State of New Jersey has not yet completed other steps of its grant processing for the applicants.

While performing environmental and historical preservation reviews early in the process – as opposed to at the end -- would speed up the rebuilding and recovery process, HUD does not have the authority to require that those reviews be performed at a specific point in the application process. Due to the statutory and regulatory structure of CDBG-DR funding, the determination of whether the environmental and historical preservation reviews are performed before or after a program eligibility determination is up to the State of New Jersey.

HUD, in written correspondence and during weekly technical assistance calls, has advised the New Jersey Department of Community Affairs that environmental and historical preservation reviews can be completed at any time in the application process and rehabilitation work can commence as soon as those reviews are complete.

Thank you for your interest in the Department's programs. Please let me know if I can be of further assistance.

Sincerely,

Dominique M. McCoy  
General Deputy Assistant Secretary for  
Congressional and Intergovernmental Relations



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

JUL 25 2013

**HUD Guidance on Duplication of Benefit Requirements and Provision  
of CDBG Disaster Recovery (DR) Assistance**

The Department has previously issued guidance related to duplication of benefit requirements in the form of a *Federal Register* notice (November 16, 2011) and has elaborated on that guidance through training materials, direct technical assistance to grantees and responses to questions posed by grantees. Grantees continue to identify questions regarding the combination of various forms of Federal assistance that the guidance and technical assistance do not contemplate. Grantees have recently asked whether they can provide CDBG DR assistance to homeowners and businesses that have declined loan assistance offered by SBA. This response guidance is limited to declined SBA loans. It does not address cases when homeowners or businesses have accepted an SBA loan, which are covered under the general prohibition in the November 2011 *Federal Register* notice.

Grantees may assist households and businesses that have declined SBA loans, but must analyze the circumstances under which the assistance was declined and demonstrate why providing CDBG DR funds is necessary and reasonable. Grantees are also advised that they may assist businesses and homeowners in a variety of forms, including loans. The following provides guidance regarding the use of CDBG DR and SBA funds in these circumstances and examples of how grantees may incorporate this guidance into their recovery programs.

***Q: Must an applicant apply for SBA assistance as a prerequisite for receiving CDBG DR assistance?***

**A:** HUD encourages but does not require applicants (i.e., homeowners and businesses) to apply for SBA assistance as a prerequisite to receiving CDBG DR assistance. Further, HUD will not require applicants who have applied for and been offered SBA assistance to accept the SBA assistance as a prerequisite to receiving CDBG DR assistance.

***Q: How must a grantee address the situation where an applicant has declined an offer of SBA assistance, and now seeks CDBG DR assistance?***

**A:** Grantees must make the most effective use of their CDBG DR resources and meet the statutory directive that funds be used for "necessary" recovery costs. Grantees must properly size the CDBG DR assistance offered to any applicant in this circumstance, but may use multiple approaches to size the assistance and may vary the approach used for individuals from that used for businesses. Regardless of the applicant or approach, grantees must be able to demonstrate that the amount of CDBG DR assistance is necessary and reasonable consistent with Federal financial standards.

***Q: What is HUD's guidance to grantees on establishing criteria and policies for implementing this guidance?***

**A:** This guidance directs grantees to assess each applicant's circumstance and prevent the duplication of benefits. Grantees must adopt an approach that adequately establishes the basis for CDBG DR assistance and HUD anticipates that grantees will base their approach upon this guidance. Grantees are

cautioned against providing 100 percent CDBG DR grant assistance where an applicant has declined SBA assistance without fully documenting the basis for that level of subsidy. Failure to institute an appropriate process to address these cases may open the grantee to programmatic sanctions.

The Department’s minimum expectation in this situation is that grantees will incorporate policies and procedures that achieve the following:

- Identify the circumstances under which the applicant declined the SBA assistance;
- Establish why CDBG DR assistance is appropriate for the applicant; and
- Determine, most commonly through underwriting, the amount of CDBG DR assistance that is necessary and reasonable to assist the applicant in achieving recovery.

***Q: Is there an evaluation process that HUD can recommend to grantees?***

**A:** The Department has reviewed PL 113-2, the Disaster Relief Appropriations Act, 2013, which limits the use of funds to “necessary” expenses. Further, HUD has reviewed materials related to OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments (codified, in part, at 2 CFR 225) and has developed the following approach that grantees may opt to use for implementing a duplication of benefit analysis where SBA assistance was declined by a potential CDBG DR beneficiary. The grantee is not required to adopt this approach, but it must have an approach that adequately establishes the basis for any CDBG DR assistance to that beneficiary.

***Step 1— Determine whether an applicant declined an SBA loan offer.***

An applicant must explain why a SBA loan was declined (e.g., the circumstances that led to his/her decision). This information may be collected through the application process (e.g., on a questionnaire to be completed by the applicant), or as the grantee assesses the applicant’s information to prevent a duplication of benefits. See Table 1 for sample questions that may be incorporated into an application for CDBG DR assistance, or into a form used to prevent the duplication of benefits.

**Table 1: Sample Questions to Ask Potential CDBG DR Applicants**

Question	Applicant’s Response
Have you received disaster recovery assistance from the SBA?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <i>yes</i> , what is the amount of the loan?	\$(X)
If <i>no</i> : did you apply for a SBA loan?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Did you decline a SBA loan?	<input type="checkbox"/> Yes <input type="checkbox"/> No
What was the amount of the loan?	\$(_____)
Why was the loan not accepted?	[provide explanation]

***Step 2—Grantee’s analysis of a declined SBA loan.***

The grantee must demonstrate that providing CDBG DR assistance to an applicant that has declined a SBA loan is necessary and reasonable. To demonstrate this, the grantee must develop policies and

procedures which describe what circumstances and/or facts, such as the reason for the applicant's decision to decline the SBA loan offer that the grantee will use to determine that CDBG DR support is a necessary and reasonable recovery expense. These policies and procedures must take into account the necessary and reasonable cost principles defined at 2 CFR part 225, *Cost Principles for State, Local, and Indian Tribal Governments*. Specifically, Appendix A(C)(1) states, "To be allowable under Federal awards, costs must ...be necessary and reasonable for proper and efficient performance and administration of Federal awards." Appendix A then defines a cost as 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."

Grantees must also make decisions about which types and amount of costs items are necessary and reasonable. This requirement applies to a grantee's costs in administering its disaster recovery program, as well as the ultimate uses of the funds by the grantee. Following the guidance in 2 CFR part 225, grantees should consider the following in determining reasonableness of a given cost:

- a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the disaster recovery program.
- b. The restraints or requirements imposed by such factors as sound business practices; arm's-length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the CDBG DR program.
- c. Market prices for comparable goods or services.
- d. Whether the grantee would be acting with prudence by making an offer for CDBG DR assistance in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the Federal Government.
- e. Significant deviations from the established practices of the governmental unit which may unjustifiably increase the cost to the CDBG DR program.

The grantee is encouraged, but is not required, to use the above questions to determine what circumstances and/or facts demonstrate that a CBDG DR award is a necessary and reasonable cost given that the applicant declined a SBA loan offer. Furthermore, these circumstances and/or facts must be described in the grantee's policies and procedures. Applicant files must be reviewed using the grantee's policies and procedures. A determination of why the award of CDBG DR assistance is necessary and reasonable (if the applicant declined a SBA loan offer) must be placed in the applicant's file. Table 2 provides a sample determination form.

**Table 2: Sample Determination Form**

<p>The [insert grantee name] has determined that the following reasons establish that the CBDG DR award to the applicant is necessary and reasonable given that the applicant declined a SBA loan offer: [insert circumstances or facts].</p>		
<p>Based on my review of [insert applicant name]'s file, I have determined that the award is necessary and reasonable as defined above: <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>		
<p>If no, provide an explanation: _____</p>		
<p>[insert name/title of grantee staff]</p>	<p>[insert signature]</p>	<p>[insert date]</p>



U.S. Department of Housing and Urban Development  
Community Planning and Development

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**Special Attention of:**

All Regional Administrators  
All CPD Division Directors  
All CDBG-DR Grantees receiving  
funds pursuant to P.L. 113-2

**Notice:** CPD-13-038

**Issued:** July 30, 2013

**Expires:** This Notice is effective  
until amended, superseded, or  
rescinded.

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**SUBJECT:** Guidance for Charging Pre-Award Costs of Homeowners, Businesses, and Other  
Qualifying Entities to CDBG Disaster Recovery Grants

**INTRODUCTION**

This Notice establishes requirements, procedures, and deadlines to be followed for  
Community Development Block Grant (CDBG) disaster recovery grants awarded under the  
Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2, enacted January 29, 2013) (the Act).

Policy questions related to this Guidance should be directed to the Disaster Recovery and  
Special Issues Division, Office of Block Grant Assistance, Department of Housing and Urban  
Development, telephone number (202) 708-3587. Persons with hearing or speech impairments  
may access this number via TTY by calling the Federal Relay Service at (800) 877-8339 (this  
number is toll-free). In the alternative, questions may be submitted electronically to  
[Disaster\\_Recovery@hud.gov](mailto:Disaster_Recovery@hud.gov).

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**I. PURPOSE AND SCOPE**

This document provides procedures and deadlines to be followed when providing Community Development Block Grant Disaster Recovery (CDBG-DR) funds to homeowners, businesses, and other qualifying entities for eligible costs they have incurred in response to a Presidentially-declared disaster. This guidance applies only to CDBG-DR funds provided under the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2, enacted January 29, 2013). Grantees with questions about reimbursement of pre-application costs under any other CDBG-DR appropriation should consult their CPD representatives.

**A. Background and Authority**

OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, is codified at 2 CFR part 225. Per 2 CFR part 225 Appendix B, Paragraph 31, pre-award costs are defined as “those incurred prior to the effective date of the award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with the proposed delivery schedule or period of performance.” The regulation permits pre-award costs only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

Consistent with this regulation, the *Federal Register* Notice published March 5, 2013 (78 FR 14329) (March 5 Notice) addressed the terms under which HUD permits grantees to charge pre-award costs of grantees and subrecipients to the grants awarded under the Act. Generally, the March 5 Notice applies the provisions of 24 CFR 570.489(b) and 570.200(h) to permit grantees to reimburse themselves for otherwise allowable costs incurred by grantees, recipients, subgrantees, or subrecipients (including public housing authorities) on or after the incident date of the covered disaster, with the expectation that grantees would include all pre-agreement activities in their Action Plans. The terms of

the March 5 Notice recognize that the entities carrying out CDBG-DR assistance programs have experience with federal cross-cutting requirements and may anticipate receiving CDBG-DR assistance. Accordingly, these entities must comply with the cross-cutting requirements and other terms of the March 5 Notice, including the requirement to complete environmental review (including Section 106 historic preservation compliance) before committing funds or beginning recovery activities (e.g., rehabilitation of a government building). The terms of the March 5 Notice, as supplemented by additional notices published by HUD in the *Federal Register* on March 5, April 19 (78 FR 23578) and May 29, 2013 (78 FR 32262), apply to grants made pursuant to the Act.

The March 5 Notice did not address pre-award and pre-application costs of beneficiaries of CDBG-DR grant funds. This CPD Notice sets forth the terms under which HUD is granting such permission, consistent with 2 CFR part 225.

#### **B. Generally Applicable Terms**

Subject to the terms of this CPD Notice, HUD will permit grantees to charge to grants the pre-award and pre-application costs of homeowners, businesses, and other qualifying entities for eligible costs they have incurred in response to a Presidentially-declared disaster. For purposes of this CPD Notice, pre-application costs are costs incurred by an applicant to CDBG-DR funded programs prior to the time of application to a grantee or subrecipient, which may be after the grantee signs its CDBG-DR grant agreement. In addition to the terms described in the remainder of this Notice, grantees may only charge costs to the grant that meet the following general requirements:

- Grantees may only charge the costs for rehabilitation, demolition, and reconstruction of single family, multifamily, and nonresidential buildings owned by private individuals and entities incurred before the owner applies to a CDBG-DR grantee, recipient, or subrecipient for CDBG-DR assistance;
- For rehabilitation and reconstruction costs, grantees may only charge costs for activities completed within the same footprint of the damaged structure, sidewalk, driveway, parking lot, or other developed area;
- As required by 2 CFR part 225, Appendix A, costs must be adequately documented;
- Grantees electing to provide assistance pursuant to this CPD Notice must review their Action Plans (particularly the definition of substantial amendment) to determine whether providing such assistance will change the eligible beneficiaries or otherwise require an Action Plan amendment; and
- Grantees must complete a duplication of benefits check before providing assistance pursuant to this CPD Notice.

#### **II. TIMING AND NECESSARY EXPENSES**

The Act provided funds for eligible CDBG activities that are “necessary expenses” of relief and recovery from Hurricane Sandy and other major disasters in calendar years 2011, 2012, and 2013. Grantees are required to ensure that all costs charged to grants made pursuant to the Act are necessary expenses related to recovery.

Response and recovery begins on the date of a disaster, before CDBG-DR assistance becomes available. This Guidance addresses the availability of necessary recovery assistance for private owners who used their own limited resources for short-term recovery-related costs after a disaster with no assurance of receiving CDBG-DR assistance. The terms of this CPD Notice are designed to ensure that short-term outlays do not impede long-term recovery. However, the terms are time limited to ensure that CDBG-DR funds are expended only for necessary expenses of recovery.

Grantees may charge to CDBG-DR grants the eligible pre-award and pre-application costs of individuals and private entities related to single- and multi-family residential structures and nonresidential structures, only if the person or private entity incurred the expenses within one year after the date of the disaster and before the date on which the person or entity applies for CDBG-DR assistance.

For example, a person who incurred eligible expenses for rehabilitation in the wake of Hurricane Sandy, which made landfall on October 29, 2012, may be eligible to receive CDBG-DR assistance for costs incurred (i.e., documented rehabilitation costs) up until October 29, 2013. However, if that person or private entity applied to a grantee's CDBG-DR program on July 4, 2013, then only expenses incurred before July 4, 2013, would be eligible for reimbursement.

The "necessary expense" requirement is augmented by the necessary and reasonable cost principles applicable to state, local, and Indian tribal governments (described at 2 CFR part 225). Appendix A(C)(1) in 2 CFR part 225 states, "To be allowable under Federal awards, costs must ... be necessary and reasonable for proper and efficient performance and administration of Federal awards." Additional discussion of necessary and reasonable requirements are available at 2 CFR part 225, Appendix A(C)(1). To ensure compliance with these requirements, grantees that elect to provide CDBG-DR assistance to eligible homeowners, businesses, and other qualifying entities in accordance with this CPD Notice must incorporate into their policies and procedures the basis for determining that assistance under the terms of this Notice is necessary and reasonable.

### **III. FEDERAL CROSS-CUTTING REQUIREMENTS GUIDANCE**

This section summarizes how each of the cross-cutting requirements applies to the CDBG-DR activities described in this Guidance.

#### **A. Environment**

HUD is advising responsible entities (REs) that paying for incurred costs for limited classes of activities can occur in Presidentially-declared areas in receipt of CDBG-DR assistance under Pub. L. 113-2. In light of the circumstances of the local, state, and regional recovery efforts, and because of the high national priority as articulated by the President, members of Congress, Governors of the States, and the public, HUD has developed a framework permitting the limited bypassing of Federal program requirements for conducting environmental reviews in order to accelerate the process of

rebuilding in these areas without further delay. This framework opens grant eligibility to certain rehabilitation and reconstruction activities that were initiated without obtaining prior environmental approval, or certification in the case of structures damaged by the disasters.

Please note that the HUD environmental review process is most effectively implemented when it is performed early in the development process and integrated into program design. Under CDBG-DR authorizing legislation and HUD's environmental regulations in 24 CFR part 58, CDBG-DR recipients ("responsible entities" or "REs") assume the responsibility for completing environmental reviews under Federal laws and authorities. Notwithstanding this guidance, the responsible entity assumes all legal liability for the application, compliance, and enforcement of these requirements.

This policy is applicable when the responsible entity (a state, or unit of general local government that receives CDBG-DR funding directly from HUD or a state) is conducting an environmental review. It does not apply where a responsible entity is adopting a review conducted by another federal agency. Furthermore, this policy is limited to a narrow group of recovery activities funded by the Act and covered by the terms of this Notice, and is not to be used as precedent for other HUD activities. These activities may be eligible to receive CDBG-DR reimbursement for the expenditure of non-HUD funds on a project prior to an environmental review being performed, subject to meeting several Federal requirements. For detailed guidance, please see Appendix A, *Applying the Environmental Review Framework*.

Finally, please note that pre-award costs are allowable when CDBG-DR assistance is provided for the rehabilitation, demolition, or reconstruction of government buildings, public facilities, and infrastructure. However, in such instances, the environmental review must occur before the underlying activity (e.g., rehabilitation of a government building) begins.

#### **B. Davis-Bacon**

Under section 110(a) of the Housing and Community Development Act of 1974, the Davis-Bacon Act (40 U.S.C. 3141 *et seq.*) applies to construction work over \$2,000, "financed in whole or in part" with CDBG assistance. Each CDBG-DR appropriation law has applied the Davis Bacon Act to the CDBG-DR funds. The Act requires that workers receive no less than the prevailing wages being paid for similar work in the same area. The Davis-Bacon Act does not apply to the rehabilitation, reconstruction, and demolition of single family owner-occupied housing comprised of fewer than eight units, multifamily housing comprised of fewer than eight units, and commercial buildings.

In addition, for the activities addressed by this Notice (i.e., rehabilitation, demolition, and reconstruction of single family, multifamily, and nonresidential buildings owned by private individuals and entities) the Davis-Bacon wage rates will not apply when the construction work:

- Is performed or contracted for by someone other than the grantee,
- Is fully complete before the owner applies for CDBG-DR assistance, and
- Was not financed with the expectation of CDBG-DR assistance.

If construction work is ongoing when an application is submitted, then an intent to finance (all, or a part of) the project using CDBG-DR is presumed, which triggers the applicability of Davis-Bacon wage rates. However, if there is no evidence of an intent to apply for the CDBG-DR assistance prior to the start of the construction (and the signing of an agreement with a contractor(s), if applicable), then HUD may request that the Department of Labor (DOL) allow prospective, rather than retroactive, application of the Davis-Bacon wage rates.

For activities that must comply with Davis-Bacon, the grantee must:

- Review payroll reports;
- Conduct interviews of both the prime contractor and subcontractors; and
- Resolve any discrepancies. Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. The employer is required to report the restitution paid on a correction certified payroll. A signed Statement of Compliance must be attached to the corrected payroll form and each employee who has received restitution should sign the corrected payroll as evidence of their receipt of the payments.<sup>1</sup>

For a period of five years following the provision of CDBG-DR assistance, the grantee (or subgrantee) must maintain documentation to demonstrate compliance with the labor standards requirements including, but not limited to:

- Bid and contract documents with the labor standards clause and wage decision;
- Payroll forms from the contractor and subcontractors, including signed statements of compliance;
- Documentation of on-site job interviews and review of the corresponding payroll to detect any discrepancies;
- Documentation of investigations and resolutions to issues that may have arisen (e.g., payments to workers for underpayments of wages or overtime); and
- Enforcement reports.

Grantees (states and units of general local government) must report to DOL on all covered contracts awarded and on all enforcement actions taken each six months. HUD collects the reports from its client agencies and compiles a comprehensive report to DOL

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<sup>1</sup> Sometimes, wage restitution cannot be paid to an affected employee because, for example, the employee has moved and can't be located. In these cases, at the end of the project the prime contractor will be required to place in a deposit or escrow account an amount equal to the total amount of restitution that could not be paid because the employee(s) could not be located. The UGLG should continue to attempt to locate the unfound workers for three years after the completion of the project. After three years, any amount remaining in the account for unfound workers should be forwarded to HUD.

covering all of the Davis-Bacon construction activity.

### **C. Civil Rights Requirements**

All program related civil rights requirements will apply.

### **D. Lead-Based Paint**

HUD's Lead Safe Housing Rule (24 CFR part 35, subparts B-R) applies to all pre-1978 housing units assisted with CDBG funds, including single and multi-family units, whether publicly or privately owned. The purpose of the rule and accompanying regulations is to identify and address lead-based paint hazards before children are exposed to lead. Assistance provided for an applicant's incurred rehabilitation costs may be exempt from the Lead Safe Housing Rule if the unit falls within a regulatory exemption set forth at 24 CFR 35.115. A housing unit is likely to fall within an exemption if:

- The housing unit was constructed on or after January 1, 1978;
- The CDBG-DR applicant undertook CDBG-eligible activities that qualify as emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety, or to protect the property from further structural damage due to natural disaster, fire or structural collapse. This exemption applies only "to repairs necessary to respond to the emergency" as provided in 24 CFR 35.115(a)(9);
- The rehabilitation did not disturb any painted surface;
- The property meets the definition of "housing for the elderly," or the residential property is designated "exclusively for persons with disabilities"; but only if no child less than six years of age resides or is "expected to reside" in the dwelling unit (see definitions at 24 CFR 35.110);
- An inspection performed according to HUD standards found the property contained no lead-based paint; or
- According to documented methodologies, lead-based paint has been identified and removed, and the property has achieved clearance.

Many owners that apply for CDBG-DR assistance for rehabilitation costs they have incurred may be able to qualify their property under the first or second exemption in the list above. Applicants may certify to the applicability of each of the first three exemptions in the list above (those covering post-1977 housing, emergency actions, and non-disturbance of painted surfaces). To ensure the accuracy of the certifications, the grantee should randomly perform on-site reviews of a portion of the assisted properties. If necessary (e.g., if none of the first three exemptions apply), the grantee may need to inspect the property according to HUD standards, and ensure any lead-based paint has been removed and the property has achieved clearance.

Note that commercial buildings are not subject to the Lead Safe Housing Rule, except for residential portions and common areas servicing the residential portions of mixed use

pre-1978 buildings.

**E. Uniform Relocation Act and Section 104(d)**

*Uniform Relocation Act*

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended, 42 U.S.C. 4601-4655, establishes uniform relocation assistance requirements with respect to the displacement of persons from real property occurring as a direct result of acquisition, rehabilitation or demolition of real property for a program or project with federal financial assistance. When federal financial assistance (including CDBG-DR funds) is used for any activity or in any phase of a project, planned or intended, and the activities are determined to be interdependent, the URA applies. Interdependence is best determined by whether or not one activity would be carried out if not for another. In such case, the URA may apply even though the displacing activity itself is not paid with Federal funds.

When an owner of real property rehabilitates or demolishes that property and thereby causes a person to be displaced, whether the URA applies to the displacement depends upon whether the owner's rehabilitation or demolition is undertaken after Federal financial assistance for the project is *received or anticipated*. (NOTE: Reconstruction is not a URA-triggering activity itself, but if it includes acquisition, rehabilitation or demolition, the URA may apply).

Displacement resulting from an owner's rehabilitation or demolition before an owner's submission of an application for CDBG-DR assistance is generally not considered to be undertaken for a program or project with federal financial assistance because the federal funds are not yet anticipated, meaning that the URA will not apply. On the other hand, displacement resulting from an owner's rehabilitation or demolition on or after the date of the owner's application submission (if subsequently approved) is generally considered to be subject to the URA because the federal financial assistance is anticipated at that point.

Please note, for the URA to apply, the displacement must be attributable to one of the three activities: acquisition, rehabilitation, or demolition. Section 414 of the Stafford Act relieves a person displaced from a residential unit from the requirement of actual occupancy to receive a replacement housing payment under the URA if the person has been unable to occupy the unit because of the disaster. Practically speaking, this means that an owner that will displace a tenant because of a URA-triggering activity after Federal financial assistance is received or anticipated must consider whether the tenant would still have occupied the property until the time of displacement but for the disaster. Additional URA resources and guidance, including contact information for HUD's Regional Relocation Specialists, are available on HUD's Real Estate Acquisition and Relocation website at <http://www.hud.gov/relocation>.

*Section 104(d)*

Section 104(d) of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5304(d), provides an alternative set of relocation assistance requirements for the benefit of lower-income persons that are displaced from real property as a direct result of demolition or conversion of a lower-income dwelling unit in connection with a CDBG-assisted activity. Additionally, Section 104(d) requires that all occupied and vacant occupiable lower-income dwelling units demolished or converted to a use other than as lower-income dwelling units in connection with a CDBG-assisted activity must be replaced with comparable lower-income dwelling units.

In its March 5, 2013 *Federal Register* Notice, HUD waived the relocation provisions of section 104(d) with respect to CDBG-DR funds covered by this guidance. Homeowners, therefore, do not need to be concerned with section 104(d) relocation requirements when the only source of Federal funds used to undertake rehabilitation, reconstruction, or demolition activities is CDBG-DR reimbursement funds discussed in this guidance.

Additionally, in the same March 5 notice, HUD waived the one-for-one replacement requirement with respect to lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. Consequently, disaster-damaged housing that meets the definition of "not suitable for rehabilitation," which the March 5 notice requires the grantee to define in its Action Plan, may be demolished or converted in connection with a CDBG-assisted activity without a replacement requirement. Grantees are responsible for ensuring that they are in compliance with this modified one-for-one replacement requirement. Unlike the URA, Section 104(d) only applies to lower-income dwelling units, defined as a dwelling unit with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent for existing housing. In the case of an owner-occupied unit, the unit will be considered a lower-income dwelling unit if the unit would rent at or below FMR based on an appraisal or other appropriate rental market analysis of the rent that could be charged for the unit on the private market).

Grantees with questions about section 104(d) one-for-one replacement compliance are encouraged to contact HUD's Regional Relocation Specialists, whose contact information is available on HUD's Real Estate Acquisition and Relocation website at <http://www.hud.gov/relocation>.

**IV. APPENDIX A: Applying the Environmental Review Framework**

Before any person or entity can be provided CDBG-DR assistance for costs they have incurred, an environmental review must be completed. The environmental review for an action that has already occurred is more limited because the physical action has already taken place. For projects that the responsible entity (RE) has determined are exempt or categorically excluded and not subject to the related laws pursuant to §§58.34 and 58.35(b), the RE entity may provide CDBG-DR assistance to the entity undertaking the project after ensuring compliance with 24 CFR 58.6. HUD offers the following guidance to REs on the components of an environmental review when providing CDBG-DR assistance for costs incurred for the rehabilitation,

demolition, or reconstruction of single family, multifamily, or commercial properties.

HUD encourages REs to conduct a tiered programmatic environmental review that describes the scope of activities being funded and analyzes the impacts of funding the activities that have already occurred. The tiered programmatic environmental review will need to address the National Environmental Policy Act (NEPA) and all of the related laws and authorities at 24 CFR 58.5 and 58.6.

#### **A. Applying NEPA**

The RE may use a categorical exclusion, if appropriate, or conduct an environmental assessment (EA). If an EA is required, REs are encouraged to review and use guidance issued by CEQ to conduct a concise and focused EA. See [http://ceq.hss.doe.gov/ceq\\_regulations/Emergencies\\_and\\_NEPA\\_Memorandum\\_12May2010.pdf](http://ceq.hss.doe.gov/ceq_regulations/Emergencies_and_NEPA_Memorandum_12May2010.pdf)

#### **B. Related laws and authorities (24 CFR 58.5 and 58.6)**

The RE must independently determine how and if compliance with the laws and authorities is achieved. The RE retains legal liability for the application, compliance, and enforcement of the environmental laws and authorities.

HUD advises REs that the following laws and authorities may be fully considered in the first tier (broad tier) of the tiered programmatic environmental review and do not require site specific review:

- Executive Order 11990- Wetland Protection;
- Section 7 of the Endangered Species Act;
- Sole Source Aquifers;
- Wild and Scenic Rivers;
- General conformity determinations under the Clean Air Act (CAA);
- Farmland Protection Policy Act;
- Executive Order 12898- Environmental Justice; and
- HUD's regulations and standards on Noise and Acceptable Separation Distances from explosives.

HUD offers more specific guidance on how the above laws and authorities can be considered in the tier one of the tiered programmatic environmental review. The responsible entity is the federal decision-maker and is responsible for making compliance determinations, but HUD offers the following rationales for making these determinations. Certain applicable requirements are also noted.

1. Eight step decision-making process for floodplain management: If the rehabilitation, reconstruction, modernization or improvement of a structure does not have an exception under 24 CFR 55.12 (e.g. minor rehabilitation or improvements of single family homes under 55.12(b)(2)), then an 8-step review

process is required under 24 CFR part 55. The 8-step process must be performed at tier one of a tiered environmental review. All additional 24 CFR part 55 requirements, such as the floodway and Coastal High Hazard Area restrictions at 24 CFR 55.1(c), also apply. Site specific reviews will be required to ensure compliance with HUD program requirements.

2. Eight step decision-making process for wetland protection: The RE should discuss how the impacts on wetlands will be minimal because the scope of activities is limited to the pre-storm building footprint.
3. Endangered Species: Section 7 Endangered Species Act consultation is not required when CDBG-DR assistance is provided for costs incurred, because physical activities were undertaken before the RE could review projects with the potential to affect biological resources. However, applicants may not receive assistance if a Section 10 permit under ESA was required and not obtained prior to the physical action.
4. Sole Source Aquifers: The total impervious area of a parcel will not be increased significantly, which is considered to be 30% for Safe Drinking Water Act purposes in Region II. This authority will not be triggered since these activities will not increase the preexisting footprint of structures, sidewalk, driveway, parking lot, or other developed area. The responsible entity must comply with all laws, regulations, and industry standards.
5. Wild and Scenic Rivers: The Wild and Scenic Rivers Act does not apply since new construction activities and the acquisition or development of undeveloped lands are not eligible for CDBG-DR assistance and are not covered by this Guidance.
6. Air quality: Any nonattainment area plans should have applied at the time of construction and compliance should be documented. The proposed action must not result in any new violations of Federal or State ambient air quality standards. The RE must supply a finding that the rehabilitation or construction activities are in compliance with Clean Air Act requirements.
7. Farmlands Protection: Since these activities should not occur outside of the existing structure's footprint, this authority should not apply.
8. Executive Order 12898- Environmental Justice: These projects will not raise environmental justice issues and have no potential for new or continued disproportionately high and adverse human health and environmental effects on minority or low-income populations. The site will be reviewed for the presence of toxics as described below to ensure that contamination does not exceed state standards. The grantee must consider mitigation or avoidance of adverse impacts from the project to the extent practicable.

9. Noise: HUD's noise policy at 24 CFR part 51 subpart B is not applicable to assistance that has the effect of restoring facilities substantially as they existed prior to the disaster. (See 51.101(a)(3)).
10. Acceptable Separation Distance: HUD's acceptable separation distance at 24 CFR part 51 subpart C is not applicable if the project is not adding density. If density is increased, 24 CFR part 51 subpart C applies. (See subpart C's definition of "HUD assisted project" at 24 CFR 51.201).

### C. Site Specific Requirements

1. E.O. 11988- Floodplain Management and Elevation Requirements: All additional 24 CFR part 55 requirements, such as the floodway and Coastal High Hazard Area restrictions at 24 CFR 55.1(c), also apply. Site specific reviews will be required to ensure compliance with HUD program requirements.

All substantial improvements and reconstruction activities in the 100-year floodplain or Coastal High Hazard Area on the latest FEMA map must also comply with the elevation requirements described at "II. Applicable Rules, Statutes, Waivers, and Alternative Requirements, 1. Action Plan for Disaster Recovery criterion for approval—Elevation Requirements" in the *Federal Register* Notice published April 19, 2013, available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-04-19/pdf/2013-09228.pdf>.

2. Mandatory Purchase of Flood Insurance: CDBG-DR assistance provided for a structure located in the 100-year floodplain or Coastal High Hazard Area (as determined using the Flood Insurance Rate Map adopted in the community's flood ordinance) must require flood insurance to be obtained in the amount of the total project cost. The development or project cost is the total cost for rehabilitating, demolishing, and/or reconstructing the building following the disaster. The project cost includes both the Federally-assisted and the non-Federally assisted portion of the cost, including any machinery, equipment, fixtures, and furnishings. If the Federal assistance includes any portion of the cost of any machinery, equipment, fixtures, or furnishings, the total cost of that item must also be covered by flood insurance.

HUD recommends, but does not require, that grantees design programs that require flood insurance for properties and contents outside of these Special Flood Hazard Areas (SFHA). Floods and storm surge occur outside of SFHAs, so requiring insurance will protect both the homeowner and the public investment should a future event occur.

3. Historic Preservation: To qualify for CDBG-DR assistance, a disaster recovery-related project must comply with Section 106 of the National Historic Preservation Act (NHPA). Generally, that means that the work did not adversely affect historic buildings, historic districts, or archeological sites. State

Programmatic Agreements outline the process for after the fact review and list activities that are so unlikely to have adverse effects that they are exempt from Section 106 review (e.g. rehabilitation of buildings less than 45 years old, in-kind roof repair, replacement of electrical and heating systems, etc.). For other activities, the responsible entity's qualified historic preservation professional will review and approve projects, or make a determination of adverse effect and try to resolve it through consultation with the State Historic Preservation Officer (SHPO) and/or development of proposed mitigation. The resolution of adverse effects must be acceptable to the SHPO in order to qualify a project for CDBG-DR assistance. Under Section 110(k) of the NHPA, applicants may not qualify for CDBG-DR assistance if they undertook prior work with the intent to avoid Section 106 review and it resulted in adverse effects. In the CDBG-DR program, owners of single family, multifamily and small mixed use properties are presumed to be in compliance with Section 110(k).

4. Toxic Sites: A statement must be made that the site (i) is not listed on an EPA Superfund National Priorities or CERCLA List, or equivalent State list; (ii) is not located within 3,000 feet of a toxic or solid waste landfill site; (iii) does not have an underground storage tank (which is not a residential fuel tank); and (iv) is not known or suspected to be contaminated by toxic chemicals or radioactive materials.

All multifamily properties, nonresidential properties, and properties that cannot make the above statement must also have a Phase I Environmental Site Assessment (ESA) or equivalent that shows the site has no potential Recognized Environmental Conditions (REC). If a potential REC appears in the Phase I, a Phase II ESA must be performed. If the Phase II ESA shows a REC, then the project must have a No Further Action letter from the state environmental agency indicating that the contamination will not affect the health and safety of the occupants or conflict with the intended utilization of the property.

5. Coastal Zone Management: All Federal activities which directly affect a coastal zone must be consistent with the approved State Coastal Zone Management Plans. The responsible entity must provide a consistency determination to the relevant State agency as early as possible, but no later than 90 days before final approval of the CDBG-DR assistance.
6. Runway Clear Zones: No construction or rehabilitation activities can be provided CDBG-DR assistance in runway clear zones.
7. Coastal Barrier Resources: No construction or rehabilitation activities can be provided CDBG-DR assistance in Coastal Barrier Resource Act units.



grantees. This questionnaire will capture key project information to supplement information already available in reports and manuscripts from the approximately 54 HUD grants that were awarded from fiscal years 2005 to 2009, including any 2004 grant not included in the earlier evaluation, and any more recent grantee whose grant ends this fiscal year. OHHLHC is especially interested in determining whether any of the grantee's data sets (i.e., resulting from project evaluation)

would be of value to OHHLHC for additional analyses. After a review of available reports and manuscripts, OHHLHC anticipates roughly half of these grantees (up to 30) will be asked to complete the online questionnaire. OHHLHC will target those grantees that have carried out the greatest number of interventions, collected the most detailed evaluation data on cost, health and housing impacts and outcomes, and can demonstrate significant capacity-building and sustainable approaches to

guide policy development and guidance for future healthy homes efforts. A questionnaire was developed for the 2005 evaluation that captured key information about recruitment/enrollment, assessment, interventions, skills training, and community education/outreach in FHI grantee projects. This questionnaire will be modified for this new data collection effort. The online questionnaire will be administered through a secure Web site.

TOTAL BURDEN ESTIMATE

Requirement	Number of respondents	Hours per respondent	Total hours	Cost per hour	Labor cost	Startup cost	O&M cost	Total cost
Complete questionnaire .....	30	16	480	\$32.75	\$15,720	\$0	\$0	\$15,720
<b>Total .....</b>	<b>30</b>	<b>16</b>	<b>480</b>		<b>\$15,720</b>	<b>\$0</b>	<b>\$0</b>	<b>\$15,720</b>

Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended

Dated: February 27, 2013.

Collette Pollard,  
 Department Reports Management Officer,  
 Office of the Chief Information Officer.  
 [FR Doc. 2013-05080 Filed 3-4-13; 8:45 am]  
**BILLING CODE 4210-67-P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-5696-N-01]

**Allocations, Common Application, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy**

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.  
 ACTION: Notice.

SUMMARY: This Notice advises the public of the initial allocation of \$5,400,000,000 of Community Development Block Grant disaster recovery (CDBG-DR) funds appropriated by the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2) for the purpose of assisting recovery in the most impacted and distressed areas declared a major disaster due to Hurricane Sandy. This Notice describes applicable waivers and alternative requirements, relevant statutory provisions for grants provided under this Notice, the grant award process,

criteria for plan approval, and eligible disaster recovery activities.

DATES: Effective Date: March 11, 2013.

FOR FURTHER INFORMATION CONTACT: Stan Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street SW., Room 7286, Washington, DC 20410, telephone number 202-708-3587.

Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Facsimile inquiries may be sent to Mr. Gimont at 202-401-2044. (Except for the "800" number, these telephone numbers are not toll-free.) Email inquiries may be sent to [disaster\\_recovery@hud.gov](mailto:disaster_recovery@hud.gov).

**SUPPLEMENTARY INFORMATION:**

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Appendix A: Allocation Methodology

**I. Allocation**

The Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2, approved

January 29, 2013)(Appropriations Act) makes available \$16,000,000,000 in Community Development Block Grant (CDBG) funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 *et seq.*) (Stafford Act), due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013. The law provides that funds shall be awarded directly to a State or unit of general local government (UGLG) (hereafter local government) at the discretion of the Secretary. Unless noted otherwise, the term "grantee" refers to any jurisdiction receiving a direct award under from HUD under this Notice.

To comply with statutory direction that funds be used for disaster-related expenses in the most impacted and distressed areas, HUD computes allocations based on the best available data that cover all the eligible affected areas. This Notice allocates funds based on unmet housing and economic revitalization needs, but not infrastructure restoration needs as FEMA damage estimates are very preliminary as of the date of this Notice.

Based on a review of the impacts from Hurricane Sandy, and estimates of unmet need calculated by the Department, this Notice provides the following Round 1 awards:

TABLE 1—ROUND 1 ALLOCATIONS UNDER PUBLIC LAW 113–2

FEMA Disaster No.	State	Grantee	Allocation
4085	New York	New York City	\$1,772,820,000
4085	New York	New York State	1,713,960,000
4086	New Jersey	New Jersey	1,829,520,000
4087	Connecticut	Connecticut	71,820,000
4089	Rhode Island	Rhode Island	3,240,000
4091	Maryland	Maryland	8,640,000
Total			5,400,000,000

Table 2 shows the “most impacted and distressed” counties impacted by Hurricane Sandy. While these funds may also be used by states to address remaining unmet needs in declared counties impacted by Hurricane Irene and Tropical Storm Lee in 2011, at least 80 percent of the funds provided under this Notice must address unmet needs within the “most impacted and distressed” counties identified in Table 2.

TABLE 2—MOST IMPACTED AND DISTRESSED COUNTIES WITHIN WHICH FUNDS MAY BE EXPENDED

Grantee	Counties within which CDBG–DR funds may be expended	Most impacted and distressed counties	Minimum amount that must be expended in most impacted and distressed counties (percent)
New York City	All Counties	All Counties	100
New York	Nassau, Suffolk, Rockland, Westchester, Ulster, Orange, Putnam, Sullivan, Schoharie, Tioga, Broome, Greene, and all Counties in New York City.	Nassau, Suffolk, Rockland	80
New Jersey	All Counties	Ocean, Monmouth, Atlantic, Hudson, Bergen, Middlesex, Cape May, Union, Essex.	80
Connecticut	Fairfield, Mashantucket Pequot Indian Reservation, Middlesex, New Haven, New London.	Fairfield, New Haven	80
Rhode Island	Washington, Newport	Washington	80
Maryland	Somerset	Somerset	100

In addition to the funds allocated in this Notice, and in accordance with the Appropriations Act, \$10,000,000 will be transferred to the Department’s Office of Community Planning and Development (CPD), Program Office Salaries and Expenses, for necessary costs, including information technology costs, of administering and overseeing CDBG–DR funds made available under the Appropriations Act; \$10,000,000 will also be transferred to the Office of the Inspector General for necessary costs of overseeing and auditing CDBG–DR funds made available under the Appropriations Act.

A detailed explanation of HUD’s allocation methodology is provided at Appendix A. As more detailed and complete damage assessments become available, HUD will conduct an additional review of unmet long-term disaster recovery needs. This review will inform a second allocation of funds to address the effects of Hurricane Sandy. A forthcoming allocation will address other qualifying disasters that occurred in 2011 or 2012. The Department will establish, at a future

date, a policy to address qualifying events in 2013.

Each grantee receiving an allocation under this Notice must submit an initial Action Plan for Disaster Recovery no later than 90 days after the effective date of this Notice. However, grantees are encouraged to submit their Action Plans as soon as possible. HUD will only approve Action Plans that meet the specific criteria identified in this Notice. For more information on the Action Plan requirements, see paragraph A.1 under section VI of this Notice: “Applicable Rules, Statutes, Waivers, and Alternative Requirements.”

**II. Use of Funds**

The Appropriations Act requires funds to be used only for specific disaster-related purposes. The law also requires that prior to the obligation of funds, a grantee shall submit a plan detailing the proposed use of funds, including criteria for eligibility and how the use of these funds will address disaster relief, long-term recovery, restoration of infrastructure and housing and economic revitalization in the most

impacted and distressed areas. Thus, in an Action Plan for Disaster Recovery, grantees must describe uses and activities that: (1) are authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) (HCD Act) or allowed by a waiver or alternative requirement published in this Notice; and (2) respond to a disaster-related impact. To help meet these requirements, grantees must conduct an assessment of community impacts and unmet needs to guide the development and prioritization of planned recovery activities. For more guidance on the needs assessment and the creation of the Action Plan, see paragraph A.1 under section VI of this Notice.

Additionally, as provided by the HCD Act, funds may be used as a matching requirement, share, or contribution for any other Federal program when used to carry out an eligible CDBG–DR activity. This includes programs or activities administered by the Federal Emergency Management Agency (FEMA) or the U.S. Army Corps of Engineers (USACE).

### III. Timely Expenditure of Funds and Prevention of Waste, Fraud, Abuse, and Duplication of Benefits

To ensure the timely expenditure of funds, section 904(c) under Title IX of the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds to a grantee (funds are obligated to a grantee upon HUD's signing of the grantee's CDBG-DR grant agreement). Action Plans must demonstrate how funds will be fully expended within two years of obligation. For any funds that the grantee believes will not be expended by the deadline, it must submit a letter to HUD justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges for any such waiver, and must also identify the date by when the specified portion of funds will be expended. HUD will forward the request to the Office of Management and Budget (OMB) and publish any approved waivers in the *Federal Register* once granted. Waivers to extend the expenditure deadline may be granted by OMB in accordance with guidance to be issued by OMB, but grantees are cautioned that such waivers may not be approved. Funds remaining in the grantee's line of credit at the time of its expenditure deadline will be returned to the U.S. Treasury, or if before September 30, 2017, will be recaptured by HUD. The Appropriations Act requires that HUD obligate all funds not later than September 30, 2017. Grantees must continue to meet the requirements for Federal cash management at 24 CFR 85.20(a)(7).

In addition to the above, the Appropriations Act requires the Secretary to certify, in advance of signing a grant agreement, that the grantee has in place proficient financial controls and procurement processes and has established adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act, ensure timely expenditure of funds, maintain comprehensive Web sites regarding all disaster recovery activities assisted with these funds, and detect and prevent waste, fraud, and abuse of funds. Departmental guidance to assist in preventing a duplication of benefits is provided in a notice published in the *Federal Register* at 76 FR 71060 (November 16, 2011) and in paragraph A.21 under section VI of this Notice. To provide a basis for the Secretary to make the certification, each grantee must submit documentation to the Department demonstrating its compliance with the above

requirements. For a complete listing of the required documentation, see paragraph A.1.i under section VI of this Notice.

Additionally, this Notice requires grantees to submit to the Department a projection of expenditures and outcomes to ensure funds are expended in a timely manner. The projections must be based on each quarter's expected performance—beginning the quarter funds are available to the grantee and continuing each quarter until all funds are expended. Each grantee must amend its Action Plan to include these projections within 90 days of Action Plan approval. Action Plans must also be amended to reflect any subsequent changes, updates, or revision of the projections. Amending Action Plans to accommodate these changes is not considered to be a substantial amendment. Guidance on the preparation of projections is available on HUD's Web site under the Office of Community Planning and Development, Disaster Recovery Assistance (herein also referred to as the CPD Disaster Recovery Web site). This will enable HUD, the public, and the grantee, to track proposed versus actual performance. For more information on the projection requirements, see paragraph A.1.l under section VI of this Notice.

Grantees are also required to ensure all contracts (with subrecipients, recipients, and contractors) clearly stipulate the period of performance or the date of completion. In addition, grantees must enter expected completion dates for each activity in HUD's Disaster Recovery Grant Reporting (DRGR) system. When target dates are not met, grantees are required to explain why in the activity narrative. For additional guidance on DRGR system reporting requirements, see paragraph A.2 under section VI of this Notice. More information on the timely expenditure of funds is included in paragraphs A.24–27 under section VI of this Notice.

Other reporting, procedural, and monitoring requirements are discussed under "Grant Administration" in section VI of this Notice. The Department will institute risk analysis and on-site monitoring of grantee management as well as collaborate with the HUD Office of Inspector General to plan and implement oversight of these funds.

### IV. Authority To Grant Waivers

The Appropriations Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation

that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). Waivers and alternative requirements are based upon a determination by the Secretary that good cause exists and that the waiver or alternative requirement is not inconsistent with the overall purposes of title I of the HCD Act. Regulatory waiver authority is also provided by 24 CFR 5.110, 91.600, and 570.5.

### V. Overview of Grant Process

To begin expenditure of CDBG-DR funds, the following expedited steps are necessary:

- Grantee adopts citizen participation plan for disaster recovery in accordance with the requirements of this Notice;
- Grantee consults with stakeholders, including required consultation with affected, local governments and public housing authorities (as identified in section VI of this Notice);
- Within 30 days of the effective date of this Notice (or when the grantee submits its Action Plan, whichever is sooner), grantee submits evidence that it has in place proficient financial controls and procurement processes and has established adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act, ensure timely expenditure of funds, maintain comprehensive Web sites regarding all disaster recovery activities assisted with these funds, and detect and prevent waste, fraud, and abuse of funds;
- Grantee publishes its Action Plan for Disaster Recovery on the grantee's official web site for no less than 7 calendar days to solicit public comment;
- Grantee responds to public comment and submits its Action Plan (which includes Standard Form 424 (SF-424) and certifications) to HUD no later than 90 days after the effective date of this Notice;
- HUD expedites review of Action Plan (allotted 45 days from date of receipt; however, completion of review is anticipated much sooner) and approves the Plan according to criteria identified in this Notice;
- HUD sends an Action Plan approval letter, grant conditions, and signed grant agreement to the grantee. If the Action Plan is not approved, a letter will be sent identifying its deficiencies; the grantee must then re-submit the Action Plan within 45 days of the notification letter;

- Grantee ensures that the HUD-approved Action Plan is posted on its official Web site;
- Grantee signs and returns the fully executed grant agreement;
- HUD establishes the proper amount in a line of credit for the grantee;
- Grantee requests and receives DRGR system access (if the grantee does not already have it);
- If it has not already done so, grantee enters the activities from its published Action Plan into DRGR and submits it to HUD within the system (funds can be drawn from the line of credit only for activities that are established in DRGR);
- The grantee may draw down funds from the line of credit after the Responsible Entity completes applicable environmental review(s) pursuant to 24 CFR part 58 (or paragraph A.20 under section VI of this Notice) and, as applicable, receives from HUD or the State an approved Request for Release of Funds and certification;
- Grantee begins to draw down funds within 60 days of receiving access to its line of credit;
- Grantee amends its published Action Plan to include its projection of expenditures and outcomes within 90 days of the Action Plan approval; and
- Grantee updates its full consolidated plan to reflect disaster-related needs no later than its Fiscal Year 2015 consolidated plan update.

#### VI. Applicable Rules, Statutes, Waivers, and Alternative Requirements

This section of the Notice describes requirements imposed by the Appropriations Act, as well as applicable waivers and alternative requirements. For each waiver and alternative requirement described in this Notice, the Secretary has determined that good cause exists and the action is not inconsistent with the overall purpose of the HCD Act. The waivers and alternative requirements provide additional flexibility in program design and implementation to support full and swift recovery following Hurricane Sandy, while also ensuring that statutory requirements unique to this appropriation are met. As a result, the following requirements apply only to the CDBG-DR funds appropriated in the Appropriations Act, and not to funds provided under the annual formula State or Entitlement CDBG programs, or those provided under any other component of the CDBG program, such as the Section 108 Loan Guarantee Program, the Neighborhood Stabilization Program, or any prior CDBG-DR appropriation.

Grantees may request additional waivers and alternative requirements

from the Department as needed to address specific needs related to their recovery activities. Except where noted, waivers and alternative requirements described below apply to all grantees under this Notice. Under the requirements of the Appropriations Act, regulatory waivers must be published in the **Federal Register** no later than five days before the effective date of such waiver.

Except as described in this Notice, statutory and regulatory provisions governing the State CDBG program shall apply to any State receiving an allocation under this Notice while statutory and regulatory provisions governing the Entitlement CDBG program shall apply to New York City. Applicable statutory provisions can be found at 42 U.S.C. 5301 *et seq.* Applicable State and Entitlement regulations can be found at 24 CFR part 570.

References to the Action Plan in these regulations shall refer to the Action Plan required by this Notice. All references in this Notice pertaining to timelines and/or deadlines are in terms of calendar days unless otherwise noted. The date of this Notice shall mean the effective date of this Notice unless otherwise noted. All references to "substantial damage" and "substantial improvement" shall be as defined in 44 CFR 59.1 unless otherwise noted.

#### A. Grant Administration.

1. *Action Plan for Disaster Recovery waiver and alternative requirement.* The requirements for CDBG actions plans, located at 42 U.S.C. 12705(a)(2), 42 U.S.C. 5304(a)(1), 42 U.S.C. 5304(m), 42 U.S.C. 5306(d)(2)(C)(iii), 24 CFR 91.220, and 91.320 are waived for funds provided under the Appropriations Act. Instead, each grantee must submit to HUD an Action Plan for Disaster Recovery. This streamlined Plan will allow grantees to more quickly and effectively implement disaster recovery programs while conforming to statutory requirements. During the course of the grant, HUD will monitor the grantee's actions and use of funds for consistency with the Plan, and meeting the performance and timeliness objectives therein. Per the Appropriations Act, and in addition to the requirements at 24 CFR 91.500, the Secretary may disapprove an Action Plan if it is determined that the Plan does not satisfy all of the required elements identified in this Notice.

a. *Action Plan.* The Action Plan must identify the proposed use(s) of the grantee's allocation, including criteria for eligibility, and how the uses address long-term recovery needs. To develop

and submit an acceptable Action Plan in a timely manner, a grantee may elect to program or budget only a portion of the grantee's CDBG-DR award in an Action Plan. Funds dedicated for uses not described in accordance with paragraphs b (applicable to State grantees) or c (applicable to UCLG grantees) under this section will not be obligated until the grantee submits, and HUD approves, an Action Plan amendment programming the use of those funds at the necessary level of detail. Although a grantee may submit a partial Action Plan, the partial Action Plan must be amended one or more times until it describes uses for 100 percent of the grantee's CDBG-DR award, subject to the limitations that HUD may not obligate Appropriations Act funds after September 30, 2017 and the last date that grantees may submit an amendment is June 1, 2017. The requirement to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation, as applicable.

The Action Plan must contain:

(1) An impact and unmet needs assessment. Each grantee must develop a needs assessment to understand the type and location of community needs to enable it to target limited resources to areas with the greatest need. At a minimum, the needs assessment must evaluate three core aspects of recovery—housing, infrastructure, and the economy (e.g., estimated job losses). The assessment of emergency shelter needs and housing needs must address interim and permanent; owner and rental; single family and multifamily; public, HUD-assisted, affordable, and market rate. For purposes of this Notice, HUD-Assisted Multifamily Housing is defined as housing that: (1)(a) is part of a multifamily housing property (defined as five units or more), and (b) assisted by FHA insurance; or (2)(a) Housing that receives project-based rental assistance under HUD's section 202, 811 or Section 8 programs; or (b) receives other HUD project-based rental assistance (e.g., Rent Supplement contracts, Rental Assistance Payments (RAP) contract Interest Reduction Payments (IRP) Agreements; or (3) properties that have active Deed Restrictions and/or a Use Agreement as a result of past HUD assistance.

The assessment must also take into account the various forms of assistance available to, or likely to be available to, affected communities and individuals (including estimated insurance and eligible FEMA, SBA, or other Federal assistance) to identify disaster recovery needs that are not likely to be addressed by other sources of funds. Grantees must

use the best, most recent available data (e.g., from FEMA and SBA), cite data sources, and estimate the portion of need likely to be addressed by insurance proceeds, other Federal assistance, or any other funding source.

Impacts must be described by type at the lowest geographic level practicable (e.g., city/county level or lower if available). For example, most needs estimates will have a count of businesses, homeowners, and renters that are likely to have difficulty recovering within a neighborhood and community. Grantees must pay special attention to neighborhoods with high percentages of damaged homes and provide a demographic analysis (e.g., race, ethnicity, disability, age, tenure, income, home value, structure type) in those neighborhoods to identify any special needs that will need to be addressed. The needs assessment must also identify the types of businesses (including the North American Industry Classification System code, the standard used by Federal statistical agencies in classifying business establishments and available at [www.census.gov/eos/www/naics/](http://www.census.gov/eos/www/naics/)) most impacted with a description of their likely barriers to recovery. In addition, a needs assessment must take into account the costs of incorporating mitigation and resiliency measures to protect against future hazards. Examples of disaster recovery needs assessments can be found on the CPD Disaster Recovery Web site.

Grantees may obtain data on impacts and assistance provided that can be used to (a) Support identifying individuals likely to need recovery assistance; (b) prevent duplication of benefits risk at time of program design; and (c) assist grantees with their unmet needs assessment by contacting Juan Gil (FEMA) via email at [juan.gil@fema.dhs.gov](mailto:juan.gil@fema.dhs.gov) or by calling (940) 898-5141 and Frank Adinolfi (SBA) via email at [frank.adinolfi@sba.gov](mailto:frank.adinolfi@sba.gov) or by calling (202) 205-6734. HUD will also provide grantees with neighborhood level aggregate data to assist with planning.

Disaster recovery needs evolve over time as the full impact of a disaster is realized and costs of damages transition from estimated to actual. Remaining recovery needs also evolve over time as they are met by dedicated resources. As a result, the needs assessment and Action Plan must be amended as conditions change and additional needs are identified. CDBG-DR funds may be used to reimburse the costs of conducting the needs assessment.

(2) A description of the connection between the identified unmet needs and the

allocation of CDBG-DR resources by the grantee. Such description must demonstrate a proportionate allocation of resources relative to areas and categories (i.e., housing, economic revitalization, infrastructure) of greatest needs;

(3) A description of how the grantee will promote (a) sound, sustainable long-term recovery planning informed by a post-disaster evaluation of hazard risk, especially land-use decisions that reflect responsible flood plain management and take into account possible sea level rise (for example, by using the new FEMA floodplain maps and designs applying the new Advisory Based Flood Elevations (ABFE) or higher), and (b) how it will coordinate with other local and regional planning efforts to ensure consistency;

(4) A description of how the grantee will leverage CDBG-DR funds with funding provided by other Federal, state, local, private, and non-profit sources to generate a more effective and comprehensive recovery. Examples of other Federal sources are those provided by HUD, FEMA (specifically the Public Assistance Program, Individual Assistance Program, and Hazard Mitigation Grant Program), SBA (specifically the Disaster Loans program), U.S. Department of Transportation, USACE, U.S. Environmental Protection Agency, and the U.S. Department of Health and Human Services. The grantee must maximize leveraging of CDBG-DR funds for the entire recovery. Leveraged funds shall be identified for each activity, as applicable, in the DRGR system;

(5) A description of how the grantee's programs or activities will attempt to protect people and property from harm, and how the grantee will encourage construction methods that emphasize high quality, durability, energy efficiency, a healthy indoor environment, sustainability, and water or mold resistance, including how it will support adoption and enforcement of modern building codes and mitigation of hazard risk, including possible sea level rise, storm surge, and flooding, where appropriate. All rehabilitation, reconstruction, and new construction should be designed to incorporate principles of sustainability, including water and energy efficiency, resilience and mitigating the impact of future disasters. Whenever feasible, grantees should follow best practices such as those provided by the U.S. Department of Energy Home Energy Professionals: *Professional Certifications and Standard Work Specifications*.

To foster the rebuilding of more resilient neighborhoods and communities, HUD strongly encourages grantees to consider sustainable rebuilding scenarios such as the use of different development patterns, infill development and its reuse, alternative neighborhood designs, and the use of green infrastructure. The Partnership for Sustainable Communities is an interagency partnership between HUD, the Department of Transportation, and the Environmental Protection Agency. The Partnership for Sustainable Communities' six Livability Principles should serve as a guide to grantees working in areas that were substantially destroyed. When grantees seek to rebuild such areas, grantees should describe how they will consider sustainable urban design and construction in their redevelopment planning process. The Livability Principles can be found at the Partnership for Sustainable Communities' Web site [www.sustainablecommunities.gov](http://www.sustainablecommunities.gov).

At a minimum, HUD is requiring the following construction standards:

(a) Green Building Standard for Replacement and New Construction of Residential Housing. Grantees must meet the Green Building Standard in this subparagraph for: (i) all new construction of residential buildings; and (ii) all replacement of substantially-damaged residential buildings. Replacement of residential buildings may include reconstruction (i.e., demolishing and re-building a housing unit on the same lot in substantially the same manner) and may include changes to structural elements such as flooring systems, columns or load bearing interior or exterior walls.

(b) For purposes of this Notice, the Green Building Standard means the grantee will require that all construction covered by subparagraph (a), above, meet an industry-recognized standard that has achieved certification under at least one of the following programs: (i) ENERGY STAR (Certified Homes or Multifamily High Rise); (ii) Enterprise Green Communities; (iii) LEED (NC, Homes, Midrise, Existing Buildings O&M, or Neighborhood Development); (iv) ICC-700 National Green Building Standard; (v) EPA Indoor AirPlus (ENERGY STAR a prerequisite); or (vi) any other equivalent comprehensive green building program, including regional programs such as those operated by the New York State Energy Research and Development Authority or the New Jersey Clean Energy Program.

(c) Standards for rehabilitation of non-substantially-damaged residential buildings. For rehabilitation other than

that described in subparagraph (a), above, grantees must follow the guidelines specified in the HUD CPD Green Building Retrofit Checklist, available on the CPD Disaster Recovery Web site. Grantees must apply these guidelines to the extent applicable to the rehabilitation work undertaken, including the use of mold resistant products when replacing surfaces such as drywall. When older or obsolete products are replaced as part of the rehabilitation work, rehabilitation is required to use ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP)-designated products and appliances. For example, if the furnace, air conditioner, windows, and appliances are replaced, the replacements must be ENERGY STAR-labeled or FEMP-designated products; WaterSense-labeled products (e.g., faucets, toilets, showerheads) must be used when water products are replaced. Rehabilitated housing may also implement measures recommended in a Physical Condition Assessment (PCA) or Green Physical Needs Assessment (GPNA).

(d) Implementation: (i) For construction projects completed, under construction, or under contract prior to the date that assistance is approved for the project, the grantee is encouraged to apply the applicable standards to the extent feasible, but the Green Building Standard is not required; (ii) for specific required equipment or materials for which an ENERGY STAR- or WaterSense-labeled or FEMP-designated product does not exist, the requirement to use such products does not apply.

(e) HUD encourages grantees to implement green infrastructure policies to the extent practicable. Additional tools for green infrastructure are available at the Environmental Protection Agency's water Web site; *Indoor AirPlus* Web site; *Healthy Indoor Environment Protocols for Home Energy Upgrades* Web site; and *ENERGY STAR* Web site: [www.epa.gov/greenbuilding](http://www.epa.gov/greenbuilding).

(6) A description of how the grantee will identify and address the rehabilitation (as defined at 24 CFR 570.202), reconstruction, and replacement of the following types of housing affected by the disaster: public housing (including administrative offices), HUD-assisted housing (defined at subparagraph (1), above), McKinney-Vento funded shelters and housing for the homeless—including emergency shelters and transitional and permanent housing for the homeless, and private market units receiving project-based assistance or with tenants that participate in the Section 8 Housing Choice Voucher Program. As part of this

requirement, the grantee must identify how it will address the rehabilitation, mitigation, and new construction needs of each impacted Public Housing Authority (PHA) within its jurisdiction. The grantee must work directly with the PHA in identifying necessary costs and ensure that adequate funding is dedicated to addressing the unmet needs of damaged public housing. In its Action Plan, each grantee must set aside funding to specifically address the needs described in this subparagraph; Grantees are reminded that public housing is eligible for FEMA Public Assistance and must ensure that there is no duplication of benefits when using CDBG-DR funds to assist public housing. Information on the public housing agencies impacted by the disaster is available on the Department's Web site;

(7) A description of how the grantee will encourage the provision of housing for all income groups that is disaster-resistant, including a description of the activities it plans to undertake to address: (a) The transitional housing, permanent supportive housing, and permanent housing needs of individuals and families (including subpopulations) that are homeless and at-risk of homelessness; (b) the prevention of low-income individuals and families with children (especially those with incomes below 30 percent of the area median) from becoming homeless, and (c) the special needs of persons who are not homeless but require supportive housing (e.g., elderly, persons with disabilities, persons with alcohol or other drug addiction, persons with HIV/AIDS and their families, and public housing residents, as identified in 24 CFR 91.315(e) or 91.215(e) as applicable). Grantees must also assess how planning decisions may affect racial, ethnic, and low-income concentrations, and ways to promote the availability of affordable housing in low-poverty, non-minority areas where appropriate and in response to disaster-related impacts.

(8) A description of how the grantee plans to minimize displacement of persons or entities, and assist any persons or entities displaced;

(9) A description of how the grantee will manage program income (e.g., whether subrecipients may retain it), and the purpose(s) for which it may be used. Waivers and alternative requirements related to program income can be found in this Notice at paragraphs A.2 and A.17 of section VI;

(10) A description of monitoring standards and procedures that are sufficient to ensure program requirements, including nonduplication

of benefits, are met and that provide for continual quality assurance and investigation. Some of this information may be adopted from the grantee's submission of information that is required for the Department's certification (see paragraph A.1.i, below; guidance on the prevention of duplication of benefits is available at paragraph A.21 of section VI). However, a grantee may need to include additional details to fully inform the public of the grantee's standards and procedures. Grantees must also describe their required internal audit function with an organizational diagram showing that responsible audit staff report independently to the chief officer or board of the organization designated to administer the CDBG-DR award (typically, the organization is designated by a chief elected official);

(11) A description of the mechanisms and/or procedures that are in place or will be put into place to detect and prevent fraud, abuse, and mismanagement of funds (including potential conflicts of interest);

(12) A description demonstrating the adequacy of the grantee's capacity, and the capacity of any UGLG or other organization expected to carry out disaster recovery programs (this assessment shall include a description of how the grantee will provide for increasing the capacity of UGLGs or other organizations, as needed and where capacity deficiencies (e.g., outstanding Office of Inspector General audit findings) have been identified. Grantees are responsible for providing adequate technical assistance to subrecipients or subgrantees to ensure the timely, compliant, and effective use of funds. Although UGLGs or other organizations may carry out disaster recovery programs and projects, each grantee under this Notice remains legally and financially accountable for the use of all funds and may not delegate or contract to any other party any inherently governmental responsibilities related to management of the funds, such as oversight (also see paragraph A.10 under section VI), policy development, and financial management;

b. *Funds awarded to a State.* A State's Action Plan, or partial Action Plan, shall describe the specific programs or activities the State will carry out directly, and/or how it will distribute funds to UGLGs (i.e., its method of distribution). Each Plan must also describe how the State's needs assessment informs the allocation(s) identified in the Plan, and how unmet needs that have been identified but not

yet addressed will be addressed in a subsequent amendment to the Plan.

In addition, for each program or activity that will be carried out by the State, the Action Plan or partial Action Plan must describe: (1) The projected use of the CDBG-DR funds, including the entity administering the program/activity, budget, and geographic area; (2) the threshold factors or applicant eligibility criteria, grant size limits, and proposed start and end dates; (3) how the projected use will meet CDBG eligibility criteria and a national objective; (4) how the projected use relates to a specific impact of the disaster and will result in long-term recovery; and (5) estimated and quantifiable performance outcomes (i.e., a performance measure) relative to the identified unmet need.

When the State uses a method of distribution to allocate funds to UGLGs, it must describe all criteria used to determine the distribution, including the relative importance of each criterion.

c. *Funds awarded directly to an UGLG.* The UGLG's Action Plan, or partial Action Plan, shall describe specific programs and/or activities it will carry out directly or through subrecipients, including other local governments. Each Plan must also describe how the UGLG's needs assessment informed the allocation(s) identified in the Plan, and how unmet needs that have been identified but not yet addressed will be addressed in a subsequent amendment to the Plan.

In addition, for each program or activity that will be carried out by the UGLG or through a subrecipient, the Action Plan or partial Action Plan must describe: (1) The projected use of the CDBG-DR funds, including the entity administering the program/activity, budget, and geographic area; (2) the threshold factors or applicant eligibility criteria, grant size limits, and proposed start and end dates; (3) how the projected use will meet CDBG eligibility criteria and a national objective; (4) how the projected use relates to a specific impact of the disaster and will result in long-term recovery; and (5) estimated and quantifiable performance outcomes (i.e., a performance measure) relative to the identified unmet need.

d. *Clarification of disaster-related activities.* All CDBG-DR activities must clearly address an impact of the disaster for which funding was appropriated. This means each activity must be CDBG-eligible (or receive a waiver), meet a national objective, and address a direct or indirect impact from the disaster in a county covered by a Presidential disaster declaration and cited in Table

2 of this Notice. Additional details on disaster-related activities are provided under Section VI, parts B through D.

(1) *Housing.* Typical housing activities include new construction and rehabilitation of single family or multifamily units (including garden apartments, condominiums, and units that participate in a housing cooperative). Most often, grantees use CDBG-DR funds to rehabilitate damaged homes and rental units; rehabilitation activities may include the costs associated with mold remediation. However, grantees may also fund new construction or rehabilitate units *not* damaged by the disaster if the activity clearly addresses a disaster-related impact and is located in a disaster-affected area. This impact can be demonstrated by the disaster's overall effect on the quality, quantity, and affordability of the housing stock and the resulting inability of the existing stock to meet post-disaster needs and population demands.

(2) *Infrastructure.* Typical infrastructure activities include the rehabilitation, replacement, or relocation of damaged public facilities and improvements.

(3) *Economic Revitalization.* Without the return of businesses and jobs to a disaster-impacted area, recovery may be impossible. Therefore, HUD strongly encourages grantees to envision economic revitalization as a cornerstone to long-term recovery. Economic revitalization is not limited to activities that are "special economic development" activities under the HCD Act, or to activities that create or retain jobs. For CDBG-DR purposes, economic revitalization can include any activity that demonstrably restores and improves the local or regional economy, such as addressing job losses. Examples of eligible activities include providing loans and grants to businesses, funding job training, building education facilities to teach technical skills, making improvements to commercial/retail districts, and financing other efforts that attract/retain workers in devastated communities.

Local and regional economic recoveries are typically driven by small businesses. To target assistance to small businesses, the Department is instituting an alternative requirement to the provisions at 42 U.S.C. 5305(a) to prohibit grantees from assisting businesses, including privately owned utilities, that do not meet the definition of a small business as defined by SBA at 13 CFR part 121.

All economic revitalization activities must address an economic impact(s) caused by the disaster (e.g., loss of jobs).

Through its needs assessment and Action Plan, the grantee must clearly identify the economic loss or need resulting from the disaster, and how the proposed activities will address that loss/need.

(4) *Preparedness and Mitigation.* The Appropriations Act states that funds shall be used for recovering from a Presidentially-declared major disaster. As such, all activities must respond to the impacts of the declared disaster. HUD strongly encourages grantees to incorporate preparedness and mitigation measures into all rebuilding activities, which helps to ensure that communities recover to be safer, stronger, and more resilient. Incorporation of these measures also reduces costs in recovering from future disasters. Mitigation measures that are not incorporated into rebuilding activities must be a necessary expense related to disaster relief, long-term recovery, and restoration of infrastructure, housing, or economic revitalization. Furthermore, the costs associated with these measures may not prevent the grantee from meeting unmet needs.

(5) *Connection to the Disaster.* Each grantee must document how each activity is connected to the disaster for which it is receiving CDBG assistance. In regard to physical losses, damage or insurance estimates are often the most effective tool for demonstrating the connection to the disaster. For economic or other non-physical losses, post-disaster analyses or assessments may document the relationship between the loss and the disaster.

Grantees are not limited in their recovery to returning to pre-disaster conditions. Rather, HUD encourages grantees to carry out activities that not only address disaster-related impacts, but leave communities sustainably positioned to meet the needs of their post-disaster populations and to further prospects for growth.

e. *Use of funds for disasters not covered by the Appropriations Act.* CDBG-DR funds awarded under this Notice are limited to activities that respond to the disasters identified in section I, Table 1, and areas that have Presidential disaster declarations for Hurricane Irene and Tropical Storm Lee as described in section I, Allocation. However, funds awarded in this Notice may be used to address an unmet need that arose from a previous disaster, which was exacerbated by a disaster cited in this Notice. If an impact or need originating from a disaster identified in this Notice is subsequently exacerbated by a future disaster, funds under this Notice may also be used to address the resulting exacerbated unmet need.

f. *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 for the grants under this Notice 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 the Department 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.

Grantees need not issue formal certification statements to qualify an activity as meeting the urgent need national objective. Instead, each grantee receiving a direct award under this Notice must document how all programs and/or activities funded under the urgent need national objective respond to a disaster-related impact identified by the grantee. This waiver and alternative requirement allows grantees to more effectively and quickly implement disaster recovery programs. Grantees must reference in their Action Plan the type, scale, and location of the disaster-related impacts that each program and/or activity is addressing.

Grantees 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. As a reminder, at least 50 percent of each grantee's CDBG-DR grant award must be used for activities that benefit low- and moderate-income persons.

g. *Clarity of the Action Plan.* All grantees must include sufficient information so that citizens, UGLGs (where applicable), and other eligible subgrantees, subrecipients, or applicants will be able to understand and comment on the Action Plan and, if applicable, be able to prepare responsive applications to the grantee. The Action Plan must include a single chart or table that illustrates, at the most practical level, how all funds programmed by the Action Plan are budgeted (e.g., by program, subgrantee, grantee-administered activity, or other category).

h. *Review and Approval of the Action Plan.* For funds provided under the

Appropriations Act, 24 CFR 91.500 has been augmented with the following requirements. The initial Action Plan must be submitted to HUD (including Standard Form 424 (SF-424) and certifications) within 90 days of the date of this Notice. HUD will expedite its review of each Action Plan—taking no more than 45 days from the date of receipt to complete its review. The Secretary may disapprove an Action Plan if it is determined that the Plan does not meet the requirements of this Notice.

i. *Certification of proficient controls, processes and procedures.* The Appropriations Act requires that the Secretary certify, in advance of signing a grant agreement, that the grantee has in place proficient financial controls and procurement processes and has established adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act, ensure timely expenditure of funds, maintain comprehensive Web sites regarding all disaster recovery activities assisted with these funds, and detect and prevent waste, fraud, and abuse of funds.

To enable the Secretary to make the certification, each grantee must submit the items listed below to the grantee's designated HUD representative. The information must be submitted within 30 days of the effective date of this Notice, or with the grantee's submission of its Action Plan, whichever date is earlier. Grant agreements will not be executed until HUD has issued a certification in response to the grantee's submission.

(1) *Financial Control Checklist.* A grantee has in place proficient financial controls if each of the following criteria are satisfied:

(a) Most recent OMB Circular A-133 audit and annual financial statement indicates that the grantee has no material weaknesses, deficiencies, or concerns that HUD considers to be relevant to the financial management of the CDBG program. If the A-133 or annual financial statement identified weaknesses or deficiencies, the grantee must provide documentation showing how those weaknesses have been removed or are being addressed; and

(b) Completed HUD monitoring checklist for financial standards (Exhibit 3-18 of the Community Planning and Development *Monitoring Handbook* 6509.02) and the grantee's financial standards. The checklist and standards must demonstrate the financial standards are complete and conform with the requirements of Exhibit 3-18. The grantee must identify which sections of its financial standards

address each of the questions in the monitoring checklist and which personnel or unit are responsible for each checklist item.

(2) *Procurement.* A grantee has in place a proficient procurement process if the:

(a) Grantee has adopted the specific procurement standards identified in 24 CFR 85.36. The grantee must provide a copy of its procurement standards and indicate the sections of its procurement standards that incorporate 24 CFR 85.36. The procedures should also indicate which personnel or unit are responsible for each item; or

(b) Grantee's procurement process/standards are equivalent to the procurement standards at 24 CFR 85.36 (applicable to State grantees only). Grantee must provide its procurement standards and indicate the sections of its procurement standards that align with each procurement provision of 24 CFR 85.36. The procedures should also indicate which personnel or unit are responsible for the task.

(3) *Duplication of benefits.* A grantee has adequate procedures to prevent the duplication of benefits when it provides to HUD a uniform prevention of duplication of benefits procedure wherein the grantee identifies its 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.

Departmental guidance to assist in preventing a duplication of benefits is provided in a notice published in the **Federal Register** at 76 FR 71060 (November 16, 2011) and in paragraph A.21, section VI, of this Notice.

(4) *Adequate procedures to determine timely expenditures.* A grantee has adequate procedures to determine timely expenditures if a grantee provides procedures to HUD that indicate how the grantee will track expenditures each month; how it will monitor expenditures of its recipients; how it will reprogram funds in a timely manner for activities that are stalled; and how it will project expenditures. The procedures should also indicate which personnel or unit are responsible for the task.

(5) *Procedures to maintain comprehensive Web sites regarding all disaster recovery activities assisted with these funds.* A grantee has adequate procedures to maintain comprehensive Web sites regarding all disaster recovery

activities if its procedures indicate that the grantee will have a separate page dedicated to its disaster recovery that will contain links to all action plans, action plan amendments, performance reports, citizen participation requirements, and activity/program information for activities described in the action plan. The procedures should also indicate the frequency of Web site updates and which personnel or unit are responsible for the task.

(6) Procedures to detect fraud, waste, and abuse of funds. A grantee has adequate procedures to detect fraud, waste, and abuse if its procedures indicate how the grantee will verify the accuracy of information provided by applicants; provides a monitoring policy indicating how and why monitoring is conducted, the frequency of monitoring, and which items are monitored; and that the internal auditor has affirmed and described its role in detecting fraud, waste, and abuse.

(7) Grantee certification. As part of its submission, the grantee is required by paragraph E.42.q to attest to the proficiency and adequacy of its controls.

j. *Obligation and expenditure of funds.* Upon the Secretary's certification, HUD will issue a grant agreement obligating the funds to the grantee. Only the funds described by the grantee in its Action Plan, at the necessary level of detail, will be obligated. In addition, HUD will establish the line of credit and the grantee will receive DRGR system access (if it does not have access already). The grantee must also enter its Action Plan activities into the DRGR system before it may draw funds as described in paragraph A.2, below.

Each activity must meet the applicable environmental requirements. After the Responsible Entity completes an environmental review(s) pursuant to 24 CFR part 58, as applicable (or paragraph A.20, as applicable), and receives from HUD or the State an approved Request for Release of Funds and certification (as applicable), the grantee may draw down funds from the line of credit for the activity. Note that the disbursement of grant funds must begin no later than 60 days after the grantee has received access to its line of credit.

k. *Amending the Action Plan.* As the grantee finalizes its long-term recovery goals, or as needs change through the recovery process, the grantee must amend its Action Plan to update its needs assessment, modify or create new activities, or re-program funds, as necessary. Each amendment must be highlighted, or otherwise identified, within the context of the entire Action

Plan. The beginning of every Action Plan amendment must include a section that identifies exactly what content is being added, deleted, or changed. This section must also include a chart or table that clearly illustrates where funds are coming from and where they are moving to. The Action Plan must include a revised budget allocation table that reflects the entirety of all funds, as amended. A grantee's most recent version of its entire Action Plan must be accessible for viewing as a single document at any given point in time, rather than the public or HUD having to view and cross-reference changes among multiple amendments.

If a grantee amends its Action Plan to program additional funds that the Department has allocated to it, the grant agreement must also be revised. As stated in paragraph 1.a, the requirement for each grantee to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation, as applicable.

l. *Projection of expenditures and outcomes.* Each grantee must amend its published Action Plan to project expenditures and outcomes within 90 days of the Action Plan approval. The projections must be based on each quarter's expected performance—beginning the quarter funds are available to the grantee and continuing each quarter until all funds are expended. The published Action Plan must be amended to reflect any subsequent changes, updates, or revision of the projections. Amending the Action Plan to accommodate these changes is not considered a substantial amendment. Guidance on the preparation of projections is available on HUD's Web site. The projections will enable HUD, the public, and the grantee, to track proposed versus actual performance.

2. *HUD performance review authorities and grantee reporting requirements in the Disaster Recovery Grant Reporting (DRGR) System.*

a. *Performance review authorities.* 42 U.S.C. 5304(e) requires that the Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether the grantee has carried out its activities in a timely manner, whether the grantee's activities and certifications are carried out in accordance with the requirements and the primary objectives of the HCD Act and other applicable laws, and whether the grantee has the continuing capacity to carry out those activities in a timely manner. Grantees are advised that HUD is increasing its monitoring and

technical assistance effort to coincide with the two-year expenditure deadline.

This Notice waives the requirements for submission of a performance report pursuant to 42 U.S.C. 12708 and 24 CFR 91.520. In the alternative, and to ensure consistency between grants allocated under the Appropriations Act and prior CDBG-DR appropriation laws, HUD is requiring that grantees enter information in the DRGR system in sufficient detail to permit the Department's review of grantee performance on a quarterly basis and to enable remote review of grantee data to allow HUD to assess compliance and risk.

b. *DRGR Action Plan.* Each grantee must enter its Action Plan for Disaster Recovery, including performance measures, into HUD's DRGR system. As more detailed information about uses of funds is identified by the grantee, it must be entered into the DRGR system at a level of detail that is sufficient to serve as the basis for acceptable performance reports, and permits HUD review of compliance requirements.

The Action Plan must also be entered into the DRGR system so that the grantee is able to draw its CDBG-DR funds. The grantee may enter activities into DRGR before or after submission of the Action Plan to HUD. To enter an activity into the DRGR system, the grantee must know the activity type, national objective, and the organization that will be responsible for the activity. In addition, a Data Universal Numbering System (DUNS) number must be entered into the system for any entity carrying out a CDBG-DR funded activity, including the grantee, recipient(s) and subrecipient(s), contractor(s), and developers. To comply with the statutory requirements regarding identification of contractors, and to provide a mechanism for tracking large contracts in DRGR, HUD is requiring grantees to identify in the DRGR system any contract over \$25,000.

Each activity entered into the DRGR system must also be categorized under a "project". Typically, projects are based on groups of activities that accomplish a similar, broad purpose (e.g., Housing, Infrastructure, or Economic Development) or are based on an area of service (e.g., Community A). If a grantee submits a partial Action Plan or amendment to describe just one program (e.g., Single Family Rehabilitation), that program is entered as a project in DRGR. Further, the budget of the program would be identified as the project's budget. If a State grantee has only identified the Method of Distribution (MOD) upon HUD's approval of the published Action Plan, the MOD itself typically serves as

the projects in the DRGR system, rather than the activities. As funds are distributed to subgrantees and subrecipients, who decide which specific activities to fund, those activity fields are then populated.

c. *Tracking oversight activities in the DRGR system; use of DRGR data for HUD review and dissemination.* Each grantee must also enter into DRGR summary information on monitoring visits and reports, audits, and technical assistance it conducts as part of its oversight of its disaster recovery programs. The grantee's Quarterly Performance Report (QPR) will include a summary indicating the number of grantee oversight visits and reports (see subparagraph e for more information on the QPR). HUD will use data entered into the DRGR Action Plan and the QPR, transactional data from the DRGR system, and other information provided by the grantee to provide reports to Congress and the public, as well as to (1) Monitor for anomalies or performance problems that suggest fraud, abuse of funds, and duplication of benefits; (2) reconcile budgets, obligations, funding draws, and expenditures; (3) calculate expenditures to determine compliance with administrative and public service caps and the overall percentage of funds that benefit low- and moderate-income persons; and (4) analyze the risk of grantee programs to determine priorities for the Department's monitoring.

d. *Tracking program income in the DRGR system.* Grantees must use the DRGR system to draw grant funds for each activity. Grantees must also use the DRGR system to track program income receipts, disbursements, and revolving loan funds. If a grantee permits local governments or subrecipients to retain program income, the grantee must establish program income accounts in the DRGR system. The DRGR system requires grantees to use program income before drawing additional grant funds, and ensures that program income retained by one organization will not affect grant draw requests for other organizations.

e. *DRGR System Quarterly Performance Report (QPR).* Each grantee must submit a QPR through the DRGR system no later than 30 days following the end of each calendar quarter. Within 3 days of submission to HUD, each QPR must be posted on the grantee's official Web site. The grantee's first QPR is due after the first full calendar quarter after the grant award. For example, a grant award made in April requires a QPR to be submitted by October 30. QPRs must be submitted 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 DRGR system Action Plan during the applicable quarter. This includes, but is not limited to, the: 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 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. Grantees must also record the amount of funding expended for each contractor identified in the Action Plan. The DRGR system will automatically display the amount of program income received, the amount of program income reported as disbursed, and the amount of grant funds disbursed. Grantees must include a description of actions taken in that quarter to affirmatively further fair housing within the section titled "Overall Progress Narrative" in the DRGR system.

3. *Citizen participation waiver and alternative requirement.* To permit a more streamlined process, and 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 CFR 570.466, 91.105(b) and (c), and 91.115(b) and (c), with respect to citizen participation requirements, are waived and replaced by the requirements below. The streamlined requirements do not mandate public hearings at a state, entitlement, or local government level, but do require providing a reasonable opportunity (at least 7 days) for citizen comment and ongoing citizen access to information about the use of grant funds. The streamlined citizen participation requirements for a grant carried out under this Notice are:

a. *Publication of the Action Plan, opportunity for public comment, and substantial amendment criteria.* Before the grantee adopts the Action Plan for this grant or any substantial amendment to this grant, the grantee will publish the proposed plan or amendment (including the information required in this Notice for an Action Plan for Disaster Recovery). The manner of publication must include prominent posting on the grantee's official Web site and must afford citizens, affected local governments, and other interested parties a reasonable opportunity to examine the plan or amendment's

contents. The topic of disaster recovery must be navigable by citizens from the grantee (or relevant agency) homepage. Grantees are also encouraged to notify affected citizens through electronic mailings, press releases, statements by public officials, media advertisements, public service announcements, and/or contacts with neighborhood organizations.

Despite the expedited process, grantees are still responsible for ensuring that all citizens have equal access to information about the programs, including persons with disabilities and limited English proficiency (LEP). Each grantee must ensure that program information is available in the appropriate languages for the geographic area served by the jurisdiction. For assistance in ensuring that this information is available to LEP populations, recipients should consult the *Final Guidance to Federal Financial Assistance Recipients Regarding Title VI, Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* published on January 22, 2007, in the *Federal Register* (72 FR 2732).

Subsequent to publication of the Action Plan, the grantee must provide a reasonable time frame and method(s) (including electronic submission) for receiving comments on the plan or substantial amendment. In its Action Plan, each grantee must specify criteria for determining what changes in the grantee's plan constitute a substantial amendment to the plan. At a minimum, the following modifications will constitute a substantial amendment: a change in program benefit or eligibility criteria; the allocation or re-allocation of more than \$1 million; or the addition or deletion of an activity. The grantee may substantially amend the Action Plan if it follows the same procedures required in this Notice for the preparation and submission of an Action Plan for Disaster Recovery. Prior to submission of a substantial amendment, the grantee is encouraged to work with its HUD representative to ensure the proposed change is consistent with this Notice, and all applicable regulations and Federal law.

b. *Non-substantial amendment.* The grantee must notify HUD, but is not required to undertake public comment, when it makes any plan amendment that is not substantial. HUD must be notified at least five days before the amendment becomes effective. However, every amendment to the Action Plan (substantial and non-substantial) must be numbered sequentially and posted on the grantee's Web site. The Department will

acknowledge receipt of the notification of non-substantial amendments via email within 5 business days.

*c. Consideration of public comments.* The grantee must consider all comments, received orally or in writing, on the Action Plan or any substantial amendment. A summary of these comments or views, and the grantee's response(s), must be submitted to HUD with the Action Plan or substantial amendment.

*d. Availability and accessibility of the Action Plan.* The grantee must make the Action Plan, any amendments, and all performance reports available to the public on its Web site and on request. In addition, the grantee must make these documents available in a form accessible to persons with disabilities and non-English-speaking persons. 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 Action Plan and to the grantee's use of grant funds.

*e. Citizen complaints.* The grantee will provide a timely written response to every citizen complaint. The response will be provided within 15 working days of the receipt of the complaint, if practicable.

*4. Direct grant administration and means of carrying out eligible activities.*

*a. Requirements applicable to State grantees.* Requirements at 42 U.S.C. 5306 are waived, to the extent necessary, to allow a State to directly carry out CDBG-DR activities eligible under this Notice, rather than distribute all funds to UGLGs. Experience in administering CDBG supplemental disaster recovery funding demonstrates that this practice can expedite recovery. Pursuant to this waiver, the standard at section 570.480(c) and the provisions at 42 U.S.C. 5304(e)(2) will also include activities that the State carries out directly. In addition, activities eligible under this Notice may be carried out, subject to State law, by the State through its employees, through procurement contracts, or through assistance provided under agreements with subrecipients or recipients. Notwithstanding this waiver, State grantees continue to be responsible for civil rights, labor standards, and environmental protection requirements contained in the HCD Act and 24 CFR part 570, as well as ensuring such compliance by subgrantees.

*b. Requirements for all grantees—direct administration and assistance to neighborhood organizations described in 42 U.S.C. 5305(a)(15) of the HCD Act.* Activities made eligible at 42 U.S.C.

5305(a)(15) may only be undertaken by the eligible entities described in that section, whether the assistance is provided to such an entity from the State or from a UGLG.

*c. Use of Funds for Structures Owned by Religious Organizations.* The provision of assistance for buildings used for religious purposes is governed by 24 CFR 570.200(j). Although CDBG funds cannot be used for structures dedicated solely to religious use, such as a religious congregation's principal place of worship, grantees may in certain circumstances pay some rehabilitation or new construction costs for structures used for religious and secular purposes.

Funding for rehabilitating or reconstructing storm-damaged or destroyed buildings may be appropriate where a facility is not used exclusively for the benefit of the religious congregation, such as a building used as a homeless shelter, food pantry, adult literacy center, or child care center. Where a structure is used for both religious and secular uses, CDBG-DR funds may pay the portion of eligible rehabilitation or construction costs attributable to the non-religious use. For example, for a building that is used 50 percent of the time for, or has 50 percent of the square footage dedicated to, homeless services, CDBG-DR funds may pay 50 percent of the rehabilitation or construction cost. Grantees are encouraged to work closely with their CPD Representative to ensure compliance with the requirements of 24 CFR 570.200(j) or to obtain further guidance on the applicability of this rule to specific programs or properties.

*5. Consolidated Plan waiver.* HUD is waiving the requirement for consistency with the consolidated plan (requirements at 42 U.S.C. 12706, 24 CFR 91.325(a)(5), 91.225(a)(5), 91.325(b)(3), and 91.225(b)(3)), because the effects of a major disaster alter a grantee's priorities for meeting housing, employment, and infrastructure needs. In conjunction, 42 U.S.C. 5304(e), to the extent that it would require HUD to annually review grantee performance under the consistency criteria, is also waived. However, this waiver applies only until the grantee first updates its full consolidated plan. HUD expects grantees to update its full consolidated plan to reflect disaster-related needs no later than its Fiscal Year 2015 consolidated plan update. At a minimum, the updated consolidated plan must include the criteria discussed in this Notice. While grantees are encouraged to incorporate disaster recovery needs into their consolidated plan updates as soon as practicable, any

unmet disaster-related needs and associated priorities must be incorporated into the grantee's next consolidated plan update by Fiscal Year 2015. If not completed already, the grantee must update its Analysis of Impediments to Fair Housing Choice in coordination with its post-waiver consolidated plan update, so that it more accurately reflects housing conditions following the disaster.

*6. Requirement for consultation during plan preparation.* Currently, the statute and regulations require States to consult with affected units of local government in non-entitlement areas of the State in determining the State's proposed method of distribution. HUD is waiving 42 U.S.C. 5306(d)(2)(C)(iv), 42 U.S.C. 5306(d)(2)(D), 24 CFR 91.325(b), and 91.110, with the alternative requirement that any State receiving an allocation under this Notice consult with all disaster-affected UGLGs (including any CDBG-entitlement communities, and local public housing authorities in affected areas) in determining the use of funds. This ensures State grantees sufficiently assess the recovery needs of all areas affected by the disaster.

For New York City, HUD is supplementing 24 CFR 91.100 with the additional requirement that the jurisdiction must consult with adjacent UGLGs, including local government agencies with metropolitan-wide planning responsibilities (particularly for problems and solutions that go beyond a single jurisdiction), and local public housing authorities (affected by the disaster).

Last, all grantees must consult with States, tribes, UGLGs, and other stakeholders and affected parties in the surrounding geographic area to ensure consistency with applicable regional redevelopment plans.

*7. 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 Hurricane Sandy. Grantees under this Notice experienced disaster impacts that affected entire communities—regardless of income, and the existing requirement

may prevent grantees from providing assistance to damaged areas of need. Therefore, this Notice waives 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. Instead, 50 percent of funds must benefit low- and moderate-income persons. This provides grantees 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.

Grantees 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 the Department. 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.

8. *Use of the "upper quartile" or "exception criteria" for low- and moderate-income area benefit activities.* This exception applies to entitlement communities that have few, if any, areas within their jurisdiction that have 51 percent or more low- and moderate-income residents. per the requirements at 42 U.S.C. 5305(c)(2)(A), these communities are allowed to use a percentage less than 51 percent to qualify activities under the low- and moderate-income area benefit category. This exception is referred to as the "exception criteria" or the "upper quartile".

HUD assesses Census block groups to determine whether an entitlement community meets the exception criteria. For communities that qualify, the Department identifies the alternative percentage (i.e., the lowest proportion) the community may use, instead of 51 percent, for the purpose of qualifying

activities under the low- and moderate-income area benefit. HUD advises the entitlement community accordingly. Periodically, HUD updates the low- and moderate-income summary data used to identify the exception criteria; disaster recovery grantees are required to use the most recent data available in implementing the exception criteria. Note that for entitlement communities that meet the exception criteria, the community may apply the criteria if it receives funds from a State grantee.

9. *Use of "uncapped" income limits.* The Quality Housing and Work Responsibility Act of 1998 (Title V of Pub. L. 105-276) enacted a provision that directed the Department to grant exceptions to at least 10 jurisdictions that are currently "capped" under HUD's low and moderate-income limits. Under this exception, a number of CDBG entitlement grantees may use "uncapped" income limits that reflect 80 percent of the actual median income for the area. Each year, HUD publishes guidance on its Web site identifying which grantees may use uncapped limits. The uncapped limits apply to disaster recovery activities funded pursuant to this Notice in jurisdictions covered by the uncapped limits, including jurisdictions that receive disaster recovery funds from the State.

10. *Grant administration responsibilities and general administration cap.*

a. *Grantee responsibilities.* per the Appropriations Act, each grantee shall administer its award directly, in compliance with all applicable laws and regulations. Each grantee shall be financially accountable for the use of all funds provided in this Notice and may contract for administrative support but grantees may not delegate or contract to any other party any inherently governmental responsibilities related to management of the funds, such as oversight, policy development, and financial management.

b. *General administration cap.* For grants under this Notice, the annual CDBG program administration requirements must be modified to be consistent with the Appropriations Act, which allows up to 5 percent of the grant to be used for general administration costs, by the grantee, by UGLs, 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.

(1) For State grantees under this Notice, the provisions of 42 U.S.C. 5306(d) and 24 CFR 570.489(a)(1)(i), (ii), and (iii) will 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).

(2) New York City is also subject to the 5 percent administrative cap. This 5 percent applies to all general administration costs—whether incurred by the grantee or its subrecipients. The City also remains limited to spending 20 percent of its total allocation on a combination of planning and general administration costs.

11. *Planning-only activities—applicable to State grantees only.* 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).

The Department notes 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, for State grantees receiving an award under this Notice, the Department is removing the eligibility requirements at 24 CFR 570.483(b)(5) or (c)(3). 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 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.

12. *Waiver and alternative requirement for distribution to CDBG metropolitan cities and urban counties—applicable to State grantees only.* Section 5302(a)(7) of title 42, U.S.C. (definition of “nonentitlement 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.

13. *Use of subrecipients—applicable to State grantees only.* 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 24 CFR part 225 (OMB Circular A-87), whether carrying out activities directly or through the use of a subrecipient.

14. *Recordkeeping.*

a. *State grantees.* When a State carries out activities directly, 24 CFR 570.490(b) is waived and the following alternative provision shall 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 shall 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.

b. *UGLGs grantees.* New York City remains subject to the recordkeeping requirements of 24 CFR 570.506.

15. *Change of use of real property—applicable to State grantees only.* This waiver conforms to the change of use of real property rule to the waiver allowing a State to carry out activities directly. For purposes of this program, all references to “unit of general local government” in 24 CFR 570.489(j), shall be read as “unit of general local government or State.”

16. *Responsibility for review and handling of noncompliance—applicable to State grantees only.* This change is in conformance with the waiver allowing the State to carry out activities directly. 24 CFR 570.492 is waived and the following alternative requirement applies for any State receiving a direct award under this Notice: the State shall make reviews and audits, including onsite reviews of any subrecipients, designated public agencies, and UGLGs, as may be necessary or appropriate to meet the requirements of 42 U.S.C. 5304(e)(2), as amended, and as modified by this Notice. In the case of noncompliance with these requirements, the State shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The State shall establish remedies for noncompliance by any designated subrecipients, public agencies, or UGLGs.

17. *Program income alternative requirement.* The Department is waiving applicable program income rules at 42 U.S.C 5304(j), 24 CFR 570.500(a) and (b), 570.504, and 570.489(e) to the extent necessary to provide additional flexibility as described under this Notice. The alternative requirements provide guidance regarding the use of program income received before and after grant closeout and address revolving loan funds.

a. *Definition of program income.*  
(1) For the purposes of this subpart, “program income” is defined as gross income generated from the use of CDBG-DR funds, except as provided in subparagraph D of this paragraph, and received by a State, UGLG, or tribe, or a subrecipient of a State, UGLG, or tribe. When income is generated by an activity that is only partially assisted with

CDBG-DR funds, the income shall be prorated to reflect the percentage of CDBG-DR funds used (e.g., a single loan supported by CDBG-DR funds and other funds; a single parcel of land purchased with CDBG-DR funds and other funds). Program income includes, but is not limited to, the following:

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

(b) Proceeds from the disposition of equipment purchased with CDBG-DR funds;

(c) Gross income from the use or rental of real or personal property acquired by a State, UGLG, or tribe or subrecipient of a State, UGLG, or tribe with CDBG-DR funds, less costs incidental to generation of the income (i.e., net income);

(d) Net income from the use or rental of real property owned by a State, UGLG, or tribe or subrecipient of a State, UGLG, or tribe, that was constructed or improved with CDBG-DR funds;

(e) Payments of principal and interest on loans made using CDBG-DR funds;

(f) Proceeds from the sale of loans made with CDBG-DR funds;

(g) Proceeds from the sale of obligations secured by loans made with CDBG-DR funds;

(h) Interest earned on program income pending disposition of the income, but excluding interest earned on funds held in a revolving fund account;

(i) Funds collected through special assessments made against properties owned and occupied by households not of low- and moderate-income, where the special assessments are used to recover all or part of the CDBG-DR portion of a public improvement; and

(j) Gross income paid to a State, UGLG, tribe, or paid to a subrecipient thereof from the ownership interest in a for-profit entity in which the income is in return for the provision of CDBG-DR assistance.

(2) “Program income” does not include the following:

(a) The total amount of funds which is less than \$25,000 received in a single year and retained by a State, UGLG, tribe, or retained by a subrecipient thereof;

(b) Amounts generated by activities both eligible and carried out by an entity under the authority of section 105(a)(15) of the HCD Act;

h. *Retention of program income.* Per 24 CFR 570.504(c), a UGLG receiving a direct award under this Notice may permit a subrecipient to retain program income. State grantees may permit a UGLG or tribe, which receives or will

receive program income, to retain the program income, but are not required to do so.

*c. Program income—use, closeout, and transfer.*

(1) Program income received (and retained, if applicable) before or after closeout of the grant that generated the program income, and used to continue disaster recovery activities, is treated as additional disaster recovery CDBG funds subject to the requirements of this Notice and must be used in accordance with the grantee's Action Plan for Disaster Recovery. To the maximum extent feasible, program income shall be used or distributed before additional withdrawals from the U.S. Treasury are made, except as provided in subparagraph d of this paragraph.

(2) In addition to the regulations dealing with program income found at 24 CFR 570.489(e) and 570.504, the following rules apply: A grantee may transfer program income before closeout of the grant that generated the program income to its annual CDBG program. In addition, a State grantee may transfer program income before closeout to any annual CDBG-funded activities carried out by a UCLG or Indian tribe within the State. Program income received by a grantee, or received and retained by a subgrantee, after closeout of the grant that generated the program income, may also be transferred to a grantee's annual CDBG award. In all cases, any program income received, and not used to continue disaster recovery activities, will not be subject to the waivers and alternative requirements of this Notice. Rather, those funds will be subject to the grantee's regular CDBG program rules.

*d. Revolving loan funds.* New York City, State grantees, and UCLGs or tribes (as permitted by a State grantee) may establish revolving funds to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities. These activities generate payments, which will be used to support similar activities going forward. These payments to the revolving 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. Such program income is not required to be disbursed for non-revolving fund activities.

State grantees may also establish a revolving fund to distribute funds to UCLGs or tribes to carry out specific,

identified activities. The same requirements, outlined above, apply to this type of revolving loan fund. Last, note that no revolving fund, established per this Notice, shall be directly funded or capitalized with an advance of CDBG-DR grant funds.

*18. Reimbursement of disaster recovery expenses.* The provisions of 24 CFR 570.489(b) are applied to permit a State to reimburse itself for otherwise allowable costs incurred by itself or its recipients subgrantees or subrecipients (including public housing authorities) on or after the incident date of the covered disaster. New York City is subject to the provisions of 24 CFR 570.200(h) but may reimburse itself or its subrecipients for otherwise allowable costs incurred on or after the incident date of the covered disaster. 24 CFR 570.200(h)(1)(i) will not apply to the extent that it requires pre-agreement activities to be included in a consolidated plan. The Department expects both State grantees and New York City to include all pre-agreement activities in their Action Plans. The provisions at 24 CFR 570.200(h) and 570.489(b) apply to grantees reimbursing costs incurred by itself or its recipients or subrecipients prior to the execution of a grant agreement with HUD.

*19. One-for-One Replacement, Relocation, and Real Property Acquisition Requirements.* Activities and projects assisted by CDBG-DR are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601 *et seq.*) ("URA") and Section 104(d) of the HCD Act (42 U.S.C. 5304(d)) ("Section 104(d)"). The implementing regulations for the URA are at 49 CFR part 24. The regulations for Section 104(d) are at 24 CFR part 42, subpart G. For the purposes of promoting the availability of decent, safe, and sanitary housing and expediting disaster recovery and rehousing efforts, HUD is waiving the following URA and Section 104(d) requirements for grantees under this Notice:

*a. One-for-one replacement.* 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 this 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

grantee'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 grantee must define "not suitable for rehabilitation" in its Action Plan or in policies/procedures governing these programs and activities. Grantees with questions about the one-for-one replacement requirements are encouraged to contact the HUD Regional Relocation Specialist responsible for their state.

HUD is waiving the one-for-one replacement requirements because they do not account for the large, sudden changes that a major disaster may cause to the local housing stock, population, or economy. Furthermore, the requirements may discourage grantees from converting or demolishing disaster-damaged housing when excessive costs would result from replacing all such units. Disaster-damaged housing structures that are not suitable for rehabilitation can pose a threat to public health and safety and may impede economic revitalization. Grantees should re-assess post-disaster population and housing needs to determine the appropriate type, amount, and location of lower-income dwelling units to rehabilitate and/or rebuild. Grantees should note, 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 this Notice.

*b. Relocation assistance.* 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 this 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 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 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 this Notice.

*c. 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 this Notice and does not have the power of eminent domain, in connection with the purchase and occupancy of a principal residence by that person. Given the often large-scale acquisition needs of grantees, this waiver is necessary to reduce burdensome administrative requirements following a disaster. Grantees are reminded that any tenants occupying real property that is acquired through voluntary purchase may be eligible for relocation assistance.

*d. 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 grantee to use 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 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 30 percent of household income without demonstrable hardship, using 30 percent of household income to calculate the rental assistance payment would not be required. Before carrying out a program or activity in which the grantee will provide rental assistance payments to displaced persons, the grantee must define "demonstrable hardship" in its Action Plan or in the policies and procedures governing these programs and activities. The grantee's definition of demonstrable hardship applies when implementing these alternative requirements.

*e. 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 grantee to meet all or a portion of a grantee'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 42 months. Failure to grant this waiver would impede disaster recovery whenever TBRA program subsidies are available but funds for cash relocation assistance are limited. This waiver gives grantees an additional relocation resource option.

*f. Moving expenses.* The requirements at section 202(b) of the URA and 49 CFR 24.302, which require that a grantee 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 grantee 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. Without this waiver and alternative requirement, disaster recovery may be impeded by requiring grantees to offer allowances that do not reflect current local labor and transportation costs. 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."

*g. 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 grantee or state recipient level. Unlike the regular CDBG program, States receiving CDBG–DR funds may carry out disaster recovery 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.

*20. Environmental requirements.*  
*a. Clarifying note on the process for environmental release of funds when a State carries out activities directly.* In the regular CDBG program, a State distributes CDBG funds to UGLGs and takes on HUD's role in receiving environmental certifications from the grant recipients and approving releases

of funds. For State grantees under this Notice, HUD allows the State to carry out activities directly, in addition to distributing funds to subrecipients and/or subgrantees. Thus, per 24 CFR 58.4, when a State carries out activities directly, the State must submit the certification and request for release of funds to HUD for approval.

*b. Adoption of another agency's environmental review.* In accordance with the 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 review or public comment, any environmental review, approval, or permit performed by a Federal agency, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit that is required by the HCD Act. The grantee must notify HUD in writing of its decision to adopt another agency's environmental review. The grantee must retain a copy of the review in the grantee's environmental records.

*c. 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 this Notice if the recipient has adopted an environmental review, approval or permit under subparagraph b. 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.).

*d. 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), HUD strongly encourages grantees to allocate general administration funds to support the capacity of the State Historic Preservation Officer (SHPO)/Tribal Historic Preservation Officer (THPO) to review CDBG–DR projects.

*21. 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.

Given the often complex nature of this issue, the Department has published a separate Notice explaining the duplication of benefit requirements applicable to CDBG-DR grantees; it can be found at 76 FR 71060 (published November 16, 2011). Grantees under this Notice are hereby subject to the November 16, 2011, notice.

**22. Procurement.**

a. *State grantees.* Per 24 CFR 570.489(d), a State must have fiscal and administrative requirements for expending and accounting for all funds. Furthermore, per § 570.489(g), a State shall establish requirements for procurement policies and procedures for UCLGs based on full and open competition. All subgrantees of a State (UCLGs) are subject to the procurement policies and procedures required by the State.

A State may meet the above requirements by electing to follow 24 CFR part 85. If a State has adopted part 85 in full, it must follow the same policies and procedures it uses when procuring property and services with its non-Federal funds. However, the State must ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations per 24 CFR 85.36(a).

If a State has not adopted 85.36(a), but has adopted 85.36(b) through (i), the State and its subgrantees must follow State and local law (as applicable), so long as the procurements conform to applicable Federal law and the standards identified in 85.36(b) through (i).

b. *Direct grants to UCLGs.* New York City will be subject to the procurement requirements of 24 CFR 85.36(b) through (i).

c. *Additional requirements related to procurement.* Congress and HUD may request periodic updates from grantees that employ contractors. A contractor is a third-party firm that the grantee acquires through a formal procurement process to perform specific functions; a subrecipient is not a contractor. Grantees must incorporate performance requirements and penalties into each procured contract or agreement. The Appropriations Act requires HUD to provide grantees with technical assistance on contracting and procurement processes.

23. *Public Web site.* The Appropriations Act requires grantees to maintain a public Web site which provides information accounting for how all grant funds are used, and

managed/administered, including details of all contracts and ongoing procurement policies. To meet this requirement, each grantee must enter information on contracts in the DRGR system activity profiles (for all contracts valued over \$25,000), and make the following items available on its Web site: the Action Plan (including all amendments); each QPR (as created using the DRGR system) detailing expenditures for each contractor; procurement policies and procedures; executed CDBG-DR contracts; and status of services or goods currently being procured by the grantee—e.g., phase of the procurement, requirements for proposals, etc.

24. *Timely distribution of funds.* The provisions at 24 CFR 570.494 and 24 CFR 570.902 regarding timely distribution of funds are waived and replaced with the alternative requirements under this Notice. Section 904(c) of the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds to a grantee. Therefore, each grantee must expend all funds within two years of the date its grant agreement with HUD is executed. Note that a grant agreement must be amended when the Department allocates additional funds to the grantee. As stated in paragraph A.1.a. in this section, the requirement for each grantee to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation. HUD expects each grantee to expeditiously obligate and expend all funds, including any recaptured funds or program income, and to carry out activities in a timely manner to ensure this deadline is met. See sections III and VII of this Notice for additional details on expenditure of funds.

To track grantees' progress, HUD will evaluate timeliness in relation to each grantee's established projection schedules (see section III of this Notice, and paragraph A.1.1 under section VI). The Department will, absent substantial evidence to the contrary, deem a grantee to be carrying out its programs and activities in a timely manner if the schedule for carrying out its activities is substantially met. In determining the appropriate corrective action pursuant to this section, HUD will take into account the extent to which unexpended funds have been obligated by the grantee and its subrecipients for specific activities at the time the finding is made and other relevant information.

25. *Review of continuing capacity to carry out CDBG-funded activities in a timely manner.* If HUD determines at

any time that the grantee has not carried out its CDBG-DR activities and certifications in accordance with the requirements and criteria described in this Notice, HUD will undertake a further review to determine whether or not the grantee has the continuing capacity to carry out its activities in a timely manner. In making the determination, the Department will consider the following alternative requirements to provisions under 42 U.S.C. 5304(e): the nature and extent of the grantee's performance deficiencies, types of corrective actions the grantee has undertaken, and the success or likely success of such actions.

**26. Corrective and remedial actions.**

To ensure compliance with the requirements of the Appropriations Act and to effectively administer the CDBG-DR program in a manner that facilitates recovery, particularly the alternative requirements permitting States to act directly to carry out eligible activities, HUD is waiving 42 U.S.C. 5304(e) of the HCD Act to the extent necessary to impose the following alternative requirement: HUD may undertake corrective and remedial actions for States in accordance with the authorities applicable to entitlement grantees in subpart O (including corrective and remedial actions in 24 CFR 570.910, 570.911, and 570.913) or under subpart I of the CDBG regulations at 24 CFR part 570. Before determining appropriate corrective actions, HUD will notify the grantee of the procedures applicable to its review. In accordance with 24 CFR 570.300, the policies and procedures set forth in subpart O will apply to New York City.

27. *Reduction, withdrawal, or adjustment of a grant or other appropriate action.* Prior to a reduction, withdrawal, or adjustment of a grant or other appropriate action taken pursuant to this section, the recipient shall be notified of such proposed action and given an opportunity within a prescribed time period for an informal consultation. Consistent with the procedures described in this Notice, the Secretary may adjust, reduce or withdraw the grant or take other actions as appropriate, except that funds already expended on eligible approved activities shall not be recaptured.

**B. Housing and Related Floodplain Issues.**

28. *Housing-related eligibility waivers.* The broadening of 42 U.S.C. 5305(a)(24) is necessary following major disasters in which large numbers of affordable housing units have been damaged or destroyed, as is the case of the disasters eligible under this Notice. Thus, 42

U.S.C. 5305(a) is waived to the extent necessary to allow: homeownership assistance for households with up to 120 percent of the area median income, down payment assistance for up to 100 percent of the down payment (42 U.S.C. 5305(a)(24)(D)), and new housing construction. While homeownership assistance may be provided to households with up to 120 percent of the area median income, only those funds used to serve households with up to 80 percent of the area median income may qualify as meeting the low- and moderate-income person benefit national objective.

29. *Housing incentives to resettle in disaster-affected communities.* Incentive payments are generally offered in addition to other programs or funding (such as insurance), to encourage households to relocate in a suitable housing development or an area promoted by the community's comprehensive recovery plan. For example, a grantee may offer an incentive payment (possibly in addition to a buyout payment) for households that volunteer to relocate outside of a floodplain or to a lower-risk area. Therefore, 42 U.S.C. 5305(a) and associated regulations are waived to the extent necessary to allow the provision of housing incentives. Grantees providing housing incentives must maintain documentation, at least at a programmatic level, describing how the amount of assistance was determined to be necessary and reasonable. In addition, the incentives must be in accordance with the grantee's approved Action Plan and published program design(s). Note that this waiver does not permit a compensation program. Additionally, a grantee may require the incentive to be used for a particular purpose by the household receiving the assistance.

30. *Limitation on emergency grant payments—interim mortgage assistance.* 42 U.S.C. 5305(a)(8) is modified to extend interim mortgage assistance to qualified individuals from 3 months, for up to 20 months. Interim mortgage assistance is typically used in conjunction with a buyout program, or the rehabilitation or reconstruction of single family housing, during which mortgage payments may be due but the home is uninhabitable. The time required for a household to complete the rebuilding process may often extend beyond three months. Thus, interim assistance is critical for many households facing financial hardship during this period. A grantee using this alternative requirement must document, in its policies and procedures, how it will determine the amount of assistance

to be provided is necessary and reasonable.

31. *Acquisition of real property and flood buyouts.* Grantees under this notice are able to carry out property acquisition for a variety of purposes. However, the term "buyouts" as referenced in this Notice refers to acquisition of properties located in a floodway or floodplain that is intended to reduce risk from future flooding. HUD is providing alternative requirements for consistency with the application of other Federal resources commonly used for this type of activity.

a. *Buyout requirements:*

(1) Any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

(2) No new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than (a) a public facility that is open on all sides and functionally related to a designated open space (e.g., a park, campground, or outdoor recreation area); (b) a rest room; (c) a flood control structure; or (d) a structure that the local floodplain manager approves in writing before the commencement of the construction of the structure;

(3) After receipt of the assistance, with respect to any property acquired, accepted, or from which a structure was removed under the acquisition or relocation program, no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity in perpetuity;

(4) Grantees 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 grantee must uniformly apply whichever valuation method it chooses;

(5) All buyout activities must be classified using the "buyout" activity type in the DRGR system; and

(6) Any State grantee implementing a buyout program or activity must consult with affected UGLGs.

b. *Redevelopment of acquired properties.*

(1) Properties purchased through a buyout program may not typically be redeveloped, with a few exceptions. See subparagraph a(2), above.

(2) Grantees may redevelop an acquired property if: (a) the property is not acquired through a buyout program,

and (b) the purchase price is based on the property's post-flood fair market value (the pre-flood value may not be used). In addition to the purchase price, grantees may opt to provide relocation assistance to the owner of a property that will be redeveloped if the property is purchased by the grantee or subgrantee through voluntary acquisition, and the owner's need for additional assistance is documented.

(3) In carrying out acquisition activities, grantees must ensure they are in compliance with their long-term redevelopment plans.

32. *Alternative requirement for housing rehabilitation—assistance for second homes.* The Department is instituting an alternative requirement to the rehabilitation provisions at 42 U.S.C. 5305(a) as follows: a "second home", as defined in IRS Publication 936 (mortgage interest deductions), is not eligible for rehabilitation assistance, residential incentives, or to participate in a CDBG-DR buyout program (as defined by this Notice).

33. *Flood insurance.* Grantees, recipients, and subrecipients must implement procedures and mechanisms to ensure that assisted property owners comply with all flood insurance requirements, including the purchase and notification requirements described below, prior to providing assistance. For additional information, please consult with the Field Environmental Officer in the local HUD Field Office or review the guidance on flood insurance requirements on HUD's Web site.

a. *Flood insurance purchase requirements.* HUD does not prohibit the use of CDBG-DR funds for existing residential buildings in the Special Flood Hazard Area (SFHA) (or "100-year" floodplain). However, Federal laws and regulations related to both flood insurance and floodplain management must be followed, as applicable. With respect to flood insurance, a HUD-assisted homeowner for a property located in the SFHA must obtain and maintain flood insurance in the amount and duration prescribed by FEMA's National Flood Insurance Program. Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) mandates the purchase of flood insurance protection for any HUD-assisted property within the SFHA.

b. *Future Federal assistance to owners remaining in a floodplain.*

(1) Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a) prohibits flood disaster assistance in certain circumstances. In general, it provides that no Federal disaster relief assistance made available in a flood disaster area

may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. This means that a grantee may not provide disaster assistance for the repair, replacement, or restoration to a person who has failed to meet this requirement.

(2) Section 582 also implies a responsibility for a grantee that receives CDBG-DR funds or that designates annually appropriated CDBG funds for disaster recovery. That responsibility is to inform property owners receiving disaster assistance that triggers the flood insurance purchase requirement that they have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance, and that the transferring owner may be liable if he or she fails to do so. These requirements are described below.

(3) Duty to notify. In the event of the transfer of any property described in subparagraph (5), the transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of the requirements to:

(a) Obtain flood insurance in accordance with applicable Federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred; and

(b) Maintain flood insurance in accordance with applicable Federal law with respect to such property. Such written notification shall be contained in documents evidencing the transfer of ownership of the property.

(4) Failure to notify. If a transferor fails to provide notice as described above and, subsequent to the transfer of the property:

(a) The transferee fails to obtain or maintain flood insurance, in accordance with applicable federal law, with respect to the property;

(b) The property is damaged by a flood disaster; and

(c) Federal disaster relief assistance is provided for the repair, replacement, or restoration of the property as a result of such damage, the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of the Federal disaster relief assistance provided with respect to the property.

(5) The notification requirements apply to personal, commercial, or residential property for which Federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable Federal law with respect to such property.

(6) The term "Federal disaster relief assistance" applies to HUD or other Federal assistance for disaster relief in "flood disaster areas." The term "flood disaster area" is defined in section 582(d)(2) of the National Flood Insurance Reform Act of 1994, as amended, to include an area receiving a presidential declaration of a major disaster or emergency as a result of flood conditions.

*C. Infrastructure (Public Facilities, Public Improvements, Public Buildings)*

34. *Buildings for the general conduct of government.* 42 U.S.C. 5305(a) is waived to the extent necessary to allow grantees to fund the rehabilitation or reconstruction of public buildings that are otherwise ineligible. HUD believes this waiver is consistent with the overall purposes of the HCD Act, and is necessary for many grantees to adequately address critical infrastructure needs created by the disaster.

35. *Use of CDBG as Match.* Additionally, as provided by the HCD Act, funds may be used as a matching requirement, share, or contribution for any other Federal program when used to carry out an eligible CDBG-DR activity. This includes programs or activities administered by the Federal Emergency Management Agency (FEMA) or the U.S. Army Corps of Engineers (USACE).

*D. Economic Revitalization.*

36. *National Objective Documentation for Economic Development Activities.* 24 CFR 570.483(b)(4)(i) and 570.208(a)(4)(i) are waived to allow the grantees under this Notice to identify low- and moderate-income jobs benefit by documenting, for each person employed, the name of the business,

type of job, and the annual wages or salary of the job. HUD will consider the person income-qualified if the annual wages or salary of the job is at or under the HUD-established income limit for a one-person family. This method replaces the standard CDBG requirement in which grantees must review the annual wages or salary of a job in comparison to the person's total

household income and size (i.e., number of persons). Thus, it streamlines the documentation process by allowing the collection of wage data from the assisted business for each position created or retained, rather than from each individual household.

This alternative requirement has been granted on several prior occasions to CDBG-DR grantees, and to date, those grants have not exhibited any issues of concern in calculating the benefit to low- and moderate-income persons. The Department has determined that, in the context of disaster recovery, this waiver is consistent with the HCD Act.

37. *Public benefit for certain economic development activities.* The public benefit provisions set standards for individual economic development activities (such as a single loan to a business) and for economic development activities in the aggregate. Currently, public benefit standards limit the amount of CDBG assistance per job retained or created, or the amount of CDBG assistance per low- and moderate-income person to which goods or services are provided by the activity. These dollar thresholds can impede recovery by limiting the amount of assistance the grantee may provide to a critical activity.

This Notice waives the public benefit standards at 42 U.S.C. 5305(e)(3), 24 CFR 570.482(f)(1), (2), (3), (4)(i), (5), and (6), and 570.209(b)(1), (2), (3)(i), (4), for economic development activities designed to create or retain jobs or businesses (including, but not limited to, long-term, short-term, and infrastructure projects). However, grantees shall report and maintain documentation on the 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 types of jobs. HUD is also waiving 570.482(g) and 570.209(c) and (d) to the extent these provisions are related to public benefit.

38. *Clarifying note on Section 3 income documentation requirements.* Pursuant to the U.S. Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) and 24 CFR 135.5, the Secretary is authorized to establish income limits to consider an individual to be a Section 3 resident. This Notice authorizes grantees to determine that an individual is eligible to be considered a Section 3 resident if the annual wages or salary of the person are at, or under, the HUD-established income limit for a one-person family for the jurisdiction.

39. *Waiver and modification of the job relocation clause to permit assistance to help a business return.* Traditional CDBG requirements prevent program participants from providing assistance to a business to relocate from one labor market area to another—if the relocation is likely to result in a significant loss of jobs in the labor market from which the business moved. This prohibition can be a critical barrier to reestablishing and rebuilding a displaced employment base after a major disaster. Therefore, 42 U.S.C. 5305(h), 24 CFR 570.210, and 24 CFR 570.482(h) are waived to allow a grantee to provide assistance to any business that was operating in the disaster-declared labor market area before the incident date of the applicable disaster and has since moved, in whole or in part, from the affected area to another State or to a labor market area within the same State to continue business.

40. *Waiver to permit some activities in support of the tourism industry (State of New Jersey only).* The State of New Jersey plans to provide disaster recovery grant assistance to support the State's \$38 billion tourism industry and promote travel to communities in the disaster-impacted areas and has requested an eligibility waiver for such activities. Without such intervention, the State estimates a \$950 million loss in the third quarter of 2013. Tourism industry support, such as a national consumer awareness advertising campaign for an area in general, is ineligible for regular CDBG assistance. However, such support was eligible, within limits, for CDBG-DR funds appropriated for recovery of Lower Manhattan following the September 11, 2001, terrorist attacks, and HUD understands that such support can be a useful recovery tool in a damaged regional economy that depends on tourism for many of its jobs and tax revenues. However, because the State of New Jersey is proposing advertising and marketing activities rather than direct assistance to tourism-dependent businesses, and because long-term benefit from the proposed activities must be derived using indirect means, 42 U.S.C. 5305(a) and 24 CFR 570.489(f) are waived only to the extent necessary to make eligible use of no more than \$25 million for assistance for the tourism industry, including promotion of a community or communities in general, provided the assisted activities are designed to support tourism to the most impacted and distressed areas related to the effects of Hurricane Sandy. This waiver will expire at the end of the grantee's two year expenditure period.

41. *Alternative requirement for assistance to businesses, including privately-owned utilities.* The Department is instituting an alternative requirement to the provisions at 42 U.S.C. 5305(a) as follows: when grantees under this Notice provide funds to for-profit businesses, such funds may only be provided to a small business, as defined by the SBA under 13 CFR Part 121. CDBG-DR funds made available under this Notice may also not be used to assist a privately-owned utility for any purpose.

*E. Certifications and Collection of Information.*

42. *Certifications waiver and alternative requirement.* Sections 91.325 and 91.225 of title 24 of the Code of Federal Regulations are waived. Each State or UCLG receiving a direct allocation under this Notice must make the following certifications with its Action Plan:

a. The grantee certifies that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within its jurisdiction and take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard (see 24 CFR 570.487(b)(2) and 570.601(a)(2)). In addition, the grantee certifies that agreements with subrecipients will meet all civil rights related requirements pursuant to 24 CFR 570.503(b)(5).

b. The grantee certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan in connection with any activity assisted with funding under the CDBG program.

c. The grantee certifies its compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by part 87.

d. The grantee certifies that the Action Plan for Disaster Recovery is authorized under State and local law (as applicable) and that the grantee, and any contractor, subrecipient, or designated public agency carrying out an activity with CDBG-DR funds, possess(es) the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations and this Notice.

e. The grantee certifies that activities to be administered with funds under this Notice are consistent with its Action Plan.

f. The grantee certifies that it will comply with the acquisition and relocation requirements of the URA, as amended, and implementing regulations

at 49 CFR part 24, except where waivers or alternative requirements are provided for in this Notice.

g. The grantee certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

h. The grantee certifies that it is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.105 or 91.115, as applicable (except as provided for in notices providing waivers and alternative requirements for this grant). Also, each UCLG receiving assistance from a State grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in notices providing waivers and alternative requirements for this grant).

i. Each State receiving a direct award under this Notice certifies that it has consulted with affected UCLGs in counties designated in covered major disaster declarations in the non-entitlement, entitlement, and tribal areas of the State in determining the uses of funds, including method of distribution of funding, or activities carried out directly by the State.

j. The grantee certifies that it is complying with each of the following criteria:

(1) Funds will be used solely for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas for which the President declared a major disaster in the aftermath of Hurricane Sandy, pursuant to the Stafford Act.

(2) With respect to activities expected to be assisted with CDBG-DR funds, the Action Plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families.

(3) The aggregate use of CDBG-DR funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 50 percent of the grant amount is expended for activities that benefit such persons.

(4) The grantee will not attempt to recover any capital costs of public improvements assisted with CDBG-DR grant funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless: (a) disaster recovery grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such

public improvements that are financed from revenue sources other than under this title; or (b) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient CDBG funds (in any form) to comply with the requirements of clause (a).

k. The grantee certifies that it (and any subrecipient or recipient) will conduct and carry out the grant in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the Fair Housing Act (42 U.S.C. 3601–3619) and implementing regulations.

l. The grantee certifies that it has adopted and is enforcing the following policies. In addition, States receiving a direct award must certify that they will require UCLGs that receive grant funds to certify that they have adopted and are enforcing:

(1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and

(2) A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

m. Each State or UCLG receiving a direct award under this Notice certifies that it (and any subrecipient or recipient) has the capacity to carry out disaster recovery activities in a timely manner; or the State or UCLG will develop a plan to increase capacity where such capacity is lacking.

n. The grantee will not use grant funds for any activity in an area delineated as a special flood hazard area or equivalent in FEMA's most recent and current data source unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain in accordance with Executive Order 11988 and 24 CFR part 55. The relevant data source for this provision is the latest issued FEMA data or guidance, which includes advisory data (such as Advisory Base Flood Elevations) or preliminary and final Flood Insurance Rate Maps.

o. The grantee certifies that its activities concerning lead-based paint will comply with the requirements of 24 CFR part 35, subparts A, B, J, K, and R.

p. The grantee certifies that it will comply with applicable laws.

q. The grantee certifies that it has reviewed the requirements of this Notice and requirements of Public Law 113–2 applicable to funds allocated by this Notice, and that it has in place

proficient financial controls and procurement processes and has established adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act, to ensure timely expenditure of funds, to maintain comprehensive Web sites regarding all disaster recovery activities assisted with these funds, and to detect and prevent waste, fraud, and abuse of funds.

43. *Information collection approval note.* HUD has approval for information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–20) under OMB control number 2506–0165. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, nor is a person required to respond to, a collection of information, unless the collection displays a valid control number.

#### VII. Duration of Funding

The Appropriations Act requires that HUD obligate all funds provided under Chapter 9, Community Development Fund, not later than September 30, 2017. Concurrently, section 904(c) of the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds.

Therefore, each grantee must expend all funds within two years of the date HUD signs the grant agreement with the grantee. Note that if a grantee amends its Action Plan to program additional funds that the Department has allocated to it, the grant agreement must also be revised. As stated in paragraph 1.a, under section VI of this Notice, the requirement for each grantee to expend funds within two years is triggered by each amendment to the grant agreement. That is, each grant amendment has its own expenditure deadline. Pursuant to section 904(c) of the Appropriations Act, grantees or HUD may request waivers of the two-year expenditure deadline from the Office of Management and Budget. For any funds that the grantee believes will not be expended by the deadline, it must submit a letter to HUD justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges for any such waiver, and must also identify the date by when the specified portion of funds will be expended. Funds remaining in the grantee's line of credit at the time of this expenditure deadline will be returned to the U.S. Treasury.

#### VIII. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under this Notice are as follows: 14.218; 14.228.

#### IX. Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

Dated: February 28, 2013.

**Mark Johnston,**

*Deputy Assistant Secretary for Special Needs Programs.*

#### Appendix A—Allocation Methodology

To expedite recovery while recognizing that time is needed to get a full understanding of long-term recovery needs relating to eligible disasters supported by Public Law 113–2, this allocation provides \$5.4 billion of the \$16 billion, reserving the balance to address the full scope of needs when better information is available.

#### Background

Public Law 113–2 states: For an additional amount for “Community Development Fund”, \$16,000,000,000, to remain available until September 30, 2017, for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013, for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.):

*Provided,* That funds shall be awarded directly to the State or unit of general local government as a grantee at the discretion of the Secretary of Housing and Urban Development.

*Provided further,* That the Secretary shall allocate to grantees not less than 33 percent

of the funds provided under this heading within 60 days after the enactment of this Act based on the best available data:

*Provided further*, That prior to the obligation of funds, a grantee shall submit a plan to the Secretary for approval detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure and housing and economic revitalization in the most impacted and distressed areas:

The legislation specifies that the CDBG-DR funds are to be used "for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster" and further specifies that the funds are not to be used for activities reimbursable by FEMA or the Corps of Engineers.

The language also calls for HUD to use "best available" data to make its allocation. For this allocation, similar to prior allocations, HUD makes a determination of unmet needs by estimating unmet needs related to the main intended uses of the funds:

- "restoration of \* \* \* housing". We make an estimate with best available data on the amount of housing damage not likely to be covered by insurance, SBA disaster loans, or FEMA housing assistance. To target the "most impacted and distressed areas", the calculation limits the need calculation only to homes with high levels of individual damage (see below).

- "economic revitalization". We make an estimate with best available data on the amount of damage to businesses applying for an SBA loan that are expected to be turned down, usually because of inadequate credit or income to support the needed loan amount.

- "restoration of infrastructure". Due to the early stage of the disaster, HUD did not use data on infrastructure need for this first allocation, pending getting better information on infrastructure needs which will be used in a later allocation. That noted, grantees may use this initial allocation to begin addressing infrastructure needs.

These estimated needs are then summed together and an allocation is made among the grantee universe based on their proportional share of "unmet needs". At this point, there is good data on number of affected households and likely damage, but there is less complete data on the extent other resources have addressed those needs, specifically:

- Severe unmet housing needs. HUD limits the calculation of unmet needs to only properties with significant damage. This goes toward meeting the Congressional requirement of most impacted. Information on the adequacy of insurance to address housing needs was still very early in the disaster response, a high percentage of affected property owners are still determining how much of their recovery needs will be covered by insurance. To adjust for this uncertainty, HUD applied assumptions about insurance coverage rates to calculate the severe housing needs.

- Unmet business loss. It is very early in the disaster response to accurately estimate

the needs for business to recover. This estimate looks at the properties that have applied for SBA disaster loans and extrapolates both estimated damage and disapproval rates based on the applications requested to date. As with the housing estimates, HUD applies an assumption about expected SBA denial rates.

#### Methodology for Calculating Unmet Needs

##### Available Data

The "best available" data HUD staff have identified as being available to calculate unmet needs at this time for the targeted disasters come from the following data sources:

- FEMA Individual Assistance program data on housing unit damage;
- SBA for management of its disaster assistance loan program for housing repair and replacement;
- SBA for management of its disaster assistance loan program for business real estate repair and replacement as well as content loss; and

##### Calculating Unmet Housing Needs

The core data on housing damage for both the unmet housing needs calculation and the concentrated damage are based on home inspection data for FEMA's Individual Assistance program. For unmet housing needs, the FEMA data are supplemented by Small Business Administration data from its Disaster Loan Program. HUD calculates "unmet housing needs" as the number of housing units with unmet needs times the estimated cost to repair those units less repair funds already provided by FEMA, where:

- Each of the FEMA inspected owner units are categorized by HUD into one of five categories:
  - Minor-Low: Less than \$3,000 of FEMA inspected *real property* damage
  - Minor-High: \$3,000 to \$7,999 of FEMA inspected *real property* damage
  - Major-Low: \$8,000 to \$14,999 of FEMA inspected *real property* damage
  - Major-High: \$15,000 to \$28,800 of FEMA inspected *real property* damage and/or 1 to 4 feet of flooding on the first floor.
  - Severe: Greater than \$28,800 of FEMA inspected *real property* damage or determined destroyed and/or 4 or more feet of flooding on the first floor.

To meet the statutory requirement of "most impacted" in this legislative language, homes are determined to have a high level of damage if they have damage of "major-low" or higher. That is, they have a real property FEMA inspected damage of \$8,000 or flooding over 1 foot. Furthermore, a homeowner is determined to have unmet needs if they have received a FEMA grant to make home repairs. For other homeowners at this stage of the disaster, assumptions are made about the likely percent of damage *not covered* by insurance. This is assumed to increase by severity of damage to the home.

The assumptions applied to ascertain the range of allocations were 30 percent for homes with major-low damage; 50 percent for homes with major-high damage; and 70 percent for homes with severe damage.

- FEMA does not inspect rental units for real property damage so personal property

damage is used as a proxy for unit damage. Each of the FEMA inspected renter units are categorized by HUD into one of five categories:

- Minor-Low: Less than \$1,000 of FEMA inspected *personal property* damage
- Minor-High: \$1,000 to \$1,999 of FEMA inspected *personal property* damage
- Major-Low: \$2,000 to \$3,499 of FEMA inspected *personal property* damage
- Major-High: \$3,500 to \$7,499 of FEMA inspected *personal property* damage or 1 to 4 feet of flooding on the first floor.
- Severe: Greater than \$7,500 of FEMA inspected *personal property* damage or determined destroyed and/or 4 or more feet of flooding on the first floor.

For rental properties, to meet the statutory requirement of "most impacted" in this legislative language, homes are determined to have a high level of damage if they have damage of "major-low" or higher. That is, they have a FEMA personal property damage assessment of \$2,000 or greater or flooding over 1 foot. Furthermore, landlords are presumed to have adequate insurance coverage unless the unit is occupied by a renter with income of \$30,000 or less. Units are occupied by a tenant with income less than \$30,000 are used to calculate likely unmet needs for affordable rental housing.

- The average cost to fully repair a home for a specific disaster to *code* within each of the damage categories noted above is calculated using the average real property damage repair costs determined by the Small Business Administration for its disaster loan program for the subset of homes inspected by both SBA and FEMA. Because SBA is inspecting for full repair costs, it is presumed to reflect the full cost to repair the home, which is generally more than the FEMA estimates on the cost to make the home habitable. If fewer than 100 SBA inspections are made for homes within a FEMA damage category, the estimated damage amount in the category for that disaster has a cap applied at the 75th percentile of all damaged units for that category for all disasters and has a floor applied at the 25th percentile.

##### Calculating Economic Revitalization Needs

Based on SBA disaster loans to businesses, HUD used the sum of real property and real content loss of small businesses not receiving an SBA disaster loan times 85 percent. This is adjusted upward by a per-business unmet need times the number of applications denied pre-inspection for inadequate credit or income or the loan was still in processing and did not yet have an inspection.

Because applications denied for poor credit or income are the most likely measure of requiring the type of assistance available with CDBG recovery funds, the calculated unmet business needs for each state are adjusted upwards by the proportion of total application that were denied at the pre-process stage because of poor credit or inability to show repayment ability.

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BILLING CODE 4210-67-P



provided are based on the 2011 QC survey. The proposed surveys will continue to make use of Computer Assisted Interviewing (CAI) questionnaires and equipment, which are being used in part because they reduce interview times. The software also provides for consistency check and ensures that all needed data have been collected, thereby reducing the need for the follow-up contacts.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

- (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapters 35.

Dated: November 6, 2013.

**Collette Pollard,**

*Department Reports Management Officer,  
Office of the Chief Information Officer.*

[FR Doc. 2013-27504 Filed 11-15-13; 8:45 am]

**BILLING CODE 4210-67-P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-5696-N-06]

**Second Allocation, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice advises the public of a second allocation of Community Development Block Grant disaster recovery (CDBG-DR) funds appropriated by the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2) for the purpose of assisting recovery in the most impacted and distressed areas identified in major disaster declarations due to Hurricane Sandy and other eligible events in calendar years 2011, 2012 and 2013. This allocation provides \$5.1 billion primarily to assist Hurricane Sandy recovery as well as recovery from Hurricane Irene and Tropical Storm Lee. The Notice also establishes requirements governing the use of these funds.

**DATES:** Effective Date: November 25, 2013.

**FOR FURTHER INFORMATION CONTACT:** Stan Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street SW., Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Facsimile inquiries may be sent to Mr. Gimont at 202-401-2044. (Except for the "800" number, these telephone numbers are not toll-free.) Email inquiries may be sent to [disaster\\_recovery@hud.gov](mailto:disaster_recovery@hud.gov).

**SUPPLEMENTARY INFORMATION:**

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- I. Allocation and Related Information
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- IV. Grant Amendment Process
- V. Authority To Grant Waivers
- VI. Applicable Rules, Statutes, Waivers, and Alternative Requirements
- VII. Mitigation and Resilience Methods, Policies, and Procedures
- VIII. Catalog of Federal Domestic Assistance
- IX. Finding of No Significant Impact
- Appendix A: Allocation Methodology

**I. Allocation and Related Information**

The Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2, approved January 29, 2013) (Appropriations Act) made available \$16 billion in Community Development Block Grant (CDBG) funds for necessary expenses related to disaster relief, long-term

recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 *et seq.*) (Stafford Act), due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013. The law provides that funds shall be awarded directly to a State or unit of general local government (UGLG) (hereafter local government) at the discretion of the Secretary. Unless noted otherwise, the term "grantee" refers to any jurisdiction receiving a direct award from HUD under this Notice.

On March 1, 2013, the President issued a sequestration order pursuant to section 251A of the Balanced Budget and Emergency Deficit Control Act, as amended (2 U.S.C. 901a), and reduced funding for CDBG-DR grants under the Appropriations Act to \$15.18 billion. Through a **Federal Register** Notice published March 5, 2013, the Department allocated \$5.4 billion for the areas most impacted by Hurricane Sandy (78 FR 14329). Subsequent notices allocated funds for major disasters occurring in 2011 and 2012 (excluding Hurricane Sandy) and a future notice will address funding for qualifying major disasters occurring in 2013.

To comply with statutory direction that funds be used for disaster-related expenses in the most impacted and distressed areas, HUD computes allocations based on the best available data that cover all the eligible affected areas. The initial allocation to Hurricane Sandy grantees was based on unmet housing and economic revitalization needs. The data used to calculate the allocation did not include unmet infrastructure restoration needs as damage estimates were preliminary at that time. As more data regarding unmet infrastructure needs are now available, this Notice provides the following Round 2 awards totaling \$5.1 billion:

**TABLE 1—HURRICANE SANDY ALLOCATIONS**

Grantee	Second allocation	First allocation	Total
New York City .....	\$1,447,000,000	\$1,772,820,000	\$3,219,820,000
New Jersey .....	1,463,000,000	1,829,520,000	3,292,520,000
New York State .....	2,097,000,000	1,713,960,000	3,810,960,000

TABLE 1—HURRICANE SANDY ALLOCATIONS—Continued

Grantee	Second allocation	First allocation	Total
Connecticut .....	66,000,000	71,820,000	137,820,000
Maryland .....	20,000,000	8,640,000	28,640,000
Rhode Island .....	16,000,000	3,240,000	19,240,000
<b>Total .....</b>	<b>5,109,000,000</b>	<b>5,400,000,000</b>	<b>10,509,000,000</b>

To ensure funds provided under this Notice address unmet needs within the "most impacted and distressed" counties, each local government receiving a direct award under this Notice must expend its entire CDBG-DR award within its jurisdiction (e.g., New York City must expend all funds within

New York City). State grantees may expend funds in any county that received a Presidential disaster declaration in 2011, 2012, or 2013 subject to the limitations described in Table 2. Table 2 identifies a minimum percentage that must be spent in the HUD-identified Hurricane Sandy

affected Most Impacted and Distressed counties. The opportunity for certain grantees to expend 20 percent of their allocations outside the most impacted and distressed counties identified by HUD enables those grantees to respond to highly localized distress identified via their own data.

TABLE 2—MOST IMPACTED AND DISTRESSED COUNTIES WITHIN WHICH FUNDS MAY BE EXPENDED

Grantee	Counties from the following major declared disasters are eligible for CDBG-DR funds (FEMA declaration No.)	Hurricane Sandy most impacted and distressed counties	Minimum percentage that must be expended in Hurricane Sandy most impacted and distressed counties
New York City	All Counties .....	All Counties .....	100
New York .....	1957, 1993, 4020, 4031, 4085, 4111, 4129.	Nassau, Rockland, Suffolk, Westchester, and all Counties in New York City (Bronx, Kings, New York, Queens, Richmond).	80
New Jersey .....	1954, 4021, 4033, 4039, 4048, 4070, 4086.	Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean, Union.	80
Connecticut .....	1958, 4023, 4046, 4087, 4106 .....	Fairfield, New Haven .....	80
Rhode Island .....	4027, 4089, 4107 .....	Washington .....	80
Maryland .....	4034, 4038, 4075, 4091 .....	Somerset .....	80

This Notice builds upon the requirements of the **Federal Register** Notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578) and August 2, 2013 (78 FR 46999), referred to collectively in this Notice as the "Prior Notices." The Prior Notices are available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-03-05/pdf/2013-05170.pdf>, <http://www.gpo.gov/fdsys/pkg/FR-2013-04-19/pdf/2013-09228.pdf>, <http://www.gpo.gov/fdsys/pkg/FR-2013-08-02/pdf/2013-18643.pdf>. Executive Order 13632, published at 77 FR 74341, established the Hurricane Sandy Rebuilding Task Force, to ensure government-wide and region-wide coordination to help communities as they are making decisions about long-term rebuilding and to develop a comprehensive rebuilding strategy. Section 5(b) of Executive Order 13632 requires that HUD, "as appropriate and to the extent permitted by law, align [the Department's] relevant programs and authorities" with the Hurricane Sandy Rebuilding Strategy (the Rebuilding Strategy). Accordingly, this Notice is further informed by both the

Rebuilding Strategy released by the Task Force on August 19, 2013 and Rebuild by Design (RBD), an initiative of the Hurricane Sandy Rebuilding Task Force and HUD. RBD is aimed at addressing structural and environmental vulnerabilities that Hurricane Sandy exposed in communities throughout the region and developing fundable solutions to better protect residents from future disasters. The Rebuilding Strategy and information about RBD can be found, respectively, at: <http://portal.hud.gov/hudportal/documents/huddoc?id=HSRRebuildingStrategy.pdf> and <http://www.rebuildbydesign.org/what-is-rebuild-by-design/>

**II. Use of Funds**

The Appropriations Act requires funds to be used only for specific disaster recovery related purposes. Consistent with the Rebuilding Strategy, it is essential to build back stronger and more resilient. This allocation provides additional funds to Sandy-impacted grantees to support investments in mitigation and resilience and directs grantees to undertake comprehensive

planning to promote regional resilience as part of the recovery effort.

The Appropriations Act requires that prior to the obligation of CDBG-DR funds, a grantee shall submit a plan detailing the proposed use of funds, including criteria for eligibility and how the use of these funds will address disaster relief, long-term recovery, restoration of infrastructure and housing and economic revitalization in the most impacted and distressed areas. In an Action Plan for Disaster Recovery (Action Plan), grantees must describe uses and activities that: (1) Are authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (HCD Act) or allowed by a waiver or alternative requirement published in this Notice and the prior Notices; and (2) respond to a disaster-related impact. HUD has previously approved an Action Plan for each grantee receiving an allocation of funds in this Notice. Grantees are now directed to submit a substantial Action Plan Amendment in order to access funds provided in this Notice. For more guidance on requirements for substantial Action Plan Amendments,

please see Sections IV and VI of this Notice.

As provided by the HCD Act, funds may be used as a matching requirement, share, or contribution for any other federal program when used to carry out an eligible CDBG-DR activity. However, pursuant to the requirements of the Appropriations Act, CDBG-DR funds may not be used for expenses reimbursable by, or for which funds are made available by FEMA or the United States Army Corps of Engineers (USACE).

Consistent with the allocation methodology in Appendix A of the Notice, the State of New York must either ensure that: (1) A portion of its allocation is used to address resiliency and local cost share requirements for damage to both the Metropolitan Transportation Authority infrastructure in New York City and the Port Authority of New York and New Jersey; or (2) must demonstrate that such resiliency needs and local cost share has otherwise been met. The State of New Jersey must undertake one of the same actions with regard to the Port Authority. New York City must review the methodology to inform an analysis to address the recovery and resilience needs of the New York City Housing Authority (NYCHA).

### III. Timely Expenditure of Funds

The Appropriations Act requires that funds be expended within two years of the date HUD obligates funds to a grantee and funds are obligated to a grantee upon HUD's signing of a grantee's CDBG-DR grant agreement. In its Action Plan, a grantee must demonstrate how funds will be fully expended within two years of obligation and HUD must obligate all funds not later than September 30, 2017. For any funds that the grantee believes will not be expended by the deadline and that it desires to retain, the grantee must submit a letter to HUD not less than 30 days in advance justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges for any such waiver, and must also identify the date by when the specified portion of funds will be expended. The Office of Management and Budget has provided HUD with authority to act on grantee waiver requests but grantees are cautioned that such waivers may not be approved. Approved waivers will be published in the **Federal Register**. Funds remaining in the grantee's line of credit at the time of its expenditure deadline will be returned to the U.S.

Treasury, or if before September 30, 2017, will be recaptured by HUD.

### IV. Grant Amendment Process

To access funds allocated by this Notice grantees must submit a substantial Action Plan Amendment to their approved Action Plan. Any substantial Action Plan Amendment submitted after the effective date of this Notice is subject to the following requirements:

- Grantee consults with affected citizens, stakeholders, local governments and public housing authorities to determine updates to its needs assessment; in addition, grantee prepares a comprehensive risk analysis (see section VI(2)(d) of this Notice);
- Grantee amends its citizen participation plan to reflect the requirements of this Notice (e.g., new requirement for a public hearing);
- Grantee publishes a substantial amendment to its previously approved Action Plan for Disaster Recovery on the grantee's official Web site for no less than 30 calendar days and holds at least one public hearing to solicit public comment;
- Grantee responds to public comment and submits its substantial Action Plan Amendment to HUD (with any additional certifications required by this Notice) no later than 120 days after the effective date of this Notice;
- HUD reviews the substantial Action Plan Amendment within 60 days from date of receipt and approves the Amendment according to criteria identified in the Prior Notices and this Notice;
- HUD sends an Action Plan Amendment approval letter, revised grant conditions (may not be applicable to all grantees), and an amended unsigned grant agreement to the grantee. If the substantial Amendment is not approved, a letter will be sent identifying its deficiencies; the grantee must then re-submit the Amendment within 45 days of the notification letter;
- Grantee ensures that the HUD-approved substantial Action Plan Amendment (and updated Action Plan) is posted on its official Web site;
- Grantee signs and returns the grant agreement;
- HUD signs the grant agreement and revises the grantee's line of credit amount (this triggers the two year expenditure deadline for any funds obligated by this grant agreement);
- If it has not already done so, grantee enters the activities from its published Action Plan Amendment into the Disaster Recovery Grant Reporting (DRGR) system and submits it to HUD within the system;

- The grantee may draw down funds from the line of credit after the Responsible Entity completes applicable environmental review(s) pursuant to 24 CFR part 58 (or paragraph A.20 under section VI of the March 5, 2013 Notice) and, as applicable, receives from HUD or the state an approved Request for Release of Funds and certification;

- Grantee amends its published Action Plan to include its projection of expenditures and outcomes within 90 days of the Action Plan Amendment approval as provided for in paragraph (3)(g) of Section VI of this Notice; and
- Grantee updates its full consolidated plan to reflect disaster-related needs no later than its Fiscal Year 2015 consolidated plan update.

### V. Authority To Grant Waivers

The Appropriations Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with HUD's obligation or use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). Waivers and alternative requirements are based upon a determination by the Secretary that good cause exists and that the waiver or alternative requirement is not inconsistent with the overall purposes of title I of the HCD Act. Regulatory waiver authority is also provided by 24 CFR 5.110, 91.600, and 570.5.

### VI. Applicable Rules, Statutes, Waivers, and Alternative Requirements

This section of the Notice describes requirements imposed by the Appropriations Act, as well as applicable waivers and alternative requirements. For each waiver and alternative requirement described in this Notice, the Secretary has determined that good cause exists and the action is not inconsistent with the overall purpose of the HCD Act. The following requirements apply only to the CDBG-DR funds appropriated in the Appropriations Act.

Grantees may request additional waivers and alternative requirements to address specific needs related to their recovery activities. Except where noted, waivers and alternative requirements described below apply to all grantees under this Notice. Under the requirements of the Appropriations Act, regulatory waivers are effective five days after publication in the **Federal Register**.

1. *Incorporation of general requirements, waivers, alternative*

requirements, and statutory changes previously described. Grantees are advised that general requirements, waivers and alternative requirements provided for and subsequently clarified or modified in the Prior Notices, apply to all funds under this Notice, except as modified herein. These waivers and alternative requirements provide additional flexibility in program design and implementation to support resilient recovery following Hurricane Sandy, while also ensuring that statutory requirements unique to the Appropriations Act are met. Waivers or alternative requirements previously issued pursuant to specific grantee requests remain in effect under their initial terms.

2. *Action Plan for Disaster Recovery waiver and alternative requirement—Infrastructure Programs and Projects.* Grantees are advised that HUD will assess the adequacy of a grantee's response to each of the elements outlined in this subsection as a basis for the approval of a substantial Action Plan Amendment that includes infrastructure programs and projects. However, grantees need not resubmit responses to elements approved by HUD unless warranted by changing conditions or if project-specific analysis is required.

Section VI(A)(1) of the March 5, 2013 Notice ("Action Plan for Disaster Recovery waiver and alternative requirement"), as amended by the April 19, 2013 Notice, is modified to require:

a. *Applicability.* The following guidance and criteria are applicable to all infrastructure programs and projects in an Action Plan Amendment submitted to HUD after the effective date of this Notice. Infrastructure programs and projects funded pursuant to the Prior Notices and submitted in an Action Plan Amendment after the effective date of this Notice are also subject to these requirements. The following guidance and criteria are based on recommendations of the Rebuilding Strategy.

b. *Definition of an Infrastructure Project and Related Infrastructure Projects.*

(1) *Infrastructure Project:* For purposes of this Notice, an infrastructure project is defined as an activity, or a group of related activities, designed by the grantee to accomplish, in whole or in part, a specific objective related to critical infrastructure sectors such as energy, communications, water and wastewater systems, and transportation, as well as other support measures such as flood control. This definition is rooted in the implementing regulations of the National

Environmental Policy Act (NEPA) at 40 CFR part 1508 and 24 CFR Part 58.

Further, consistent with HUD's NEPA implementing requirements at 24 CFR 58.32(a), in responding to the requirements of this Notice, a grantee must group together and evaluate as a single infrastructure project all individual activities which are related to one another, either on a geographical or functional basis, or are logical parts of a composite of contemplated infrastructure-related actions.

(2) *Related Infrastructure Project:* Consistent with 40 CFR part 1508, infrastructure projects are "related" if they automatically trigger other projects or actions, cannot or will not proceed unless other projects or actions are taken previously or simultaneously, or are interdependent parts of a larger action and depend on the larger action for their justification.

c. *Impact and Unmet Needs Assessment.* The March 5, 2013 Notice required grantees to consult with affected citizens, stakeholders, local governments and public housing authorities to determine the impact of Hurricane Sandy and any unmet disaster recovery needs. Grantees are required to update their impact and unmet needs assessments to address infrastructure projects, or any other projects or activities not previously considered, but for which an unmet need has become apparent.

d. *Comprehensive Risk Analysis.* Each grantee must describe the science-based risk analysis it has or will employ to select, prioritize, implement, and maintain infrastructure projects or activities. At a minimum, the grantee's analysis must consider a broad range of information and best available data, including forward-looking analyses of risks to infrastructure sectors from climate change and other hazards, such as the Northeast United States Regional Climate Trends and Scenarios from the U.S. National Climate Assessment, the Sea Level Rise Tool for Sandy Recovery, or comparable peer-reviewed information, as well as the regional analysis developed in Phase 2 of the Rebuild by Design competition. The grantee should also consider costs and benefits of alternative investment strategies, including green infrastructure options. In addition, the grantee should include, to the extent feasible and appropriate, public health and safety impacts; direct and indirect economic impacts; social impacts; environmental impacts; cascading impacts and interdependencies within and across communities and infrastructure sectors; changes to climate and development patterns that could affect the project or

surrounding communities; and impacts on and from other infrastructure systems. The analyses should, wherever possible, include both quantitative and qualitative measures and recognize the inherent uncertainty in predictive analysis. Grantees should work with other grantees to undertake regional risk baseline analyses, to improve consistency and cost-effectiveness.

The description of the comprehensive risk analysis must be sufficient for HUD to determine if the analysis meets the requirements of this Notice.

e. *Resilience Performance Standards.* Using the guidelines in the Rebuilding Strategy, grantees are required to identify and implement resilience performance standards that can be applied to each infrastructure project. The grantee must describe its plans for the development and application of resilience performance standards in any Action Plan Amendment submitted pursuant to this Notice.

f. *Green Infrastructure Projects or Activities.* In any Action Plan Amendment submitted pursuant to this Notice, each grantee must describe its process for the selection and design of green infrastructure projects or activities, and/or how selected projects or activities will incorporate green infrastructure components. For the purposes of this Notice, green infrastructure is defined as the integration of natural systems and processes, or engineered systems that mimic natural systems and processes, into investments in resilient infrastructure. Green infrastructure takes advantage of the services and natural defenses provided by land and water systems such as wetlands, natural areas, vegetation, sand dunes, and forests, while contributing to the health and quality of life of those in recovering communities.

In addition, the HCD Act authorizes public facilities activities that may include green infrastructure approaches that restore degraded or lost natural systems (e.g., wetlands and sand dunes ecosystems) and other shoreline areas to enhance storm protection and reap the many benefits that are provided by these systems. Protecting, retaining, and enhancing natural defenses should be considered as part of any coastal resilience strategy.

g. *Additional Requirements for Major Infrastructure Projects.* Action Plan Amendments that propose a major infrastructure project will not be approved unless the project meets the criteria of this Notice. HUD approval is required for each major infrastructure project with such projects defined as having a total cost of \$50 million or

more (including at least \$10 million of CDBG-DR funds), or benefits multiple counties. Additionally, two or more related infrastructure projects that have a combined total cost of \$50 million or more (including at least \$10 million of CDBG-DR funds) must be designated as major infrastructure projects. Projects encompassed by this paragraph are herein referred to as "Covered Projects." Prior to funding a Covered Project, the grantee must incorporate each of the following elements into its Action Plan (i.e., via a substantial Action Plan Amendment):

(1) *Identification/Description.* A description of the Covered Project, including: Total project cost (illustrating both the CDBG-DR award as well as other federal resources for the project, such as funding provided by the Department of Transportation or FEMA), CDBG eligibility (i.e., a citation to the HCD Act, applicable Federal Register notice, or a CDBG regulation), how it will meet a national objective, and the project's connection to Hurricane Sandy or other disasters cited in this Notice.

(2) *Use of Impact and Unmet Needs Assessment, the Comprehensive Risk Analysis and the Rebuild by Design Collaborative Risk Analysis.* A description of how the Covered Project is supported by the grantee's updated impact and unmet needs assessment, as well as the grantee's comprehensive risk analysis.

The grantee must describe how Covered Projects address the risks, gaps, and vulnerabilities in the region as identified by the comprehensive risk analysis. Grantees must also describe how the collaborative risk analysis developed through the Rebuild by Design initiative has been or will be used for the evaluation of Covered Projects.

(3) *Transparent and Inclusive Decision Processes.* A description of the transparent and inclusive processes that have been or will be used in the selection of a Covered Project(s), including accessible public hearings and other processes to advance the engagement of vulnerable populations. Grantees should demonstrate the sharing of decision criteria, the method of evaluating a project(s), and how all project stakeholders and interested parties were or are to be included to ensure transparency including, as appropriate, stakeholders and parties with an interest in environmental justice or accessibility.

(4) *Long-Term Efficacy and Fiscal Sustainability.* A description of how the grantee plans to monitor and evaluate the efficacy and sustainability of

Covered Projects, including how it will reflect changing environmental conditions (such as sea level rise or development patterns) with risk management tools, and/or alter funding sources if necessary.

(5) *Environmentally Sustainable and Innovative Investments.* A description of how the Covered Project(s) will align with the commitment expressed in the President's Climate Action Plan to "identify and evaluate additional approaches to improve our natural defenses against extreme weather, protect biodiversity, and conserve natural resources in the face of a changing climate . . ."

h. *HUD Review of Covered Projects.* HUD may disapprove any Action Plan Amendment that proposes a Covered Project that does not meet the above criteria. In the course of reviewing an Action Plan Amendment, HUD will advise grantees of the deficiency of a Covered Project, and grantees must revise their plans accordingly to secure HUD approval. In making its decision, HUD will consider input from other relevant federal agencies. Each grantee is encouraged to consult with the Regional Coordination Working Group prior to the inclusion of a Covered Project in its Action Plan. HUD will also submit any Covered Project(s) identified in an Action Plan to the Regional Coordination Working Group for comment, and will consider the group's views prior to approval or disapproval of the project(s). Consistent with the Rebuilding Strategy Infrastructure Resilience Guidelines, the goal of this coordination effort is to promote a regional and cross-jurisdictional approach to resilience in which neighboring communities and states come together to: identify interdependencies among and across geography and infrastructure systems; compound individual investments towards shared goals; foster leadership; build capacity; and share information and best practices on infrastructure resilience.

3. *Action Plan for Disaster Recovery waiver and alternative requirement—Housing, Business Assistance, and General Requirements.* The Prior Notices are modified as follows:

a. *Public and assisted multifamily housing.* In the March 5, 2013 Notice, paragraph 1(a)(6) at 78 FR 14334, grantees were required to describe how funds would be used to address the rehabilitation, mitigation and new construction needs of each impacted Public Housing Authority (PHA) within its jurisdiction. In addition to this continuing requirement for PHAs, grantees under this Notice must now

describe how they will address the rehabilitation, mitigation and new construction needs of other assisted multifamily housing developments impacted by the disaster, including HUD-assisted multifamily housing, low income housing tax credit (LIHTC) financed developments and other subsidized and tax credit-assisted affordable housing. For CDBG DR purposes, HUD-assisted multifamily housing continues to be defined by paragraph VI.A.1.a. (1) of the March 5, 2013 Notice at 78 FR 14332. Grantees should focus on protecting vulnerable residents and should consider measures to protect vital infrastructure (e.g., HVAC and electrical equipment) from flooding. Grantees are strongly encouraged to provide assistance to PHAs and other assisted and subsidized multifamily housing to help them elevate critical infrastructure and rebuild to model resilient building standards. Examples of such standards include the I-Codes developed by the International Code Council (ICC), the Insurance Institute for Business and Home Safety (IBHS) FORTIFIED home programs, and standards under development by the American National Standards Institute (ANSI) and the American Society of Civil Engineers (ASCE).

b. *Liquid Fuel Supply Chain Assistance.* The March 5, 2013 Notice, paragraph (d)(3) at 78 FR 14335, and paragraph 41 at 78 FR 14347, are amended, as necessary, to require the following: If a grantee provides CDBG-DR assistance to a small business in the liquid fuel supply chain, the award agreement must require the adoption of measures to mitigate impacts to the liquid fuel supply chain during future disasters. Risk mitigation measures should include processes or methods to ensure that fueling stations along critical evacuation routes remain functional, or quickly restore functionality, during power outages. This requirement applies to any small business in the liquid fuel supply chain that applies for CDBG-DR assistance after the effective date of this Notice. Grantees are reminded that pursuant to the March 5, 2013 Notice, grantees are prohibited from assisting businesses, including private utilities, that do not meet the definition of a small business as defined by SBA at 13 CFR part 121 and as further modified by this Notice. Please review the modified definition of a small business in paragraph 10 of this section of the Notice, particularly with regard to businesses covered by this section.

c. *Certification of proficient controls, processes and procedures.* The

Appropriations Act requires the Secretary to certify, in advance of signing a grant agreement, that the grantee has in place proficient financial controls and procurement processes and has established adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act, ensure timely expenditure of funds, maintain comprehensive Web sites regarding all disaster recovery activities assisted with these funds, and detect and prevent waste, fraud, and abuse of funds. Grantees submitted this certification pursuant to paragraph VLE.42(g) of the March 5, 2013 Notice. In any Action Plan Amendment submitted after the effective date of this Notice, grantees are required to identify any material changes in its processes or procedures that could potentially impact the Secretary's or the grantee's prior certification. Grantees are advised that HUD may revisit any prior certification based on a review of an Action Plan Amendment submitted for this allocation of funds, as well as monitoring reports, audits by HUD's Office of the Inspector General, citizen complaints or other sources of information. As a result of HUD's review, the grantee may be required to submit additional documentation or take appropriate actions to sustain the certification.

d. *Certification of Resilience Standards.* Paragraph 42 at 78 FR 14347 of the March 5, 2013 Notice is amended to additionally require the grantee to certify that it will apply the resilience standards required in section VI (2)(e) of this Notice.

e. *Amending the Action Plan.* Paragraph 1(k) at 78 FR 14337 of the March 5, 2013 Notice is amended, as necessary, to require each grantee to submit a substantial Action Plan Amendment to HUD within 120 days of the effective date of this Notice. All Action Plan Amendments submitted after the effective date of this Notice must be prepared in accordance with the Prior Notices, as modified by this Notice. In addition, they must budget all, or a portion, of the funds allocated under this Notice. Grantees are reminded that an Action Plan may be amended one or more times until it describes uses for 100 percent of the grantee's CDBG-DR award. The last date that grantees may submit an Action Plan Amendment is June 1, 2017 given that HUD must obligate all CDBG-DR funds not later than September 30, 2017. The requirement to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation, as applicable.

f. *HUD Review/Approval.* Consistent with the requirements of section 105(c) of the Cranston-Gonzalez National Affordable Housing Act, HUD will review each grantee's substantial Action Plan Amendment within 60 days from the date of receipt. This timeframe allows HUD's federal partners to view the Amendment and provide feedback. The Secretary may disapprove an Amendment if it is determined that it does not meet the requirements of the Prior Notices, as amended by this Notice. Once an Amendment is approved, HUD will issue a revised grant agreement to the grantee.

g. *Projection of expenditures and outcomes.* Paragraph 1(l) at 78 FR 14337 of the March 5, 2013 Notice is amended, as necessary, to require each grantee to amend its Action Plan to update its projection of expenditures and outcomes within 90 days of its Action Plan Amendment approval. The projections must be based on each quarter's expected performance—beginning the quarter funds are available to the grantee and continuing each quarter until all funds are expended. Projections should include the entire amount allocated by this Notice. Amending the Action Plan to accommodate these changes is not considered a substantial amendment. Guidance on preparing the projections is available on HUD's Web site at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/programs/drsi/afwa](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/drsi/afwa).

4. *Citizen participation waiver and alternative requirement.* Paragraph 3 at 78 FR 14338 of the March 5, 2013 Notice is modified to require grantees to publish substantial Action Plan Amendments for comment for 30 days prior to submission to HUD. Grantees are reminded of both the citizen participation requirements of that Notice and that HUD will monitor grantee compliance with those requirements and the alternative requirements of this Notice. In addition, this Notice establishes the requirement that at least one public hearing must be held regarding any substantial Action Plan Amendment submitted after the effective date of this Notice, including any subsequent substantial amendment proposing or amending a Covered Project. Citizens and other stakeholders must have reasonable and timely access to these public hearings. Grantees are encouraged to conduct outreach to community groups, including those that serve minority populations, persons with limited English proficiency, and persons with disabilities, to encourage public attendance at the hearings and

the submission of written comments concerning the Action Plan Amendment.

The grantee must continue to make the Action Plan, any amendments, and all performance reports available to the public on its Web site and on request and the grantee must make these documents available in a form accessible to persons with disabilities and persons of limited English proficiency, in accordance with the requirements of the March 5, 2013 Notice. Grantees are also encouraged to outreach to local nonprofit and civic organizations to disseminate substantial Action Plan Amendments submitted after the effective date of this Notice. During the term of the grant, the grantee must provide citizens, affected local governments, and other interested parties with reasonable and timely access to information and records relating to the Action Plan and to the grantee's use of grant funds. This objective should be achieved through effective use of the grantee's comprehensive Web site mandated by the Appropriations Act.

5. *Reimbursement of disaster recovery expenses.* In addition to pre-award requirements described in the March 5, 2013 Notice, grantees are subject to HUD's guidance issued July 30, 2013—"Guidance for Charging Pre-Award Costs of Homeowners, Businesses, and Other Qualifying Entities to CDBG Disaster Recovery Grants" (CPD Notice 2013-05). The CPD Notice is available on the CPD Disaster Recovery Web site at: [http://portal.hud.gov/hudportal/documents/huddoc?id=cdbg\\_preaward\\_notice.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=cdbg_preaward_notice.pdf).

6. *Duplication of benefits.* In addition to the requirements described in the March 5, 2013 Notice and the **Federal Register** Notice published November 16, 2011 (76 FR 71060), grantees receiving an allocation under this Notice are subject to HUD's guidance issued July 25, 2013—"Guidance on Duplication of Benefit Requirements and Provision of CDBG-DR Assistance". This guidance is available on the CPD Disaster Recovery Web site at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/notices/cpd](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/cpd).

7. *Eligibility of needs assessment and comprehensive risk analysis costs.* Grantees may use CDBG-DR funds to update their impact and unmet needs assessments and to develop the comprehensive risk analysis for infrastructure projects required by this Notice, consistent with the overall 20 percent limitation on the use of funds for planning, management and administrative costs.

8. *Eligibility of mold remediation costs.* Mold remediation is an eligible CDBG-DR rehabilitation activity (see the HCD Act, e.g., 42 U.S.C. 5305(a)(4)). Like other eligible activities, however, the activity encompassing mold remediation must address a direct or indirect impact caused by the disaster.

9. *Eligibility of public services and assistance to impacted households.* Grantees are reminded that households impacted by Hurricane Sandy and other qualifying events in 2011, 2012 and 2013, may be assisted as part of an eligible public service activity, subject to applicable CDBG regulations. Public service activities often address needs such as employment and training, child care, health, etc. Income payments, defined as a series of subsistence-type grant payments are made to an individual or family for items such as food, clothing, housing, or utilities, are generally ineligible for CDBG-DR assistance. However, per the CDBG regulations, grantees may make emergency grant payments for up to three consecutive months, to the provider of such items or services on behalf of an individual or family.

Additionally, as provided by the HCD Act, funds for public services activities may be used as a matching requirement, share, or contribution for any other federal program when used to carry out an eligible CDBG-DR activity. However, the activity must still meet a national objective and address all applicable CDBG cross-cutting requirements.

10. *Small business assistance—Modification of the alternative requirement to allow use of the Employer Identification Number (EIN).* In the March 5, 2013 Notice, the Department instituted an alternative requirement to the provisions at 42 U.S.C. 5305(a) prohibiting grantees from assisting businesses, including privately owned utilities, that do not meet the definition of a small business as defined by Small Business Administration (SBA) at 13 CFR part 121 in order to target assistance to the businesses most responsible for driving local and regional economies. To determine whether an entity is a small business under the SBA definition, the grantee must take into account all of its affiliations. Typically, companies that have common ownership or management are considered affiliated. Per the SBA regulations, if businesses are affiliated, the number of jobs and revenue for those businesses must be aggregated. However, this could preclude a number of small businesses from receiving assistance—particularly in cases where one or more persons have control (i.e., ownership or

management) of multiple small businesses that each have separate employer identification numbers (EIN), file separate tax returns, or even operate in different industries. Thus, HUD is modifying its definition of a small business: Businesses must continue to meet the SBA requirements at 13 CFR part 121 to be eligible for CDBG-DR assistance, except that the size standards will only apply to each EIN. Businesses that share common ownership or management may be eligible for CDBG-DR assistance, as long as each business with a unique EIN meets the applicable SBA size standards.

11. *Eligibility of Local Disaster Recovery Manager costs.* Consistent with the recommendation of the Rebuilding Strategy, grantees may use CDBG-DR funds to fill Local Disaster Recovery Manager (LDRM) positions, which are recommended by the National Disaster Recovery Framework. Additional information about the National Disaster Recovery Framework can be found at <http://www.fema.gov/long-term-recovery>. A LDRM may coordinate and manage the overall long-term recovery and redevelopment of a community, which includes the local administration and leveraging of multiple federally-funded projects and programs. A LDRM may also ensure that federal funds are used properly, and can help local governments address the need for long-term recovery coordination. For additional guidance, grantees should consult the CPD Notice "Allocating Staff Costs between Program Administration Costs vs. Activity Delivery Costs in the Community Development Block Grant (CDBG) Program for Entitlement Grantees, Insular Areas, Non-Entitlement Counties in Hawaii, and Disaster Recovery Grants," at: <http://portal.hud.gov/huddoc/13-07cpdn.pdf>.

#### VII. Mitigation and Resilience Methods, Policies, and Procedures

Executive Order 13632 established the Hurricane Sandy Rebuilding Task Force. The Task Force was charged with identifying and working to remove obstacles to resilient rebuilding while taking into account existing and future risks and promoting the long-term sustainability of communities and ecosystems in the Sandy-affected region. The Task Force was further tasked with the development of a rebuilding strategy, which was released on August 19, 2013. The Executive Order directs HUD and other federal agencies, to the extent permitted by law, to align its relevant programs and authorities with the Rebuilding Strategy. The

requirements set forth elsewhere in this Notice related to the selection of infrastructure projects and assistance to public and assisted multifamily housing reflect recommendations in the Rebuilding Strategy. To further address these recommendations, each grantee is strongly encouraged to incorporate the following components into its long term strategy for recovery from Hurricane Sandy, and to reflect the incorporation of these components, to the extent appropriate, in Action Plan Amendments.

1. *Regional environmental review and permitting, opportunities to expedite environmental review.* To expedite environmental review and permitting for critical infrastructure projects in the Sandy-affected region, and ensure that the most complex projects are delivered as efficiently as possible, the Rebuilding Strategy recommended and federal agencies have created the Sandy Regional Infrastructure Permitting and Review Team. This interagency body will help to ensure that projects or activities funded by the Appropriations Act, including CDBG-DR funds, will incorporate best practices and align federal and state processes where appropriate. It is expected that this coordination will lead to considerable savings in time and cost. Where appropriate, grantees should identify opportunities to expedite and improve other types of review processes, including historic review and other environmental analyses, through programmatic agreements or consultation, and through participation in the Regional Coordination Working group referenced in Section VI (2) of this Notice. HUD will be providing additional guidance on the operation of both the Permitting and Review Team and the Regional Coordination Working Group.

2. *Small business assistance.* To support small business recovery, grantees are encouraged to work with, and/or fund, small business assistance organizations that provide direct and consistent communication about disaster recovery resources to affected businesses. Selected organizations should have close relationships with local businesses and knowledge of their communities' needs and assets. In addition, grantees may support outreach efforts by a Community Development Finance Institution (CDFI) to small businesses in vulnerable communities.

3. *Energy Infrastructure.* Where necessary for recovery, CDBG-DR funds may be used to support programs, projects and activities to enhance the resiliency of energy infrastructure. Energy infrastructure includes

electricity transmission and distribution systems, including customer-owned generation where a significant portion of the generation is provided to the grid; and liquid and gaseous fuel distribution systems, both fixed and mobile. CDBG-DR recipients may use funds from this allocation for recovery investments that enhance the resiliency of energy infrastructure so as to limit potential damages and future disturbance and thus reduce the need for any future federal assistance under such an event. CDBG-DR funds may be used to support public-private partnerships to enhance the resiliency of privately-owned energy infrastructure, if the CDBG-DR assisted activities meet a national objective and can be demonstrated to relate to recovery from the direct or indirect effects of Hurricane Sandy or other eligible disasters under this Notice. Such projects may include microgrids or energy banks that may provide funds to entities consistent with all applicable requirements. Grantees should review DOE's report, "U.S. Energy Sector Vulnerabilities to Climate Change and Extreme Weather," available at: <http://energy.gov/sites/prod/files/2013/07/f2/20130716-Energy%20Sector%20Vulnerabilities%20Report.pdf>. This report assesses vulnerabilities and provides guidance on developing a new approach for electric grid operations. In developing this component of its long term recovery plan, grantees are reminded that pursuant to the March 5, 2013 Notice, grantees are prohibited from assisting businesses that do not meet the definition of a small business as defined by SBA at 13 CFR part 121 and as further modified by this Notice. The March 5, 2013 Notice also prohibits assistance to private utilities.

4. *Providing jobs to local workforce.* In complying with Section 3 of the Housing and Urban Development Act of 1968, grantees are encouraged to continue efforts, through specialized skills training programs and other initiatives, to: (a) Employ very-low and low-income individuals; and (2) award contracts to local businesses, for Hurricane Sandy rebuilding and rebuilding from other eligible disasters under this Notice (e.g., mold remediation and construction (including elevation), ecosystem and habitat restoration, green infrastructure and coastal engineering).

5. *Project labor agreements.* Executive Order 13502 (Use of Project Labor Agreements for Federal Construction Projects) governs the use of project labor agreements for large-scale construction projects procured by the federal government. Similarly, grantees are encouraged to make use of Project Labor

Agreements (PLAs) on large-scale construction projects in areas responding to disasters. Public housing authorities receiving CDBG-DR funds are governed by PLA requirements established by the Department's Office of Public and Indian Housing. Executive Order 13502 can be found at: <http://www.whitehouse.gov/the-press-office/2012/01/26/13502-executive-order-use-project-labor-agreements-federal-construction-projects>.

6. *Mitigating future risk.* Grantees should include programs to implement voluntary buyout programs or elevate or otherwise flood-proof all structures that were impacted by the disaster (whether they are homes, businesses or utilities) to mitigate flood or sea level rise risk as indicated by relevant data sources. Reducing risk is essential to the economic well-being of communities and business and is therefore an essential part of any disaster recovery. Elevating at least one foot higher than the latest FEMA-issued base flood elevation or best available data (which includes advisory base flood elevation data), as required by the April 19, 2013 Notice has the added benefit of making flood insurance more affordable, particularly for economically disadvantaged home and business owners. The relevant data source and best available data under Executive Order 11988 is the latest FEMA data or guidance, which includes advisory data (such as Advisory Base Flood Elevations) or preliminary and final Flood Insurance Rate Maps. Thus, in addition to the elevation requirements of the April 19, 2013 Notice, the Department strongly encourages grantees to elevate all structures impacted by the disaster (including housing), even those requiring repairs of low or moderate damage, in addition to those requiring substantial rehabilitation in response to Hurricane Sandy. FEMA maps are available here: <https://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>. Additional Hurricane Sandy-specific information can be found here: <http://www.region2coastal.com/sandy/table>.

In addition, all rehabilitation projects should apply appropriate construction standards to mitigate risk, which may include: (a) Raising utilities or other mechanical devices above expected flood level; (b) wet flood proofing in a basement or other areas below ABFE/ best available data + 1 foot; (c) using water resistant paints or other materials; or (d) dry flood proofing non-residential structures by strengthening walls, sealing openings, or using waterproof

compounds or plastic sheeting on walls to keep water out.

Grantees are reminded of the mandatory mitigation requirements described in the April 19, 2013 Notice. That is, reconstruction and substantial improvement projects located in a floodplain, according to the best available data as defined above, must be designed using the base flood elevation plus one foot as the baseline standard for lowest floor elevation. If higher elevations are required by locally adopted code or standards, those higher standards apply.

In addition to the mandatory requirements of the April 19, 2013 Notice, grantees may also engage in voluntary risk mitigation measures. For example, instead of elevating non-residential structures that are not critical actions, as defined at 24 CFR 55.2(b)(2), grantees may design and construct the project such that below the flood level, the structure is flood proofed to the level of the best available base flood data plus one foot. Flood proofing requires structures to be water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic loads, hydrodynamic loads, the effects of buoyancy, or higher standards required by the FEMA National Flood Insurance Program as well as state and locally adopted codes.

In undertaking mitigation activities, grantees are also encouraged to include projects identified that are ultimately identified through the Rebuild by Design initiative referenced in Section I of this Notice.

7. *Leveraging funds and evidence-based strategies.* Grantees are encouraged, where appropriate, to leverage grant funds with public and private funding sources—including through infrastructure banks, Community Development Finance Institutions, and other intermediaries—and to make use of evidence-based strategies, including social impact bonds and other pay-for-success strategies.

#### VIII. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the disaster recovery grants under this Notice is as follows: 14.269.

#### Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section

102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

Dated: November 12, 2013.

Mark Johnston,  
Deputy Assistant Secretary for Special Needs Programs.

#### Appendix A—Allocation Methodology

The first allocation of \$5.4 billion for Disaster Recovery needs associated with Sandy was based on preliminary data associated with unmet housing and business needs. The second allocation of \$5.1 billion reflects updated housing and business unmet needs that have more complete information on insurance coverage, infrastructure data from FEMA, the Department of Transportation, and the Corps of Engineers. This allocation is calculated based on relative share of needs HUD has estimated are required to rebuild to a higher standard consistent with CDBG program requirements and the goals set forth in the Hurricane Sandy Rebuilding Strategy.

HUD calculates the cost to rebuild the most impacted and distressed homes, businesses, and infrastructure back to pre-disaster conditions. From this base calculation, HUD calculates both the amount not covered by insurance and other federal sources to rebuild back to pre-disaster conditions as well as a "resiliency" amount which is calculated at 30 percent of the total basic cost to rebuild back the most distressed homes, businesses, and infrastructure to pre-storm conditions. The repair unmet needs are combined with the resiliency needs to calculate the total severe unmet needs estimated to achieve long-term recovery. The formula allocation is made proportional to those calculated severe unmet needs.

#### Available Data

The "best available" data HUD staff have identified as being available to calculate unmet needs at this time for the targeted disasters come from the following data sources:

- FEMA Individual Assistance program data on housing unit damage;
- SBA for management of its disaster assistance loan program for housing repair and replacement;
- SBA for management of its disaster assistance loan program for business real estate repair and replacement as well as content loss;

- FEMA, Department of Transportation, and Corps of Engineers data on infrastructure; and
- Action Plans and supplemental data submitted by Sandy CDBG Grantees.

#### Calculating Unmet Housing Needs

The core data on housing damage for both the unmet housing needs calculation and the concentrated damage are based on home inspection data for FEMA's Individual Assistance program. For unmet housing needs, the FEMA data are supplemented by Small Business Administration data from its Disaster Loan Program. HUD calculates "unmet housing needs" as the number of housing units with unmet needs times the estimated cost to repair those units less repair funds already provided by FEMA, where:

- Each of the FEMA inspected owner units are categorized by HUD into one of five categories:
  - Minor-Low: Less than \$3,000 of FEMA inspected *real property* damage.
  - Minor-High: \$3,000 to \$7,999 of FEMA inspected *real property* damage.
  - Major-Low: \$8,000 to \$14,999 of FEMA inspected *real property* damage (if basement flooding only, damage categorization is capped at major-low).
  - Major-High: \$15,000 to \$28,800 of FEMA inspected *real property* damage and/or 4 to 6 feet of flooding on the first floor.
  - Severe: Greater than \$28,800 of FEMA inspected *real property* damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

To meet the statutory requirement of "most impacted" in this legislative language, homes are determined to have a high level of damage if they have damage of "major-low" or higher. That is, they have a real property FEMA inspected damage of \$8,000 or flooding over 4 feet. Furthermore, a homeowner is determined to have unmet needs if they have received a FEMA grant to make home repairs. For homeowners with a FEMA grant and insurance for the covered event, HUD assumes that the unmet need "gap" is 20 percent of the difference between total damage and the FEMA grant.

- FEMA does not inspect rental units for real property damage so personal property damage is used as a proxy for unit damage. Each of the FEMA inspected renter units are categorized by HUD into one of five categories:
  - Minor-Low: Less than \$1,000 of FEMA inspected *personal property* damage.
  - Minor-High: \$1,000 to \$1,999 of FEMA inspected *personal property* damage.
  - Major-Low: \$2,000 to \$3,499 of FEMA inspected *personal property* damage (if basement flooding only, damage categorization is capped at major-low).
  - Major-High: \$3,500 to \$7,499 of FEMA inspected *personal property* damage or 4 to 6 feet of flooding on the first floor.
  - Severe: Greater than \$7,500 of FEMA inspected *personal property* damage or determined destroyed and/or 6 or more feet of flooding on the first floor.
- For rental properties, to meet the statutory requirement of "most impacted" in this legislative language, homes are determined to

have a high level of damage if they have damage of "major-low" or higher. That is, they have a FEMA personal property damage assessment of \$2,000 or greater or flooding over 1 foot. Furthermore, landlords are presumed to have adequate insurance coverage unless the unit is occupied by a renter with income of \$30,000 or less. Units are occupied by a tenant with income less than \$30,000 are used to calculate likely unmet needs for affordable rental housing. For those units occupied by tenants with incomes under \$30,000, HUD estimates unmet needs as 75 percent of the estimated repair cost.

The median cost to fully repair a home for a specific disaster to *code* within each of the damage categories noted above is calculated using the average real property damage repair costs determined by the Small Business Administration for its disaster loan program for the subset of homes inspected by both SBA and FEMA. Because SBA is inspecting for full repair costs, it is presumed to reflect the full cost to repair the home, which is generally more than the FEMA estimates on the cost to make the home habitable. If fewer than 100 SBA inspections are made for homes within a FEMA damage category, the estimated damage amount in the category for that disaster has a cap applied at the 75th percentile of all damaged units for that category for all disasters and has a floor applied at the 25th percentile.

#### Calculating Unmet Infrastructure Needs

To proxy unmet infrastructure needs, HUD uses data from FEMA's Public Assistance program on the state match requirement. This allocation uses only a subset of the Public Assistance damage estimates reflecting the categories of activities most likely to require CDBG funding above the Public Assistance and state match requirement. Those activities are categories: G-Roads and Bridges; D-Water Control Facilities; E-Public Buildings; F-Public Utilities; and C-Recreational-Other. Categories A (Debris Removal) and B (Protective Measures) are largely expended immediately after a disaster and reflect interim recovery measures rather than the long-term recovery measures for which CDBG funds are generally used. Because Public Assistance damage estimates are available only statewide (and not county), CDBG funding allocated by the estimate of unmet infrastructure needs are sub-allocated to New York City from the New York State total based on the distribution of initial project-level estimates obtained from FEMA.

For the second round of CDBG-DR funding for Sandy recovery, HUD included three additional sources of information:
 

1. US Army Corps of Engineers (USACE) Infrastructure Resilience Coordination. Many USACE Sandy projects require very high local cost shares. However, Federal requirements only allow grantees to no more than \$250,000 of CDBG-DR funding towards local match requirements for these projects. As such, this calculation only includes \$250,000 per USACE project where local match is higher than that amount.
2. DOT, Federal Highway Administration (FHWA) Sandy Recovery Grants—Emergency

Relief (ER). We include an estimate of the local cost share from this program. To calculate this estimate, we only include 20% of non-quick release Sandy ER project estimates as of July 2013.

3. DOT, Federal Transit Administration (FTA) Transit Emergency Relief (ER). We include the 10% local cost share for these transit projects. Note, since much of the New York City transit damage is owned by a state organization, the Metropolitan Transportation Authority, New York State receives the vast majority of need from this grant. Also note that the State of New Jersey receives 66% of the local match requirement from the Port Authority's match requirement; New York State receives 34% of the Authority's match requirement.

#### Calculating Economic Revitalization Needs

- Based on SBA disaster loans to businesses, HUD used the sum of real property and real content loss of small businesses not receiving an SBA disaster loan. This is adjusted upward by the proportion of applications that were received for a disaster that content and real property loss were not calculated because the applicant had inadequate credit or income. For example, if a state had 160 applications for assistance, 150 had calculated needs and 10 were denied in the pre-processing stage for not enough income or poor credit, the estimated unmet need calculation would be increased as  $(1 + 10/160) \times$  calculated unmet real content loss.

- Because applications denied for poor credit or income are the most likely measure of needs requiring the type of assistance available with CDBG-DR funds, the calculated unmet business needs for each state are adjusted upwards by the proportion of total applications that were denied at the pre-process stage because of poor credit or inability to show repayment ability. Similar to housing, estimated damage is used to determine what unmet needs will be counted as severe unmet needs. Only properties with total real estate and content loss in excess of \$30,000 are considered severe damage for purposes of identifying the most impacted areas.

- Category 1: real estate + content loss = below 12,000
- Category 2: real estate + content loss = 12,000 – 30,000
- Category 3: real estate + content loss = 30,000 – 65,000
- Category 4: real estate + content loss = 65,000 – 150,000
- Category 5: real estate + content loss = above 150,000

- To obtain unmet business needs, the amount for approved SBA loans is subtracted out of the total estimated damage *Resiliency Needs*.

CDBG Disaster Recovery Funds are often used to not only support rebuilding to pre-storm conditions, but also to build back much stronger. For Sandy, HUD has required that grantees use their funds in a way that results in rebuilding back stronger so that future storms do less damage and recovery can happen faster. To calculate these resiliency costs, HUD multiplied its estimates of total repair costs for seriously damaged

homes, small businesses, and infrastructure by 30 percent. Total repair costs are the repair costs including costs covered by insurance, SBA, FEMA, and other federal agencies. The resiliency estimate at 30 percent of damage is intended to reflect some of the unmet needs associated with building to higher standards such as elevating homes, voluntary buyouts, hardening, and other costs in excess of normal repair costs. Data on damage to public housing for purpose of calculating resiliency need was based on damage estimates from both FEMA and HUD's Office of Public and Indian Housing. [FR Doc. 2013-27506 Filed 11-15-13; 8:45 am]

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#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5738-N-01]

#### Statutorily Mandated Designation of Difficult Development Areas for 2014

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

**SUMMARY:** This notice designates "Difficult Development Areas" (DDAs) for purposes of the Low-Income Housing Tax Credit (LIHTC) under Section 42 of the Internal Revenue Code of 1986 (IRC). The United States Department of Housing and Urban Development (HUD) makes new DDA designations annually. In addition to announcing the 2014 DDA designations, this notice announces a change in the designation methodology for metropolitan DDAs, beginning with the 2016 designations. The revised methodology will use Small Area Fair Market Rents (SAFMRs), rather than metropolitan-area Fair Market Rents (FMRs), for designating metropolitan DDAs and was originally described in a notice published in the *Federal Register* on Thursday, October 27, 2011.

The designations of "Qualified Census Tracts" (QCTs) under IRC Section 42, published on April 20, 2012, remain in effect.

**FOR FURTHER INFORMATION CONTACT:** For questions on how areas are designated and on geographic definitions, contact Michael K. Hollar, Senior Economist, Economic Development and Public Finance Division, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, at 451 Seventh Street SW., Room 8234, Washington, DC 20410-6000; telephone number 202-402-5878 or email address [Michael.K.Hollar@hud.gov](mailto:Michael.K.Hollar@hud.gov). For specific legal questions pertaining to Section 42, contact Branch 5, Office of the Associate Chief Counsel, Passthroughs and Special Industries, Internal Revenue

Service, 1111 Constitution Avenue NW., Washington, DC 20224; telephone number 202-622-3040; fax number 202-622-4753. For questions about the "HUB Zones" program, contact Mariana Pardo, Assistant Administrator for Procurement Policy, Office of Government Contracting, U.S. Small Business Administration, at 409 Third Street SW., Suite 8800, Washington, DC 20416; telephone number 202-205-8885, fax number 202-205-7167, or send an email to [hubzone@sba.gov](mailto:hubzone@sba.gov). A text telephone is available for persons with hearing or speech impairments, at 202-708-8339. (The previous are not toll-free telephone numbers.) Additional copies of this notice are available through HUD User at 800-245-2691 (this is a toll-free number) for a small fee to cover duplication and mailing costs.

**Copies Available Electronically:** This notice and additional information about DDAs and QCTs are available on the Internet at: <http://www.huduser.org/datasets/qct.html>.

**SUPPLEMENTARY INFORMATION:** This notice designates DDAs for each of the 50 states, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands. The designations of DDAs in this notice are based on final Fiscal Year (FY) 2013 Fair Market Rents (FMRs), FY2013 income limits, and 2010 Census population counts.

This notice also announces the adoption of a revised methodology, beginning with the 2016 metropolitan DDA designations, which will be the first to rely on the use of Small Area FMRs, estimated at the ZIP-code level and based on the relationship of ZIP-code rents to metropolitan-area rents, as the housing cost component of the DDA formula, rather than metropolitan-area FMRs. This revised methodology was first described in a *Federal Register* notice published on October 27, 2011 (76 FR 66741), entitled "Statutorily Mandated Designation of Difficult Development Areas and Qualified Census Tracts for 2012."

#### 2010 Census, 2000 Census, and Metropolitan Area Definitions

Data from the 2010 Census on total population of metropolitan areas and nonmetropolitan areas are used in the designation of DDAs. The Office of Management and Budget (OMB) first published new metropolitan area definitions incorporating 2000 Census data in OMB Bulletin No. 03-04 on June 6, 2003, and updated them periodically through OMB Bulletin No. 10-02 on December 1, 2009. FY2013 FMRs and FY2013 income limits used to designate DDAs are based on these Metropolitan

**Post-Hearing Questions for the Record  
Submitted to the Honorable Shaun Donovan  
From Chairman Mark Begich**

***“ONE YEAR LATER: EXAMINING THE ONGOING RECOVERY FROM HURRICANE SANDY”***

NOVEMBER 6, 2013

1. FEMA programs offer a baseline of what can be funded and then the other DOT, HUD, and Corps of Engineers programs are designed to fill the gaps. Does it make sense to consolidate all these post-disaster programs instead of having to stand up a cabinet level task force to make sure everyone is working together?

**HUD REPLY:** Opportunities do exist for consolidating resources for multiple needs. Not all needs, however, can be met through a single resource or program.

Current investments in complex infrastructure are principally made through the programs that do that best, whether at the Department of Transportation or the Army Corps of Engineers. These agencies don't just have the proven program mechanisms to make these investments, they have the subject matter expertise and experience necessary to guide and oversee them. Accessing this internal capacity is a critical factor in ensuring success for communities and the greatest return on federal investment.

Even some degree of consolidation, however, would not negate the need for cabinet-level engagement and coordination following major disasters. The need for a cabinet-level entity following major disasters such as Hurricanes Katrina and Sandy extends beyond just the coordination of federal disaster recovery programs – it serves to provide leadership, expert guidance, and real-time problem solving to cut red tape, speed recovery, and maximize the long-term impact of all federal investments in the region, both disaster-related and non-disaster-related.

Federal recovery programs must be transparent and efficient, recognizing however, that each agency brings specific expertise and experience to the recovery effort. As noted in the Sandy Rebuilding Strategy, although more effective coordination between the different programs within agencies and across agencies is needed, the existing National Disaster Recovery Framework (NDRF) allows and encourages this cooperation and coordination. For example, HUD has strong working relationships with its grantees, as do FEMA, DOT, USACE, and EPA. The Administration is currently working to ensure that each agency's approach to disaster recovery drives regional coordination and incorporates resilience planning into federally funded Sandy recovery projects. Congress should continue to allow the flexibility for communities to prioritize and plan recovery in a resilient way through recovery programs such as CDBG-DR, Stafford Public Assistance, Public Transportation Emergency Relief, and the State Wastewater and Drinking Water Revolving Funds.

2. It always seemed to make sense to me that we invest in some kind of infrastructure bank where we could leverage funding for major projects as we needed to. Following Sandy, Congress appropriated much of these funds to go towards larger infrastructure repair and improvements. Secretary Donovan, is rebuilding infrastructure a large part of what the CDBG funds are being committed to?

**HUD REPLY:** The Department's initial allocation to Hurricane Sandy grantees in March was based on unmet housing and economic revitalization needs as the damage estimates for infrastructure restoration were preliminary at that time. As a result, grantees primarily committed their first round of funding to housing and economic revitalization programs. On November 18, 2013, the Department announced guidance covering a second round of CDBG-DR funding, totaling \$5.1 billion, for Hurricane Sandy recovery based primarily on unmet infrastructure and resilience needs.

CDBG-DR grantees have not yet submitted action plans for disaster recovery outlining how they will allocate this second round of funding to specific activities. The Department, however, expects that grantees will allocate a significant portion of their second round of funding toward infrastructure repair and improvements. Because the Department expects grantees to propose some very significant investments in large infrastructure projects, the November Notice also sets forth specific criteria for those projects, consistent with the recommendations of the Hurricane Sandy Rebuilding Strategy.

The November Notice also requires the State of New York to ensure that a portion of its allocation is used to address local resilience and cost share requirements for damage to both the Metropolitan Transportation Authority infrastructure in New York City and the Port Authority of New York and New Jersey, or demonstrate that such needs have otherwise been met. The Notice requires the same actions of the State of New Jersey with regard to the Port Authority.

- a. Would infrastructure banks, in line with what the Sandy Task Force recommended, be a more effective tool? Would that also help insure CDBG disaster funds for housing could be streamlined and more quickly targeted to communities and individuals?

**HUD REPLY:** As stated in the Sandy Rebuilding Strategy and in the President's budgets for the last four years, the Administration believes that giving states the flexibility to use these dollars as leverage to repair and improve our nation's infrastructure through a national infrastructure bank would be very effective. In absence of a national infrastructure bank, the Administration has been supporting the efforts of those states who are exploring this approach on a local level. The most effective way to support these efforts, however, is with a coordinated national approach in partnership with state and local governments.

The creation of infrastructure banks could also allow CDBG-DR grantees to optimize federal recovery funding by leveraging outside infrastructure investment. These

infrastructure financing entities, however, are unlikely to result in the streamlining of CDBG-DR funded housing activities. Regardless of the mechanism used to secure investment for infrastructure recovery activities, CDBG-DR grantees would still have to design, launch, and operate housing programs tailored to meet their unique recovery needs. Nevertheless, to the extent grantees are able to leverage external funding for infrastructure investment, the use of these banks may reduce the portion of federal disaster recovery funds dedicated to infrastructure projects, enabling grantees to target a larger portion of their CDBG-DR and other federal recovery dollars toward unmet housing or other recovery needs.

3. We have heard from residents in Breezy Point New York that a program set up by New York City utilizing CDBG funds will require residents to purchase flood insurance equal to the amount of money in grants they receive. With the implementation of Biggert-Waters drastically raising rates, of which I have co-sponsored a bill to delay this implementation until FEMA completes its affordability study, I am concerned that those affected by Sandy will not be able to afford this insurance. What are we doing to help people overcome this challenge?

**HUD REPLY:** Pursuant to the provisions in Biggert-Waters, FEMA is charged with completing a study with the National Academy of Sciences to explore ways to: encourage/maintain participation in the NFIP, methods to educate consumers about the NFIP and flood risk, and methods for establishing an affordability framework for the NFIP, including implications of affordability programs for the NFIP and the Federal budget. We understand FEMA is working with the Academy to complete the study. In the context of HUD'S CDBG-DR funds, grantees may allocate CDBG-DR funds to help pay insurance premiums on properties which were substantially repaired or reconstructed with CDBG-DR funding and thus requiring insurance. In addition, grantees may use CDBG-DR funds to elevate structures above the required base flood elevation, which has a direct effect of lowering premiums accordingly.

- a. What lessons are we learning when it comes to building more resilient communities in New York and New Jersey? To what extent are these needs beyond the scope of the Stafford Act and HUD's current processes?

**HUD REPLY:** Important lessons are emerging through the development and implementation of the Sandy Rebuilding Strategy and through the implementation of recovery plans by affected grantees. Resilience must be established as a fundamental principle of sustainability. Unsafe communities are not sustainable. In addition, resilience must be incorporated into everyday development practices, not just in times of disaster recovery. Resilience must be integrated into every level of investment – federal, state, and local.

Another lesson is that decisions must be based on the best available science, and communities need to build according to future risk – not just historical or present risk. Post-recovery flood maps, for example, demand consideration of sea-level rise as well as the consideration of more severe weather events anticipated as a result of climate change.

Yet another lesson learned is that building more resilient communities begins with planning and coordinating investments at a regional scale. Wind and water do not distinguish jurisdictional boundaries; and it is necessary to take a collaborative, regional approach in adapting to better manage the risks posed by these natural elements, learning to live with them.

Resilience cannot be achieved just by building floodwalls and elevating buildings. It requires a combination of built and natural measures, including grey and green infrastructure. Recovery efforts need to enhance and take full advantage of the protection that the environment so naturally provides. At the same time Hurricane Sandy's impact showed that the places most vulnerable to damage are also some of our distressed communities. Real resilience bridges the gap between social and physical needs.

4. We are interested in any Stafford Act modification or other legislative proposals you have developed as part of the Strategy report or those that evolve as your rebuilding efforts. During your oral statement you described the improved speed that federal dollars are getting to disaster survivors, such as we are more than 20 percent faster in Sandy than we were under Katrina, and more than 300 percent faster with CDBG funds than we were in Ike. You further noted that you are working on ideas – either legislatively or administratively -- to move federal fund even more efficiently. Can you provide us with your recommendations?

**HUD REPLY:** Three months elapsed between the onslaught of Sandy and the supplemental appropriation that made recovery funds available. Going forward, there may be value in having a team of federal agencies focused on longer term recovery engaged in the immediate wake of a disaster, to begin working with local communities in designing recovery programs that can be more readily implemented when, and if, federal funds for long term recovery funds become available. The Sandy Rebuilding Strategy also recommends improved data sharing between federal agencies that administer disaster recovery programs, to move federal funds more quickly post-disaster. In particular, considering the Stafford Act's duplication of benefits requirements, the Department recommends the development of a platform for the sharing of data between FEMA, SBA, and HUD in order to assist CDBG-DR grantees to more quickly and efficiently deploy funds to assist households and businesses with unmet recovery needs.

Recovery can also be expedited through a series of legislative changes, including:

- 1) Establishing a National Infrastructure Bank;
- 2) Enabling reciprocity among Federal agencies for environmental review for future disaster recovery appropriations;
- 3) Enabling establishment of a Program Management Office (PMO) function for tracking performance and progress; and

- 4) Increasing SBA's unsecured disaster loan limits from \$14,000 to \$25,000 to allow SBA to provide more funding to small businesses immediately after a disaster, before other assistance is made available.
5. During the hearing you attempted to clarify the eligibility rules under CDBG when disaster survivors accept SBA loans. Can you provide this Subcommittee with additional information on whether there are any distinction made between grants and loans under the duplication of benefits regulations? And "what are the options for Sandy-affected homeowners who accepted SBA loans, but who believe they are at a financial disadvantage relative to homeowners who chose not to accept an SBA loan?"

**HUD REPLY:** The Stafford Act requires that recipients of Federal disaster recovery funding make certain that no "person, business concern or other entity" will receive duplicative assistance. In 2011, the Department issued guidance to help ease the burden of state and local government compliance with federal law prohibiting so-called 'duplication of benefits' (DOB). This guidance does not make a distinction between the forms of federal assistance —whether loan, grant, or guarantee—as the Department considers all of these types of assistance to comprise the total assistance available to the person or business entity to meet their disaster recovery needs (private loans not guaranteed by the SBA are not considered as part of a DOB calculation).

In July 2013, HUD issued additional guidance concerning CDBG-DR and SBA assistance. That guidance advises grantees when providing assistance to those who have declined an SBA loan, to identify the circumstances under which the SBA assistance was declined and demonstrate why providing CDBG-DR funds is necessary and reasonable to assist the applicant in achieving recovery. The Department's intent in outlining these requirements is to ensure that grantees, as part of their process for determining CDBG-DR assistance, assess whether households who declined SBA loans had a reasonable financial basis for doing so.

6. From a previous request by my subcommittee staff, could you please provide us with either a summary or minutes of the three meetings of the Advisory Committee to the Sandy Rebuilding Task Force?

**HUD REPLY:** The three Advisory Group meetings were held on March 15, 2013, April 29, 2013 and June 6, 2013.

March 15, 2013 Meeting:

This was the kick-off meeting of the Hurricane Sandy Rebuilding Task Force Advisory Group and was held in New York City. There were 35 elected officials or their designees that attended the meeting. The goals of the meeting were: 1) to have the elected officials gain an understanding about the role of the federal Task Force and how it differs from JFO efforts; 2) discuss issues/challenges they were facing in their communities with

rebuilding efforts and to address questions about eligible uses of CDBG funding and the New York and New Jersey Action plans.

April 29, 2013 Meeting:

The second Advisory Group Meeting took place in Newark, New Jersey. There were 37 elected officials or their designees that attended the meeting. The goals of the meeting were: 1) to explain how the elected officials' continued input into the work of the Task Force will inform and allow us to focus the Task Force's work and efforts; 2) provide an update on the progress of the Task Force and its policy objectives and 3) discuss concerns that local officials are experiencing on the ground, particularly around the Flood Maps and CDBG-DR Action Plans.

June 6, 2013 Meeting:

The third Advisory Group Meeting took place in Washington, DC. There were 37 elected officials or their designees that attended the meeting. The goals of the meeting were: 1) provide an update on the progress of the Task Force in each of the policy initiatives; 2) explain how their continued input into the work of the Task Force has helped the Task Force inform and focus the content of the strategy document; 3) discuss issues/challenges that the elected officials are facing in their communities with the rebuilding efforts and 4) address any questions about items that were being included in the Strategy document and the time frames for review and publication of the document.

Attached are the Task Force's presentations for each meeting.

**Post-Hearing Questions for the Record  
Submitted to the Honorable John D. Porcari  
From Chairman Mark Begich**

*“ONE YEAR LATER: EXAMINING THE ONGOING RECOVERY FROM HURRICANE SANDY”*

NOVEMBER 6, 2013

1. The Federal Transit Administration is in a unique position which allows them to fund a project that may also later receive Public Assistance funding from FEMA. How many of these projects are currently receiving funding from both funding sources?

**Answer. No projects are receiving funds from both sources. Some multimodal agencies are receiving funds from both sources for different types of projects. FTA is funding transit projects and FEMA is funding non-transit projects.**

- a. How are you ensuring that both of the federal agencies are not paying for the same things?

**Answer. FTA and FEMA have developed a joint tracking system by which each agency notifies the other of grants awarded. In addition, FTA and FEMA communicate regularly regarding grant awards and other issues as they arise.**

- b. We have observed that FTA grants take a “systems approach” to a rebuild project, which can differ from FEMA’s “replace as-is” approach. We would like your insights on what are the differences between these two programs, and what might be the potential advantages.

**Answer. Transit assets, and transportation assets in general, differ from other built infrastructure (such as buildings) in that obsolete equipment cannot usually easily be rebuilt or replaced. Furthermore, replacement in kind may be more expensive, both at the outset and in the long run, than procuring equipment meeting current technological and design standards. Since a significant portion of the seriously damaged transit infrastructure was technologically obsolete, and hence not appropriate to replace in-kind or to restore to the exact previous condition, FTA decided to fund recovery and rebuilding projects that bring transit assets up to a state of good repair. FTA believes this is an**

**important difference between the FTA emergency relief program and FEMA's program, and that a requirement to replace damaged assets to the previous condition would potentially increase the duration and reduce the effectiveness of the recovery process.**

**For the purposes of Hurricane Sandy recovery, FTA defines "state of good repair" as a project that consists of the installation of comparable equipment that meets the same basic function, class, or capacity of the equipment replaced and also meets current technological or design standards, or a like-new condition. FTA may permit some adjustment to meet current needs, for example, to match other recent equipment purchases of an agency and to ensure compatibility or consistency (e.g. replacing a 35 foot bus with a 40 foot bus, purchasing a bus with a different propulsion system; or installing the same fare payment systems as other recent acquisitions). It is also important to note that FTA is not allowing projects that significantly alter the function or capacity of the underlying transit asset or infrastructure, except with funding allocated specifically for resilience improvements.**

2. To what extent are DOT disaster grant funds being used by States and locals for structural mitigation programs such as flood protection structures (that meet NFIP certification 44 CFR 65.10)?

**Answer. FTA disaster grant funds are not being used to build levees. In the second allocation of Sandy funding, FTA made available \$1.3 billion for project elements or freestanding projects that increase the resiliency of the affected transit systems to future disasters. Projects can include building floodwalls to divert water around transit infrastructure.**

3. How are States and locals also using CDBG funds to address their mitigation needs in conjunction with transportation and transit projects?

**Answer. States allocate CDBG funds. FTA's grantees have not used CDBG funds as local match for FTA grants, however, one or more grantees may use CDBG for future grants if they receive funds from the States. FTA is not aware of grantees using CDBG funds in conjunction with transit projects.**

- a. Are there any challenges or barriers (from legislation, regulation or administration policies) that are restricting a speedy recovery?

**Answer. FTA has not identified any challenges or barriers that restrict a speedy recovery. GAO, in its May 2014 report “Emergency Transportation Relief: Agencies Could Improve Collaboration Begun during Hurricane Sandy Response, stated, “[w]hen we completed our review, transit agency officials we spoke with were generally positive about the FTA Public Transportation Emergency Relief Program and told us that, in their experience, FTA has not caused them any delays in receiving funding.”**

**Post-Hearing Questions for the Record  
Submitted to the Honorable W. Craig Fugate  
From Chairman Mark Begich**

***“ONE YEAR LATER: EXAMINING THE ONGOING RECOVERY FROM HURRICANE SANDY”***

NOVEMBER 6, 2013

1. Please provide us any technical writing assistance regarding S.1610 along any comments on this bill and similar legislation is being introduced in the House.

**Response:** FEMA has provided technical drafting assistance on S.1610 to several Members of Congress. Should additional information be needed, we would be happy to work with your office.

2. Through your development of the Mitigation Framework, FEMA created what you are calling the “mitFLG” which is the Mitigation Framework Leadership Group.
  - a. With mitigation being such a large piece of the recovery strategy in the Northeast, what is the status of this group?
  - b. Has there been any progress in setting the group up and what kinds of outputs can we expect?

**Response:** The Mitigation Framework Leadership Group (MitFLG) was established by the National Mitigation Framework in May 2013, to coordinate mitigation efforts across the Federal Government.

The MitFLG is an interagency and intergovernmental body that facilitates information exchange and coordinates policy implementation and successful implementation of the National Mitigation Framework. The primary role of the MitFLG is to serve as the central coordination point for interagency mitigation activities. The MitFLG will coordinate and promote the National Mitigation Framework implementation, increase awareness of mitigation throughout the Federal Government, and support the advancement of Mitigation core capabilities through whole community mechanisms.

The MitFLG will help set strategic direction and define the shared goals and objectives of the group, encourage specific and collaborative programs, and provide input to the annual National Preparedness Report.

The MitFLG was stood up in July 2013 at its inaugural meeting, which brought together members from agencies across the Federal Government to begin its role as the central coordination mechanism for interagency mitigation activities. The primary topics at that meeting were a briefing from the Sandy Task Recovery Task Force on potential recommendations related to mitigation for the Hurricane Sandy Rebuilding Strategy as

well a briefing by The National Academies on their resilience study titled “Disaster Resilience: A National Imperative,” which makes a number of recommendations to enhance disaster resilience. The group established a workgroup to develop a MitFLG Charter to guide the group’s administration. FEMA serves as the Chair of the MitFLG. The Department of Energy volunteered to serve as the Secretariat for the first one-year term.

The second meeting of the MitFLG was held in October 2013 and a briefing on the Sandy Task Force recommendations pertaining to mitigation as well as the President’s Climate Action Plan were presented. This resulted in the MitFLG forming a workgroup staffed by member agencies to develop a Federal Flood Risk Reduction Standard, which will be finalized in 2014. The group also adopted the Charter for the MitFLG, which details the purpose and administrative details for the group. Another workgroup will develop the administrative process by which the State, Local, Tribal, and Territorial Membership of the MitFLG will be added and maintained.

The next meeting of the MitFLG will be held in January 2014 and is currently being planned as the workgroups continue to develop the Federal Flood Risk Reduction Standard and the administrative process for bringing on the State, Local, Tribal, and Territorial Membership of the MitFLG.

3. I recently read a story of an Alaskan who was flooded in Galena and had to fight with her FEMA inspector to get money from FEMA when her home was clearly destroyed. Survivors who register with FEMA for assistance can receive funds for up to 18 months or until they hit their max grant award (For Sandy it was \$31,900). Of the roughly 183,000 people who received money from FEMA following Sandy how many people are still receiving financial assistance?
  - a. Of those 183,000 people who registered with FEMA in the aftermath of Sandy, only 6,747 of them received the FEMA maximum grant. Obviously those people still have some unmet needs given the cost of construction in the region. What is FEMA doing to make sure they don’t fall through the cracks?

**Response:** 182,791 survivors received assistance for Hurricane Sandy. Of this number, 6,809 received the maximum grant. Currently, 2,608 disaster survivors are still receiving assistance, in the form of rental assistance.

FEMA is committed to providing assistance to disaster survivors. In accordance with section 312 of the Stafford Act and regulations codified at 44 CFR § 206.110(h), FEMA may not provide assistance when such assistance is available from any other source, such as a private insurance settlement. Voluntary agencies often provide help

for unmet needs when all other official avenues have been exhausted. After insurance settlements are made, and Individuals and Households Program assistance and Small Business Administration loans are provided, FEMA offers referrals to voluntary agencies to provide additional assistance to meet needs unmet by any other sources.

4. Moving forward, mitigating the effects of extreme weather is critical for the communities in my state and across the country. But, are we “prepared to recover or to mitigate?” In June this subcommittee held a hearing on FEMA’s preparedness grant programs—where we have spent almost \$50 billion since DHS was created.
  - a. How much of these grant funds have been used prepare States and locals to manage complex recovery and mitigation programs?
  - b. Does the current preparedness grant process overemphasize response capabilities at the expense of recovery or mitigation capabilities? Why put all of our effort into response instead of investing money in projects that reduce our vulnerability to disasters in the first place?

**Response:** The DHS preparedness grant programs play an important role in the implementation of the National Preparedness System (NPS) by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal (NPG). The NPG sets the vision for nationwide preparedness – aiming to build and sustain a secure and resilient Nation – and identifies the core capabilities and targets necessary to achieve preparedness across the five mission areas: prevention, protection, mitigation, response and recovery.

The preparedness grant programs support the implementation of risk-driven, capabilities-based strategic plans developed by states and urban areas. These strategic plans outline capability requirements and inform how available funding may be applied to manage identified risks. Capability requirements or shortfalls are determined through completion of a Threat and Hazard Identification and Risk Assessment (THIRA) and capability estimation process. These risk-based analytical products serve to inform state and urban area planning, organization, equipment, training, and exercise needs to prevent, protect against, mitigate, respond to, and recover from acts of terrorism and other catastrophic events. Thus, preparedness investment decisions are driven by the results of the State and Urban Area THIRA and capability estimation processes.

In reviewing the investment justifications submitted with preparedness grant program applications, FEMA verifies that the proposed investment aligns with the State or Urban Area THIRA. FEMA must also verify that the investment has a terrorism nexus as mandated by the authorizing statutes under the 9/11 Act. Additionally, as required by law, at least 25% of the total combined funds appropriated for the preparedness grant programs must be used for law enforcement terrorism prevention

activities. Therefore, while mitigation and recovery investments may be funded through the preparedness grant programs, there must be a terrorism nexus and those investments must relate to a specific capability shortfall identified through the THIRA and capability estimation processes.

States and urban areas often face competing priorities in deciding how to invest their limited preparedness grant funds. While the states and urban areas may recognize the need for more mitigation and recovery investments they must choose their investments wisely. Those investments that will most effectively buy down risk and address specific capability shortfalls must take priority. This often means mitigation and recovery investments are set aside to allow funding of higher priority preparedness needs.

Furthermore, FEMA's Federal Insurance and Mitigation Administration (FIMA) manages three additional grant programs under the umbrella of Hazard Mitigation Assistance that focus on mitigating risk from natural disasters. Hazard Mitigation Assistance (HMA) programs present a critical opportunity to reduce the risk to individuals and property from natural hazards while simultaneously reducing reliance on Federal disaster funds. As noted earlier, the NPG is comprised of five mission areas including Mitigation. HMA programs provide funding for eligible activities that are consistent with the National Mitigation Framework's Long-term Vulnerability Reduction capability. HMA programs reduce community vulnerability to disasters and their effects, promote individual and community safety and resilience, and promote community vitality after an incident. Additionally, HMA programs reduce response and recovery resource requirements in the wake of a disaster or incident, which results in a safer community that is less reliant on external financial assistance.

Together, the HMA programs provide significant opportunities to reduce or eliminate potential losses to State, Indian Tribal government, and local assets through hazard mitigation planning and project grant funding. Each HMA program was authorized by separate legislative action, and as such, each program differs slightly in scope and intent. The Hazard Mitigation Grant Program (HMGP) provides funds to States, Territories, Indian Tribal governments, local governments, and eligible private non-profits (PNPs) following a Presidential major disaster declaration. The Pre-Disaster Mitigation (PDM) Program and Flood Mitigation Assistance (FMA) programs provide funds annually to States, Territories, Indian Tribal governments, and local governments. Although the statutory origins of the programs differ, both share the common goal of reducing the risk of loss of life and property due to natural hazards.

State, Territory, Tribal, and local governments are eligible Applicants for HMA programs. The Applicant is responsible for soliciting subapplications from eligible subapplicants, assisting in their preparation, and submitting eligible, complete applications to FEMA in priority order. HMA grant funds are awarded to Applicants. When funding is awarded, the Applicant then becomes the "Grantee" and is accountable for the use of the funds, responsible for administering the grant, and

responsible for complying with program requirements and other applicable Federal, State, Territorial, and Indian Tribal laws and regulations. As the Grantee, the Applicant is also responsible for financial management of the program and overseeing all approved projects. In general, the “subapplicant” is a State-level agency, Indian Tribal government, local government, or other eligible entity that submits a subapplication for FEMA assistance to the Applicant. If HMA funding is awarded, the subapplicant becomes the “subgrantee” and is responsible for managing the subgrant and complying with program requirements and other applicable Federal, State, Territorial, Indian Tribal, and local laws and regulations. An Indian Tribal government may participate as either the Applicant/Grantee or the subapplicant/subgrantee.

HMGP is authorized by Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (the Stafford Act), Title 42, U.S. Code (U.S.C.) 5170c. The key purpose of HMGP is to ensure that the opportunity to take critical mitigation measures to reduce the risk of loss of life and property from future disasters is not lost during the reconstruction process following a disaster. HMGP is available, when authorized under a Presidential major disaster declaration, in the areas of the State requested by the Governor. Indian Tribal governments may also submit a request for a major disaster declaration within their impacted area. The amount of HMGP funding available to the Applicant is based upon the estimated total of Federal assistance, subject to the sliding scale formula outlined in 44 CFR Section 206.432(b) that FEMA provides for disaster recovery under the Presidential major disaster declaration.

The PDM Program is authorized by Section 203 of the Stafford Act, 42 U.S.C. 5133. The PDM Program is designed to assist States, Territories, Indian Tribal governments, and local communities to implement a sustained pre-disaster natural hazard mitigation program to reduce overall risk to the population and structures from future hazard events, while also reducing reliance on Federal funding in future disasters.

The FMA program is authorized by Section 1366 of the National Flood Insurance Act of 1968, as amended (NFIA), 42 U.S.C. 4104c, with the goal of reducing or eliminating claims under the National Flood Insurance Program (NFIP). The National Flood Insurance Fund (NFIF) provides the funding for the FMA program. The PDM and FMA programs are subject to the availability of appropriation funding, as well as any program-specific directive or restriction made with respect to such funds.

5. Last week we saw a lot of news stories about people who still need help recovering from Sandy. There is clearly a need still out there. I understand that FEMA can't fix everything but out of the 261,000 valid registrations in New Jersey 77% of those people received no money at all. Can you explain this?

**Response:** Currently, FEMA's Individuals and Households Program has disbursed over \$174 million dollars in home repair and replacement assistance and over \$183 million dollars in rental assistance to Hurricane Sandy eligible applicants in New Jersey. In addition, FEMA provided direct housing assistance to 205 individuals and households in New Jersey through a combination of manufactured housing units and apartments at Ft. Monmouth. However, some applicants were not eligible for assistance from FEMA's Individuals and Households Program, such as; 61,558 registrants reported no home or personal property damage; 33,319 reported damage to a secondary residence; and 19,902 received financial assistance through their homeowners or renters insurance. Instead, some of their needs were linked to evacuation expenses and sheltering. Sheltering needs were met through FEMA's Transitional Sheltering Assistance and other forms of sheltering services provided by local organizations, including the American Red Cross.

6. It seems that the FEMA programs offer a baseline of what can be funded and then the other DOT, HUD, and Corps of Engineers programs are designed to fill the gaps. Do we need to take a step back and re-evaluate the FEMA programs so that they can cover more costs and local officials can spend their time making recovery decisions instead of navigating all of the programs?
- a. Does it make sense to consolidate all these post-disaster programs instead of having to stand up a cabinet level task force to make sure everyone is working together?

**Response:** Presidential Policy Directive-8, signed March 30, 2011, is aimed at "strengthening the security and resilience" of the United States through "systematic preparation for the threats that pose the greatest risk to the security of the Nation."

The Directive links together national efforts, organized around key elements:

- The ends we wish to achieve (National Preparedness Goal)
- The means to achieve it (National Preparedness System)
- The delivery; how we use what we build (National Frameworks/Federal Interagency Operational Plans)

The National Preparedness Goal defines what it means for the whole community to be prepared for all types of disasters and emergencies. The goal itself is succinct:

**“A secure and resilient nation with the capabilities required across the whole community to prevent, protect against, mitigate, respond to, and recover from the threats and hazards that pose the greatest risk.”**

FEMA is one of many federal agencies that contributes to response and recovery after a disaster. FEMA’s authority under the Stafford Act is a very flexible authority that meets many disaster recovery and rebuilding needs; however other federal, non-federal and non-governmental programs and resources often have specific expertise and authorities that FEMA lacks. The Hurricane Sandy recovery has demonstrated that these agencies also have much to contribute to successful recovery from disasters.

To improve recovery during Hurricane Sandy, whole community partners implemented the *National Disaster Recovery Framework* (NDRF), which is one component of the National Preparedness System. The NDRF provides the framework for the more than 30 coordinating agencies and organizations that must work together to synchronize their activities and leverage their authorities and resources to consolidate post-disaster programs expediting disaster recovery and increased resiliency. DOT, HUD, and USACE are three of the 30 coordinating Departments and agencies. Staff from the Departments and Agencies identified within the NDRF, as well as non-governmental partners, coordinate responsibilities and resolve operational, resource and preparedness issues related to interagency recovery activities, projects and funding. The federal government works in support of State, territorial, Tribal, and local Recovery Managers to establish priorities and ensure that available resources are coordinated to support the recovery effort.

States, territories, tribes, and locals are engaged with utilizing this same strategic approach.

Appointing a Local Disaster Recovery Manager is a best practice for coordinating the multiple funders. Recovery management programs support the development and maintenance of adequate financial monitoring and accounting systems for new and large levels of investment. Management programs include systems that detect and deter fraud, waste and abuse.

In recognition of the size and magnitude of Sandy and the rebuilding challenges facing the region, President Obama signed an Executive Order creating the Hurricane Sandy Rebuilding Task Force and designated Secretary of Housing and Urban Development, Shaun Donovan as Chair. Working in tandem with the NDRF, the Task Force was established to ensure the recovery benefitted from Cabinet-level focus and coordination.

**Post-Hearing Questions for the Record  
Submitted to the Honorable Jo-Ellen Darcy  
From Chairman Mark Begich**

***“ONE YEAR LATER: EXAMINING THE ONGOING RECOVERY FROM HURRICANE SANDY”***  
NOVEMBER 6, 2013

**1. It seems that the FEMA programs offer a baseline of what can be funded and then the other DOT, HUD, and Corps of Engineers programs are designed to fill the gaps. Does it make sense to consolidate all these post-disaster programs instead of having to stand up a cabinet level task force to make sure everyone is working together?**

RESPONSE: In view of the magnitude of the impacts from Hurricane Sandy and the rebuilding challenges facing the region, President Obama signed an Executive Order on December 7, 2012, creating the Hurricane Sandy Rebuilding Task Force. The President charged the Task Force with identifying and working to remove obstacles to resilient rebuilding, while taking into account existing and future risks and promoting the long-term sustainability of communities and ecosystems in the broad region affected by this storm. The Task Force provided a forum to focus and coordinate the Federal actions following the storm. The Army Corps of Engineers (Corps) was part of this larger team, and helped by providing technical assistance and participating in the rapid Federal response across the affected region.

While the recovery effort is still underway, the Task Force approach has been largely successful. We are examining what worked well and what did not, in order to identify ways to provide a more effective response in the future after a major coastal storm. The issue is larger than just identifying the best way to organize agencies to improve their collective post-disaster response. There are other steps that can be taken, particularly at the State and local levels, to reduce the risks in vulnerable areas, and thereby lessen the loss of life and property damage that occurs during these storms.

The Administration has not considered whether permanently combining post-disaster programs would be preferable to the process that we used following Hurricane Sandy. However, we have proposed a study in the Corps budget called the Water Resources Priorities Study, which could address this issue. This study would assess the Nation's vulnerability to inland and coastal flooding; compare the flood risks faced by different regions of the United States; evaluate the effectiveness of current approaches to reducing these risks in different settings at the Federal, state, and local levels, including their strengths, weaknesses, and ability to work together; and develop recommendations to improve existing programs. The study could consider program consolidation, along with other options. The Congress authorized this study in the Water Resources Development Act of 2007, but has not yet funded it.

**2. Regarding the ability of states and locals to leverage various Federal programs to address their rebuilding needs, we understand that there is a 1998 appropriations legislation that limits the ability of communities to use CDBG funds as the local match for**

**Corps projects to \$250,000. While I agree with the original intent to ensure accountability and limit an unregulated use of CDBG dollars, should there be greater flexibility especially if the project can be demonstrated that it will build long-term resilience?**

RESPONSE: We support the principle of cost-sharing for Corps projects and related work by the Corps. With certain exceptions, the Corps generally does not accept funds provided by another Federal agency to satisfy the non-Federal cost-share of a Corps project. This approach reflects a central purpose of cost-sharing, which is to show that local beneficiaries are willing to forgo other uses of their own funds to pay their share of the costs of a Corps project. Whether the same approach should also apply to rebuilding after a large coastal storm is the question.

Following a large coastal storm, the Federal government generally pays all or most of the costs to repair Corps projects and related work by the Corps. The percentage that Federal taxpayers pay is specified or based in the applicable laws, which sometimes provide for an exception. In a particular case, there could be a reason to require Federal taxpayers to assume more of the costs.

We support the concept of building for long-term resilience, where the return to the Nation from the investment is high enough to warrant the incremental cost. However, the additional cost of building for long-term resilience does not provide a basis, in our view, for an exemption from cost-sharing for Corps projects and related work by the Corps.

**a. Are states and locals able to incorporate other Federal funding sources such as DOT for such projects?**

RESPONSE: In general, funds from other Federal agencies cannot be used as the non-Federal match for a Corps project, though the laws sometimes provide for an exception.

**b. Are there any other such challenges or barriers (from legislation, regulation or administration policies) that are restricting a speedy recovery?**

RESPONSE: At this time, the Corps believes that it has sufficient resources, authorities, and procedures to carry out our responsibilities to help in the Sandy rebuilding effort, consistent with the need for safety and quality.

**3. What is the Corps current and future structural mitigation efforts for these communities?**

RESPONSE: The current efforts of the Corps primarily include repairing and restoring damaged projects to either pre-storm conditions or in some cases where pre-storm conditions are not adequate, rebuilding in a new and thoughtful manner. The goal of these projects is to help reduce the risk of damages from flooding and wave action in the future during a storm. Some of our current efforts this work also consists of maintenance dredging to pre-storm conditions of navigation channels that silted in during the hurricane and repairing Sandy-damaged navigation structures including jetties, breakwaters and seawalls.

The Corps is thinking of ways to rebuild in a sustainable and resilient way as it moves forward with completing construction of previously authorized but unconstructed projects, as well as completing ongoing studies that address storm damage risks. This work will incorporate current science and engineering standards, including modification of previously authorized projects that do not meet these standards. The construction work serves to mitigate the risk of damages from future storms and includes evaluations of various combinations of structural, non-structural and natural and nature-based solutions. The Corps is taking into account the consequences of various approaches in order to determine out how best to address to coastal risks.

The future efforts for these communities – which may include a mix of structural, nonstructural, and natural and nature-based approaches – will be facilitated by the North Atlantic Coast Comprehensive Study (Comprehensive Study), which is intended to help catalyze long-term planning for coastal storm risk management in the affected area. The Corps is working closely with our other Federal, state, local and tribal partners in the development of the Comprehensive Study. The Comprehensive Study will assess the coastal flood risks of vulnerable populations within the North Atlantic Division in areas that were affected by Hurricane Sandy. The study will also include a framework for coastal risk reduction that can be used by all stakeholders and all levels of government, identify the benefits and impacts associated with the different risk reduction measures articulated in that framework, and provide a summary of how sea level rise and climate change might affect coastal risks. The information provided by the Comprehensive Study will be available to assist decision-makers and the public on a range of potential efforts (i.e., not just structural measures) in and beyond the study area.

**4. We are aware of many of the cost/benefit analyses that are a part of your agency’s studies and construction projects. To what extent are the lessons you are learning from Sandy-related studies and construction projects raising new questions or additional mitigation-related factors to be considered in these cost/benefit analyses?**

RESPONSE: As part of the North Atlantic Coast Comprehensive Study, the Corps is evaluating the use of nature and nature-based features as part of a broader strategy to reduce the long-term risk of storm damage to coastal ecosystems and communities, and to reduce the economic costs associated with large-scale flood and storm events. This will include addressing how to account for all of their benefits of these features in a benefit-cost analysis (i.e., not just those that are easy to quantify, such as monetary benefits). In addition, the Hurricane Sandy Rebuilding Task Force asked the Council on Environmental Quality (CEQ) to develop recommendations on the valuation of the benefits of “green” approaches to infrastructure; and to develop tools, data, and best practices for such infrastructure. The Corps is participating in this CEQ-led effort.

**5. What role does the Corps play in ensuring that the NFIP maps are accurate?**

RESPONSE: The Corps and FEMA have different programs, which address and affect flood risks in different ways. The maps that FEMA issues are a FEMA responsibility under the National Flood Insurance Program (NFIP). Generally, the Corps is not involved in ensuring the accuracy of these maps or of the modeling that FEMA uses to develop them. However, there is often some Corps input into the maps. Corps involvement in this area is mostly indirect. In some cases, FEMA may use general hydrologic models developed by the Corps to inform the

development or revision to an NFIP map for an area. Also, FEMA may use data that the Corps collects while inspecting Federal and non-Federal levees, dams, and other flood risk reduction features. For example, the Corps may provide data that it collects in inspections to a local community. The local community may then provide this information to FEMA as part of its work with FEMA on the development or revision of a map for that local area under the NFIP.

**Post-Hearing Questions for the Record  
Submitted to the Honorable Kathleen Tighe  
From Chairman Mark Begich**

***“ONE YEAR LATER: EXAMINING THE ONGOING RECOVERY FROM HURRICANE SANDY”***

NOVEMBER 6, 2013

1. *As I understand, there were no reporting requirements included in the language for the Sandy Supplemental and the work RATB is doing was something they were directed to do by the White House. While we hope we won't need disaster supplemental bills in the future, how can reporting requirements be better incorporated into future legislation so as to enable transparency from the beginning?*

The lack of a single agency with authority to collect and display spending information in the Disaster Relief Appropriation Act, 2013, Pub. L. No. 113-2 (Hurricane Sandy legislation) has led to the development of numerous websites and webpages. As a result, transparency efforts (the locating, gathering, aggregating, and presenting of disparate data in a usable format), as well as oversight efforts are hampered. In contrast, Recovery.gov is useful to the public, Congress, and oversight officials in large part because supporting data is centrally collected and required to be displayed on Recovery.gov by the American Recovery and Reinvestment Act of 2009 (Recovery Act).

As you are aware, the Recovery Act mandates that recipients of Recovery funds report quarterly. Recipients report through a central collection website, FederalReporting.gov, that was developed and is maintained by the Recovery Accountability and Transparency Board (Board). That recipient-reported data is then transferred directly to Recovery.gov where it is displayed in charts, graphs, tables, and maps. The quality of Recovery Act data is improved due to defined data elements, built-in edit checks, an extended quality-assurance period after the reporting cycle, and a process that allows recipients, agencies, and the Office of Management and Budget (OMB) to request changes.

The Hurricane Sandy legislation requires some transparency of Hurricane Sandy funds; however, those responsibilities are dispersed among the Federal Emergency Management Agency (FEMA) (it has a separate page for each Hurricane Sandy disaster declaration/location), the Coast Guard, and recipients of the Department of Housing and Urban Development (HUD) grants. In an attempt to centralize transparency information, the Hurricane Sandy Project Management Office (PMO) developed a website designed to give the public access to information on appropriations by agency and high-level updates of the status of funds by agency and major program.

The proliferation of public websites related to Hurricane Sandy makes the presentation of cohesive transparency information to the public problematic, at best. Accordingly, in the event future disaster supplemental bills are required, we suggest that Congress consider

providing a single agency with the authority to collect or aggregate pertinent information and then display such information on a public website.

As addressed in our testimony, the Board has attempted, first through [FederalTransparency.gov](http://FederalTransparency.gov) and now through enhancements to [Recovery.gov](http://Recovery.gov), to visually display some of the Hurricane Sandy award information that is currently available in both [USASpending.gov](http://USASpending.gov) and the Federal Procurement Data System – Next Generation (FPDS-NG), as well as provide links to additional information. This effort is hampered, however, by some of the challenges we identified in our testimony, such as inconsistent data definitions for place of performance and the lack of a Hurricane Sandy award identifier. We discuss those challenges further and our recommendations in our response to Question 4.

2. *Are you finding any difficulties in collecting data from each of the agencies?*

So far, the challenge has flowed from the lack of a mandatory uniform process, as discussed in our response to Question 1, and not necessarily from a lack of cooperation by any individual agencies. Indeed, the Board relies on data sets from the PMO and FEMA to supplement what information it is able to obtain from [USASpending.gov](http://USASpending.gov) and FPDS-NG (see our response to question 4).

Shortly after the enactment of the Hurricane Sandy legislation, the PMO worked with the agencies who were included in the Hurricane Sandy legislation to develop a monthly data collection methodology to capture obligations and outlays. The resulting reports are very similar to the weekly Financial and Activity Reports established by Recovery Act guidance from the OMB. We understand that this data collection methodology was implemented in large part because early attempts by the PMO to reconcile data supplied by the agencies to data contained in both [USASpending.gov](http://USASpending.gov) and FPDS-NG proved problematic or impossible. The PMO has worked with the agencies to achieve a more granular level of data in the last few months. It is our hope that this will become a useful source of information for both transparency and oversight purposes.

Additionally, over the past year, FEMA has made great strides in providing detailed information about public assistance grants in a machine readable format. This data is now updated monthly on their website and is used by the Board in its Hurricane Sandy transparency and oversight efforts.

3. *In your testimony you noted that your Board has a central data analytics service to support fraud detection and prevention, which serves to enhance the capabilities of the IG community. This is important data that will assist the IG. But to what extent are you providing this kind of information to those units in HUD, DOT and FEMA in order to*

*prevent* risky disbursements of funds or contract agreements, rather than chasing after dollars already spent?

As a Board comprised of 12 Inspectors General (IGs), we primarily serve to enhance the capabilities of Offices of Inspector General (OIG), as well as other federal law enforcement entities, in their oversight of federal funds, including funds made available through the Hurricane Sandy legislation. While the Board primarily provides such support through OIGs, the timing of the assistance is ahead of that typically associated with the traditional “pay and chase” approach – the Board’s Recovery Operations Center (ROC) is able to provide significant risk information to OIGs soon after awards are made based on information received from the OIGs as well as the ROC’s analytical efforts.

For example, Department of Homeland Security (DHS) and HUD OIGs provided the ROC with names of early Hurricane Sandy awardees and the resulting ROC analyses assisted them in formulating risk-based approaches in their respective audit plans. We note that the ROC was included as a resource for proactive oversight efforts in DHS OIG’s October 2013 “National Response Strategy for Declared Disasters.”

Additionally, the Board, together with the Small Business Administration (SBA) OIG Investigations Division, recently initiated a process of examining select Hurricane Sandy small business loans to readily identify indicators of potential concern. If this process proves useful, SBA OIG Investigations Division indicated they would like to repeat this effort for future declared disasters.

Furthermore, the Board has commenced its own project to identify current and potential high risk Hurricane Sandy funds recipients. Once a high risk target is detected, the information will be forwarded to the responsible OIG. We anticipate that if this information does not result in the initiation of audit or investigative work, the responsible OIG will forward it to the relevant program office for action.

4. *In your written and oral statements you outlined various challenges the Board continues to face, including no mandated centralized reporting mechanism and the lack of sub-recipient data. What specific recommendations would the Board make to further enhance cataloging and reporting of expenditures that could improve the analyses of disaster spending?*

As set forth in our testimony, there are multiple areas that could enhance reporting that would lead to improved tracking and analyzing of disaster supplemental spending. Those areas include 1) consistent data definitions for place of performance, 2) edit checks of ZIP+4 codes, 3) a unique funding identifier, and 4) sub-recipient information.

**Data Definition of Place of Performance**

We suggest that the adoption of a consistent data definition for place of performance that reflects the locations of disaster relief assistance through legislation, regulation, or implementing guidance be considered. While both USASpending.gov and FPDS-NG contain information on place of performance, the definitions are inconsistent. Due to the varying definitions, the Hurricane Sandy contract awards map, based upon FPDS-NG data and displayed on Recovery.gov, reflects recipients of contract dollars in areas untouched by Hurricane Sandy. In other words, while the map adequately displays who has received the contract dollars, it does not necessarily indicate what areas within the impacted hurricane zone benefitted from the expenditure of those dollars.

**Edit Checks of ZIP+4 Code**

As improvements are made to USASpending.gov and FPDS-NG, we suggest that edit checks be incorporated to ensure that the ZIP+4 code is validated. The ZIP+4 code provides the necessary information on latitude and longitude allowing for more precise mapping of federal dollar allocations. Through our attempts to map awards from USASpending.gov and FPDS-NG, we have experienced issues with the accuracy of ZIP +4 code entries (such as blank entries and incorrect digits).

**Unique Funding Identifiers (for each significant disaster occurrence)**

We suggest that the assignment of unique funding codes to disaster supplemental spending across all award types be considered. Unlike with Recovery Act funds, which are tracked using a unique Recovery Act Treasury Account Symbol (TAS), there is no consistent means of separately accounting for disaster supplemental spending. The lack of unique funding identifiers makes it difficult to isolate, extract, and aggregate Hurricane Sandy information.

OMB issued guidance requiring agencies to utilize new Catalog of Domestic Assistance (CFDA) numbers for Hurricane Sandy grants and loans tracked within USASpending.gov, but the policy was not consistently executed. Hurricane Sandy contracts, on the other hand, are commonly identified with a National Interest Action (NIA) code contained within the FPDS-NG system. The NIA code is created and activated by the General Services Administration (GSA) at the outset of a disaster and other large spending events. Although the NIA code exists within FPDS-NG, the value does not transfer to USASpending.gov with the contract award record. Such a code could also be adopted for grants and loans. While system changes to formally incorporate the NIA codes could take time to implement, in the short-term, agencies could record the code in the "project description" field in USASpending.gov. Furthermore, the NIA code could be recorded in the "description of requirement" field in FPDS-NG which is a field that transfers to USASpending.gov.

**Sub-recipient Information**

We suggest that more information be collected on sub-recipients and sub-sub-recipients of disaster funding. As noted in our testimony, given the types of Hurricane Sandy grants expected to be awarded, prime recipients of Hurricane Sandy awards are oftentimes states; however, it has been our experience that the majority of fraud, waste, and abuse occurs below this level. The Federal Funding Accountability and Transparency Act of 2006, Pub. L. No. 109-282 (FFATA), as amended, mandates some sub-recipient information be included on USASpending.gov. Even assuming the FFATA requirements are being consistently enforced, however, USASpending.gov would not reflect sub-sub-recipient information or other lower tier information.

5. *Can you provide this Subcommittee with a description of any areas of weakness or questionable internal controls that you have identified from your central data analytics service?*

Since its inception, the Board has determined that the OIG structure should be leveraged rather than superimposing another layer of auditors and investigators on the rigorous oversight structure that already existed. Accordingly, the Board is working with the Council of the Inspectors General on Integrity and Efficiency (CIGIE) Disaster Assistance Work Group, co-chaired by DHS OIG and the Board, to develop systematic processes for coordinating and leveraging the combined resources of all OIGs involved in Hurricane Sandy oversight. As a part of this coordination, the OIGs report to the Board on their Hurricane Sandy work. At the outset of their efforts, the OIGs are clearly focused on identifying areas of weakness or questionable internal controls with their respective agencies. Some instances of completed work include:

- The GSA OIG audit team examined several aspects of GSA's internal controls related to the funding it received for Hurricane Sandy response and recovery. Overall, the audit team found that GSA's Hurricane Sandy processes included sufficient segregation of duties and management oversight for ensuring funds were used and reported properly. Going forward, they will continue to look for any internal control weaknesses or deficiencies regarding GSA's Hurricane Sandy funds.

- The Environmental Protection Agency (EPA) OIG found that the agency had controls in place for the award and management of Hurricane Sandy relief funds, the bulk of which are designated for the clean and drinking water state revolving funds, based on lessons learned from past reports under the Recovery Act. The OIG's report made no recommendations but encouraged the agency to consider lessons identified as it moves forward with Hurricane Sandy recovery activities. The OIG also noted additional controls for the agency to consider based on a prior report. These include strengthening oversight of sub-recipients and developing a checklist that states can use to help ensure compliance; working with states to incorporate inspections as part of routine oversight; utilizing information in recipient monitoring databases to regularly provide

management reports on project progress and status of corrective actions; including specific actions to identify states and projects at risk of not meeting deadlines and/or establishing procedures to assist states with delayed projects; and updating detection and reporting procedures to identify improper grant payments. EPA has plans in place to undertake efforts addressing these OIG suggestions.

Since many of these OIG activities are based on the actual flow of funding to recipients, much of this work is currently in process or about to be launched rather than completed. Examples include:

·DHS OIG has seven on-going public assistance grant audits – four in New Jersey and three in New York– and expects to issue final reports by March 2014. These initial reports will focus on the efforts of grantees and subgrantees to recover from the disaster within the first year. The goal is to identify areas of weakness where FEMA or the states need to provide technical assistance or additional monitoring to subgrantees to prevent excessive costs and non-compliance with federal regulations. DHS OIG will start four more proactive grant audits by the end of January 2014 to identify any areas of weakness or questionable internal controls in other Hurricane Sandy activities. The purpose of conducting all of these audits is to shift the focus from simply reporting on improperly spent disaster assistance funds to getting recipients to spend funds in accordance with FEMA and federal grant policies and procedures.

·The Department of Health and Human Services (HHS) OIG is performing an audit to assess whether HHS internal controls for overseeing Hurricane Sandy disaster relief funds were suitably designed. HHS received approximately \$760 million in Hurricane Sandy funds and allocated 95 percent of this funding to four operating divisions: Administration for Children and Families received \$557.2 million; National Institutes of Health received \$148.8 million; Substance Abuse and Mental Health Services Administration received \$10 million; and Centers for Disease Control and Prevention received \$8.1 million. HHS OIG will obtain an understanding of HHS's internal control plans, in particular, the key control activities put in place for pre and post-award, and reporting of Hurricane Sandy funds. HHS OIG plans to issue a report in fiscal year 2014 and will conduct future audits of states and selected grantees, based on risk assessments.

·The HUD OIG Office of Audit is starting its disaster relief audit reviews and has performed auditability surveys to examine HUD and grantee progress in establishing the Hurricane Sandy programs under the three largest of the six grants in the first allocation. The HUD OIG Office of Inspections and Evaluations is preparing two key studies. The first is a review of early controls in place for the largest three grantees: the State of New York, the State of New Jersey, and New York City. It will examine the adequacy of HUD certifications of grantee capacity and controls, grantee action plans, and the establishment of the initial programs and procedures in accordance with the certifications and action plans. The second study will examine specific controls put in

place for homeowner and business assistance programs by these same three grantees. It will examine the adequacy of procedures and information supporting eligibility for assistance and the calculation of awards based on prohibitions for duplication of benefits outlined in the Stafford Act.

Reports produced by the OIG community on their Hurricane Sandy oversight efforts will be posted to the Hurricane Sandy section of Recovery.gov.

**Post-Hearing Questions for the Record  
Submitted to Mr. Cas F. Holloway  
From Chairman Mark Begich**

**“ONE YEAR LATER: EXAMINING THE ONGOING RECOVERY FROM HURRICANE SANDY”**

NOVEMBER 6, 2013

1. Just last week, the President released an Executive Order on Climate Preparedness which aims to provide direction to Federal agencies as they pursue new strategies to improve the Nation’s preparedness and resilience. New York City has been a leader in this area, as evidenced by the release of Mayor Bloomberg’s long term plan to invest \$20 billion to defend the city against sea level rise and extreme weather. One of the issues I’ve worked with FEMA on following the flooding along the Yukon this year, was how we can invest smarter in the recovery phase to assure we reduce our risk in the future. Are there any hurdles with these programs that are preventing you from investing in mitigation measures?

**Response:**

There are four critical areas that could support smarter investments in resiliency in the recovery phase.

- 1. Address hurdles to funding resiliency in Federal Disaster Relief Programs.**

The City has faced several specific hurdles to funding resiliency under Federal Disaster Relief Programs. First, FEMA’s Hazard Mitigation Grant program, under section 404 of the Stafford Act (“Section 404”), is a critical source of post-disaster resiliency funding and should be allocated directly to New York City, similar to the Community Development Block Grant-Disaster Recovery (CDBG-DR) program. Because Section 404 funding is allocated to the State for distribution, the City cannot determine the amount of Section 404 funds it will receive, and can therefore not strategically factor this funding source into plans meet its resiliency goals and the extra layer of review adds time to the application process. I urge you to amend the Stafford Act to make allocations under Section 404 to state and local governments, similar to the CDBG program.

Second, HUD allocated resiliency funding through its CDBG-DR program based on inaccurate infrastructure restoration costs. Hurricane Sandy was the first time that HUD issued a CDBG-DR allocation to help municipalities affected by the storm build resiliency, and it used FEMA cost estimates for infrastructure restoration as a basis for estimating a 30% “resiliency bonus” for grantees. However, FEMA acknowledges that it underestimated the cost of infrastructure rebuilding in New York City by 25%. As a result, the City has received an estimated \$300 million less for resiliency than it would have received to address unmet needs if the cost estimates for the projects were accurate.

- 2. Fund regular updates to FEMA’s flood maps to limit the impacts of future storms and provide up-to-date information to immediately inform the rebuilding process.**

Prior to Hurricane Sandy, FEMA last significantly updated New York City's Flood Insurance Rate Maps (FIRMs) in 1983. The nearly three-decade gap between the introduction of the City's FIRMs in 1983 and the launch of a map update process in 2009 meant that the City, and other stakeholders, had to rely on outdated information that significantly understated the flood risks for zoning, building, and resiliency planning. As a result, many property owners did not know that their buildings were vulnerable to flooding and were not required to build to flood protection standards or purchase flood insurance. It is critical that Congress fund regular updates to FEMA's flood maps so that cities like New York can limit the impacts of future storms and have up-to-date information to immediately inform the rebuilding process.

**3. FEMA should develop a flood protection standard for existing urban buildings and offer premium reductions for alternative resiliency measures.**

FEMA's current flood insurance program provides few incentives to property owners to protect their buildings from flood damage and reduce their premiums other than by elevating their homes or buildings. While elevation may be possible for some buildings—such as wood-frame single-family homes—much of New York City's building stock consists of attached and semi-attached buildings and multi-story structures for which elevation is not feasible. Approximately 26,300 buildings in the city's recently-expanded floodplain have structural characteristics or site conditions that make elevation incredibly challenging or impossible.

Although elevation is not feasible for a significant portion of buildings in the City's flood zones, FEMA should incentivize other, more affordable, mitigation options that effectively reduce the risk of flood damage, such as flood-proofing building systems, through flood insurance premium reductions. FEMA should also develop a comprehensive flood protection standard for retrofitting existing urban buildings. This is especially important because the affordability of flood insurance remains a major challenge for homeowners struggling to rebuild. As I noted in my testimony, premiums may increase by \$5,000 to \$10,000 per year for many New Yorkers. I urge Congress to delay implementation of Biggert-Waters until FEMA completes its affordability study and develops mechanisms, such as means-tested vouchers, to help as many New Yorkers as possible purchase affordable flood insurance.

**4. Pass legislation to streamline USACE projects and authorize innovative project delivery methods**

Currently, federally funded and managed coastal protection projects require at least four congressional authorizations and appropriations from initiation to construction, leading to project delays and increased costs. This prolongs relief for vulnerable coastal communities—even after a protection project is approved and funded. To reduce the burden of this bureaucracy and accelerate projects assigned to the U.S. Army Corps of Engineers (USACE), legislation that authorizes innovative and expedited project delivery methods is essential.

2. One noted success was New York City's housing program – NYC Rapid Repairs. Residents are able to stay in their own homes while repairs are made. New York City

developed this program in response to initial challenges the city encountered in trying to implement FEMA's STEP (Shelter, Temporary Essential Power) program, as typical FEMA temporary housing is not as feasible for such densely populated areas.

- a. Given your experiences, what recommendations can you make to streamline the federal disaster housing program?

**Response:**

Rapid Repairs was created on the principle that the best temporary solution is a permanent solution. After Sandy, New York City worked with FEMA to develop and implement the STEP (Sheltering and Temporary Essential Power) program, called NYC Rapid Repairs. In fewer than 90-days, NYC Rapid Repairs restored heat, hot water and electricity for nearly 20,000 residential units, and allowed many thousands of New Yorkers to return to their homes more quickly than would have otherwise been possible.

FEMA should institutionalize an Expedited Repairs program to allow cities and states to quickly begin repairs to housing and other facilities after coastal storms and other disasters.

- b. To what extent could your program be incorporated into future changes to the Stafford Act?

**Response:**

There are no changes necessary to the Stafford Act to institutionalize STEP into FEMA's available programming. The City recommends several modifications to the STEP program based on lessons learned from Hurricane Sandy. For example, FEMA could develop STEP into a formal 9500 series FEMA Disaster Assistance Policy (DAP), or modify the regulation (44 CFR) to include STEP.

**State of New Jersey's Responses to the Subcommittee on Emergency Management, Intergovernmental Relations, and the District of Columbia Post-Hearing Questions**

***“ONE YEAR LATER: EXAMINING THE ONGOING RECOVERY FROM HURRICANE SANDY”***

JANUARY 23, 2014

1. *The federal Recovery.gov website keeps data on Sandy recovery spending. We have noted that, as of September 30, States and localities have drawn down about 47 percent of federal funds that agencies have obligated. For example, States and localities have drawn down only around \$190 million the \$2 billion obligated under CDBG, or less than 10 percent. Similarly, of the about \$475 million obligated under the Social Services Block Grant under HHS, but States and localities have drawn down only around \$1 million, or less than 1 percent. Can you explain what challenges States and localities are having getting these dollars down to communities and individuals?*

The State of New Jersey successfully implemented more than 50 recovery programs and initiatives within a year of Sandy unleashing unprecedented damage across the State. Our State agencies and departments worked seven days a week designing programmatic details, navigating complex procurement rules, augmenting staff, building needed infrastructure, and administering grant application processes. By methodically building the foundation to administer these critical recovery programs, the State has been able to accelerate the rate that disaster relief dollars get out the door and help those most in need. Within the last three months, the State has increased its draw downs of Community Development Block Grant – Disaster Relief (CDBG-DR) funds to \$326 million and Social Service Block Grant (SSBG) funds to \$22.4 million.<sup>1</sup> The State is constantly looking for ways to streamline processes to improve program delivery and further accelerate progress.

For additional background, this response identifies: (1) the State's comprehensive approach to recovery; (2) areas where additional federal assistance could help; and (3) impediments to getting recovery resources out on the street quickly.

The State's Strategic Approach to Recovery

Since the early days of the recovery, New Jersey has been committed to a holistic recovery approach that seeks to utilize all available recovery funding streams in a coordinated way. State departments and agencies have worked carefully and diligently to help Sandy-impacted homeowners, renters, businesses, and communities recover and rebuild. As part of our long-term recovery strategy, the State has committed to building back better and stronger by pursuing resilient infrastructure projects and mitigation opportunities to prevent future damage, and utilizing construction techniques and materials that will better withstand future weather events. The State will continue to leverage existing federal and State resources to pursue these long-term strategic priorities and empower local governments to revitalize their communities.

<sup>1</sup> As of September 30, 2013, New Jersey drew down \$184 million of the total \$190 million CDBG-DR funds drawn down, representing more than 96 percent of all grantee activity.

In the initial months following the Storm, New Jersey sought to chart out a thoughtful and comprehensive path forward – one that would not only prioritize critical short term needs, but also enable us to assess forward-thinking strategies to accomplish long-term recovery goals. Having consulted with other states that have been through this before, we learned that disaster recovery on this scale is not measured in days and weeks, but rather months and years.

To achieve the State's comprehensive recovery strategy, the Administration organized thirteen working groups led by state cabinet officials, including housing, economic, labor, banking and insurance, transportation, public utilities, environmental infrastructure, social services, public health, children and family services, community capacity and resources, natural and cultural resources, and hazard mitigation. Rather than create a new "recovery bureaucracy," the Administration tapped the institutional knowledge and expertise of state agencies to aid in the recovery and rebuilding of the State.

These working groups quickly got to work assessing Sandy's impacts; developing priority initiatives and programs to address those impacts; securing necessary funding; cutting red tape and streamlining regulations; and developing comprehensive plans to bring back a safer, stronger, and more resilient New Jersey.

By appointing State leaders to each of the recovery working groups, New Jersey was able to swiftly mobilize agency resources to address immediate recovery needs. As the State identified available federal funding streams, the working group model enabled us to more efficiently integrate recovery resources in a coordinated way and leverage existing State resources with federal funds. By plugging into the federal government's recovery structure, we aimed to foster the relationships with federal agencies that are critical to the recovery's success.

This model proved effective. We were able to ensure that a holistic course was charted out and that relief programs were activated in all sectors impacted by Sandy.

#### Suggestions to Improve the Federal Government's Response to Disaster

New Jersey has not faced a disaster of this magnitude before and we quickly learned that there is no disaster recovery playbook available. Consequently, we reached out to other states that had endured a disaster on this scale, seeking to learn valuable lessons and avoid common mistakes. Each state's disaster recovery was certainly unique to the circumstances, geography, and type of natural disaster they faced. However, one thing was clear; to achieve New Jersey's recovery and rebuilding goals, we would need to tie many diverse goals to key federal funding streams made available through the Sandy Supplemental Appropriation.

Unfortunately, the federal recovery framework is decentralized, and requires the State to deal with numerous federal agencies, each with their own rules, regulatory frameworks, and cultures. Oftentimes, the monies are appropriated to existing, non-disaster related programs that are limited by statute to assist with key recovery priorities. For example, while the SSBG program provides broad flexibility to address the social service needs of our residents, it is restricted in how it can address public health impacts. Moreover, while disaster recovery on this scale was new to New Jersey, the nation, unfortunately, has extensive experience in this area. While there is no one-size-fits-all approach, the federal agencies should consider developing best

practices and a menu of programs and initiatives that can help inform states' recovery initiatives in future disasters. Something similar to, but perhaps more comprehensive than, the model CDBG-DR programs the U.S. Department of Housing and Urban Development (HUD) published in March 2013.

The lack of "user friendly" federal guidance continues to plague states dealing with disaster. And the challenges caused by a decentralized federal disaster recovery framework remain. In the wake of severe flooding in Colorado this past fall, members of Colorado's recovery team reached out to the Governor's Office of Recovery and Rebuilding seeking guidance. Not unlike New Jersey a year earlier, Colorado would need to build their recovery from scratch, with no playbook for disaster recovery to explain what resources are available and how to access them. While we were happy to share our experiences and lessons learned over the course of the last year, it highlights the ongoing need for disaster-torn states to have additional guidance from the federal government on how to navigate the federal recovery framework.

The Hurricane Sandy Rebuilding Task Force did serve as an important resource for the State, helping to facilitate coordination among federal agencies and, in some cases, streamlining the process. While the Task Force proved to be very responsive to the State's concerns, many of the challenges are born from the inherent way federal disaster resources are administered through various federal agencies. Resolving these issues may require reconceiving federal disaster relief delivery through a more unified approach.

#### Impediments to a Swift Recovery

New Jersey's ability to distribute funds quickly was significantly hampered by delayed access to recovery funds and complex regulatory requirements.

The Sandy Supplemental Appropriation was passed approximately three months after Sandy struck; however, it took several more months before New Jersey was able to draw down funds. For example, New Jersey was not able to begin accessing the first tranche of CDBG-DR funds until May 21, 2013, nearly seven months after the storm. By May 24, 2013, New Jersey had launched two major programs for homeowners outlined in the Action Plan, standing up housing recovery centers in each of the HUD-determined nine most-impacted counties. Within three months of HUD approval, the State rolled-out seventeen CDBG-DR funded programs to help homeowners, renters, businesses, and communities impacted by Superstorm Sandy.

Similarly, with SSBG funds, nearly nine months elapsed following Superstorm Sandy before New Jersey was able to draw down funds. Since receiving authorization, New Jersey and its lead agencies have worked tirelessly to utilize SSBG funds to address many health and social service gaps created by Superstorm Sandy. To that end, the New Jersey Department of Human Services, the New Jersey Department of Children and Families, and the New Jersey Department of Health have worked collaboratively to develop and implement programs to deliver critical services to those most in need throughout New Jersey.

Federal regulatory requirements for each funding stream also continue to cause delay in the disbursement of funds. HUD requirements for the use of CDBG-DR funds, for example, present a number of challenges, specifically with regard to rebuilding. Before any construction

can begin or payments can be made to homeowners, the State must conduct fairly exhaustive environmental and historic reviews of each and every property. Simply put, the State cannot issue a check or hammer a nail paid for by CDBG-DR funds until these reviews are complete. As a result, our construction-based programs have seen significant delay.

By contrast, the State has been able to disburse non-construction based funds much more quickly. One example is the State's Homeowner Resettlement Program. The Resettlement Program, funded with \$180 million in CDBG-DR funds, provides \$10,000 grants to eligible households who agree to remain in their existing home or in their impacted county for at least three years following the storm. The State was able to cut more than 16,600 Resettlement checks to eligible applicants in a matter of months. Similarly, New Jersey has been able to quickly disburse funds through the State's Essential Services Grant Program to ensure that local government entities such as counties, municipalities, authorities, fire districts, and school districts can continue to pay essential personnel in critically important functions including police and fire services, education, and public works.

The duplication of benefits process has been another obstacle in the disbursement of disaster relief funds. As Secretary Donovan aptly pointed out in his testimony before the subcommittee, by law, CDBG-DR funds may only be used to address needs not met by other funding sources. Therefore, the State must undertake a duplication of benefits analysis prior to awarding CDBG-DR funds. That is, the State must verify how much money the homeowner received from private insurance, the National Flood Insurance Program (NFIP), FEMA, the U.S. Small Business Administration (SBA), and other sources to determine the appropriate grant award. In doing so, the State must gather documentation and rely on third-parties to confirm how much they have paid or intend to pay out to homeowners. Unsettled private and flood insurance claims, for example, delay disbursement because they impede the State's ability to perform a duplication of benefits analysis.

New Jersey also faces the daily challenges of implementing large scale recovery programs. Understandably, as we undertook this massive effort, we certainly struggled at times. But every day we learn important lessons and constantly strive to improve our program delivery. Indeed, we have been nimble enough to recognize shortcomings in our approach and make meaningful programmatic and operational changes. We have made a number of enhancements to our programs, and as a result have seen significant improvements in program delivery.

Despite these challenges and others, New Jersey has carefully applied federal funds provided through a myriad of different federal agencies to implement more than 50 recovery and rebuilding programs and initiatives. Working with the support of our federal partners, we were able to do so in a comprehensive way and, in many cases, with unprecedented speed. New Jersey continues to work every day to ensure that its residents and communities are getting the relief they need to recover and rebuild stronger than before.

2. *During the one year anniversary we saw a lot of news stories about people who still need help recovering from Sandy. There is clearly a need still out there. I understand that FEMA can't fix everything but out of the 261,000 valid registrations in New Jersey 77% of those people received no money at all. We would like to know what your state is doing to provide relief for their people who are ineligible under federal programs.*

New Jersey has focused on tapping into all available funding streams to maximize relief for our residents. Indeed, significant funds have already been disbursed to aid in the recovery. In the first year alone, over \$8.5 billion in disaster relief has reached the State, including from FEMA, the SBA, HUD, the U.S. Department of Transportation, the Environmental Protection Agency, the U.S. Department of Labor, the National Flood Insurance Program (NFIP) and private insurance, and the U.S. Department of Health and Human Services.

For many individuals, FEMA Individual Assistance serves as the first line of defense. As of October 25, 2013, more than \$413 million in FEMA Individual Assistance funds have been disbursed to homeowners and renters in New Jersey, including almost \$356 million in Housing Assistance and more than \$56 million in Other Needs Assistance.<sup>2</sup> New Jersey residents and businesses also have received more than \$3.77 billion from NFIP and in excess of \$169 million in disaster loans from the SBA. Nevertheless, even for those New Jerseyans who received funding from these programs, it often is not enough to address all recovery needs.

New Jersey has implemented a number of programs to address the short term needs of our residents. For example, New Jersey implemented the Homeowner Resettlement Program using CDBG-DR funds. The program provides \$10,000 grants to eligible homeowners to assist with storm-related expenses and encourages them to resettle in their community to help restore home values and stabilize communities. Similarly, the State launched the Working Families Living Expenses Voucher Program (also known as "SHRAP," or the "Sandy Homeowner and Renter Assistance Program"), which is funded with SSBG dollars and provides up to \$15,000 for mortgage and rental assistance, among other things. This program, which is available to Sandy-impacted individuals in all of New Jersey's twenty-one counties, serves the critical role of providing housing stability for individuals and families still recovering from the financial strains brought by Superstorm Sandy.

The State further assisted displaced individuals in need of temporary housing through the New Jersey Housing Resource Center (NJHRC). The NJHRC provided a free service for Sandy-affected residents to search for affordable housing and for landlords who are looking to provide housing to displaced residents. The State also issued 835 Section 8 housing vouchers set aside for very-low income families displaced by Superstorm Sandy.

To address longer term rebuilding needs, the State implemented the Homeowner Reconstruction, Rehabilitation, Elevation and Mitigation (RREM) program, which provides

<sup>2</sup> As noted in the question, only 61,290 of the 261,000 FEMA Individual Assistance program registrants were approved for funding. The State understands that the remaining individuals failed to meet FEMA's eligibility criteria, which include, for example, that the damaged home be the homeowner's primary residence.

eligible homeowners up to \$150,000 in grant funds to aid the reconstruction, rehabilitation, elevation and mitigation of damaged primary homes. The State already has dedicated \$710 million to this program, and anticipates allocating additional funding as it becomes available. In addition, the State allocated \$100 million to an elevation program, which provides Hazard Mitigation Grant Program (HMGP) grants of up to \$30,000 for homeowners seeking to elevate their homes to mitigate against future flooding events.

In addition to Sandy-specific programs, New Jersey has leveraged several existing programs that were able to offer aid to Sandy-impacted individuals. Programs such as the Homelessness Prevention Program and the New Jersey Homekeeper Program saw increased participation in the wake of Superstorm Sandy. Furthermore, the State expanded services available within its network of Family Success Centers, which serve as “one stop” sites providing wrap-around resources and family support.

In addition to the federal and State recovery resources, private insurance plays a key role in rebuilding and, to date, more than \$4.02 billion in claims has been paid out. To alleviate the hardship of New Jerseyans struggling with their insurance companies and to assist in the swift resolution of Sandy-related insurance claims, the New Jersey Department of Banking and Insurance established a mediation program, in which all licensed insurance carriers are required to participate. To date, the mediation program has yielded a 66.9 percent settlement rate. Through the Department’s efforts, more than 98 percent of all private insurance claims have been resolved.

New Jersey also has taken steps to enhance employment opportunities for impacted residents. The State has leveraged more than \$15 million in federal National Emergency Grant funds to provide temporary employment related to disaster response and recovery efforts. The State also initiated three parallel skills training programs, creating talent networks to connect unemployed individuals with employers. The federal Sandy Task Force cited these recovery networks as a best practice in disaster recovery. Immediately after the storm, approximately \$5 million in Disaster Unemployment Assistance was paid out to proprietors of small businesses interrupted by Sandy.

Because federal and state resources are limited, the State has coordinated closely with volunteer organizations and the philanthropic community to address gaps. Volunteer organizations have been involved since the early days of the recovery. For example, the volunteer organization Burners Without Borders provided many hours of volunteer service to assist Union Beach with debris removal. Other volunteers have assisted homeowners with mucking out waterlogged drywall and insulation, and ultimately rebuilding homes. Volunteer organizations remain committed to the State’s recovery to this day.

Communities across the State also have received substantial resources from philanthropic organizations, such as the Hurricane Sandy New Jersey Relief Fund, the Robin Hood Foundation, and the American Red Cross. For example, the State partnered with New Jersey Community Capital, the Hurricane Sandy New Jersey Relief Fund, and the American Red Cross on “The Gap Funding Initiative,” a \$30,000 grant program funded by the philanthropic community to assist RREM awardees who cannot cover the complete cost of home repairs. The

State continues to partner with non-profit and philanthropic organizations to fill gaps and serve populations that recovery resources do not reach.

In spite of the challenges associated with limited federal disaster relief funds, recovery and rebuilding is happening in New Jersey every day. Over the course of the last year, New Jersey has stood up more than fifty programs and initiatives. Our small businesses and economy have not only shown signs of resilience, but also growth. And since January 2013, construction activity authorized via permits is approaching \$9 billion. While there is a great deal of work to be done, New Jersey has made substantial progress. As we forge ahead in the recovery process, we will continue to leverage all available funding sources and provide creative solutions to address unmet needs throughout the State.

3. *We have heard about an example of a state program using CDBG funds will require residents to purchase flood insurance equal to the amount of money in grants they receive. With the implementation of Biggert-Waters drastically raising rates, of which I have co-sponsored a bill to delay this implementation until FEMA completes its affordability study, I am concerned that those affected by Sandy throughout the region will not be able to afford this insurance. Is your state facing similar challenges and, if so, what are you doing to help people overcome this challenge? Do you see this issue as a challenge that is limited to your region or is this a potential issue for any state or locality that will confront a disaster?*

New Jersey residents living in flood hazard areas have been hit with the perfect storm. Superstorm Sandy unleashed widespread devastation, causing billions of dollars of damage to tens of thousands of homes. These same residents are simultaneously dealing with substantial increases in flood insurance premiums resulting from the passage of the Biggert-Waters Flood Insurance Reform and Modernization Act of 2012 (Biggert-Waters), and the introduction of new FEMA flood maps, with significantly higher elevation requirements.

In light of the unprecedented circumstances faced by the tens of thousands of people attempting to rebuild from the ravages of Sandy, foisting the additional rate increase on home and business owners will be financially devastating and threatens to hinder the State's recovery. Consequently, in May 2013, Governor Christie wrote to Congressional leadership in support of legislation sponsored by Congressman LoBiondo and Congressman Runyan, which sought to ease the financial burden on those most affected by Superstorm Sandy by requiring longer phase-ins of rate increases. Similar legislation recently was introduced in the House FY 2014 omnibus appropriations bill.

To help New Jersey residents reduce flood insurance premium costs, the State has implemented two home elevation programs – the Reconstruction, Rehabilitation, Elevation and Mitigation (RREM) Program and the Hazard Mitigation Grant Program (HMGP) Elevation Program. The RREM Program, currently funded with more than \$700 million in CDBG-DR funds, provides eligible primary homeowners up to \$150,000 to aid reconstruction, rehabilitation, elevation, and mitigation of damaged homes. The HMGP Elevation program provides reimbursement grants of up to \$30,000 for homeowners seeking to elevate their homes to mitigate against future flooding events. Under NFIP, homes that elevate above the base flood

elevation receive significantly lower premiums, in addition to the enhanced flood protection. As noted in the question, both HUD and FEMA rules require that property owners participating in these programs maintain flood insurance in perpetuity. However, flood insurance is required by most mortgage companies for properties located within a flood hazard area.

In addition, New Jersey's Department of Banking and Insurance has sought to drive down the cost of flood insurance by expanding the private flood insurance market in New Jersey. In November 2013, the Department of Banking and Insurance approved an alternative policy to NFIP. This new flood insurance program, offered by The Flood Insurance Agency and underwritten by Lloyd's of London, has the same coverage as a FEMA policy but allows for more flexibility regarding elevation certificates. For some properties that have experienced dramatically increased premiums due to Biggert-Waters, the Lloyd's policy is expected to cost several thousands of dollars less. This policy is open to all New Jersey insurance agents licensed to sell property insurance.

Despite these efforts, the real-world implications of Biggert-Waters remain a reality for New Jerseyans. The State's RREM program and HMGP Elevation program are significantly oversubscribed, and countless other New Jerseyans that fall outside the scope of these programs – including secondary homeowners and business owners – must either elevate or pay a dramatically increased premium. In addition, property owners face practical challenges in conforming to heightened elevation standards. As the most densely populated state in the nation, urban centers in New Jersey are among those areas susceptible to increased flood risk. From an engineering perspective, certain urban properties pose significant elevation challenges. In addition, many historic properties cannot be elevated without destroying the essential character or integrity of the structure. The demand for elevations far exceeds available resources and much of the burden will ultimately fall to individual property owners.

Ultimately, the National Flood Insurance Program must achieve long-term financial solvency. However, the economic hardships brought by Superstorm Sandy require a sensible phase-in of flood insurance rate increases. We must work together to seek the best path forward – one that ensures the solvency of the NFIP and eventual transition to a private marketplace without placing added strain on many of our home and business owners struggling to repair their lives and rebuild their property. A prudent delay of rate increases by Biggert-Waters is not only appropriate, but crucial to New Jersey's long-term recovery from Superstorm Sandy.

***4. What lessons are we learning when it comes to building more resilient communities in New York and New Jersey? To what extent are these needs beyond the scope of the Stafford Act and HUD's current processes?***

Sandy highlighted certain vulnerabilities in our region and underscored the need to build more resilient communities. To address this need, our State departments and agencies have incorporated strategy and planning in every aspect of the recovery process in an effort to rebuild back better and more resilient than before. In January 2013, the State established by emergency rule the best available data from FEMA's latest flood maps, plus one foot of freeboard, as the general rebuilding standard to adapt to changing flood hazard risks and corresponding federal

flood insurance rates. Federal agencies subsequently adopted this standard for all reconstruction activities funded by the Sandy Supplemental Appropriation.

Early in the recovery, the New Jersey Office of Emergency Management's Disaster Recovery Bureau began providing technical assistance to local communities to help navigate FEMA's Public Assistance program, particularly focusing on "406 mitigation" design opportunities to rebuild more resiliently. As a result, 89 percent of New Jersey's large Public Assistance projects – defined as more than \$500,000 – include 406 mitigation components.

The New Jersey Department of Community Affairs also launched the Post Sandy Planning Assistance Grant Program, which provides communities with planning grants to enable the development of strategic recovery plans, preparation of community design standards specific to flood hazard areas, and analyses of local land use practices to facilitate a smart and efficient rebuilding process at the local level. As part of the program, communities also have been encouraged to combine resources to pursue regional projects and solutions where feasible.

The New Jersey Office of Emergency Management also launched a planning initiative under FEMA's Hazard Mitigation Grant Program to provide eligible counties with grants to develop multi-jurisdictional hazard mitigation plans, incorporating municipal perspective to address regional vulnerabilities. As part of the State's hazard mitigation planning efforts, a cross-agency effort was initiated to identify regional resiliency opportunities by examining the locations and characteristics of critical infrastructure including drinking water, wastewater, transportation, transit, energy, and communication systems. Studying where multiple infrastructure systems intersect and overlap enables the State to highlight and implement synergistic mitigation initiatives.

To examine energy resiliency, the New Jersey Board of Public Utilities, the New Jersey Department of Environmental Protection, the New Jersey Office of Homeland Security and Preparedness, and the New Jersey Office of Emergency Management have been collaborating with the U.S. Department of Energy and the National Renewable Energy Laboratory to study the State's energy vulnerabilities, and identify opportunities to leverage commercially available technologies to address back-up power generation needs at critical facilities. New Jersey is encouraging the use of innovative technologies, which combine energy efficiency and greater resiliency. To realize energy resilience projects, the State announced \$25 million in HMGP Energy Allocations to municipalities, counties, and other critical facilities that can be used to support a variety of alternative energy solutions — including microgrids, solar power with battery back-up, and natural gas-powered emergency generators — technologies that will allow critical facilities to operate even if the power grid fails.

NJ Transit also teamed with the U.S. Department of Energy and Sandia National Laboratories to design "NJ TransitGrid," a first-of-its-kind transportation microgrid capable of providing highly reliable power to transit operations in densely populated areas of New Jersey. NJ TransitGrid would enable NJ Transit to sustain transit operations in the event of a larger electrical grid failure, allowing for continued service and movement of commuters across the most traveled portion of rail lines in the nation, including critical evacuation routes from Manhattan.

New Jersey is taking action to address emergency liquid fuel challenges highlighted during Superstorm Sandy by building resilience in fuel supply and distribution. The State is making \$7 million in HMGP funds available to support the purchase of generators or permanent connection points for mobile generators for approximately 250 fuel stations located along key thoroughfares throughout the State. In addition, NJ OEM is acquiring a strategic cache of emergency generators that can be deployed during a major power outage to critical assets such as shelters, hospitals, public safety facilities, and retail fuel stations. The New Jersey Office of Homeland Security and Preparedness has also partnered with the U.S. Department of Homeland Security to explore opportunities to increase the resiliency of the State's petroleum storage, distribution, and supply systems.

In addition to collaborating with the U.S. Army Corps of Engineers on a \$20 million comprehensive resiliency study funded through the Sandy Supplemental Appropriation, the New Jersey Department of Environmental Protection (NJ DEP) also partnered with six universities to devise flood mitigation strategies for particularly flood-prone communities located near the Hudson River, Hackensack River, Arthur Kill, Barnegat Bay and Delaware Bay. The studies focus on repetitive flooding regions that are not already being addressed by current or planned U.S. Army Corps projects and are being coordinated with communities to incorporate local perspective and data.

NJ DEP and the Army Corps also are working together to advance beach and dune construction projects that will reduce risk to life, property and infrastructure by rebuilding 44 miles of New Jersey coastline and providing the State with the most comprehensive and continuous coastal protection system it has ever had. To secure outstanding easements required by the Army Corps, Governor Christie took aggressive action by signing an Executive Order that authorizes the State to secure easements, not provided voluntarily, through eminent domain. The Executive Order also created the Office of Flood Hazard Risk Reduction Measures to coordinate that effort.

Using federal disaster relief resources, NJ DEP began implementing a \$300 million buyout program to acquire properties from willing sellers in repetitive loss areas. Approximately 1,000 homes impacted by Sandy will be targeted by the buyout program, in addition to another 300 repetitively flood-damaged homes located in the Passaic River Basin. Properties acquired by the State will eventually be razed and maintained as open space, thus reducing the risk of future flood waters, while keeping people and property out of harm's way.

The State has made tremendous strides to prioritize resiliency in all aspects of recovery. Nevertheless, New Jersey's resiliency needs are abundant. A disaster the size of Sandy highlights vulnerabilities; however, unmet needs far exceed available resources. For example, New Jersey received more than \$14 billion in requests for HMGP funds alone; however, New Jersey's HMGP allocation is approximately \$300 million. In addition, there are limitations on how the federal funding streams can be applied. HUD regulations generally prohibit using CDBG-DR funds solely to mitigate against future disasters; there must be some connection to the current storm. Similarly, SSBG funds may not be used to build resiliency in the social service sector for future disasters. With limited funding and the challenges of addressing resiliency needs with available resources, the State must seek creative solutions and seek to leverage limited federal dollars with State funding and private sector capital to maximize resiliency.