

New Jersey

Department of Community Affairs

SUPERSTORM SANDY COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER
RECOVERY

Public Law 113-2; January 29, 2013
FR-5696-N-01; March 5, 2013
FR-5696-N-06; November 18, 2013
FR-5696-N-11; October 16, 2014



ACTION PLAN AMENDMENT NUMBER 35

SUBSTANTIAL AMENDMENT

- **Transferring Funds to the Atlantic City Resilience Program**
- **Creation of a Special Purpose Revolving Loan Fund**
- **Clarification on the Substantial Amendment Cap**

PUBLIC COMMENT PERIOD: November 18 to December 18, 2019
DATE SUBMITTED TO HUD: January 8, 2020, Resubmitted January 16, 2020
DATE APPROVED BY HUD: February 7, 2020

Philip D. Murphy
Governor

Lt. Governor Sheila Y. Oliver
Commissioner



SECTION 1: OVERVIEW

New Jersey (State) received approval from the U.S. Department of Housing and Urban Development (HUD) for the State's Community Development Block Grant-Disaster Recovery (CDBG-DR) Action Plan on April 29, 2013. The Action Plan described the State's allocation of \$1,829,520,000 of first round CDBG-DR funds allocated by HUD to support New Jersey recovery efforts. As Grantee, the Department of Community Affairs (DCA) was chosen to administer the CDBG-DR grant. Since that time, HUD has approved thirty-four amendments to the Action Plan, including Substantial Amendment Number 7, which detailed the allocation of \$1,463,000,000 of second round CDBG-DR funds across the recovery programs, and Substantial Amendment Number 11, which described the allocation of \$501,909,000 of the third (and final) round of CDBG-DR funds intended to address unmet recovery needs.

This **Action Plan Amendment Number 35 (APA 35)** is considered a substantial amendment according to the definition stipulated in the March 5, 2013 HUD [Federal Register Notice 5696-N-01](#) and in accordance with the State's Citizen Participation Plan because it involves a reallocation of more than \$1,000,000 of CDBG-DR funds.

This Amendment is available in English and Spanish through DCA's website at <http://www.renewjerseystronger.org>, and can be obtained by email to sandy.recovery@dca.nj.gov (Subject: APA 35) or by contacting Sandy Recovery Division Constituent Services at 609-292-3750. To obtain a translated copy in a language other than Spanish, please call 1-855-SANDYHM (1-855-726-3946). When the agent answers the line, inform them of the requested language. For hearing-impaired users, Text Telephone Service is available at (TTY/TDD) 609-984-7300 or 1-800-286-6613.

The public comment period for Action Plan Amendment 35 was open from 9:00 a.m. on November 18th to 5:00 p.m. on December 18th. Per HUD requirements, a public hearing was held during the comment period on November 26th from 5:00 p.m. to 7:00 p. m. at the following location:

Stockton University Atlantic City
Academic Center, Fannie Lou Hamer Event Room
3711 Atlantic Ave.
Atlantic City, NJ 08401

The State reviewed the public comments provided during the comment period. All comments received equal consideration regardless of whether they were submitted by email, U.S. mail, or in person at the public hearing. Per HUD guidelines, the State has synthesized the public comments received through this process. The comments and written responses prepared by the State are provided in Section 4.

SECTION 2: FUNDING TRANSFERS

Through this Amendment, the State proposes to transfer \$20 million in Community Development Block Grant-Disaster Recovery (CDBG-DR) funds to create the Atlantic City Resilience Program. Additionally, the State proposes to create a special purpose revolving loan fund for the purpose of supporting existing CDBG-DR programs, as well as other ongoing and future mitigation efforts. Lastly, per [84 FR 4386 \(February 29, 2019\)](#), the State of New Jersey proposes to change the substantial amendment threshold amount to \$10 million.

Transfer of Funds to the Atlantic City Resilience Program

Program	Activity Previous Allocation	Amount of Transfer	Activity Revised Allocation
Blue Acres Buyout Program	\$157,056,576	(-) \$20,000,000	\$137,056,576
Atlantic City Resilience Program	\$0	(+) \$20,000,000	\$20,000,000

Atlantic City Resilience Program

The Atlantic City Resilience Program (“Program”) will repair and replace infrastructure that sustained damage due to Superstorm Sandy (“Sandy”). DCA has determined that each project in the Program is CDBG-DR eligible.

While the funds will address unmet needs remaining in the wake of Superstorm Sandy, on a longer-term basis, the improvements will help mitigate against repetitive flooding that has handicapped economic development in Atlantic City (the “City”).

While the media coverage following Superstorm Sandy focused on potential damage to the casinos, to which there was ultimately no serious flooding, the rest of the City was devastated. According to an article from *The New York Times* dated October 29, 2012 (“Empty of Gamblers and Full of Water, Atlantic City Reels”):

“Even as the first samplings of the storm’s ravages descended on the New Jersey Coastline, Atlantic City was already in big trouble. At high tide around 8 a.m., officials said 70-80 percent of the city was underwater. Water as much as eight feet deep coursed through some streets, leaving them impassible ... When the storm hit landfall around 8 p.m. water surged through the streets again.”

This article also pointed out that two (2) of six (6) evacuation shelters had to be vacated because they were flooded and “[a]mid everything else, in early afternoon, a gasoline spill in City Hall from floating gas tanks shorted out some 911 equipment and the city almost had to abandon its 911 system.”

Because of the city’s well documented difficulties, including an extreme shortfall of funds, these projects have remained unaddressed since the storm. Four (4) of the projects identified in this Action Plan Amendment address either the repair, replacement, or

introduction of bulkheads. Others, such as the inspection and replacement of check valves, may result in planning activities. All projects include mitigation efforts and are described below in the order of priority. The State will use the funds allocated to this program to complete as many of the following projects as possible based on the priority and feasibility. To the extent that certain projects are unable to reach completion before the expenditure deadline, data gathering, studies, analysis and preparation of plans, as well as the identification of actions to implement those plans remain eligible as planning activities.

Protection of previous and ongoing CDBG-DR investment

By allocating \$20 million in CDBG-DR funds for infrastructure and public facilities projects, the State is protecting the investment already made in public and private projects in Atlantic City. The State has invested almost \$100 million in CDBG-DR funds to restore the housing stock in the City. Projects such as stabilizing bulkheads will serve to protect these homes and other investments made by the State. In addition, the State has made a significant investment in the Atlantic City community, both in government and business, including nearly \$7 million in CDBG-DR funds to rebuild small businesses. The allocation of \$20 million for recovery and future resiliency and mitigation in the largest City at the Jersey Shore will protect investments already made and fortify the City to attract future investment.

Table 2: Previous CDBG-DR Investment in Atlantic City	
Program	Activity Previous Allocation
Fund for the Restoration of Multifamily Housing/Sandy Special Needs Housing Fund	\$39,653,310
RREM	\$44,691,830
LMI	\$3,060,967
Landlord Repair Program	\$4,072,145
Small Business Grants	\$1,874,607
Small Business Loans	\$5,060,145
Total	\$98,413,004

Atlantic City Resilience Program Project Summaries

Lower Chelsea Bulkhead Replacement

This project is the City’s highest priority, proposing to replace existing bulkheads on long stretches of the City’s Back Bay, west of Albany Avenue, with new elevated bulkheads to prevent damage by flood inundation and wave-overtopping. These bulkheads will complete a Bayfront protection network stretching from the Atlantic City Expressway to the City’s border with Ventnor.

Gardner’s Basin Park Bulkhead Stabilization and Dredging

Gardner’s Basin is a unique waterfront neighborhood in the City. It is home to waterfront dining, shopping, marinas, the Aquarium, and other water-dependent uses. A significant section of the bulkhead is collapsing into the water, which presents environmental and pedestrian risks and contributes to regular flooding. Stormwater outlet pipes have also been

submerged under layers of mud over time. This project includes dredging to enable stormwater drainage.

South Boulevard Bulkheads

While the provision of bulkheads in this project is relatively small in scope, these sections of waterfront on South Boulevard in Chelsea Heights do not have bulkheads and are subject to regular flooding at high-tide, which is causing significant erosion.

Ducktown-Chelsea Bayfront Bulkhead Replacement

The Ducktown-Chelsea Bayfront is the most densely populated, low-elevation area of the City. Even a minor surge event brings street flooding to the neighborhood. The bayfront neighborhood contains many older rowhomes that experienced significant damage during Sandy. Although some of these older structures are being replaced or elevated, the neighborhood's viability is threatened by the lack of floodwalls and bulkheads in some waterfront sections and undersized bulkheads in others.

Properties in the vicinity of Sunset Avenue are predominately residential with some interspersed commercial and recreational structures. The bulkheads that currently exist along the back bay are discontinuous. In 2014 the U.S. Army Corps of Engineers completed a Federal Interest Determination for the portion of the bulkhead system along Sunset Avenue. The new bulkhead system would be at least 8 feet NAVD88 and is expected to protect the area against 50-year flood conditions.

Inspection and Replacement of Check Valves along the Bay

To mitigate the impacts from tidal flooding, the City has historically installed check valves to prevent the backflow of the tidal waters into the City's stormwater system. In the back-bay area there are over 100 outflow pipes outfitted with check valves. In recent years the City has observed an increasing amount of flooding in drainage areas that utilize these valves, at or near their points of discharge. Malfunctioning and/or broken check valves are the primary culprit. The City will use CDBG-DR funds to inspect the check valves, evaluate the impact from malfunctioning valves and analyze the need for additional valves where they are not now used. Subsequent to the inspection and evaluation, the malfunctioning check valves will be replaced, and additional valves installed as deemed necessary during the inspection process.

Public Building Dry Floodproofing

Atlantic City's City Hall, including the emergency generators on the first floor, is not flood-proofed. City Hall is home to the 9-1-1 dispatch system that coordinates all emergency services in the City, so the dispatch system is also vulnerable in a flood event (as described in *The New York Times* article). Ensuring that the dispatch system is always operable, particularly during times of flooding, will help ensure the City's resiliency.

Flood waters also damaged the All Wars Building. The installation of temporary steel flood walls at each door will mitigate flood damage from future storm events.

Traffic Signal Upgrades

Traffic signals in 27 locations throughout the City (including Ducktown, Chelsea, and the Inlet) need to be replaced due to damage sustained from Sandy.

Administration of the Program

Upon HUD's approval of this Action Plan Amendment, DCA shall execute a subrecipient agreement with Atlantic City and partnering authorities such as the Casino Reinvestment Development Authority if necessary, to ensure completion of these projects by 2022. The administration of the Program will be a joint effort between Atlantic City and DCA. DCA will take an active role in program management, working directly with City officials and staff in a collaborative and coordinated fashion. DCA will retain the decision-making authority for each project. Consequently, DCA will require a physical presence in the City, and will work closely with City officials and partnering authorities to ensure completion of these projects by 2022.

DCA expects to hire a construction management firm to oversee the projects by utilizing an existing construction management contract procured by the State for Rebuild by Design. All projects will need an environmental assessment to comply with the federal environmental requirements prior to any release of funds for engineering and construction. All State procurement rules will be followed to ensure that each project remains eligible for CDBG-DR funding. Prior to the submission of their quotes for construction management, construction management bidders will be required to attend a pre-bid conference to connect with women, minority and veteran-owned businesses and members of the local workforce who could assist the bidders with their Section 3 compliance.

Allocation for Activity: \$20 million. Funding will be allocated based on priority, up to the stated amount.

Eligibility: HCDA Section 105(a)(2); (a)(12); (a)(14)

Projected National Objective: 80% LMI Area Benefit, 20% Urgent Need

Blue Acres Buyout Program Needs Assessment

Overseen by the Department of Environmental Protection (DEP), the Blue Acres Buyout program offers voluntary buyouts to property owners in a floodway, a flood-prone area, or an area that has sustained severe repetitive loss to remove residents from harm's way and create permanent open space.

It has become apparent that funds were over-allocated to the Blue Acres Buyout Program. As a result, given an expenditure deadline of September 2022, the Program is unable to expand to new communities. Reallocating funding from the Blue Acres Buyout Program does not impact the State's ability to fund its existing commitments to those communities interested in buyouts. The State will continue to re-evaluate the budget for the Blue Acres Buyout Program as the State completes buyouts in identified repetitive flooding communities.

SECTION 3: CLARIFICATIONS

Creation of a Special Revolving Loan Fund

DCA proposes to direct all future program income into a Special Purpose Revolving Loan fund which will be dedicated for several purposes. This Special Purpose Revolving Loan fund will provide funding for new mitigation and resilience efforts leading up to and following the federal expenditure deadline of September 2022. Federally required activities associated with our Action Plan including, but not limited to, audit, monitoring, project closeout and record retention will continue well beyond September 2022. Setting aside program income for eligible program support activities post-2022 allows the State to maintain the necessary personnel through closeout, conclude administrative activities and support other eligible program activities, such as mitigation and planning. This funding will remain subject to the rules and requirements governing CDBG-DR funds. This will not affect the program income generated by existing revolving loan funds, which will continue to revolve in those funding streams.

Clarification of the Substantial Amendment Threshold

In the March 5, 2013 Federal Register Notice, HUD established the criteria for substantial amendments to action plans for disaster recovery, including among them that an allocation or re-allocation of more than \$1 million would constitute a substantial amendment. However, recognizing that Grantees under Public Law 113-2 are nearing the end of their recovery programs and will require more flexibility in re-allocations, the Department updated their criteria to allow the State to establish a reasonable threshold for substantial amendments. Therefore, in accordance with [84 FR 4386 \(February 29, 2019\)](#), the State is setting that threshold at \$10 million. In doing so, the State has seriously considered its obligation of transparency. The State will continue to post on its website all amendments detailing re-allocations, including those under \$10 million, prior to HUD's approval. This change will allow the State to disburse reallocated funds (under \$10 million) without the delay required by the substantial amendment process, which can take up to 90 days. The State is confident that setting the threshold at \$10 million allows the maximum amount of transparency, while ensuring that funds are directed to the places where they are needed without delay.

SECTION 4: PUBLIC COMMENTS/RESPONSES

As required by HUD, this proposed Substantial Amendment was made available for public comment over a period of thirty (30) days. Written public comments were submitted to the Department of Community Affairs via email at sandy.publiccomment@dca.nj.gov or via regular mail to the attention of Lisa Ryan, Sandy Recovery Division, NJ Department of Community Affairs, 101 South Broad Street, P.O. Box 823, Trenton, NJ 08625. The State also solicited public comments at a public hearing held on November 26, 2019 from 5 p.m. to 7 p.m. in Atlantic City, New Jersey.

The State reviewed the public comments provided during the comment period. All comments received equal consideration regardless of whether they were submitted by email, U.S. mail, or in person at the public hearing. Per HUD guidelines, the State has synthesized the public comments received through this process. The comments and written responses prepared by the State are provided below.

COMMENT 1

SUPPORT FOR ACTION PLAN AMENDMENT NO. 35

Commenters expressed support for Action Plan Amendment No. 35, specifically the proposals to create a Special Purpose Revolving Loan Fund for the purpose of supporting ongoing and future storm mitigation efforts in communities statewide and to establish the Atlantic City Resilience Program to repair and replace infrastructure and public facilities in Atlantic City that sustained damage due to Superstorm Sandy. Commenters articulated that New Jersey is “ground zero” for sea level rise and reported that they and many of their neighbors experience frequent flooding on their properties, some as regularly as once a month. In particular, one commenter, citing research from the First Street Foundation, a non-profit group working to define the nation’s flood risk, stated that Atlantic City is at risk from the highest annual tidal flood, which could lead to property ratable losses that would negatively impact the city’s budget. The commenters, including Atlantic City Mayor Marty Small and Atlantic City City Council, said that Action Plan Amendment No. 35 will help Sandy survivors avoid future flooding, better prepare communities for disaster, reduce Atlantic City’s vulnerability to flooding, and attract new investment to Atlantic City, thereby generating more tax revenue for additional resilience infrastructure in the city.

Staff Response:

DCA appreciates the commenters’ support for Action Plan Amendment No. 35.

COMMENT 2

SUPPORT FOR SPECIAL PURPOSE REVOLVING LOAN FUND

A commenter expressed strong support for the State's proposal to establish a Special Purpose Revolving Loan Fund, stating that revolving loan funds have become a reliable vehicle to finance projects that are critical to public well-being. The commenter, providing several examples, noted that some revolving loan funds are supporting efforts to address climate change and fortify infrastructure against severe weather events such as Superstorm Sandy.

Staff Response:

DCA appreciates the commenter's support for the Special Purpose Revolving Loan Fund.

COMMENT 3

STOP PROVIDING MONEY TO ATLANTIC CITY

Commenters stated that Superstorm Sandy survivors' recovery efforts could be curtailed if the State of New Jersey allocates CDBG-DR funding to Atlantic City. They contended that CDBG-DR funding has already been earmarked and should be spent where it was appropriated. They also expressed that Atlantic City has a history of financial mismanagement and political corruption and suggested the State stop providing the City with financial assistance and other resources.

Staff Response:

As indicated in Action Plan Amendment No. 35, the transfer of CDBG-DR funds to create the Atlantic City Resilience Program would not affect any existing CDBG-DR funding commitment to any individual, business, community, or project. A major purpose of CDBG-DR funding is to assist disaster-impacted communities with recovery and to help them better prepare for and protect themselves against future disasters. The Atlantic City Resilience Program meets these criteria. Additionally, the federal regulations that govern CDBG-DR funding provide states with considerable flexibility in utilizing the funding, as well as the ability to amend how the funding is allocated.

The administration of the Atlantic City Resilience Program will be a joint effort between DCA and Atlantic City, with DCA retaining the decision-making authority for each project. DCA will work closely with City officials to ensure the projects are completed by the federal expenditure deadline of September 2022. By allocating CDBG-DR funds to these Atlantic City projects, the State is protecting a more than \$100 million investment it has already made in the city in restoring homes and rebuilding small businesses damaged by Superstorm Sandy.

COMMENT 4

SUPPORT FOR BLUE ACRES BUYOUT PROGRAM

A commenter expressed support for the Blue Acres Buyout Program, describing it as the only storm recovery initiative that “makes sense” and worth investing in as climate change brings “inevitable consequences” to New Jersey’s natural environmental.

Staff Response:

The Blue Acres Buyout Program, which is partly funded with CDBG-DR monies, helps New Jersey homeowners move out of harm’s way by giving them the option to sell Sandy-damaged, and other repeatedly flooded, homes, at pre-storm value to the State. Blue Acres is a voluntary program that requires the willing participation of homeowners, as well as local governments, since the program initially results in a decrease of property ratables for communities. The State seeks to buy clusters of homes or entire neighborhoods where, once the homes are demolished, the open space serves as a buffer to help absorb water during flood events. The parcels are permanently preserved as open space that is accessible to the public for passive recreation or conservation purposes. To date, Blue Acres has secured funding to buy approximately 1,160 properties across the state, has made offers on more than 1,000 homes, closed on more than 700, and demolished more than 650 in flood zones across New Jersey.

The State may not be able to spend the CDBG-DR funding allocated to Blue Acres by the federal expenditure deadline of September 2022 should money not be reallocated elsewhere.

COMMENT 5

SUBSTANTIAL AMENDMENT THRESHOLD

A commenter was concerned that the State’s proposal to change the substantial amendment threshold amount from \$1 million to \$10 million would make it easier for the State to improperly allocate CDBG-DR funding in the future. The commenter said this type of activity has negatively impacted the state pension system.

Staff Response:

The CDBG-DR program is a federal program funded entirely with federal monies. Because CDBG-DR is a federally-funded program, it has no impact on the State of New Jersey pension system, which is funded with state dollars and state worker contributions.

As indicated in Action Plan Amendment No. 35, the U.S. Department of Housing and Urban Development (HUD) recognizes that Sandy-impacted states are nearing the end of their recovery programs and require more flexibility in re-allocating CDBG-DR funding. Therefore, HUD updated its criteria to allow New Jersey to establish a reasonable threshold for substantial amendments. The State is confident that its proposal to set the threshold at \$10

million allows the maximum amount of transparency, while ensuring that CDBG-DR funds are directed to the places where they are needed without delay.

COMMENT 6

RECOUPMENT OF GRANT FUNDING

A commenter stated DCA should not recoup CDBG-DR grants from homeowners in the Reconstruction, Rehabilitation, Elevation and Mitigation (RREM) Program and the Low- to Moderate-Income (LMI) Homeowners Rebuilding Program. The commenter expressed the grant money should stay with the people who need it and who followed the guidance of program housing advisors instead of forcing them to return grant funding and face “near bankruptcy.”

Staff Response:

The Robert T. Stafford Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 et seq.) commonly referred to as the “Stafford Act,” dictates that CDBG-DR funding provided to individuals to help them rebuild a primary residence after a disaster must be awarded based on a Duplication of Benefits (DOB) analysis that takes into account any money a person has received to repair their damaged home, including insurance, FEMA assistance, and SBA loans. As required by federal law, the State has conducted a DOB analysis for every homeowner participating in the RREM Program and LMI Program. If at any point the State determines a homeowner has received more CDBG-DR funding than they are entitled to receive under the Stafford Act, the State is legally obligated to recoup these excess funds. The State is reviewing its current grant reconciliation policy for the RREM Program and LMI Program, in association with the applicable federal laws and guidelines, to ensure that Sandy-impacted homeowners are not unfairly burdened by requests to return grant funds.

COMMENT 7

CONTRACTOR FRAUD

A commenter asked the State to help Sandy-impacted homeowners who are victims of contractor fraud.

Staff Response:

In order to help homeowners in the RREM Program and LMI Program withstand instances of contractor fraud, DCA created and instituted a policy that permits additional assistance to defrauded homeowners. Under the policy, if a RREM or LMI Program homeowner believes they have been defrauded by a contractor, they should immediately file a complaint with a law enforcement agency to report the allegation of fraud. If the law enforcement agency finds evidence of fraud, they file a charging document such as an arrest warrant, a criminal complaint, an indictment, or a civil or administrative complaint. As soon as a charging

document is filed, the RREM or LMI Program homeowner may avail themselves of additional grant funds without having to wait for the courts to adjudicate.

COMMENT 8

RENTAL ASSISTANCE

A commenter asked the State to help Sandy-impacted homeowners who are still rebuilding their primary home with rental assistance.

Staff Response:

The State can provide up to 40 months of temporary rental assistance to eligible RREM and LMI Program homeowners who are displaced from their homes as a result of construction. Pursuant to federal regulations, the Rental Assistance Program (RAP) had to stop accepting new applications on December 31, 2017.

COMMENT 9

SUPPLEMENTAL FUND

A commenter asked the State not to cap the amount of grant funding a homeowner in the RREM Program or LMI Program needs to finish rebuilding their primary home.

Staff Response:

In 2019, DCA created a Supplemental Fund for homeowners in the RREM Program and the LMI Program who have a program-calculated unmet need and who have yet to complete construction. Eligible homeowners in the RREM and LMI programs can now receive CDBG-DR funding beyond the \$150,000 grant award cap. DCA continues to review and make Supplemental Fund awards on an ongoing basis.