

New Jersey Department of Community Affairs

SUPERSTORM SANDY COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER RECOVERY

Public Law 113-2; January 29, 2013

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

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

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



ACTION PLAN AMENDMENT NUMBER 12 SUBSTANTIAL AMENDMENT FOR THE THIRD ALLOCATION OF CDBG-DR FUNDS: REBUILD BY DESIGN

PUBLIC COMMENT PERIOD: December 16, 2014 – January 15, 2015

DATE SUBMITTED TO HUD: April 10, 2015

DATE APPROVED BY HUD: April 20, 2015

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Charles A. Richman
Acting Commissioner





**EQUAL HOUSING
OPPORTUNITY**

This Substantial Amendment to the Action Plan (as proposed) was made available for public review at www.state.nj.us/dca/. It was made available in English and Spanish.

For those who otherwise cannot obtain a copy of this Substantial Amendment to the Action Plan, the Department of Community Affairs will make copies available upon request. Requests for copies should be directed to the following address:

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

The State considered all comments received in writing or via email on the proposed Substantial Amendment to the Action Plan. Comments on the proposed Plan were accepted through January 15, 2014 at 5 p.m., Eastern Standard Time. Written comments were submitted to the Department of Community Affairs via email at sandy.publiccomment@dca.nj.gov, or to the attention of Jamie Saults, NJ Department of Community Affairs, 101 South Broad Street, Post Office Box 823, Trenton, New Jersey 08625-0823. Comments also were received orally at the public hearings, described below. A summary of all comments received and written responses is included in this final version of this Substantial Amendment submitted to HUD for approval.

While HUD requires that the State hold at least one public hearing on the proposed Action Plan Amendment, the State held two public hearings. The dates, locations and times of the hearings were:

- January 6, 2015: Ocean County College, Jay and Linda Grunin Center for the Performing Arts, 1 College Drive, Building 12, Toms River, New Jersey, 08753 (4-7 pm)
- January 7, 2015: Bergen Community College, Moses Center, 400 Paramus Road, Paramus, New Jersey 07652 (4-7 pm)

The State has synthesized and responded to the comments it received in this final version of this Action Plan Amendment submitted to HUD for approval.

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SECTION 1: INTRODUCTION

President Obama’s Hurricane Sandy Rebuilding Task Force created the Rebuild by Design competition (RBD) in the summer of 2013 to develop ideas to improve physical, ecological and economic resilience in regions affected by Superstorm Sandy. The competition has two goals: to promote innovation by developing flexible solutions that would increase regional resilience, and to implement proposals with both public and private funding dedicated to the RBD effort. To realize the RBD initiative, HUD Community Development Block Grant – Disaster Recovery (CDBG-DR) funds allocated through the federal Sandy Supplemental legislation were set aside by HUD to develop and incentivize implementation of RBD projects.

Multi-disciplinary teams made up of architects, designers, planners and engineers were engaged by HUD and charged with proposing regional and community-based projects that would promote resilience in various Sandy-affected areas. The teams included experts and thought-leaders from around the world. The teams’ proposals, developed with and by the communities where projects were focused, were submitted to HUD, and HUD ultimately selected six “winning” projects.

Two New Jersey projects received funding: one focused in the Hudson River region (allocated \$230 million by HUD) and the other in the Meadowlands region (allocated \$150 million by HUD). Both projects are described in detail below. Comprehensive information about the RBD process and the winning projects also is available on the RBD website (www.rebuildbydesign.org), accessible [here](#).

The State is committed to implementing the Rebuild by Design projects as set forth in the RBD teams’ proposals. Should financial, technical or other issues arise in connection with a project, adjustments may need to be made.

Substantial Amendment to the Action Plan

On October 16, 2014, HUD issued Federal Register Notice FR-5696-N-11 (effective October 21, 2014) which allocated \$881,909,000 of third round CDBG-DR funds to New Jersey. Of that total, \$380 million is for the two RBD projects. The allocation of the remaining \$501,909,000 is set forth in Action Plan Amendment No. 11.

Pursuant to FR-5696-N-11, in order to access the third round CDBG-DR funds allocated for the New Jersey RBD projects, the State must prepare a Substantial Amendment to its CDBG-DR Action Plan. In this Substantial Amendment:

- Section 2 sets forth descriptions of the two RBD projects, and is specifically responsive to the “RBD Project Description,” “Implementation Partnership

for RBD Project” and “Identification of Leveraged or Reasonably Anticipated Funds for RBD Project” requirements in Section VI of FR-5696-N-11;

- Section 3 sets forth the Performance Schedule for the RBD projects and is specifically responsive to the “RBD Project Timeline” requirements in Section VI of FR-5696-N-11; and
- Section 4 sets forth the citizen participation and outreach process for New Jersey’s RBD projects, and is specifically responsive to the “Citizen Participation Plan for RBD Project” requirements in Section VI of FR-5696-N-11.

At this time in the process, providing a “project description” beyond the RBD proposals as submitted, identifying other funding sources, and estimating project timelines and the roles of partners in the project is premature. The State therefore will address all HUD requirements for this amendment in FR-5696-N-11 to the extent practical.

Finally, to the extent required in order to ensure that RBD funding is used in compliance with applicable federal and state laws and regulations, the State incorporates here all applicable provisions of its CDBG-DR Action Plan, including provisions of Section 6 of the Action Plan applicable to RBD initiatives, as modified by Amendments 1 – 10.

SECTION 2: RBD PROJECTS

Section VI of FR-5696-N-11 sets forth requirements for information that must appear in an Action Plan Amendment in order to access CDBG-DR funds for RBD projects. Among other things, the Federal Register Notice requires a general description of: the proposed RBD Project to be designed and implemented; the feasibility and effectiveness in protecting against future severe weather events; the use of funds dedicated for planning, pre-development and project construction; and other funding that might be brought to bear to realize the RBD project. The Amendment also must identify the state agency responsible for implementing the RBD projects (which, for New Jersey, will be the Department of Environmental Protection) and describe the roles of partners involved in realizing the project. This Section addresses the Federal Register Notice requirements for each of New Jersey's RBD projects.

Additionally, per Section (VII)(a) of FR-5696-N-11, as a result of the RBD competition process, the two New Jersey RBD projects are already deemed to have satisfied the following requirements for infrastructure projects set forth in FR-5696-N-06:

- The definition of infrastructure projects and related infrastructure projects under Section VI(b)(1) of FR-5696-N-06;
- The requirement for impact and unmet needs assessments and the comprehensive risk analysis under Section VI(c) and VI(d) of FR-5696-N-06;
- The process required for the selection and design of green infrastructure projects or activities under Section VI(f) of FR-5696-N-06; and
- The additional requirements for major infrastructure projects under Section VI(g) of FR-5696-N-06.

Any additional, applicable requirements for infrastructure projects set forth in FR-5696-N-06 that are not, through the language of FR-5696-N-11, already deemed satisfied by HUD will be addressed in connection with each RBD project. Also, while the unmet needs assessment component, including outreach for that assessment, and the comprehensive risk analysis requirements both have been deemed satisfied for purposes of preparing this Amendment, ongoing stakeholder outreach throughout the process and risk analyses will continue to be an important component of RBD projects going forward.

2.1 Managing State Agency and Partner Entities

The New Jersey Department of Environmental Protection (DEP) will be the state agency responsible for overseeing and implementing both RBD initiatives. The New Jersey Department of Community Affairs (DCA), as the State's Grantee for CDBG-DR funds from HUD, will transfer CDBG-DR funding for RBD projects to DEP under a Memorandum of Understanding, and DEP will administer those funds.

DEP was chosen as the RBD managing state agency for a number of reasons. DEP has staff experienced in the planning, permitting, design and construction of flood risk reduction projects as well as other large construction projects including wetland enhancement, landfill closure, park development, site remediation, etc. Information about DEP's experience with various types of environmental issues and projects is available on its website at <http://www.state.nj.us/dep/>. DEP also has the ability to work with the Department of Treasury to release Requests for Proposals (RFPs) to hire engineering firms to complete project feasibility and design services, as well as construction bid package development and construction oversight. The Department of Treasury would also work cooperatively with DEP and its partners to solicit bids for actual project construction. DEP, Treasury and the design contractor will oversee project construction to ensure adherence to plans, specifications, permits and all other State and Federal requirements.

As further confirmation of DEP's abilities, DEP has a long history of successful coordination with the U.S. Army Corps of Engineers (USACE) on flood control projects and has the expertise to work with hired consultants to prepare applications and obtain all necessary State and Federal approvals and permits (e.g., NJDOT; NJ Transit; Landfill Disruption; Site Remediation; Soil Reuse, Historic Preservation; Fish & Wildlife, Green Acres) that may be required for federal flood protection projects. As part of this process DEP frequently conducts field reconnaissance and surveys with the USACE, as necessary, in the planning and construction of flood risk reduction projects. DEP reviews the economic analyses and engineering designs including hydrologic, hydraulic, structural reports and, construction plans and technical specification documents. In addition to the work DEP conducts with the USACE, DEP is also responsible for statewide flood control projects and dam restoration loans under the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003", P.L. 2003 C.162, which provided \$25 million for grants to implement state and local flood control projects and \$100 million for dam restoration loans.

Regarding administrative capacity, following Superstorm Sandy the Christie Administration created a new Office of Flood Hazard Risk Reduction Measures

within DEP. The purpose of the Office dovetails directly with the intent of both RBD initiatives. As the design phase of the RBD projects gets underway, and all the way through implementation, DEP will routinely assess its own staffing needs and, if additional staffing is required, will use program delivery funds to bring on resources to meet needs (subject to applicable federal laws and regulations on the permissible use of CDBG-DR funds). The Office also will be ultimately responsible for monitoring and evaluating the efficacy and sustainability of RBD projects, as described below, and will add staffing or resources as required in order to perform this function in a manner compliant with Section VII(a)(iv) of FR-5696-N-11.

While DEP will be the primary agency involved in designing and implementing the RBD projects, it will not be the only relevant State agency. Others include:

- **NJ Transit.** NJ Transit received significant funding from the Federal Transit Authority (FTA) to fill Long Slip Canal, which will block some of the storm surge coming from the Hudson River near the south end of the RBD project area. While this project was coordinated with the RBD team, it is funded with FTA funds and is a wholly separate (and separately funded) project from Rebuild by Design. Ongoing coordination will be required to ensure that the projects yield an integrated coastal protection system.
- **Meadowlands Regional Commission.** Formerly the New Jersey Meadowlands Commission, the Meadowlands Regional Commission's regulatory authority in the RBD project area should make the Commission an important partner in realizing an RBD project that complies with all applicable laws and regulations.
- **Department of Treasury/Office of State Comptroller.** DEP will need to work closely with these two agencies in order to procure services and materials needed to realize the RBD projects. The State procurement process is a necessary condition of ensuring cost reasonableness and complying with federal and state law, but compliance also adds significant time to projects.

Municipal governments in RBD project areas also will have critical roles to play in realizing RBD projects.

- An Executive Steering Committee will be established with State and municipal representatives to share information and provide input throughout all phases of the RBD projects, from feasibility through construction. Other critical governmental entities (e.g., North Hudson Sewerage Authority for the Hudson River project) will be incorporated into this committee. Among other things, this Committee will advise on the direction of the project, policy issues that arise in connection with the

projects, as well as issues raised up to the Committee by the Project Management Team working with the Project Development Team.

- The Project Management Team (PMT) and the Project Development Team (PDT) will work together on the day-to-day issues that arise in connection with the RBD projects. Any issues that cannot be addressed at this level will be synthesized and raised to the Executive Steering Committee for discussion. This integrated approach of a PMT and PDT will include DEP representatives and designees from the municipalities, and may also include designees from other Executive Steering Committee partners, as well as consultants (as necessary, which will be a subject for the Executive Steering Committee).
- A number of smaller teams will support the integrated PMT and PDT on issues specific to the RBD projects. These include such issues as: information technology; engineering/design/build; procurement; and stakeholder outreach. Outside resources likely will need to be retained to comprise or supplement these teams, though those specific decisions are items to be addressed by the Executive Steering Committee.

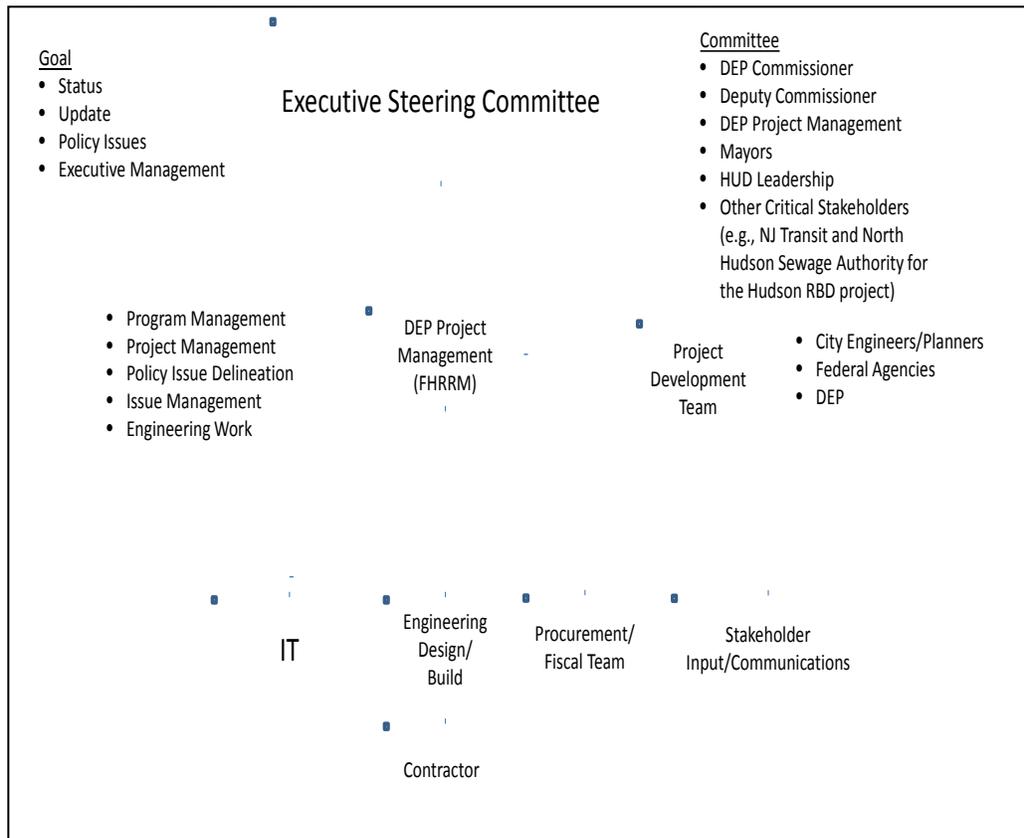
Additionally, in the permitting and design phases of RBD projects, among other things, RBD projects will trigger local zoning and land use regulations that fall within the municipal purview, provided that the regulations are not inconsistent with state law.

In short, throughout all phases of the project, Executive Steering Committee members will have both a voice and input into the RBD process, though to be clear the Executive Steering Committee is advisory, and all final project determinations will rest with DEP as the recipient of CDBG-DR funds for RBD projects and the agency responsible for implementation.

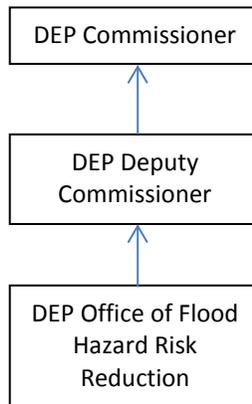
Additional entities, including stakeholder groups or entities that may be able to provide additional private financing to enhance the RBD initiatives, also may be included in the RBD partnership, though private entities will not be permitted to become members of the Executive Steering Committee. Importantly, ways to bring additional financing, including private financing, to support the projects, will be explored, but at this time it is premature to estimate how much, if any, additional financing might become available for either project, or the sources of such funding.

The chart below shows the Advisory Structure and the Decision-Making Structure for each RBD Project. In the Advisory Structure, the bullet points on either side of the Executive Steering Committee reflect the goals and list the participants of that Committee. The remaining bullet points show the composition of DEP Project Management (on left) and the Project Development Team (on right).

Rebuild By Design Organizational Chart: Advisory Structure



Rebuild By Design Organizational Chart: Decision-Making Structure*



* Advice from the Executive Steering Committees will be considered by FHRM and reported up to the Commissioner who has final decision-making authority. The Commissioner also chairs the Executive Steering Committees and will be directly informed of the Committee's advice. To be clear, FHRM's role in the Advisory Structure is primarily a staffing function to facilitate the synthesis and transmission of issues and considerations to the Executive Steering Committee for input. Separate from its role in facilitating the Executive Steering Committee's advisory role, FHRM also will be involved in DEP's RBD decision-making process, which includes evaluating the input provided through the advisory structure.

2.2 New Meadowlands Project

The “New Meadowlands” project proposes an integrated vision of protecting, connecting and growing the Meadowlands. Integrating transportation, ecology and development, the project aims to transform the Meadowlands to address a wide spectrum of risks while providing civic amenities and creating opportunities for new redevelopment.

The project as proposed consists of two principle pieces of new infrastructure: the “Meadowpark” and the “Meadowband.” The Meadowpark is a large natural reserve made accessible to the public that will also offer flood risk reduction. It would connect and expand marshland restoration efforts. Around and across the Meadowpark, the team proposes an intricate system of berms and marshes. These will protect against ocean surges and collect rainfall, reducing sewer overflows in adjacent towns. The Meadowband, a raised berm that could potentially include transportation across the top, lies at the edge of the Meadowpark. It offers flood protection, connections between towns and wetlands, and will provide opportunities for towns to grow.

The RBD team’s final submission to HUD for the New Meadowlands project is available online [here](#). It includes an extensive narrative description of the project, conceptual project renderings, a flood risk assessment and a benefit-cost analysis, among other things. Due to funding limitations, CDBG-DR funds are to be used to implement the first phase of the proposal in Pilot Area #1, which includes Little Ferry, Moonachie, Carlstadt, South Hackensack and Teterboro.

The results from the planning, feasibility and design phases, among other things, will yield a work product that addresses what, if any, additional funding sources are available for the project, the components of the project available funding is sufficient to address, the efficacy and sustainability of the final project design, incorporating such analyses as the NOAA Sea Level Rise tool, and also how that final project will meet the resilience performance standards requirements in Section VI(2)(e) of the November 2013 Federal Register Notice (FR-5696-N-06). Similarly, once planning and feasibility studies are complete, DEP and its partners will be in a position to determine, in connection with the design phase, how the project will be monitored in order to evaluate efficacy and sustainability. This Action Plan Amendment will be updated following completion of the draft Environmental Impact Statement to reflect how these requirements will be satisfied.

Allocation for Activity: \$150,000,000. Up to \$7.5 million of this allocation may be used for administrative costs.

Eligibility for CDBG-DR: Notice FR-5696-N-11(VII)(b) (Rebuild by Design).

National Objective: The National Objective for this project will be LMI and/or Urgent Need. Moreover, FR-5696-N-11 allows the State to “categorize the [RBD] project into multiple activities in order to distinguish and classify expenditures as benefitting [LMI] populations, as a means of meeting the overall benefit requirement.” As described above, the State does not yet know the scope of this RBD project and therefore is not positioned to designate what components may potentially be classified as meeting the LMI national objective. As a result, the State avails itself of the option to characterize activities within this project as either meeting the LMI national objective or the Urgent Need national objective (or characterizing an entire project as LMI, if appropriate under HUD regulations), at least so long as funding provided for RBD projects continues to be counted toward the State’s overall LMI benefit requirement.

2.3 Hudson River Project: Resist, Delay, Store, Discharge

The Hudson River project, known as the “Resist, Delay, Store, Discharge” project, is a comprehensive urban water strategy that would deploy programmed hard infrastructure and soft landscape for coastal defense (resist); generate policy recommendations, guidelines and urban infrastructure to slow rainwater runoff (delay); develop a circuit of interconnected green infrastructure to store and direct excess rainwater (store); and deploy water pumps and alternative routes to support drainage (discharge). As proposed, a variety of flood risk reduction infrastructure will be built along the Hudson River in order to reduce flood waters, including at Weehawken Cove (to protect Hoboken, Weehawken and critical regional utilities) and by the Hoboken Ferry Terminal. Along Hoboken’s downtown thoroughfare, green infrastructure measures, such as permeable paving and rain gardens, would help manage the city’s surface water and reduce the risk of flash flooding from rain while enhancing the cityscape. Along NJ Transit’s Hudson-Bergen Light Rail, otherwise discrete rainwater storage initiatives would be connected to make a “green circuit.” This system would serve as the foundations of a parallel green drainage infrastructure that would reduce the risk of flash flooding from rain, filtering and cleaning storm water and serving as a park for the community.

The RBD team’s final submission to HUD for the Hudson River project is available online [here](#). It includes a narrative description of the project, conceptual project renderings, a flood risk assessment and a benefit-cost analysis, among other things. Additionally, the RBD team’s estimate of project costs, as reflected in the project submission, is as follows:

OMA's Summary of First Phase Cost Estimates	
Phase 1 Project Components	Costs (Millions)
Capital	~\$470 (excluding O&M)
Hard Costs	\$220
Hoboken Terminal	\$90
Weehawken Cove	\$120
Other Coastal Defenses	\$10
Soft Costs	\$53
Master Plan and Technical Studies	\$20
Coastal Defense Soft Costs	\$33
Contingency	\$51
Hard & Soft Costs of Partner Projects	\$149
Long Slip Canal and NJ Transit Resiliency	\$100
PATH Train Resiliency	\$10
New Pumping Station	\$12
Block 12 Storage Park	\$3
Green Infrastructure Land Acquisition	\$20
"Program Layer" Demonstration Projects	\$2
Green Infrastructure Demonstration Projects	\$2
Operations & Maintenance	\$7.8
Annual Programming Costs	0.5
Annual Maintenance Costs	\$7.3
* These cost estimates will be further evaluated as part of the project feasibility and design phases. As HUD states in the Federal Register Notice as to all RBD approved projects "modification [to RBD projects as proposed] may be necessary in response to the amount of funding ultimately secured" for RBD projects.	

As stated above, the New Jersey Transit Long Slip Canal project is separately funded through Federal Transit Authority monies and is a separate project from Rebuild by Design. OMA incorporated it into the above list to indicate that the projects should be integrated as part of a coastal defense strategy, but RBD and the Long Slip Canal are separate projects. Additionally, the City of Hoboken is taking steps to address some of the above components with its own funds.

The results from the planning, feasibility and design phases of this project, among other things, will yield a work product that addresses what, if any, additional funding sources are available for the project, the components of the project available funding is sufficient to address, the efficacy and sustainability of the final project design, incorporating such analyses as the NOAA Sea Level Rise tool, and also how that final project will meet the resilience performance standards requirements in Section VI(2)(e) of the November 2013 Federal Register Notice (FR-5696-N-06). Similarly, once planning and feasibility studies are complete, DEP and its partners will be in a position to determine, in connection with the design phase, how the project will be monitored in order to evaluate efficacy and sustainability. This Action Plan Amendment will be updated following completion of the draft Environmental Impact Statement to reflect how these requirements will be satisfied.

Allocation for Activity: \$230,000,000. Up to \$11.5 million of this allocation may be used for administrative costs.

Eligibility for CDBG-DR: Notice FR-5696-N-11(VII)(b) (Rebuild by Design)

National Objective: The National Objective for this project will be LMI and/or Urgent Need. Moreover, FR-5696-N-11 allows the State to “categorize the [RBD] project into multiple activities in order to distinguish and classify expenditures as benefitting [LMI] populations, as a means of meeting the overall benefit requirement.” As described above, the State does not yet know the scope of this RBD project and therefore is not positioned to designate what components may potentially be classified as meeting the LMI national objective. As a result, the State avails itself of the option to characterize activities within this project as either meeting the LMI national objective or the Urgent Need national objective (or characterizing an entire project as LMI, if appropriate under HUD regulations), at least so long as funding provided for RBD projects continues to be counted toward the State’s overall LMI benefit requirement.

SECTION 3: PERFORMANCE SCHEDULE

Pursuant to 31 U.S.C. § 1552(a), even allowing for potential waivers of the two-year expenditure deadline in the Disaster Relief Act of 2013 (the “Act”) through the federal Office of Management and Budget (OMB), all CDBG-DR funds must be expended on or before September 30th of the fifth year following the statutory period of obligation. The statutory period for obligation under the Act ends on September 30, 2017, so even allowing for OMB waivers that permit expenditure beyond September 30, 2019, all CDBG-DR funds must be spent by September 30, 2022, and that date cannot be extended by OMB. While the State will endeavor to expend RBD funds in conformance with the current expenditure deadline under the Disaster Relief Act of 2013, the State will request permitted extensions for RBD projects as needed.

New Meadowlands Project

Preliminary Estimated Timeline and Budget (in \$ millions)

	2015	2016	2017	2018	2019	2020	2021	2022	Total
Planning / Feasibility	\$5	\$8	\$2						\$15
Design / Predevelopment		\$3	\$11	\$11	\$15				\$40
Site Development / Construction					\$5	\$30	\$30	\$30	\$95
Total	\$5	\$11	\$13	\$11	\$20	\$30	\$30	\$30	\$150

Hudson River Project

Preliminary Estimated Timeline and Budget (in \$ millions)

	2015	2016	2017	2018	2019	2020	2021	2022	Total
Planning / Feasibility	\$9	\$8	\$1						\$18
Design / Predevelopment		\$2	\$20	\$20	\$10				\$52
Site Development / Construction					\$20	\$50	\$50	\$40	\$160
Total	\$9	\$10	\$21	\$20	\$30	\$50	\$50	\$40	\$230

Given that the projects are only entering the feasibility phase, budget estimates and timeframes are very preliminary and rough estimates, which are subject to change. Such estimates are required by HUD for each RBD project, while the Department also recognizes that modifications are very likely to be necessary.

These estimates will be refined to be more accurate with the completion of the feasibility and design phases. Project timelines and budgets will be updated or verified accordingly and will also be reflected in the State’s subsequent Action Plan amendment to obligate construction funds following completion of the draft Environmental Impact Statement.

This overview of the four project phases includes but is not limited to the following:

3.1 Planning and Feasibility

- **Scope of work:** overall project/sub-component feasibility; identification of available and potential resources; project timeline; begin environmental review process; project scoping; critical issues/obstacles analysis; alternatives analysis; general cost-benefit analysis; bid packages for design phase; permit identification; Environmental Impact Statement (EIS) and Record of Decision (ROD); begin master planning process and community engagement/outreach; identification of necessary land acquisition and easements
- **Key tasks:** conduct data collection and analysis; evaluate overall project feasibility; assess and confirm feasibility of RBD team's conceptual design; create concept drawings; Publish Notice of Intent; develop purpose and need for project; develop scoping document; meet with stakeholders; identify necessary permits; prepare and publish Draft Environmental Impact Statement (DEIS); receive and respond to public comments; hold Public Hearings; draft and publish Final EIS (FEIS); draft and publish Record of Decision (ROD).identify environmental consequences, identify resources, identify and analyze critical issues/possible obstacles; identify necessary real estate/easements; develop more detailed timeline and budget estimates; analyze feasibility of sub-components as stand-alone projects; create Master Plan.
- **Key deliverables:** development of concept drawings; Draft EIS; Final EIS; ROD; list of necessary permits; master plan; general timeline and budget for project phases; general cost-benefit analysis; plan for addressing critical issues; development and issuance of bid packages for design and engineering services.

3.2 Design and Predevelopment

- **Scope of work:** development of engineering and design documents; real estate/easement acquisition; development of construction bid package; completion of environmental review process; issuance/approval of all necessary permits
- **Key tasks:** pursuit of identified financing/funding opportunities; draft engineering and design documents; develop construction bid packages; obtain necessary permits; obtain real estate/easements; identify and secure funding source and partners for operations and maintenance; identify long-term ownership entity/structure

- **Key deliverables:** concept drawings; completed engineering and design documents; filing and approval of all necessary permits; complete necessary easements and land acquisition, development and issuance of construction bid packages; complete procurement of construction services contract; detailed construction timeline and cost estimate; comprehensive cost-benefit analysis

3.3 Site Development and Construction

- **Scope of Work:** begin and complete site development and construction
- **Key Tasks:** prepare identified areas of site for construction phase on time and on budget, in accordance with plans and specifications. Build, on time and on budget, in accordance with plans and specifications.
- **Key Deliverables:** completed site development in areas required in order to begin construction; complete construction

3.4 Post Construction

- **Scope of work:** all ongoing operations, maintenance to ensure continued effectiveness of project components.
- **Key tasks:** create maintenance agreements
- **Key deliverables:** well-maintained project components; funding in place to ensure continued effectiveness of projects.

SECTION 4: OUTREACH AND PUBLIC COMMENT FOR RBD PROJECTS

DEP is committed to a robust community and stakeholder outreach process throughout the course of what will be a multi-year effort to realize the two New Jersey RBD projects.

DEP and its partners will hold an initial community meeting in each of the RBD project regions, where the projects and the Amendment will be discussed. The Hudson River project meeting was held on January 20, a few days after the first Executive Steering Committee meeting, and the Meadowlands project meeting is tentatively slated for late February, following the first Executive Steering Committee meeting in early February. Stakeholders will continue to be engaged during the feasibility, design, environmental review, pre-construction and construction project phases. As shown in the organizational chart in Section 2.1, a group reporting up to the Project Management Team and Project Development Team will be specifically focused on outreach. Moreover, for the environmental review component in particular, DEP will synch its outreach approach specifically to the public engagement requirements attendant to environmental impact studies.

Outreach efforts will engage vulnerable and underserved populations in RBD planning and decision-making process, as the RBD process begins and moves forward. DEP and its partners will look to engage with community organizations within the municipalities, among other things, to engage vulnerable and underserved populations regarding the Rebuild by Design projects.

To give effect to these project outreach components, for each RBD project there will be a dedicated sub-committee whose sole focus will be outreach, including identifying stakeholders and incorporating input from vulnerable populations in the RBD process. The composition of the sub-committee will be a topic of discussion for the Executive Steering Committees, and likely will include both state and local representatives. The outreach subcommittee will report up to the Executive Steering Committee through the Project Management Team. The organizational chart in Section 2.1 of this Amendment reflects this structure.

Once the sub-committee is established – that is, one for each RBD project – one of its first tasks will be to develop a comprehensive outreach plan that, among other things, identifies stakeholders, neighborhood leaders and vulnerable communities and describes how those groups will be engaged as part of the RBD process. The sub-committee will be expected to significantly leverage the knowledge of local government officials or representatives who are best positioned to know the

stakeholders, neighborhood leaders and vulnerable populations in their areas, and the most effective way to engage them in the RBD process. At least one community already has offered its resources to support this effort. This sub-committee will also assess the above suggestions raised by commenters.

Taking time to work through and develop a citizen participation plan by this process, which incorporates from the outset the knowledge and input of local partners, among others, will yield a more comprehensive and effective citizen participation plan for these targeted projects, and best achieve the goals described in the Federal Register Notice. *It is important to note that once the detailed outreach plan is developed by the sub-committee and reviewed by the Executive Steering Committee, it will be made available for public review and comment.* Working with the localities, the State expects to have citizen participation plans prepared for public comment during the third quarter of 2015.

Additionally, consistent with the requirements in Federal Register Notice FR-5696-N-11, the State held formal public hearings after making this Substantial Amendment available for public comment. The State held two public hearings on the following dates and times, and at the following locations:

- January 6, 2015: Ocean County College, Jay and Linda Grunin Center for Performing Arts, 1 College Drive, Building 12, Toms River, New Jersey, 08753 (4-7 pm)
- January 7, 2015: Bergen Community College, Moses Center, 400 Paramus Road, Paramus, New Jersey 07652 (4-7 pm)

Comments on the Substantial Amendment were submitted on DCA's website at: <http://www.state.nj.us/dca/announcements/approved/sandy.html>, by U.S. mail and at the two public hearings.

4.1 Citizen Participation Plan

In developing this Substantial Amendment, the State complied with all citizen participation plan requirements, including the requirements in Federal Register Notice FR-5696-N-11. These steps have included the following:

- The State has issued this Substantial Amendment and made it available to the public for a comment period of no less than thirty days prior to its submission to HUD. DCA has posted this Substantial Amendment prominently on its official website to afford citizens, affected local governments, and other interested parties a reasonable opportunity to examine the Substantial Amendment's contents.
- The Rebuild by Design process that informs this Amendment included outreach to community groups, including those that serve minority

populations, persons with limited English proficiency, and persons with disabilities.

- The State held two public hearings regarding this Substantial Amendment to the Action Plan. Residents and other stakeholders were provided reasonable and timely access to information about the public hearing and to the hearing itself.

Certain elements of the citizen participation requirements remain unchanged since the issuance of the State’s Action Plan. In preparing this Substantial Amendment, the State has complied with these elements of the citizen participation requirements as well, which include the following:

- The State notified the public that the Substantial Amendment is available for review and comment through electronic mailings, press releases, statements by public officials, media advertisements, public service announcements, and/or contacts with community-based organizations.
- The State made these documents available in a form accessible to persons with disabilities and persons of limited English proficiency (LEP).
- The State reached out to local nonprofit and civic organizations to disseminate information about and make available a copy of this Substantial Amendment.
- The State considered all written comments it received on this Substantial Amendment as well as all oral comments at the public hearings.
- The State continues to make the Action Plan, all amendments, and all performance reports available to the public on its website and upon request.

The State provided citizens, local officials, and other stakeholders with reasonable and timely access to information and records relating to the Action Plan, this Substantial Amendment and the State’s use of CDBG-DR funds. Written comments were submitted to the Department of Community Affairs via email to sandy.publiccomment@dca.nj.gov, and by U.S. mail, to the attention of Jamie Saults, NJ Department of Community Affairs, 101 South Broad Street, Post Office Box 823, Trenton, New Jersey 08625-0823.

4.2 Summary of Public Comment

Consistent with HUD requirements, this Substantial Amendment was made available for public comment for a period of at least thirty (30) days. Written comments were submitted to the Department of Community Affairs via email at sandy.publiccomment@dca.nj.gov, or to the attention of Jamie Saults, NJ Department

of Community Affairs, 101 South Broad Street, Post Office Box 823, Trenton, New Jersey 08625-0823. The State also solicited public comments at the public hearings.

The State reviewed the public comments provided during the comment period. All comments received equivalent treatment regardless of whether they were submitted by email, U.S. mail, or at a public hearing.

Per HUD guidelines, the State has synthesized the comments on the RBD projects that it received and has provided written responses below.

COMMENT 1
SUPPORT FOR RBD PROJECTS

Various commenters expressed support for the RBD projects targeting the Meadowlands region and the Hudson River region.

Staff Response:

DEP appreciates the commenters' support for Action Plan Amendment No. 12.

COMMENT 2
**REGIONAL IMPACTS OF RBD PROJECTS; STATE OFFICE OF PLANNING
ADVOCACY**

A number of commenters stated that decisions regarding the RBD projects must be made in the context of impacts on the larger region, and supported a regional resilience plan. Some commenters expressed concern that the RBD projects only may protect pockets of the state and may expose other areas to greater flooding risk. These commenters stated that studies relating to the RBD process must not only focus on the targeted communities, but also on any project impacts on surrounding communities. A commenter expressed concern about the use of hard infrastructure (e.g., sea walls) in the RBD projects because of cost as well as potential unintended consequences like fostering development in low-lying areas and disconnecting communities from water resources. Another commenter suggested that the state Office for Planning Advocacy in the New Jersey Department of State be integrated into the RBD process.

Staff Response:

DEP agrees that effective planning is an important component of ensuring smart and effective design and construction for both RBD projects. DEP also agrees that, within the feasibility and design phases of the RBD projects, the potential impacts that the projects might have, if any, on upstream or downstream communities must be carefully evaluated. Potential consequences within targeted communities following implementation also must be considered. State agencies, authorities, and other entities that can bring perspective to the

feasibility, design, pre-construction or construction phases of either RBD project will be consulted as part of the RBD process.

COMMENT 3

RBD PROJECTS ACCOUNTING FOR POTENTIAL SEA LEVEL RISE

Commenter stated that the feasibility and design phases of the RBD projects should take into account sea level rise projections and inquired as to how components of project design, including any elevations, will account for sea level rise. Another commenter stated that using best available FEMA data to evaluate floodplains only accounts for current risk, and does not adequately address how the floodplain may expand in the future, and suggested that the RBD projects be constructed to more conservative standards. The commenter also suggested that the RBD process incorporate a detailed description of the flooding vulnerabilities of each targeted municipality today, in 2050 and in 2100 (incorporating projected sea level rise) as part of the feasibility and design phases, and a commitment to the adoption of a flood-elevation standard in the design phase of both projects that will be protective through 2100.

Staff Response:

Per federal requirements, expenditures of CDBG-DR funds for Sandy recovery infrastructure projects, including the RBD projects, must take into account projected sea level rise. DEP will comply with those requirements. Among other tools, the federal requirements endorse NOAA's sea level rise tool as a mechanism to account for sea level rise as part of CDBG-DR funded recovery projects. That tool includes four separate sea level rise risk projections: lowest; intermediate-low; intermediate-high; and highest. NOAA generally has estimated, factoring in future potential conditions, global sea level rise by the year 2050 at the following four levels, respectively: 0.3 feet; 0.7 feet; 1.3 feet; and 2.0 feet.

Increasing flood protection – for example, by building to a more conservative projection of potential future sea level rise – usually increases overall project cost. When evaluating each RBD project, DEP, with input from its partners, will have to assess different levels of flood risk protection and the costs associated with building to those levels. The decision on this component of project design, which is premature until the feasibility phase of each RBD project is completed and the design phase begins, likely will be informed by such factors as how much funding is available for the project, the extent of additional protection that would be afforded by building to a more conservative sea level rise projection, and the opportunity cost of using limited project funding to build to a more conservative projection as compared to using the same funding to realize other components of the RBD project concept.

Finally, DEP and its partners will take under consideration the commenter's suggestion that RBD project funds be used toward a detailed description of flood vulnerabilities, incorporating sea level rise, during the feasibility and design phases of the RBD projects.

COMMENT 4

OUTREACH FOR RBD PROJECTS; PUBLIC ENGAGEMENT

Commenters inquired about the outreach that would be undertaken as the RBD projects proceed and stated that it was important for the targeted communities to have a meaningful role in project development. Some commenters sought comprehensive lists of stakeholders that would participate in the process. Other commenters asked specifically about outreach to vulnerable populations in the impacted communities, and requested active community workshops, as opposed to formal public hearings, in the areas that are the focus of RBD projects during the feasibility, design, environmental review, pre-construction and construction phases. One commenter stated that neighborhood leaders should be approached for feedback on the proposed RBD projects. Other commenters asked that the RBD Amendment provide for:

- The establishment of a public participation process that outlines specific groups that will be engaged, the method of informing them, the opportunities for public comment, and how the public's concerns and feedback will be incorporated;
- Public outreach locations that are accessible by public transportation and in the RBD project areas, and schedules that are convenient for those with different needs;
- The creation of a website where draft and final reports are posted in each project phase and where comments can be submitted electronically; and
- A timeline for public participation and key decision points, and the contact information for the stakeholder outreach teams.

Another commenter stated that all Executive Steering Committee meetings for the RBD projects should comply with all aspects of New Jersey's Open Public Meetings Act. Another commenter asked whether the creation of the Master Plan, as required by HUD, will allow for public engagement and comment. An additional commenter supported using State funding for community advocacy organizations to ensure they are able to provide ongoing participation in the RBD process.

Staff Response:

DEP appreciates these comments and agrees that an extensive public participation process is an indispensable component of the RBD process. As

described in Action Plan Amendment No. 12 and indicated in the Organizational Chart in Section 2.1, representatives of the targeted communities will have an important role throughout all phases and in all aspects of implementing these RBD projects.

Regarding outreach, for each project there will be a dedicated sub-committee to focus on outreach, including identifying stakeholders and incorporating input from all interested parties, including vulnerable populations. The composition of the sub-committee will be a topic of discussion for the Executive Steering Committee, and likely will include both state and local representatives.

Once the sub-committee is established – that is, one for each RBD project – one of its first tasks will be to develop a comprehensive outreach plan that, among other things, identifies stakeholders, neighborhood leaders and vulnerable communities and describes how those groups will be engaged as part of the RBD process. The sub-committee will be expected to significantly leverage the knowledge of local government officials or representatives who are best positioned to know the stakeholders, neighborhood leaders and vulnerable populations in their areas, and the most effective way to engage them in the RBD process. At least one community already has offered its resources to support this effort. This sub-committee will also assess the above suggestions raised by commenters.

Taking time to work through and develop a citizen participation plan by this process, which incorporates from the outset the knowledge and input of local partners, among others, will yield a more comprehensive and effective citizen participation plan for these targeted projects, and best achieve the goals described in the Federal Register Notice. *It is important to note that once the detailed outreach plan is developed by the sub-committee and reviewed by the Executive Steering Committee, it will be made available for public review and comment.*

Regarding the Open Public Meetings Act, the Executive Steering Committee is a purely advisory body. While Executive Committee members will have a critical role in providing input regarding the projects, all final decision-making authority with respect to both RBD projects rests exclusively with DEP. As a result, meetings of this committee are exempt from the Open Public Meetings Act.

Finally, there will be public engagement and comment solicited in connection with the development of the Master Plan required pursuant to HUD's Federal Register Notice (FR-5696-N-11).

COMMENT 5
PROJECT IMPACTS AND COMMUNITY DEMOGRAPHICS

A commenter stated that the RBD Amendment should include an analysis of the impacts on low-income communities and minority populations in their areas (e.g., manufactured housing parks in Moonachie, public and assisted housing in Hoboken), a description of how the strategies chosen will protect those communities from future storms rather than displace them, and a prioritization of funding for those areas of their plans.

Staff Response:

DEP appreciates the comments raised by the commenter. At this time the RBD projects exist as conceptual designs. Feasibility studies must be conducted to, among other things, fill in data gaps that may exist in the current conceptual designs and more completely assess what project components may be completed based on available resources, and the highest and best use of RBD funds. In addition to collecting additional data, these decisions will be informed by the Executive Steering Committee, as well as input from community residents and other stakeholders. Once the feasibility phase of the RBD projects is completed, DEP and its partners will be positioned to address the specific questions raised by the commenter.

COMMENT 6
RBD ORGANIZATIONAL CHART; RBD PROJECT ADMINISTRATION;
SEPARATION BETWEEN RBD PROJECTS

A commenter asked whether the organizational chart was applicable to both RBD projects, and asked whether the chart meant that there would be separate organizations for each project, or one organization for both projects. Other commenters asked whether DEP currently has sufficient staffing to administer the RBD projects effectively, and supported the hiring of additional DEP employees to supplement DEP's capacity, provided that such additions are within the budget for RBD administrative costs. Another commenter expressed concerns about DEP having to procure external resources to implement the RBD projects. An additional commenter stated that separate and more detailed timelines, budgets and community outreach approaches should be specified for each RBD project.

Staff Response:

The RBD organizational chart in Section 2.1 of Action Plan Amendment No. 12 is applicable to both RBD projects. There will be a separate organization for each of the two RBD projects, although some of the same DEP personnel may be involved in both projects.

DEP appreciates the comments regarding its current staffing levels. During the course of the projects, DEP will evaluate its staffing needs regarding project management as well as permissive limits on program delivery and administrative costs. DEP will supplement its staff as necessary.

Given the scale of both RBD projects it would be impossible to complete the projects in a timely manner without using significant outside resources in the feasibility, design, pre-construction and construction phases. The balance between using available DEP resources and outside resources for different aspects of each RBD projects will be a topic of discussion for the Executive Steering Committees.

Finally, DEP agrees with the comment that separate and more detailed timelines, budgets and community outreach approaches need to be developed for each of the RBD projects. Before such timelines, budgets and community outreach approaches can be finalized, however, they must be discussed and developed through the respective Executive Steering Committees, and informed by additional information developed through the sub-committees, community outreach and a more detailed feasibility analysis. Per HUD's Notice, the State has included very general estimates of costs for the feasibility and design phases, but those estimates are subject to numerous variables. The State cannot estimate the cost of construction (or post-construction) until there is a project design.

COMMENT 7

ADDITIONAL ELEMENTS OF RBD PROCESS

A commenter requested that the RBD Action Plan Amendment provide:

- A description of how the grantee will encourage the provision of disaster-resistant housing for all income groups, including activities that may include (a) transitional housing; permanent supportive housing; and permanent housing needs of individuals and families that are homeless and at risk of homelessness; (b) the prevention of low-income individuals and families with children from becoming homeless; and (c) the special needs of persons who are not homeless but require supportive housing;
- An assessment of 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; and
- A description of how the grantee plans to minimize displacement of persons or entities, and assist any persons or entities displaced.

The commenter also asked that the project design phase include a process that identifies the needs and concerns of vulnerable populations; ensures that project areas will be affordable to those with a range of incomes and provides expanded opportunities for LMI residents; describes strategies for preventing LMI residents from being displaced and prioritizes funding for these communities; and utilizes metrics in the feasibility, design, permit review, pre-construction and construction phases to monitor housing affordability and compliance with HUD requirements.

Staff Response:

DEP appreciates this comment. The RBD projects will comply with all applicable laws and regulations, including all applicable fair housing laws and regulations. All necessary steps will be taken to ensure compliance.

Regarding the specific questions raised by the commenter, at this time the RBD projects exist as conceptual designs. Feasibility studies must be conducted to, among other things, fill in data gaps that may exist in the current conceptual designs and more completely assess what project components may be completed based on available resources, and the highest and best use of RBD funds. In addition to collecting additional data, these decisions will be informed by the Executive Steering Committee, as well as input from community residents and other stakeholders. Once the actual scope of the RBD projects to be undertaken is defined, DEP and its partners will be positioned to address the specific questions raised by the commenter.

**COMMENT 8
HUD NATIONAL OBJECTIVE**

A commenter asked for more information regarding the Amendment language specific to addressing HUD’s national objective requirement for each project. Another commenter stated that there is a very large mobile home community in Moonachie and Little Ferry, much of which is LMI, so an RBD project supporting the needs of these communities will meet HUD’s LMI national objective.

Staff Response:

The National Objective for the RBD projects will be LMI and/or Urgent Need. To satisfy HUD regulations that require all CDBG-DR-funded projects to meet a “national objective” – such as LMI or Urgent Need – HUD’s Federal Register Notice regarding RBD projects (FR-5696-N-11) allows grantees to “categorize the [RBD] project into multiple activities in order to distinguish and classify expenditures as benefitting [LMI] populations, as a means of meeting the overall benefit requirement.” This is a different, and more flexible, national objective approach than that which applies to evaluating the satisfaction of the national objective requirement for non-RBD CDBG-DR funds. The language in the Action

Plan allows DCA, as the State's CDBG-DR grantee, to avail itself of the more flexible "national objective" standard applicable to the RBD projects.

DEP appreciates the comment regarding the LMI communities in Little Ferry and Moonachie. To the extent HUD's LMI national objective applies to component parts of the Meadowlands project or the Hudson River project – based on HUD regulations for assessing that objective – DEP will use that national objective (as compared to Urgent Need) for those project components.

COMMENT 9

ENGAGING PRIVATE FINANCING ENTITIES; EXECUTIVE STEERING COMMITTEE MEMBERSHIP

A commenter stated that Amendment No. 12 should clarify the potential role that private financing entities may play, if any, in the development of RBD projects. The commenter stated that these entities should not be allowed to be part of the Executive Steering Committee as their inclusion could influence the authority of the Executive Steering Committee.

The commenter also stated that Amendment No. 12 should provide an exhaustive list of all entities that will be part of each project's Executive Steering Committee to avoid any confusion, and requested a memorandum of understanding between DEP and other Executive Steering Committee members describing the roles of each member in the implementation partnership.

Additionally, Region 2 of the U.S. Environmental Protection Agency (EPA) provided a comment requesting inclusion on the Executive Steering Committees of both projects to address federal permitting requirements and other federal environmental regulations including Section 10 of the Rivers and Harbors Act, Section 404 of the Clean Waters Act, NEPA, the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act. Moreover, EPA will remain involved in RBD projects through the Sandy Recovery Infrastructure Resilience Coordination.

Staff Response:

DEP appreciates the comment, and the language of Amendment No. 12 will be clarified to specify that private entities cannot be members of the respective Executive Steering Committees. Apart from this clarification, DEP is not in a position at this early phase of the RBD projects to specify what the roles of private entities, if any, that may participate, or be engaged in, the RBD process may be.

DEP will take under consideration the commenter's proposal for a memorandum of understanding describing the roles of each member in the project implementation partnership. That said, consistent with the language of

Amendment No. 12, all final decision-making authority regarding either RBD project rests exclusively with DEP.

Finally, DEP agrees that having EPA Region 2 personnel participate in both RBD projects will be valuable and help expedite the RBD process. EPA will be invited to participate on the technical sub-committee/Project Development Team as identified in the RBD Organizational Chart. This team will be responsible for evaluating compliance and regulatory issues, including those identified in the comment.

COMMENT 10

TIMING FOR RBD PROJECT COMPLETION

A commenter stated that the project performance schedules should be modified so that, consistent with FR-5696-N-11, all CDBG-DR funds are obligated no later than September 2017.

Staff Response:

Per HUD's Federal Register Notice, the State must submit an updated RBD Amendment to HUD after completion of the draft Environmental Impact Statement (EIS). Upon approval of that Amendment, RBD funds will be considered obligated. As a result, DEP must have the draft EIS completed on or before June 2017 to allow the requisite time to prepare, submit and receive HUD approval on the required updated RBD Amendment.

Moreover, the State already has informed HUD that because of the size and scale of the RBD projects, the requirement that all CDBG-DR funds be disbursed by September 2019 likely will require an extension. While the Director of the federal Office of Management and Budget has authority under the Disaster Relief Act of 2013 (the "Act") to extend the September 2019 expenditure deadline in the Act, all CDBG-DR funds must be expended on or before September 30th of the fifth year following the statutory period of obligation. The statutory period of obligation under the Act ends in 2017, so even allowing for OMB waivers, all CDBG-DR funds must be spent by September 30, 2022. Amendment No. 12 has been revised to account for this expenditure deadline.

COMMENT 11

MEADOWLANDS PROJECT - DEVELOPMENT BEHIND BERMS

Commenters expressed concern about the portion of the Meadowlands conceptual design that calls for development behind installed berms. Some commenters stated that there should be no development at all behind the berms. A commenter stated that if such development occurs, the development should be affordable housing. Another commenter stated that if development occurs, it should only occur in targeted development areas described in the conceptual design, and not in other

areas. Commenters also suggested that any development of berms also should include redundant flood protection measures in case the berms are overtopped, and one commenter supported a requirement that electrical and heating equipment be elevated above the first floor.

Additionally, one commenter asked whether proposed development would be constructed on land that was previously open space, or whether existing development would be replaced. The commenter also asked whether stormwater from development would be directed into wetlands areas, and inquired about costs and responsibility for maintenance of the berms.

Staff Response:

DEP appreciates the concerns raised by the commenters and will take them under advisement. At this time, the Meadowlands project is only a design concept; a feasibility study must be conducted to assist with arriving at a project design in the pilot area that can be realized with available funding. It is premature to speculate now as to how, if at all, a project design following the feasibility phase might allow for development behind any berms, and what development, if any, should occur. Going forward, as the project develops from a conceptual design to an actual, feasible project that can be realized with available funding, there will be various opportunities to raise and discuss the concerns raised by the commenters.

Regarding the commenter's suggesting of redundant flood protection behind any berms, increasing flood protection – for example, by building to a more conservative projection of potential future sea level rise – usually increases overall project cost. When evaluating each RBD project, DEP and its partners will have to assess different level of flood risk protection, including redundancy, and the costs associated with building to those levels. The decision on this component of project design, which is premature until the feasibility phase of each RBD project is completed, likely will be informed by such factors as how much funding is available for the project, the extent of additional protection that would be afforded by redundancy, and the opportunity cost of using limited project funding to build redundancy into flood protection as compared to using the same funding to realize other components of the RBD project concept.

COMMENT 12

MEADOWLANDS PROJECT – WETLANDS; BIODIVERSITY

Commenters stated that the Meadowlands project should simultaneously focus on flood protection and conservation. Commenters further stated that protecting habitats and native species, and accounting for biodiversity, all should be considered as part of the RBD project, and also supported the incorporation of

wetlands as a natural flood protection measure in connection with the RBD project. A commenter supported the incorporation of ecologists into the development of the Meadowlands project. Another commenter expressed concern about restoration efforts in connection with the project impinging on open space, and asked whether the net gain of marshland in connection with the project will be positive or negative.

Staff Response:

DEP agrees that the feasibility and design phases of the Meadowlands project should consider opportunities to enhance conservation, protect natural habitats and native species, and account for biodiversity.

Regarding wetlands, DEP agrees that wetlands are meaningful natural flood protection measures that, among other things, reduce wave action. DEP will take all of these comments under advisement. At this time, the Meadowlands project is only a design concept; a feasibility study must be conducted to assist with arriving at a project design in the pilot area that can be realized with available funding. It is therefore premature to speculate whether and how the actual project design may incorporate wetlands. Going forward, as the project is developed from a conceptual design to an actual project that can be realized with available funding, there will be various opportunities to raise and discuss the concerns raised by the commenters.

DEP and its partners will evaluate the commenter's suggestion, but DEP does have subject matter experts with the ability to assess wetlands and the ecology of the Meadowlands. DEP will utilize these resources as necessary.

COMMENT 13

MEADOWLANDS PROJECT - ADDITIONAL PROJECT INFORMATION

A commenter stated that the conceptual design for the Meadowlands project did not provide enough information about what actually would be constructed with available funding, and that the public comment period on the project should remain open until such time that more specific information about the project that can be constructed with available funding is provided. Another commenter asked about how many acres of wetlands would be filled in for the Meadowpark/Meadowband components of the project as well as when a report on any wetland fill would be made available for public review and comment.

Staff Response:

DEP appreciates the commenter's concern that the Meadowlands project conceptual design, as awarded by HUD, does not provide specific details about a project that can be completed in the pilot area with available resources, including whether such project would involve the filling of any wetlands. The feasibility and design phases of the Meadowlands project will focus on

developing that specific project and, at various points throughout those phases, information will be disseminated and input from community residents and other stakeholders will be solicited. This outreach and engagement will be the focus of the outreach sub-committee for the Meadowlands project described in the response to Comment 4. Also, once each RBD project is fully designed, the State will prepare a substantial Action Plan Amendment, which will be subject to a formal public comment and hearing process pursuant to HUD's Federal Register Notice (FR-5696-N-11).

COMMENT 14

MEADOWLANDS PROJECT – PROTECTING BUSINESSES

A commenter expressed support for the Meadowlands project and the potential economic benefits to the region. The commenter stated that regional protection, including specifically protections for the existing business community, should be considered as part of the RBD project.

Staff Response:

DEP appreciates the comment and agrees that evaluating the protection afforded to businesses in the targeted communities should be a component of the feasibility and design phases of the Meadowlands project. Regarding evaluating the RBD projects as part of a larger regional analysis, see DEP's response to Comment 2.

COMMENT 15

MEADOWLANDS PROJECT – NJ MEADOWLANDS COMMISSION

A commenter asked about how the elimination of the New Jersey Meadowlands Commission will impact the Meadowlands RBD project.

Staff Response:

The Hackensack Meadowlands Agency Consolidation Act calls for the eventual transfer of the duties and responsibilities of the New Jersey Meadowlands Commission and the New Jersey Sports and Exposition Authority to the Meadowlands Regional Commission created by the legislation. It will be the responsibility of DEP, working through the Executive Steering Committee and outreach sub-committee on the Meadowlands Project, as described in more detail in the response to Comment 4, to identify and engage community residents, governmental entities and other stakeholders that can bring valuable perspective to the implementation of the Meadowlands project.

COMMENT 16

MEADOWLANDS PROJECTS – PROJECT DESIGN

A commenter stated that the Meadowlands project should allow for an integrated design of natural protections, such as berms, with hard infrastructure and development, with an emphasis on shared amenities and spaces. The commenter supported an efficient development process integrating engineering needs and stakeholder support.

Staff Response:

At this time, the Meadowlands project exists as conceptual designs. Feasibility studies must be conducted to, among other things, fill in data gaps that may exist in the current project designs and more completely assess what project components may be completed based on available resources, and the highest and best use of RBD funds. In addition to collecting additional data, these decisions will be informed by the Executive Steering Committee, as well as input from community residents and other stakeholders. Once the feasibility phase of the RBD projects is completed, DEP and its partners will be positioned to address the suggestions raised by the commenter.

Additionally, DEP agrees with the commenter’s emphasis on community and stakeholder engagement in the RBD process. The response to Comment 4 addresses the outreach approach as established thus far, and the outreach approach will be further built out through the state/local sub-committees on citizen participation and community outreach.

COMMENT 17

HUDSON RIVER PROJECT – CONSTRUCTION OF “RESIST” COMPONENTS

A commenter asked for a defined timeline for constructing the “Resist” components of the Hudson River project. The commenter also requested that the northern and southern “Resist” components of the project proceed on parallel tracks and be considered separate projects from the FTA-funded Long Slip Canal project. The commenter stated that value engineering be considered, if necessary, to ensure the “Resist” strategy is completed with available funding.

Staff Response:

DEP appreciates these comments. Initially, DEP must proceed with the implementation of the Hudson River project in a manner consistent with HUD’s Federal Register Notice (FR-5696-N-11) that governs the use of RBD funds. Among other things, the Notice requires a Master Plan that evaluates all proposed components of the conceptual design, which then informs the best use of available RBD resources. As a result, to be consistent with HUD’s regulations, DEP at this time cannot commit to funding specific portions of the Hudson River

project's conceptual design until the conceptual design is evaluated through the feasibility phase. The feasibility phase is expected to require 18-24 months, at which point DEP will be positioned to evaluate the commenter's suggestions.

If the feasibility process and development of the master plan counsels in favor of pursuing the "Resist" components of the conceptual design, then the commenter's suggestions of having the northern and southern components proceed on parallel tracks, while seemingly meritorious, must be evaluated by the Executive Steering Committee and informed through a robust community and stakeholder input process. DEP and its partners also will take under consideration the commenter's proposal of using value engineering during the feasibility phase, if necessary.

Finally, DEP agrees with the commenter that the Hudson River project is an entirely separate, and separately funded, project from New Jersey Transit's Long Slip Canal project funded with FTA monies. While the Hudson River project and Long Slip project should work together to defend against future flood risk, and DEP will work to ensure they are compatible, development of the projects is not intertwined, and each will be pursued independently of the other. The language of Amendment No. 12 specifies this separation.

COMMENT 18

HUDSON RIVER PROJECT - ENGAGING OMA CONCEPTUAL DESIGN TEAM

A commenter stated that the OMA team retained by HUD that developed the conceptual design for the Hudson River project should be retained to assist with project implementation, particularly given their knowledge of the project area and of the conceptual design.

Staff Response:

As required by federal and state law, the retention of all outside consultants and resources must be undertaken in a manner consistent with state procurement law, which for these types of services would require an open and competitive procurement process. The OMA team, or members of that team, may bid on procurement opportunities that arise in the context of the Hudson River project, or may align themselves with entities that will bid on project procurement opportunities. However, final selection must be made through the competitive process in a manner consistent with state law.

COMMENT 19

HUDSON RIVER PROJECT - QUARTERLY PROJECT TIMELINES

A commenter stated that DEP should develop a quarterly project timeline for the Hudson River project to more fully articulate a time frame for the feasibility, design, construction and post-construction phases. The commenter suggested that this

timeline also account for an environmental assessment during the feasibility and design phases.

Staff Response:

DEP appreciates the comment and will raise this proposal at the Executive Steering Committee for discussion. Additionally, general, non-binding project timeline estimates for RBD project phases, which are subject to numerous variables, are set forth in Section 3.

COMMENT 20

HUDSON RIVER PROJECT – CONSTRUCTION OF PUMP STATION

Commenters asked to delay the placement of any flood pump on 11th Street along the Hoboken Waterfront in the short-term given the multi-year feasibility and design work that will need to be conducted in connection with the Hudson River project. Commenters stated that all options need to be understood on how best to optimize flood prevention in connection with the Hudson River project before taking any step that might negatively impact the waterfront community, which is also an important real estate tax base for Hoboken, and the population currently residing there. A commenter suggested that the pumping station be relocated to an area that is less populated, where construction would be less disruptive to Hoboken residents.

Staff Response:

As to the use of CDBG-DR funds provided by HUD to implement the Hudson River project, construction will not occur until after the conclusion of the feasibility, design and pre-construction phases of the project. Among other things, this ensures that federal funds are expended in a manner compliant with federal requirements.

To the extent local government funds also may be brought to bear to support the project, DEP does not control the use of those resources and defers to the locality on the timing and use of the funds.

COMMENT 21

HUDSON RIVER PROJECT – CONCEPTUAL DESIGN COMPONENTS

A commenter stated that the flood mitigation plan for Hoboken and the implementation of the RBD project should not only consider the impacts from Sandy, but impacts from all potential flooding events. The commenter also stated that locations of flood pumps, retention basins and other mitigation measures must be based on the best and most accurate available data on how Hoboken has flooded during Sandy and previous storm events. The commenter further stated that the conceptual design does not address issues created by Hoboken's combined

sewer/stormwater system and that a more comprehensive plan is needed to address the North Hudson Sewerage Authority's system. The commenter supported the separation of the stormwater and sewerage lines in Hoboken. The commenter also supported wet flood-proofing solutions for urban buildings that cannot be elevated.

Commenters additionally expressed concerns with the proposed flood wall in the conceptual design, stating that: the flood wall was not presented by OMA when its plan was initially unveiled; the wall is proposed near a waterfront area that was not seriously impacted by storm surge nor is in FEMA's flood zones; the wall would block views from the waterfront park and other areas, and negatively impact the business and residential community in that area; and the plan does not address flooding impacts that would occur at either end of the wall. A commenter also stated that Sandy was an exceedingly rare storm event, and does not warrant a response that would so significantly impact the waterfront.

Staff Response:

DEP appreciates these comments and will take them under advisement. At this time, the Hudson River project exists as a conceptual design. A feasibility study must be conducted to, among other things, fill in data gaps that may exist in the current project designs and more completely assess what project components may be completed based on available resources, and the highest and best use of RBD funds. In addition to collecting additional data, these decisions will be informed by the Executive Steering Committee, as well as input from community residents and other stakeholders.

Once the first phase of the RBD projects is completed, DEP and its partners will be positioned to address which components of the project are feasible. This will be undertaken in connection with complying with HUD's requirement that a master plan be developed which assesses the components of the conceptual design. If the components deemed feasible include the features described by these commenters, DEP will revisit the concerns raised.

COMMENT 22

HUDSON RIVER PROJECT - PROJECT BUDGET

A commenter stated that of the total \$230 million allocated for the Hudson River project, estimates should be provided for different elements of the project, including planning, pre-development, capital construction costs, and program delivery. The commenter further stated that this type of breakdown would also help identify what, if any, funding gap exists for implementation of the Hudson River project.

Another commenter requested a more detailed budget estimate for the use of the \$230 million awarded to the Hudson River project. The commenter stated that

while OMA submitted a proposed budget for the first phase of the project totaling \$470 million, less than half of that figure was actually awarded by HUD for the project. The commenter further indicated that a more detailed budget is necessary to ensure funds are spent efficiently and to understand the deliverables and outcomes that can be achieved with the current funding.

Staff Response:

While DEP agrees with the commenter that developing preliminary estimates may be a valuable exercise, and has included very general, non-binding estimates of timelines and costs for the feasibility and design phases, there is concern about the reasonableness, and therefore the value, of any cost estimates for pre-development, capital construction and program delivery costs before completion of the feasibility and design phases.

DEP also appreciates the second commenter's concerns. Feasibility studies must be conducted to, among other things, fill in data gaps that may exist in the current project designs and more completely assess what project components may be completed based on all available resources, and the highest and best use of RBD funds. In addition to collecting additional data, these decisions will be informed by the Executive Steering Committee, as well as input from community residents and other stakeholders. Once the feasibility phase of the Hudson River projects is completed, accounting for input from partners, residents and stakeholders, DEP and its partners will be better positioned to define which components of the Hudson River project will be targeted by the \$230 million in project funding.