PROGRAM GUIDELINES AND PROCEDURES
PROGRAM: Neighborhood Enhancement Program (NEP)
LEAD AGENCY: Department of Community Affairs
Revised Second Tranche – Round 1

PROGRAM DESCRIPTION
The primary purpose of the State’s Neighborhood Enhancement Program (NEP) is to help stabilize deteriorating neighborhoods where decline is accelerated as a result of damage caused by Superstorm Sandy in the nine (9) most impacted counties which include: Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean and Union. The Program will finance residential projects that will fuel economic development through the reuse of blighted properties, including structures or lots that are vacant, abandoned, or that have been foreclosed. Funding priority will be given to projects that address the shortage of affordable rental and for sale housing caused by the storm in the most-impacted counties. The program also will target areas where abandoned, foreclosed, vacant or blighted properties are in close proximity, as these areas are at increased risk of blight.

The program initially will provide zero interest, 5 year 100% forgivable loans to Community Housing Development Organizations (CHDOs), and Community Development Financial Institutions (CDFIs). Depending on the extent of program demand, the program may be expanded to for-profit and/or other non-profit developers, as set forth in the Action Plan.

MAXIMUM AWARD:
1. Per unit subsidy based on bedroom size not to exceed $250,000 per dwelling unit
2. Maximum award per project is $1,750,000.
3. Maximum of 7 units in each project (Minimum of 3 units)
4. Maximum award per recipient is $6,000,000
5. Maximum NEP funds awarded within a single municipality $1,000,000

ELIGIBLE APPLICANTS
Eligible development entities (EDE) consist of certified Community Development Financial Institutions (CDFI) and Local, County or State Certified Community Housing Development Organizations (CHDO) having documented local government support.

THRESHOLD REQUIREMENTS
1. Site control through ownership or option to purchase;
2. Project must have municipal support;
3. All units must have been vacant at least 4 months prior to application submittal date;
4. If municipal approvals are required, they must be in place at time of application;
5. All financial sources must have written commitments. At least 50% of the project must be funded from other sources. In kind (donated material, time and services) contributions toward match will not be accepted;
6. Project must be able to be completed within two (2) years or prior to the applicable NEP funding deadline date whichever is shorter;
7. Properties should not be located in V Zone (per ABFE).
8. Project size must be seven (7) units or less but a minimum of (3) units.
MAXIMUM PER UNIT SUBSIDY LIMIT CHART

<table>
<thead>
<tr>
<th>Unit Size</th>
<th>0-Bdr</th>
<th>1-Bdr</th>
<th>2-Bdr</th>
<th>3-Bdr</th>
<th>4-Bdr or above</th>
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<tbody>
<tr>
<td>Maximum Per-Unit Subsidy</td>
<td>$125,000</td>
<td>$150,000</td>
<td>$175,000</td>
<td>$225,000</td>
<td>$250,000</td>
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PROJECT ELIGIBILITY CRITERIA
All projects receiving funding under the Neighborhood Enhancement Program will be required to meet the following criteria:

1. Local officials must endorse the project before submission; application must include documentation of this support in the form of either a letter from the Chief Elected Official or a Resolution of the Governing Body.

2. Neighborhood must be of a manageable size to enable the project to make a visible and transformative impact. A map of the selected neighborhood with properties identified should accompany the application.

3. Rehabilitated or redeveloped properties must be affordable to households earning at or below 80% of the median income as defined by HUD.

4. The EDE will demonstrate land control by one of the following forms: deed, option to purchase or municipal resolution, if property is currently municipally owned.

5. The amount of funding required to construct or rehabilitate a dwelling unit shall not exceed the resources realistically available to the project.

6. EDE must document that there will be a market (sale or lease) for the properties to be developed.

In addition to the required submission criteria, documentation of any of the following will enhance your application:

1. Certain neighborhoods have locational advantages that make them attractive to potential buyers and/or tenants and have linkages to local anchors or assets:
   • Close to mass transit
   • Close to schools, community assets and amenities
   • Close to neighborhood serving retail or other job generating activities
   • Level of additional investment that is occurring/anticipated to occur

2. Project has the support of external partners such as:
   • Local lenders
   • Community and/or faith-based organizations
   • Corporations
   • Public Housing Authorities Foundations
To be considered a property eligible for rehabilitation under this program the property must fall into one of the following categories:

- Mortgage foreclosed
- Tax foreclosed
- Vacant and/or abandoned property (with documentation)
- Vacant properties already under the control of the CDFI or CHDO

The following are eligible activities under the Neighborhood Enhancement Program:

- Acquisition and rehabilitation
- Acquisition/demolition/redevelopment
- Rehab of properties already owned by developer/municipality
- Redevelopment of land already owned by developer/municipality
- New Construction
- Activities identified under HUD Section 105(a)(24)

DCA will hold a MANDATORY technical workshop for eligible applicants to respond to questions regarding the program and application process?

PROGRAM INITIATION
DCA staff has developed a program budget and hired or assigned the staff needed to successfully implement the program.

Staff has executed a Memorandum of Understanding with the New Jersey Home Mortgage Finance Authority to provide the following services to program participants:

- Eligibility determinations and income certifications for all buyers and tenants.
- Listing of properties (both for sale and rentals) on the Housing Resource Center website maintained by HMFA.
- Determine eligibility for homebuyer assistance and provide as available through the Hurricane Sandy Homebuyer Assistance Program.

PROGRAM IMPLEMENTATION
Implementation of the Neighborhood Enhancement Program is divided into steps which mirror the process flow chart and provide additional detail on the activities tied to each step.

Roles and Responsibilities
Prior to soliciting development proposals, Department of Community Affairs Division of Housing and Community Resources staff will identify staff or partners to carry out the following functions:

- Budgetary approval
- Creating the Notice of Funding Availability to describe the proposed development
- Vetting NOFA respondents
- Financial underwriting
- Regulatory compliance for CDBG-DR
- Environmental Review
- Labor Standards
State of New Jersey CDBG-DR Program Guidelines: Neighborhood Enhancement Program

- Relocation
- Construction monitoring
- Attainment of national objective
- Ongoing monitoring (if affordability period established)

The program guidelines are organized in steps that coincide with the steps identified in the process map. The guidelines provide additional detail on the activities to be undertaken and the documentation needed for each step.

1. **MANDATORY Technical Workshop with Eligible Development Entities (EDEs)**

After publishing a Notice of Funding Availability, the DCA Division of Housing and Community Resources staff, will conduct a MANDATORY technical workshop with eligible applicants to provide the background information they will need to prepare an accurate proposal and is especially important for elected officials and developers who are new to the requirements of CDBG-DR program. During the technical workshop the following topics are discussed:

- Development priorities for the Neighborhood Enhancement Program
- An overview of DCA Division of Housing and Community Resources’ program standards and application requirements, including those related to a project’s “readiness to proceed.”
- An overview of relevant cross-cutting federal regulations.

**DCA Division of Housing and Community Resources Program Standards and Application Requirements**

DCA’s Division of Housing and Community Resources will detail project requirements that must be met for a project to be eligible for the program. These requirements include the following project eligibility criteria:

1. Activity Type (acquisition/rehab/resale, acquisition/redevelopment/resale, acquisition/rehab/rental, acquisition/redevelopment/rental)
2. Scale of Projects (7 dwelling units or less per project but a minimum of 3 units)
3. Types of Properties (vacant, abandoned, foreclosed)
4. 5 year Affordability Period
5. Eligible Applicants, see page 1

The DCA requires that applicants follow a uniform format in submitting proposals. The application must be submitted via the Department of Community Affairs’ electronic application system known as SAGE. **Two (2) copies of any required attachments will be submitted by hard copy under separate cover simultaneously on or before the required deadline for the electronic submission of the application.**

**CDBG-DR Requirements**

During the bidder’s conference with developers, the following topics will be discussed:

- Eligible CDBG-DR housing related activities and the methods for qualifying
these activities under a CDBG national objective.

- Eligible CDBG-DR costs, income targeting, and affordability (to be determined) requirements.
- Federal or state labor standards if and when they are triggered.

“Readiness to Proceed” Priority
Given the time constraints imposed by the CDBG-DR program DCA intends to provide priority points to projects that can be completed within six months to a year.

Other Federal Requirements
Numerous federal rules apply to projects likely to be proposed for funding. EDEs should be made aware of the following three requirements as they may have budgetary implications which impact project funding required. These requirements if not addressed at the outset of a project, can render the project completely ineligible for federal funding.

Environmental Review Requirements
Agencies receiving funding must comply with all requirements of the National Environmental Policy Act of 1969 (NEPA). Prior to the acquisition of a property, the DCA must request an environmental review from the environmental review entity and comply with all requirements of the completed review before taking any choice-limiting actions. For properties already under developer ownership at the time of application, the Environmental Review will take place prior to executing a funding agreement.

Any project considered for federal funding shall not proceed until proper reviews have been performed and developers and eligible program recipients should be aware that without up-front reviews in place any ongoing construction shall be stopped.

As of the application date for CDBG-DR NEP funding applicant cannot engage in any choice-limiting activities prior to environmental clearance per 24 CFR 58.22. Choice-limiting activities include but are not limited to these examples:

- Acquisition of land, except through the use of an option agreement, regardless of funding source. Option agreement must clear state that the purchase is contingent upon an environmental clearance and that the property is included in a project that may be receiving Federal funds;
- Closing on loans including loans for interim financing;
- Signing a construction contract

Applicants must not sign agreements, close on loans or begin construction on any portion of a project until the NJ Department of Environmental Protection (NJDEP) environmentally reviews and clears all portions.

This regulation extends to the use of other funds utilized for the same project regardless of whether those funds are private funds or funds received through another entity and already environmentally cleared through that entity.
Relocation Requirements
Both CDBG – DR regulations and the Stafford Act specify that relocation provisions may be triggered as soon as a project is identified as a possible federally- assisted project. Failure to follow proper procedures up-front can result in substantial financial liability to tenants and owners. Although it is not anticipated that the developers will be acquiring occupied properties, a certification of vacancy must be obtained for any property receiving CDBG-DR funds. If the property is vacant due to damage from the storm, there will need to be a procedure in place to locate prior tenants and provide them with a right of first refusal for rehabbed or replacement housing. This requirement must be made clear to the Eligible Applicant Entities, and a method prescribed for compliance and monitoring.

Section 414 of the Stafford Act, 42 USC § 5181, provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [Uniform Act] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such [Uniform Act]".

In 49 CFR § 24.403(d) (additional rules governing replacement housing payments) reflects this § 414 requirement. That section provides that "No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond his or her control, including: (1) A disaster, an emergency , or an imminent threat to the public health or welfare, as determined by the President."

Lead Based Paint Requirements
For projects that involve rehabilitation of properties built before 1978, the provision of CDBG-DR funds also triggers HUD’s Lead Safe Housing Rule (24 CFR Part 35). Requirements vary depending on the type of work performed and the level of subsidy being provided. In any event however, failure to adequately plan for lead compliance can cause significant cost overruns and/or delays in project development.

DCA Division of Housing and Community Resources staff will verify the information contained in the application. If the funding is used on a CDBG-DR unit built prior to 1978, a lead-based paint test will be conducted. These costs are eligible project costs.

2. **Notice of Funding Availability Posted**
The Notice of Funding Availability (NOFA) for projects will be posted on the Disaster Recovery website and sent to all local elected officials representing eligible municipalities within the nine most Super Storm Sandy impacted counties. The NOFA will also be sent by email to all certified Community Development Financial Institutions and Community Housing Development Organization working within the nine counties as well as the Housing and Community Development Network of New Jersey.

- Publication of NOFA;
- Provision of additional guidance during the NOFA process; and
- Receipt of RFP.

3. **Responses to Notice of Funding Availability**

Applications will be accepted by the posted application deadline. DCA’s Division of Housing and Community Resources is authorized to approve an application form consistent with program policy guidelines using selection criteria, such as, but not limited to the following:

1. Information about the Eligible Development Entities and the personnel who will oversee construction.
2. Information about the development.
3. Information about the site and the ability of the developer to develop on the site.
4. Information about the properties being developed, plans and specifications, the contractor (if known), and the construction proposal.
5. How the proposal relates to the existing neighborhood and evidence of support from the local government and other stakeholders.
6. A marketing plan describing how the property will be sold and / or leased.
7. A project schedule showing that the property will be developed with the 2 year allowable time period.
8. A project budget, including a project profit or loss statement.

4. **Vetting of NOFA Responses**

Staff from DCA’s Division of Housing and Community Resources will review each application based mainly on the following factors:

- Organizational capacity of the Respondent
- Strength of the Development Team
- Project Feasibility
- Projects ability to meet all program requirements
- Project must be able to be completed within two (2) years or prior to the applicable NEP funding deadline date whichever is shorter;

Although there may be only one organization acting as an applicant, DCA’s Division of Housing and Community Resources strongly encourages Applicants to take a “Development Team Approach” in applying for and administering CDBG-DR funds. The DCA prefers that Applicants demonstrate that they have assembled a Development Team with sufficient experience and expertise to undertake and successfully complete the planned activities in a timely manner as described in the Application. DCA will require documentation that outlines the roles and responsibilities of key team members to implement a CDBG-DR project. This is critical in light of the two year time limit on the availability of funding.

A successful CDBG-DR Development Team has the ability to successfully manage and complete the following:

- Site control and acquisition
- Specification development (Bid Specification - Development Documents)
• Contractor procurement, vetting, and selection
• Construction management and oversight, including inspections and draw request verification
• Funds management and compliance
• Working knowledge of federal or state housing production regulations
• Marketing directed to the CDBG-DR eligible buyer or tenant
• Financial structuring
• Monitoring for ongoing compliance (rental projects only)

5. **Intake and Review of Applications**
To be eligible, the application must meet a number of requirements as described below. If the application does not meet all the requirements in these three categories, the application should not move forward. Successful applications must include the following:

- CDBG-DR Program Requirements. The CDBG-DR program specifies requirements relating the use of funds, amount of funding per unit, unit rents and other aspects related to the development and sale or leasing of the units.

- Other Federal Requirements. There are also requirements relating to work standards, relocation, environmental review, and other concerns stemming from other Federal regulations.

- Qualifying Criteria. Specifically, there are seven threshold criteria that each project must meet before it can be considered. These are described below in 7. Review Proposal for Threshold Criteria.

6. **File Documentation:**
- File established for each respondent
- File checklist

7. **Review Proposal for Threshold Criteria**
Before an application can move forward, it must meet the seven qualifying criteria listed below. If it does not meet these criteria, the DCA’s Division of Housing and Community Resources should reject the application and discontinue additional review. The criteria include:

1. Site control through ownership or option to purchase;
2. Project must have municipal support;
3. All units must have been vacant at least 4 months prior to application submittal date;
4. If municipal approvals are required, they must be in place at time of application;
5. All financial sources must have written commitments. At least 50% of the project must be funded from other sources. In kind (donated material, time and services) contributions toward match will not be accepted;
6. Project must be able to be completed within two (2) years or prior to the applicable NEP funding deadline date whichever is shorter;
7. Properties should not be located in V Zone (per ABFE).
8. Project size must be seven (7) units or less but a minimum of (3) units.

8. **Notification to Applicant Not Meeting Threshold**
If an application is received that is not complete or does not meet program requirements, the Division of Housing and Community Resources will contact the Applicant in writing. Applicant is free to revise the application for submittal during a future round, if any are held.

9. **Applications Meeting Threshold Requirements Move to Underwriting**
DCA’s Division of Housing and Community Resources will conduct a preliminary underwriting review, assess the developer’s capacity and fiscal soundness, and examine neighborhood market conditions to ensure there is an adequate need and market for the project. Following this analysis the DCA’s Division of Housing and Community Resources will certify the project as eligible to receive CDBG-DR funds.

- Funding Availability and Feasibility of Project. Sufficient funds must be available to develop the project as described.
- Action Plan. The project must be consistent with the State of New Jersey’s approved CDBG-DR Action Plan.
- Financial and organizational capacity to carry the project to successful conclusion.
- Affirmative Marketing. The application must include an affirmative marketing plan that meets the HUD requirements and documents outreach to those displaced by Hurricane Sandy.
- Anti-Displacement Plan. The application must include an anti-displacement plan.
- Conflict of Interest. The application must not pose a conflict of interest.
- Contractor Debarment. The proposed contractor may not be debarred from Federal funds.

10. **Refer to Department of Environmental Protection for Environmental Review**
Single family projects and those rental projects with less than 5 units per property may need only completion of the Tier 2 review and State Office of Historic Preservation clearance to proceed. Developers should be reminded that NO CDBG-DR funds can be “obligated”, “expended” or “disbursed” until environmental review has been completed.

No “choice limiting options” can be incurred until the environmental review has been completed and Release of Funds secured.

11. **Review and Underwrite Homebuyer Projects**
To effectively underwrite for sale projects, applicants must submit information that enables analysis of the following project underwriting related items:

- Market risk (supply and demand, is the project competitive in the market place)
- Borrower risk (capacity of developer, liquidity, creditworthiness, collateral)
- Project risk (completion risk, financial feasibility risk, viability/sustainability risk)
- Compliance analysis (cost reasonableness and regulatory compliance)

Programs to provide newly built units and the purchase/rehabilitation of vacant existing housing units should be directed to redevelopment neighborhoods where:
• the percentage of dilapidated units threatens the viability of the existing neighborhood;
• it is possible to provide scattered site residential construction and rehabilitation opportunities that will result in stabilization or transformation of the neighborhood;
• Where sufficient land assemblage is feasible to permit large scale residential development opportunities.

Eligible Geographic Neighborhoods
DCA in its Action Plan is limiting the use of CDBG-DR funds to the nine most impacted counties.

Organizational Capacity Assessment
The DCA’s Division of Housing and Community Resources will assess the capacity of each EDE to manage funds and housing projects, especially given the compact timeframe to obligate and expend CDBG-DR funds. This assessment will be based on a number of factors including, but not limited to the Applicant’s demonstrated proficiency and ability to quickly and efficiently deliver programs such as CDBG, HOME and CDBG-DR. The DCA has sole discretion to determine whether each organization’s experience managing housing projects qualifies them to be awarded CDBG-DR funds.

To make an assessment of organizational capacity, the DCA, not limited to the Division of Housing and Community Resources staff will require and evaluate the organization’s financial and organizational strength based on the documentation required for submission with their proposal. Qualified staff from DCA’s Division of Housing and Community Resources will review and evaluate the documentation to ensure that the applicant has the financial, organizational, and experiential adequacy to successfully complete the project proposed.

Eligible Properties
The following terms are the applicable definitions of “foreclosed” and “abandoned” and “vacant” that DCA intends to use with applicability to CDBG-DR:

**Abandoned:** A residential property is abandoned if any of the following conditions apply:
   a) a code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies, or
   b) the property is subject to a court-ordered receivership or nuisance abatement related to abandonment pursuant to state, local or tribal law or otherwise meets a state definition of an abandoned residential property.

**Foreclosed:** A residential property has been foreclosed upon if any of the following conditions apply:
   a) foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not the grantee, contractor, sub recipient, developer or end user.

**Vacant:** A residential lot or structure that is not occupied at the time of purchase (or where option to purchase is held vacant at least four months prior to application deadline) and where the developer is able to provide evidence that the property was not occupied subsequent to the purchase if the seller was not an owner occupant, AND where the vacancy is not the direct result of storm damage. (Note: if vacancy was result of storm damage then complex set of
relocation requirements may apply.)

NOTE: Unoccupied units that are generally on the market but are vacant due to property owners own actions are not considered vacant and are not eligible. Some examples are vacation homes, short sales and voluntary departure.

**Eligible Activity**

DCA’s Division of Housing and Community Resources staff will review applications to determine whether the project proposed is an eligible activity under the CDBG-DR Program. Eligible activities include the acquisition, new construction, and rehabilitation of affordable rental or for sale housing.

**Forms of Assistance**

DCA’s Division of Housing and Community Resources staff will review applications to determine whether the form of assistance requested is consistent with program requirements. Funding under the Neighborhood Enhancement Program will be in the form of a five (5) year zero-percent forgivable loan.

Note: For eligible projects, other CDBG-DR Program funding may be available to supplement the Neighborhood Enhancement Program funding:
- Predevelopment Financing (New Jersey Redevelopment Authority)
- Homebuyer Assistance (New Jersey Home Mortgage Finance Authority)

**12. Program Requirements for CDBG-DR Home Buyer Projects**

The next step in the review process is to determine whether the project complies with the regulations of the CDBG-DR Program. Division of Housing and Community Resources staff will review the application to make sure the proposed project complies with application guidelines and with all the CDBG-DR requirements listed below.

**Eligible Costs**

DCA’s Division of Housing and Community Resources will review applications and identify potential eligible costs. Eligible costs include hard costs, soft costs, and developer’s fees as described in the following table. Any costs proposed in the application that are not eligible under CDBG-DR must be covered by another source.

<table>
<thead>
<tr>
<th><strong>Hard Costs</strong></th>
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<tr>
<td>Acquisition of land (for a specific project) and existing structures</td>
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<tr>
<td>Site preparations or improvements, including demolition</td>
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<tr>
<td>Securing of buildings</td>
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<tr>
<td>Construction materials and labor</td>
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<tr>
<td>Builder’s overhead, profit and general conditions</td>
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<tr>
<td>Builder’s risk insurance</td>
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<tr>
<td>Permit fees</td>
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<tr>
<td><strong>Soft Costs</strong></td>
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<tr>
<td>Financing fees</td>
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<tr>
<td>Specification writing</td>
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<tr>
<td>Title binders and insurance</td>
<td></td>
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<tr>
<td>Surety fees</td>
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</tbody>
</table>
• Recordation fees and transaction taxes
• Legal and accounting fees, including cost certification
• Appraisals
• Construction period holding costs (insurance, property taxes, utilities, maintenance)
• Architectural/engineering fees, including specifications and job progress inspections
• Environmental reviews
• Builders’ or developers’ fees
• Affirmative marketing and other costs related to marketing and sale
• Transactional costs associated with sale and closing
• Real estate commissions
• Staff and overhead costs incurred by the Division that are directly related to a specific project

Maximum CDBG-DR Investment
DCA’s Division of Housing and Community Resources staff will determine the proposed number of units, based on the application, and multiply total units by the eligible subsidy limits established by DCA. This amount establishes the maximum CDBG-DR funding the project may be eligible to receive.

The CDBG-DR maximum per-unit subsidy limits apply to all units. The actual subsidy provided will depend on the following factors:
• The proportion of the total project cost that is CDBG-DR-eligible, as some planned project costs may not be eligible expenses under the CDBG-DR Program.
• The number of units in the project that are CDBG-DR-assisted.
• The financial needs of the project; CDBG-DR projects may not receive more subsidy than is required to make them financially feasible. The CDBG-DR Program allows the DCA to determine what is required as well as what is reasonable and customary. DCA as lender and underwriter is responsible for developing its own guidelines.

Underwriting/ Subsidy Analysis
DCA’s Division of Housing and Community Resources staff must review the CDBG-DR subsidy and layering of the project to ensure that the project is not “over-subsidized”—that only the minimum amount necessary to keep the project affordable is met with CDBG-DR funds. Total Development Cost minus Other Sources will determine the “gap” the project requires from the NEP subsidy.

To complete this analysis, Division of Housing and Community Resources staff will follow HUD’s or DCA’s subsidy guidelines. In most cases, the staff review will raise questions or issue that requires further clarification. This does not automatically mean the proposal will be rejected. If the project appears to have merit, the Division will contact the proposing developer requesting either clarification or amendments to the proposal.

Determining the per unit CDBG-DR subsidy
DCA’s Division of Housing and Community Resources staff will review the development budget for the housing project and identify total development costs (land, hard and soft costs) on a per unit basis, based on comparable amenities and bedroom size. Once the per unit assistance is established, the total subsidy identified from the underwriting phase will be applied and allocated to individual units. This allocation of cost must be a minimum of $10,000 per unit, and no more than the total
development cost per unit, up to the maximum CDBG-DR Program subsidy per unit limit of $250,000.

**Property Standards**

CDBG-DR assisted properties must meet written property standards identified in the Action Plan. Division of Housing and Community Resources staff will review proposed housing projects for compliance with the CDBG-DR Program property standards for acquisition, rehabilitation or new construction.

**Acquisition/Rehabilitation and New Construction:** Housing that is being rehabilitated with CDBG-DR funds must meet all applicable state and local codes, rehabilitation standards and ordinances. The housing must also meet all of the CDBG-DR program specific property standards for energy efficiency and Green Building Standards as applicable.

**Determining Period of Affordability**

Affordability period will be for a five (5) year period beginning at time of occupancy.

The HUD guidelines, as published in the Federal Notice, require that any property assisted with CDBG-DR funds that is located in a flood zone have flood insurance in perpetuity. This will be accomplished by requiring a restrictive covenant be filed that will appear on the title work of all assisted properties.

**13. Conduct Site Visit – Homebuyer Projects**

Staff from the Division of Housing and Community Resources will conduct site visits with a particular focus on analyzing the immediate project neighborhood market conditions, determining whether they are positive and support the development of the proposed units. It is also important to determine that the physical and social conditions in the immediate neighborhood surrounding the proposed project are suitable for the target buyers.

Division of Housing and Community Resources staff will review and include in the project file a written determination that the proposed location and site for the development project has been reviewed to determine if it meets the specific Neighborhood Enhancement Program requirement that housing provided through the this program will serve to stabilize and revitalize a “threatened but viable” neighborhood and promote greater choice of housing opportunities. Staff should also take into consideration neighborhood conditions as they relate to the eventual marketing and sale of the units. Neighborhoods with high levels of abandonment or disinvestment are not good candidates for Neighborhood Enhancement housing development activities.

**14. Complete Environmental Review Process for Each Project and Obtain Release of Funds**

DEP will determine the level of environmental review required and complete that review and request release of funds.

**15. Review and Underwrite Rental Projects**

Before investing any significant staff time in the evaluation of a proposal, the Division of Housing and Community Resources first determine whether there is sufficient funding available to support the project.

DCA’s Division of Housing and Community Resources staff also needs to ensure that the project is financially feasible via underwriting standards – determining financial feasibility and assigning the
correct level of subsidy. Staff must determine that all documentation and evaluation discussed in HUD’s Notices on Subsidy Layering and Duplication of Benefits have been completed.

To effectively underwrite the projects, applicants must submit information that enables analysis of the following to be assessed:

- Market risk (supply and demand, is the project competitive in the market place)
- Borrower risk (capacity of developer, liquidity, creditworthiness, collateral)
- Project risk (completion risk, financial feasibility risk, viability/sustainability risk)
- Compliance analysis (cost reasonableness and regulatory compliance)

Programs to provide newly built units and the purchase/rehabilitation of vacant housing units to be used as affordable rental units should meet the following objectives:

- Rehabilitate or construct affordable rental units, with a priority toward creating mixed-income developments.
- Located in a strategic neighborhood where land assembly is feasible.
- Located in a neighborhood where there is a market for the units developed with CDBG-DR funds.

Organizational Capacity Assessment
The DCA’s Division of Housing and Community Resources will assess the capacity of each Eligible Applicant’s (both for profit and non-profit) to manage funds and housing projects, especially given the compressed timeframe to obligate and expend CDBG-DR funds. This assessment will be based on a number of factors including, but not limited to the Applicant’s demonstrated proficiency and ability to quickly and efficiently deliver programs such as CDBG, HOME and CDBG-DR. The grantee has sole discretion to determine whether each organization’s experience managing housing projects qualifies them to be awarded CDBG-DR funds.

To make an assessment of organizational capacity, DCA staff, including the Division of Housing and Community Resources staff will require and evaluate the organization’s financial and organizational strength based on the documentation required for submission with their proposal. Qualified staff from DCA’s Division of Housing and Community Resources will review and evaluate the documentation to ensure that the applicant has the financial, organizational, and experiential adequacy to successfully complete the project proposed.

Eligible Geographic Neighborhoods
DCA in its Action Plan is limiting the use of CDBG-DR funds to the nine most impacted counties.

Eligible Properties
The following terms are the applicable definitions of “foreclosed” and “abandoned” and “vacant” that DCA intends to use with applicability to CDBG-DR:

**Abandoned**: A residential property is abandoned if any of the following conditions apply:

a) a code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies, or

b) the property is subject to a court-ordered receivership or nuisance abatement related
to abandonment pursuant to state, local or tribal law or otherwise meets a state
definition of an abandoned residential property.

Foreclosed: A residential property has been foreclosed upon if any of the following conditions apply:
   a) foreclosure proceedings that have been completed and title has been transferred to an
      intermediary aggregator or servicer that is not the grantee, contractor, sub recipient,
      developer or end user.

Vacant: A residential lot or structure that is not occupied at the time of purchase (or where
option to purchase is held vacant at least four months prior to application deadline) and where
the developer is able to provide evidence that the property was not occupied subsequent to
the purchase if the seller was not an owner occupant, AND where the vacancy is not the direct
result of storm damage. (Note: if vacancy was result of storm damage then complex set of
relocation requirements may apply.)

NOTE: Short sales and units that are generally on the market but are vacant due to the
property owner’s own actions are not eligible. Some examples are 2nd homes and voluntary
departure.

Eligible Activity
DCA’s Division of Housing and Community Resources staff will review applications to determine whether
the project proposed is an eligible activity under the CDBG-DR Program. Eligible activities include the
acquisition, new construction, and rehabilitation of affordable rental housing.

Forms of Assistance
DCA’s Division of Housing and Community Resources staff will review applications to determine whether
the form of assistance requested is consistent with program requirements. Under CDBG-DR, housing
projects may receive grants, deferred payment loans, or below-market rate loans. Funding under the
Neighborhood Enhancement Program will be in the form of a five (5) year zero-percent forgivable loan

Note: For eligible projects, other CDBG-DR Program funding may be available to
supplement the Neighborhood Enhancement Program funding:
   • Predevelopment Financing (New Jersey Redevelopment Authority)
   • Homebuyer Assistance (New Jersey Home Mortgage Finance Authority)
   • Landlord Incentive Program (DCA, Project Based Rental Program)

The review process determines whether the project complies with the regulations of the CDBG-DR
Program. Division of Housing and Community Resources staff must review the application to make sure
the proposed project complies with application guidelines and with all the CDBG-DR requirements listed
below.

Eligible Costs
DCA’s Division of Housing and Community Resources staff will review applications and identify potential
eligible costs. Eligible costs include hard costs, soft costs, and developer fees costs as described in the
table below. CDBG-DR funds can also be used to cover a lease up reserve if the reserve meets the
requirements listed in the following table. Any costs proposed in the application that are not eligible
under CDBG-DR must be covered by another source.

<table>
<thead>
<tr>
<th>Eligible Costs</th>
<th>Requirements for Lease Up Reserves</th>
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</thead>
<tbody>
<tr>
<td><strong>Hard Costs</strong></td>
<td></td>
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<tr>
<td>• Acquisition of land (for a specific project) and existing structures</td>
<td>• This reserve is meant to meet any shortfall in project income during the project rent-up period.</td>
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<tr>
<td>• Site preparations or improvements, including demolition</td>
<td>• The reserve cannot exceed 18 months.</td>
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<tr>
<td>• Securing of buildings</td>
<td>• The reserve can be used only for project operating expenses, scheduled payments to replacement reserves and debt service.</td>
</tr>
<tr>
<td>• Construction materials and labor</td>
<td>• Reserves remaining at the end of the 18-month period may be retained by the owner/developer for reserves if permitted by DCA. The disposition of any remaining funds at the end of the 18-month period should be determined in the agreement between the developer/owner and DCA.</td>
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<tr>
<td>• Builder’s overhead, profit and general conditions</td>
<td></td>
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<tr>
<td>• Builder’s risk insurance</td>
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<tr>
<td>• Permit fees</td>
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<tr>
<td><strong>Soft Costs</strong></td>
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<tr>
<td>• Financing fees</td>
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<td>• Specification writing</td>
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<td>• Title binders and insurance</td>
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<tr>
<td>• Surety fees</td>
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<tr>
<td>• Recordation fees and transaction taxes</td>
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<tr>
<td>• Legal and accounting fees, &amp; cost certification</td>
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<tr>
<td>• Appraisals</td>
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<tr>
<td>• Construction period holding costs (insurance, property taxes, utilities, maintenance)</td>
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<tr>
<td>• Architectural/engineering fees, including specifications and job progress inspections</td>
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<tr>
<td>• Environmental reviews</td>
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<tr>
<td>• Builders’ or developers’ fees</td>
<td></td>
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<tr>
<td>• Affirmative marketing, initial leasing and marketing costs</td>
<td></td>
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<tr>
<td>• Real estate commissions</td>
<td></td>
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<tr>
<td>• Staff and overhead costs incurred by the PJ that are directly related to a specific project</td>
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<tr>
<td>• Lease up reserve</td>
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</tbody>
</table>
**Maximum CDBG-DR Investment**

DCA’s Division of Housing and Community Resources staff will determine the proposed number of units, based on the application, and multiply total units by the eligible subsidy limits established by DCA. This amount establishes the maximum CDBG-DR funding the project may be eligible to receive.

The CDBG-DR maximum per-unit subsidy limits apply to all units. The actual subsidy provided will depend on the following factors:

- The proportion of the total project cost that is CDBG-DR-eligible, as some planned project costs may not be eligible expenses under the CDBG-DR Program.
- The number of units in the project that are CDBG-DR-assisted.
- The financial needs of the project; CDBG-DR projects may not receive more subsidy than is required to make them financially feasible. The CDBG-DR Program allows the DCA to determine what is required as well as what is reasonable and customary. DCA as lender and underwriter is responsible for developing its own guidelines.

**Underwriting/ Subsidy Analysis**

DCA’s Division of Housing and Community Resources staff must review the CDBG-DR subsidy and layering of the project to ensure that the project is not “over-subsidized”—that only the minimum amount necessary to keep the project affordable is met with CDBG-DR funds. Total Development Cost minus Other Sources will determine the “gap” the project requires from the NEP subsidy.

To complete this analysis, Division of Housing and Community Resources staff will follow HUD’s or DCA’s subsidy guidelines. In most cases, the staff review will raise questions or issue that requires further clarification. This does not automatically mean the proposal will be rejected. If the project appears to have merit, the Division will contact the proposing developer requesting either clarification or amendments to the proposal.

**Determining the per unit CDBG-DR subsidy**

DCA’s Division of Housing and Community Resources staff will review the development budget for the rental housing project and identify total development costs (land, hard and soft costs) on a per unit basis, based on comparable amenities and bedroom size. Once the per unit assistance is established, the total subsidy identified from the underwriting phase will be applied and allocated to individual units. This allocation of cost must be a minimum of $10,000 per unit, and no more than the total development cost per unit, up to the maximum CDBG-DR Program subsidy per unit limit of $250,000.

**Property Standards**

CDBG-DR assisted properties must meet written property standards identified in the Action Plan. Division of Housing and Community Resources staff will review proposed housing project for compliance with the CDBG-DR Program property standards for acquisition, rehabilitation or new construction.

Acquisition/Rehabilitation and New Construction: Housing that is being rehabilitated with CDBG-DR funds must meet all applicable state and local codes, rehabilitation standards and ordinances. The housing must also meet all of the CDBG-DR program specific property standards for energy efficiency and Green Building Standards as applicable.
Owners must maintain properties in accordance with property standards throughout the affordability period (if one is imposed). This will require periodic property inspections, as described in the section on monitoring.

**Rents and Occupancy (assign rents to units)**
The CDBG-DR program has rent and occupancy requirements that make the units affordable to low and moderate income households. Division of Housing and Community Resources staff will review the application to determine whether the proposed rents are consistent with the CDBG-DR requirements and the Action Plan which states that every CDBG-DR-assisted unit is subject to rent limits designed to help make rents affordable to low-income households. These rents are established by HUD and are meant to reflect rental payments plus an allowance for utilities.

**Determining Period of Affordability**
Affordability period will be for a five (5) year period beginning at time of occupancy.

It is important to make this determination during the application review so staff and the developer are aware of the long-term compliance requirements. This determination establishes the property’s compliance period and must be included in a legally enforceable written agreement for the project.

The HUD guidelines, as published in the Federal Notice, require that any property assisted with CDBG-DR funds, that are located in a flood zone, have flood insurance in perpetuity. This will be accomplished by requiring a restrictive covenant be filed that will appear on the title work of all assisted properties.

16. **Conduct Site Visit – Rental Projects**
Staff from the Division of Housing and Community Resources will conduct site visits with a particular focus on analyzing the immediate project neighborhood market conditions, determining whether they are positive and support the development of the proposed units. It is also important to determine that the physical and social conditions in the immediate neighborhood surrounding the proposed project are suitable for the target buyers.

Division of Housing and Community Resources staff will review and include in the project file a written determination that the proposed location and site for the development project has been reviewed to determine if it meets the specific Neighborhood Enhancement Program requirement that housing provided through the this program will serve to stabilize and revitalize a “threatened but viable” neighborhood and promote greater choice of housing opportunities. Staff should also take into consideration neighborhood conditions as they relate to the eventual marketing and sale of the units. Neighborhoods with excessive levels of abandonment or disinvestment are not good candidates for Neighborhood Enhancement housing development activities.

17. **File Documentation**
- Provide copy of underwriting analysis to file
- Provide copy site analysis to file
- Verification of duplication of benefits
- Sources and uses of funds
18. Verify Sources of Funding, Duplication of Benefits, and Other Federal Cross Cutting Regulations

Sources of Funding
Division of Housing and Community Resources staff will verify all sources of project funding are committed and any contingencies identified.

Duplication of Benefits
Division of Housing and Community Resources’ staff will query developers, review FEMA insurance data base to identify any other benefits that have or are anticipated to be available for the subject properties or developer. These benefits must then be deducted from the amount of CDBG-DR funding available for the project. Documentation that this verification has occurred must be placed in the project file.

In addition to the qualifying criteria and the CDBG-DR program requirements, all project (both Rental and Homeownership) funded under CDBG-DR must also meet a number of other federal requirements including:
- Environmental Review
- Labor Standards, if found to be applicable
- Section 3
- Handicapped Accessibility Section 504
- Lead-Based Paint
- Relocation/Displacement, if found to be applicable

DCA’s Division of Housing and Community Resources staff must review the application to make sure it reflects compliance with these requirements, as discussed below.

Environmental Review 24 CFR Part 58
Once the projects are defined, including the specific sites and the number of units to be developed, this additional information is forwarded to the Department of Environmental Protection to determine what Environmental review is required. If the proposed project is scattered site single family (structures with no more than 4 units), a Tier II and SHPO review will be needed along with completion of the Statutory Checklist. If the project involves structures with more than 4 units, then an Environmental Assessment will be required.

The Division of Housing and Community Resources staff along with the Department of Environmental Protection will ensure that an Environmental Review is conducted before entering into a CDBG-DR agreement with the EDE/developer. According to DCA policy, the following steps must be taken in conducting an Environmental Review:

A summary of the steps required for environmental review for the typical Department project includes:
1. Establish Environmental Review Record
2. Determine level of notice and review required (the typical Division development project requires an Environmental Assessment)
3. Contact SHPO and other outside sources
4. Complete Environmental Assessment (EA) (or other applicable review format)
5. Publish Notice of Intent to Request Release of Funds and receive comments
6. Submit Request for Release of Funds (RROF) to HUD
7. Wait for receipt of Authority to Use Grant Funds from HUD (Form 7015.16)
8. Start or restart project

Note: This process assumes a full EA is required. The Department of Environmental Protection may conduct neighborhood wide Tier I assessments that can be used for some single family projects (1 – 4 residential dwelling units.) As a result, completion of a Tier II and statutory checklist, along with clearance from the State Office of Historic Preservation may be all that is required to comply with federal environmental requirements.

For the purposes of the ER, the State of New Jersey, in the form of the Department of Community Affairs is the “responsible entity” (RE) referred to in 24 CFR Part 58. In this capacity, they are responsible for ensuring that the environmental review process is satisfied before CDBG-DR funds are committed to non-exempt projects. They are also responsible for ensuring that property owners carry flood insurance on CDBG-DR-assisted properties that are located in a 100-year floodplain. This requirement should be enforced through a recorded deed restriction.

Agencies receiving funding must comply with all requirements of the National Environmental Policy Act of 1969 (NEPA). Prior to the acquisition of a property, the agency must request an environmental review from the Department of Environmental Protection and comply with all requirements of the completed review before taking any choice-limiting actions.

**Labor Standards/Davis Bacon**
Davis-Bacon wage compliance and other state and federal laws and regulations pertaining to labor standards apply to all construction and rehabilitation contracts that are financed in whole or in part with CDBG-DR funds for residential property consisting of eight (8) or more CDBG-DR assisted units.

Davis-Bacon and related laws include the following:
- Davis-Bacon and Related Acts (40 USC 276a-276a-7)
- Contract Work Hours and Safety Standards Act (40 USC 327-333)
- Copeland (Anti-Kickback) Act (18 USC 874; 40 USC 276c)
- Fair Labor Standards Act of 1938, as amended (29 USC 201, et seq.)

The construction bids and contract for any CDBG-DR-assisted activity must contain the applicable wage provisions and labor standards. The Division of Housing and Community Resources will monitor all developments subject to Davis-Bacon requirements to ensure compliance with all applicable regulations.

**Section 3**
The DCA’s Division of Housing and Community Resources staff needs to ensure developers are meeting Section 3 requirements for CDBG-DR projects. Section 3 of the Housing and Urban Development Act of 1968 requires that, to the greatest extent feasible, opportunities for training and employment arising
from CDBG-DR will be provided to low-income persons residing in the program service neighborhood. Also, to the greatest extent feasible, contracts for work of all types to be performed in connection with CDBG-DR will be awarded to business concerns that are located in or owned by persons residing in the program service neighborhood. Contractors are required to track and report Section 3 employment data upon HUD Form 60002 for submittal to DCA Division of Housing and Community Resources staff.

**Handicapped Accessibility 504/Americans with Disabilities Act (ADA)**

DCA’s Division of Housing and Community Resources staff needs to ensure that EDE/developer is following the 504 ADA requirements.

- For new construction of multifamily projects, five percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional two percent of the units (but not less than one unit) must be accessible to individuals with sensory impairments.
- The Section 504 definition of substantial rehabilitation multifamily projects includes construction in a **project with 15 or more units** for which the rehabilitation costs will be 75 percent or more of the replacement cost. In such developments, five percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional two percent (but not less than one unit) must be accessible to individuals with sensory impairments.
- When rehabilitation less extensive than substantial rehabilitation is undertaken, alterations must, to the maximum extent feasible, make the unit accessible to and usable by individuals with handicaps, until five percent of the units are accessible to people with mobility impairments. Alterations to common spaces must, to the maximum extent feasible, make the project accessible.

**Procurement/Contractor Selection**

DCA’s or its partners must ensure that the procurement proposed by the applicant follows the Department’s policies. While HUD regulations do not require those acting as developers to follow the federal procurement standards, the state and/or DCA may have other requirements. EDE/Developers are strongly encouraged to include EEO and MBE/WBE provisions in their subcontracts.

**Lead-Based Paint (Rehabilitation Pre-1978) 24 CFR Part 35**

The Lead-Based Paint Regulations described in 24 CFR Part 35 and Part 40 require that lead hazard evaluation and reduction activities be carried out for all developments constructed prior to 1978 that are receiving CDBG-DR assistance. Buildings constructed prior to 1978 must include a lead hazard evaluation by appropriate lead-certified personnel. In addition, if lead is identified in the evaluation, a detailed lead hazard reduction plan, in accordance with the regulations, will be required. The costs associated with reduction of lead hazards, in accordance with the regulation and guidelines, will be required to be separately identified within the rehabilitation budget. All CDBG-DR fund allocations will be contingent upon the EDE agreeing to complete lead hazard reduction, evidenced by a clearance report performed by appropriate lead-certified personnel. In a development where CDBG-DR funds will be used on only a portion of the units, the lead-based paint requirements apply to ALL units and common area within the project.

In the case of rehabilitation of a pre-1978 constructed structure the application must state how the EDE will deal with lead-based paint. DCA’s Division of Housing and Community Resources staff must ensure that their CDBG-DR projects are in compliance with the Lead Safe Housing Rule. This rule
applies to all housing built prior to 1978. The amount of work required will depend on the amount of Federal assistance per unit or the rehab hard costs per unit whichever is lower.

DCA’s Division of Housing and Community Resources staff will verify the information contained in the application. If the funding is utilized upon a CDBG- DR project built prior to 1978, a lead-based paint test shall be conducted. These lead based paint related costs are eligible project costs.

Relocation/Displacement
Both CDBG – DR regulations and the Stafford Act specify that relocation provisions may be triggered as soon as a project is identified as a possible federally- assisted project. Failure to follow proper procedures up-front can result in substantial financial liability to tenants and owners. Although it is not anticipated that the developers will be acquiring occupied properties, a certification of vacancy must be obtained for any property receiving CDBG-DR funds. If the property is vacant due to damage from the storm, there will need to be a procedure in place to locate prior tenants and provide them with a right of first refusal for rehabbed or replacement housing. This requirement must be made clear to the Eligible Development Entities, and a method prescribed for compliance and monitoring.

Audit
The Department of Community Affairs requires that all non-profit recipients expending more than $500,000 in Federal awards in a given fiscal year have an audit conducted in accordance with Generally Accepted Accounting Principles (GAAP) and the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations.” An audit of CDBG-DR funds must be submitted to the DCA annually on or before June 30th of each year.

Record Keeping
The EDE at a minimum shall keep such records as specified in 24 C.F.R. §570.506, Records to be Maintained and any other records as applicable and as may be reasonably required. The EDE agree to keep and maintain such records so as to allow the grantee to perform a 24 C.F.R. §570.492, monitoring review and audit.

All records pertinent to this grant and work undertaken as part of the Project shall be retained by the EDE for a period of ten (10) years after notification by the grantee that the grant has been closed. If any claim, litigation, or audit is initiated before the expiration of the ten- year period, the records must be retained until all claims, litigation, or audits have been resolved.

The grantee and duly authorized officials of the state and federal government shall have full access to, and the right to examine, audit, excerpt and/or transcribe, any of the EDE’s records pertaining to all matters covered by the Grant / Loan Agreement with the grantee.

Affirmative Marketing
If the proposed housing development contains five or more units, the proposal must include a plan to affirmatively market the units to households least likely to apply for occupancy, including persons with disabilities, hearing or visual impairments and those who remain displaced by Super Storm Sandy. Division of Housing and Community Resources staff will review the affirmative marketing plan to ensure that it meets the following elements required by the CDBG-DR Program:

- Methods for informing the public, owners, and potential tenants about fair housing laws
and the grantees policies (for example, the use of the Fair Housing logo, or equal opportunity language);

- A description of the actions EDE’s shall perform in order to affirmatively market housing assisted with CDBG-DR fund. and in addition the maintenance of records that document the actions taken in this marketing effort;
- A description of what actions EDE’s shall perform to inform persons not likely to apply for housing without special outreach, and the maintenance of records that document the actions taken in this marketing effort with a particular focus on those households that remain displaced by Super Storm Sandy; and
- A description of how efforts will be assessed and what corrective actions will be taken where requirements are not met, and the maintenance of records that document an assessment of the effectiveness of the marketing effort.

Anti-displacement plan
DCA’s Division of Housing and Community Resources staff shall review each application for housing assistance to identify any properties involved in the proposed project that are occupied by housing residents, businesses, churches or nonprofit organizations.

In accordance with DCA’s residential anti-displacement and relocation policy, Division of Housing and Community Resources staff will require the owner, developer or sponsor to provide verification that any property to be addressed with CDBG-DR funds is vacant and that no occupants have been displaced as a result of a developer seeking funding and that no occupants were displaced as a result of storm damage. If there was storm-related displacement, Stafford Act provisions may apply.

Conflict of Interest
Division of Housing and Community Resources staff shall review the EDE, owner, or sponsor—to determine compliance with conflict of interest rules.

Conflict of Interest: [§92.356] The CDBG Program regulations require state recipients and sub recipients (including CHDOs that are acting as sub recipients) to comply with conflict-of-interest provisions from 24 CFR Parts 84 and 85

- Exceptions: Exceptions to this conflict-of-interest provision (governing owners, developers and sponsors of CDBG-DR-assisted housing) may be granted by the Division of Housing and Community Resources on a case-by-case basis. However, these exceptions must be based upon the following factors as set forth in the regulations; and the Division must document fully why an exception was granted:

1. Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of assisted housing, and the exception will permit him or her to receive generally the same interests or benefits as are being made available or provided to the group as a whole;
2. Whether the person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted housing in question;
3. Whether the tenant protection requirements of CFR 92.253 (prohibited lease terms, termination of tenancy and tenant selection) are being observed;
4. Whether the affirmative marketing requirements are being observed and followed; and
5. Any other factor relevant to the Division of Housing and Community Resources’ determination, including the timing of the requested exception.

- If an exception is made, DCA must request the exception from HUD in the form of a letter and documents providing the following information in order to be granted the exception. DCA must:
  1. Document the full nature of the conflict and submit proof that the disclosure has been made public, and
  2. Provide a legal opinion stating that there would be no violation of state or local law if the exception were granted.

**Contractor Debarment/Suspension**

DCA’s Division of Housing and Community Resources will review the application to determine that any proposed contractor is not debarred at either the state or federal level. CDBG-DR funds may not be used to directly or indirectly to employ, award contracts to or otherwise engage the services of any contractor or sub recipient during any period of debarment, suspension, or placement of ineligibility status. The Division of Housing and Community Resources will check all contractors, subcontractors, lower-tier contractors, and sub recipients against the Federal publication (http://epls.arnet.gov/) that lists debarred, suspended, and ineligible contractors and against lists kept by the State of New Jersey.

19. **Rank Proposals and Make Recommendations to the Commissioner**

Once all projects have been underwritten and scored, DCA Division of Housing and Community Resources’ staff will make funding recommendations to the Commissioner.

Applications that meet all of the program requirements must be ranked according to their scoring guidelines and risk matrix.

- Use a scoring sheet and risk matrix for each proposal, and provide detailed notes, as applicable, for the justification of point based rankings. Scoring sheets may be requested by EDE/developers so they should be written in a manner that is appropriate for public review.
- Put a copy of the scoring sheet and risk matrix in each application file.
- Advise Commissioner on project selection.

20. **Commissioner Decision on Project Funding**

The Commissioner will review staff recommendations and make funding decisions. It is anticipated that funding decisions will be made within 2 months of application deadline. EDE’s not recommended for NEP project funding will be sent a letter advising them of that decision. If the EDE wants to appeal the Department’s decision the appeal must be made in writing to the Division Director within 5 business days of the denial. The Division Director will review the appeal with staff and make a determination on the merits of the appeal. If again denied the EDE has the option to appeal to the Commissioner of the Department of Community Affairs within 5 business days of that denial. If the appeal is upheld the EDE will receive an award letter and the process follows the steps for approval. If no appeals are made within the specified time period the file will closed.
21. **Issue Letter of Conditional Approval**
This letter informs the EDE that funding has been approved for the project conditionally / contingent upon meeting specific requirements necessary to comply with federal, state and local rules. Typical conditions may include:

- Changes to project design or financing that are required in order to comply with applicable rules and regulations.
- Prohibition against making any other changes to the approved project without the prior approval of the DCA Division of Housing and Community Resources staff.
- Requirement to stop or not start construction until the appropriate environmental review has been completed and reviewed and approved by the DCA Division of Housing and Community Resources staff.
- Summary of other federal requirements that must be met during construction such as lead-paint safety and other OSHA regulations.
- Site control

The letter of conditional approval is prepared by staff and signed by the Commissioner of the Department of Community Affairs.

22. **Legal Review of Development Agreement and Documents**
Grant/ Loan agreements will be developed by DCA’s Legal staff and executed by all parties prior to any expenditure of funds. Staff must also document that all Federal requirements have been met, including Environmental Review prior to release of funds.

23. **Execute Funding Agreement with EDE**
Funding agreements must include all the stipulations contained within the conditional approval letter which shall incorporate all program requirements directly or by reference. CDBG-DR-funded agreements will have specific required clauses found in the CDBG-DR regulations or upon the One CPD website.

Along with the Grant / Loan Agreement the EDE will be required to sign Security documents and other relevant legal documents as may be required by the Department of Community Affairs such as those relating to labor standards and wage requirements.

**Terms and Conditions**
Funding under the Neighborhood Enhancement Program will be in the form of a five (5) year zero-percent forgivable loan. Loans will be secured by a construction/permanent mortgage and note payable to the DCA.

**Developer’s Fee**
In recognition that the developer will incur expenses to develop housing and will need to be paid for these services, the DCA’s Division of Housing and Community Resources may pay a developer’s fee. The developer’s fee is determined by the amount or degree of risk taken by the developer. In no event however, shall the developer’s fee exceed 15% of the total development cost (total of all hard and softs costs for development of each dwelling unit.) In return for the developer’s fees, the EDE is expected to provide the following services:
1. Acquire the property (if not already owned by the developer/ EDE) within the neighborhood or neighborhoods (if any) designated by the Request for Proposals (RFP), utilizing due diligence to ascertain that the property is buildable.

2. Secure local government approval for the proposed project.

3. Obtain a contractor and supervise the construction or rehabilitation of the CDBG-DR project.

4. Identify the end user type: buyer and/or tenant for the project

5. Identify a suitable lender who will make the first mortgage on the property.

6. Arrange for the sale/lease of the property.

The schedule for the payment of the developer’s fee will be established by the DCA’s Division of Housing and Community Resources.

Reduction or Termination of Awards

It is the desire of the DCA’s Division of Housing and Community Resources to ensure that each funded agency is successful in meeting the needs of the state’s Super Storm Sandy impacted residents. However, if the EDE/ developer are unable to meet the timeline for the budgeting, obligation, expenditure or use of the funds for eligible activities, DCA’s Division of Housing and Community Resources may terminate funding to the developer in accordance with the terms of the written Grant/Loan agreement.

Prior to terminating any funding, written notice must be provided to the Developer/ EDE and the Developer / EDE shall be given a reasonable period of time to correct the problem.

Due to the compact NEP time frame it is imperative that funds allocated to NEP participants be used as quickly as possible and in the most efficient manner.

All funding necessary to complete the project must be secured or identified at the time of application.

Performance measures shall establish that the EDE should be able to meet the following deadline:

Funds must be obligated within 3 months following the execution of the CDBG-DR grant agreement with HUD, and must be fully expended prior to the applicable 24 month expenditure deadline.

The performance measures in this section establish goals against which contract performance can be measured and evaluated during regularly scheduled monitoring visits by Division of Housing and Community Resources staff. Failure to meet these performance measures can result in termination of the contract or at a minimum, de-obligation of those dollars where obligation cannot be documented and verified. At a minimum, the EDE’s failure to adhere to the performance measurement requirements may (at the grantee’s option) result in the EDE ‘s award hereunder being de obligated with respect to all unexpended and/or unobligated funds.

EDE’s that do not complete the required number of units or do not meet their commitments to sell or rent to people with incomes below 80% of the median income shall be considered in default of their CDBG-DR Agreement. The DCA’s Division of Housing and Community Resources shall recapture
allocated funds that have not been used in accordance with these performance standards and CDBG-DR regulatory budget, expenditure and disbursement requirements. These funds will be placed back into the pool of funds and shall be reallocated. **Failure to meet a national objective may result in the EDE/developer being required to repay all funds expended on the project.**

Administration of the Program
The DCA’s Division of Housing and Community Resources will administer the CDBG-DR program consistent with these policies. In the event an affected party believes that the Division is not interpreting these policies correctly, the affected party must request a meeting with the Commissioner of DCA to discuss and seek resolution of the conflict.

Conflicts with Federal Law
The Commissioner of the DCA is delegated to amend these policies to the extent necessary to make these policies consistent with the rules of the U.S. Department of Housing and Urban Development CDBG-DR Program.

Verification of Property Eligibility for CDBG-DR funding
The regulations and policies promulgated by DCA regarding the Neighborhood Enhancement Program provide for a specific set of conditions that must be met in order for a property to qualify for CDBG-DR funding for acquisition, rehabilitation and/or redevelopment. This section specifies in detail, the verifications that must be presented to the DCA’s Division of Housing and Community Resources staff to verify property eligibility for CDBG-DR funding.

**Acquisition Approval**
EDE’s will submit the following, in a form and content acceptable to the DCA’s Division of Housing and Community Resources, in order to have a property approved for acquisition:

1. Evidence of foreclosure, if applicable
   a. Copy of recorded Trustees Deed showing that the property has transferred from the mortgagor to the lender. OR
   b. Title opinion certifying when and where the property was foreclosed upon. OR
   c. Copy of Sheriff’s Deed.

2. Evidence of abandonment, if applicable.
   a. Evidence that property has been vacant at least 120 days.

1. Evidence of vacancy. Acceptable verification includes the appraiser or a certification from the property seller (including lenders) verifying the property is currently vacant and was been vacant at least 4 months prior to the application date. If verified by an Appraiser it must be noted within the appraisal report.

2. Documentation that properties are eligible based upon a redevelopment plan certified by the local municipality and the Department of Community Affairs.

5 Copy enforceable option to purchase, including executed CDBG-DR addenda describing the CDBG-DR contingencies to purchase (i.e. Environmental Review, appraisal, occupancy/vacancy certification, DCA approval).
Title Search
The EDE must provide a Commitment for Title Insurance showing “clear and marketable title” prior to closing. If there are clouds on the title, the developer must either take steps to clear title (i.e. judicial quiet title action or Certification from Tax Title Services) prior to obtaining permission from the DCA’s Division of Housing and Community Resources to close. If marketable title cannot be obtained, the property must be withdrawn from consideration for acquisition, rehabilitation or redevelopment CDBG-DR funding.

Appraisal Requirements
The Neighborhood Enhancement Program requires that properties acquired using program funding be purchased at a price that is not in excess of the current market value as determined by a fee appraisal performed within 120 days of the acquisition date (exceptions to this policy will be granted on case-by-case basis). The DCA’s Division of Housing and Community Resources will require documentation to ensure this requirement is by requiring a copy of the fee appraisal for each property to be acquired using CDBG-DR funds.

Environmental Review
If the properties are to be acquired with federal funds or there is a possibility that federal funds will be used as part of the development package, then the environmental review requirements are triggered.

As noted previously: Projects that the Department intends to fund with federal funds at a later stage may be ineligible if the appropriate environmental review has not been carried out from the beginning. In all cases, once federal funding is planned, all construction and other “choice-limiting” activities must be stopped until the proper review is done.

24. DRGR Set-Up
The DCA’s Sandy Disaster Recovery Unit is responsible for Disaster Recovery Reporting System (DRGR) set-up. The environmental review must be completed prior to project set-up and the Division of Housing and Community Resources with direction from the Department of Environmental Protection is responsible for tracking environmental review and providing the Finance Division with the information required for DRGR set up.

25. Managing Construction and Reimbursements
The EDE will be responsible for the administration of the construction contract. The EDE will execute all documents necessary to acquire the property, manage all construction contracts, and insure that all required permits are obtained. The EDE / developer along with a licensed NJ Architect will inspect the construction and make decisions on the quality of work and approve all construction payments. All requests for payment from the EDE for construction must be in the form of an AIA form, notarized, dated and signed by the contractor and the architect.

There are several critical elements pertaining to this phase that the Division of Housing and Community Resources staff or their designee undertakes to assure that the project maintains compliance with regulations:

- Monitor compliance with DCA’s Division of Housing and Community Resources requirements to ensure cost reasonableness requirements
Hold pre-construction conference;
Issue Notice of Proceed;
Conduct on-site inspections:
Monitor development of project during construction;
Process construction draws;
Complete final inspections.

26. **Procurement**
DCA will need to determine whether or not they will impose procurement requirements on EDE/developers utilizing these funds. HUD does not require developers to follow federal procurement guidelines.

In all circumstances, there must be assurance that costs are reasonable and customary for the level of construction work being performed. The Division of Housing and Community Resources may procure a subcontractor to conduct on-site inspections as necessary, and review all draw requests.

27. **Pre-construction conference**
Before construction starts, the DCA’s Division of Housing and Community Resources staff will conduct a pre-construction conference at a designated site with the EDE. This meeting is particularly important given the compressed time restraints under which the program is operating. The meeting will include an orientation to the CDBG-DR requirements including Section 3.

A pre-construction conference should accomplish the following objectives:

- Communicate the goals of the project to all team members to assure that everyone is clear on his or her role and responsibilities to the project.
- Identify deadlines and critical phases of the project.
- Review the overall schedule.
- Explain basic operating procedures, including reports, meetings and other ongoing communications required between the members of the construction team.
- Review Davis Bacon Prevailing Federal Wage requirements (if they apply) and advice the principal contractor and all subcontractors in writing of their responsibilities and obligations regarding labor standards and wage determinations. Provide contractors and subcontractors with form WH-347 “Weekly Payroll Submission.” Staff will supply the contractor with on-site posters, as well as Wage Determination sheets, Wage and Hour Notice, and Equal Employment Opportunity, along with instructions regarding information that must be visibly displayed on the job site at all times.
- Review Lead Safe Housing Rule requirements as applicable to rehabilitation of existing pre-1978 constructed housing units, including receipt of lead hazard risk assessment, qualifications of contractors who will carry out any construction activity, copies of notifications provided to occupants of general information pertaining to lead-based paint hazards in older housing, and notification of lead hazard evaluation. If lead abatement is included in the scope of work, and receipt of a copy of any lead abatement plan filed with the state.
- Review the procedures to be used for:
  1. Inspections;
  2. Payment requests;
  3. Lien releases;
  4. Change orders;
5. Project close-out.

The DCA’s Division of Housing and Community Resources will prepare or obtain meeting minutes documenting meeting attendees and discussion topics.

28. **Issue Notice to Proceed**
DCA Division of Housing and Community Resources staff will review project requirements, and secure copies of any required permits, licenses, insurance and any necessary bonding documentation, if available at the time. Upon completion of review, staff will prepare a “Notice to Proceed” and transmit same to EDE/Developer.

29. **Notice of Commencement**
Upon receipt of the Notice to Proceed, the Developer can issue a Notice of Commencement to the General Contractor, which will be the signal that work may begin on the project.

30. **Developer to Submit Draw Requests with Documentation**
The developer will execute a drawdown schedule outlining predetermined draws. All payments will be on a reimbursement basis. Submitted documentation for each payment shall match or exceed the amount for that specific draw. Each draw request for construction, at a minimum, should include the following:

- Sworn statement (AIA form)
- Documentation to support sworn statement
- Unconditional releases of lien, only upon final payment
- Title bring down

31. **Change Orders**
The DCA’s Division of Housing and Community Resources recognizes that changes in a development may occur. The Division of Housing and Community Resources does not require submission of change orders as long as the total contract cost does not exceed the contract amount (including construction contingencies). Should change orders be required that will necessitate additional funding, NO approval is to be given by the developer without prior Division of Housing and Community Resource staff approval. Costs overruns without prior approval may be rejected for payment.

Any change to the original amount of CDBG-DR assistance must be reflected by an Amended Agreement through the SAGE System.

32. **Submit Evidence of Contractor Payment**
Developers are expected to submit unconditional lien releases for final payment. Payments made on prior invoices for which a lien release is not produced may trigger contact with the subcontractor in question, and may result in withholding of additional payment or other remedy until the appropriate release of lien can be obtained.

33. **Conduct On-Site Inspections**
Division of Housing and Community Resources staff or their designee will ensure that on-site monitoring
occurs during the construction period. The purpose of monitoring is to keep the project team working toward the final deadline within the budget and, in line with the goals of the project.

- Formal monitoring consists of scheduled on-site visits, as well as unscheduled visits to the site, and regular communication with the property owner, developer, architect and contractor.

- Written reports to document on-site inspections include:
  1. Construction progress reports from the Construction Manager or inspector (with each payment request, but no less than monthly) that should document any decisions that have been made in the field, including changes to the scope of the work.
  2. Construction progress meetings held by the EDE / developer with other professionals (e.g. architect, funders, property owner, contractor) to discuss inspections, change orders, and any problems or disputes that have occurred during construction, submitted at a minimum, monthly and more frequently if issues arise or construction is not proceeding on the pre-determined schedule.

Construction oversight – work in progress
Division of Housing and Community Resources staff will review and monitor ongoing construction work to ensure its timely completion in accordance with approved construction plans and specifications. Architect and local or state building inspectors will provide required code related inspections. Primary elements include:

- **Progress.** The DCA Division of Housing and Community Resources staff or their designee will make periodic inspections to evaluate construction progress. Inspections will ensure that all work is being completed on time, within stated quality guidelines, and is in compliance with all DCA’s Division of Housing and Community Resources requirements and State codes and Federal program rules.

- **Schedule.** The DCA Division of Housing and Community Resources staff or their designee will monitor the construction schedule to verify the following elements of ongoing construction progress:
  1. Work is progressing as planned;
  2. Appropriate inspections are done at key points in the process to ensure code and standards compliance;

- **Quality.** The DCA’s Division of Housing and Community Resources Staff or their designee will review construction work in progress to ensure that the standards it has adopted for its program are adhered to during construction, including materials used and the methods of installation are being utilized in adherence to the program standards.

- **Cost and expenditures.** DCA’s Division of Housing and Community Resources staff or their designee will track the budget on a regular basis to ensure that the construction work is completed within budget.
34. **Draw Review**
The DCA’s Division of Housing and Community Resources staff or their designee will review payment requests from EDE. The review process will focus on ensuring that the contractor and subcontractors are receiving appropriate payment for completed work.

**Lead Safe Housing Rule**
If required EDE will contract with a Lead Inspection firm to ensure that periodic site inspections occur to verify that lead safe work practices are employed (if required), and worker protection is being utilized. Photographs will be taken to provide documentation of compliance of on-site requirements. At completion of project a Lead Safe letter will be provided.

**Section 3**
DCA’s Division of Housing and Community Resources staff or their designee is responsible for oversight and monitoring of Section 3 activities during the project construction phase. Any applicable Section 3 correspondence or forms should be included in the project file.

**Handicapped Accessibility Section 504**
The DCA’s Division of Housing and Community Resources or their designee will ensure that the proper number of units constructed or rehabilitated meet all applicable Handicapped Accessibility Section 504 requirements.

The DCA’s Division of Housing and Community Resources staff or their designee will develop a construction draw schedule that establishes the frequency and procedures for review and approval by the owner, EDE / developer or sponsor. At the final draw stage of each project, a 10% retainage will be held back until all required close out documentation as outlined in both the Grant Loan Agreement are received and approved.

- DCA’s Division of Housing and Community Resources staff or their designee will incorporate the construction draw schedule into the overall construction schedule as a means to manage and monitor payment requests, and as a method to establish clear expectations for all parties as to when the contractor may request and expect to receive payments.

- The owner, EDE / developer or sponsor will assemble construction draw requests, using a Sworn Statement, AIA document, or on another form that is reviewed by and acceptable to the DCA’s Division of Housing and Community Resources covering all eligible costs and expenses, including both hard and soft costs from the general contractor, engineers, architects and other professionals involved with the project.

- The EDE/ developer should submit the form provided by the licensed architect or the licensed engineer. The form should contain an itemized list of each construction task. In addition, for each task listed, the invoice should include:
  1. Total budget obligated;
  2. Total of previous payments received;
3. Costs for stored materials;
4. Costs incurred during the particular pay period;
5. Total costs incurred to date (including previous and current expenses),
6. Percentage of work completed to date;
7. Remaining budget; and
8. Amount of payment retained until project completion.

- Progress payments may be made only for work that has been completed. The project manager should provide an explanation, if a payment is not approved. Inspections should be made with the owner’s representative, general contractor, and architect present, to the maximum extent possible. No payment should be released when changes to the original scope of work have been made without prior change order approval.

**Payment Documentation**
The DCA’s Division of Housing and Community Resources will document construction draws in the project file.
- Each payment will be recorded as soon as it is released.
- The DCA’s Division of Housing and Community Resources will retain copies of all payment requests and copies of disbursement request forms in each project file. The DCA’s Division of Housing and Community Resources will also keep copies of lien release forms for final payment.

**35. Payment Requests Submitted to Disaster Recovery Unit for Review**
Once payment requests and support documentation have been reviewed and approved by Division of Housing and Community Resources’ staff, the request will be forwarded to the Disaster Recovery Unit for review and approval.

**36. Disaster Recovery Unit Review and Approval**
All requests for payment are reviewed by the Disaster Recovery Unit. Once approved, they are forwarded to DCA’s Fiscal Unit for payment and DRGR submission.

**37. DRGR Disbursement**
The Disaster Recovery Unit will prepare a draw form and transmit same to appropriate Finance Department staff upon confirmation and reconciliation of disbursement. Finance Department staff will handle DRGR Activity # account data entries.

**38. Final Inspection**
DCA’s Division of Housing and Community Resources staff or their designee will conduct a final inspection upon receipt of a notice of substantial completion from the architect or owner’s representative. Final inspections will be made by state and local health, code and safety inspectors, as applicable. Any outstanding items shall be documented and addressed in the form of a “punch list.”

- Even if the architect signs off, the DCA’s Division of Housing and Community Resources or their designee must do its own inspection to verify that the work is complete and conforms to the DCA’s Division of Housing and Community Resources’ required standards.
- After completion of the inspection and the architect’s notice, the DCA’s Division of Housing and Community Resources shall see to it that the EDE provides closeout documentation:
1. Cost certifications;
2. Release of liens; and
3. Lead Safe Housing Rule documentation (if applicable), specifically lab results of clearance examinations and lead clearance certification;
4. Final Section 3 report

- The DCA’s Division of Housing and Community Resources may use a release of liens form developed by the program.
- No final payment will be made by DCA’s Division of Housing and Community Resources until all documents required for close out are received and the all dwelling units are occupied by income eligible households.

39. **Disposition of Units**
To complete a CDBG-DR funded unit, the unit must meet a national objective. For the Neighborhood Enhancement Program, that means that the unit must be either sold or rented to an income eligible household as defined by HUD.

40. **Sale of Units (CDBG-DR Homebuyer Projects)**
In this stage, the developer is engaged in selling CDBG-DRs to eligible buyers, sometimes directly, sometimes through a listing agent. Sometimes properties have been pre-sold. Regardless, the marketing methods used must be reviewed and eligible CDBG-DR buyers’ income must be certified by the Department. The DCA’s Division of Housing and Community Resources must assure that program requirements are met during this process, including fair housing rules, appropriate pricing and financing, eligibility of buyers, and use restriction covenants when applicable. The steps in this stage include:

- Review CDBG-DR buyer application and perform income certification process
- Review loan documents, closing documents, and deed restrictions if applicable
- Assure that the properties designated as CDBG-DR-assisted are sold and occupied properly

**Marketing**
The essential requirement regarding marketing is demonstrating that properties are marketed openly and fairly among the eligible population of potential buyers. Department representatives must monitor how selected buyers became aware of property availability in order to avoid special favoritism by the developer.

All the units will be marketed on HMFA’s Housing Resource Center website and have a 90 day priority for any individual or family impacted by Superstorm Sandy. To ensure access to persons whose first language is not English, all NEP-funded housing shall be marketed in English and Spanish as well as the other applicable foreign languages spoken where the project is located, if applicable.

**Applications and Income Certification**
The EDE/Developer must use the New Jersey Housing Affordability Service (NJHAS) to certify all occupants and purchasers. In addition, the beneficiaries must have an income at or below 80% of the Neighborhood Median Income, adjusted for family size, or at the income level contained in the
developer’s application, whichever is lower and be able to obtain a first mortgage for the purchase of the property.

The Division of Housing and Community Resources, property owners and NJHAS will use the Annual (Gross) Income definition found at 24 CFR Part 5.609 (also referred to as the Section 8 definition) to determine applicant income eligibility. Eligibility is based on anticipated income during the next 12 months. HUD’s income calculator is also a useful tool to help determine a household’s income.


Income certifications will be completed by the New Jersey Housing and Mortgage Finance Agency, under an MOU with DCA. Participants receiving approval will be provided with an “Application Approval.”

Pricing the Units for Sale
All properties sold to eligible buyers must be sold for the amounts stated in Section C of the grant agreement and be less than or equal to the cost to develop the units or the appraised value, whichever is less. In the event that a sales contract for a property has not been executed within six months following completion, the agency may entertain the option of a lease-purchase arrangement or conversion to a rental for disposition of the CDBG-DR. Lease-purchase agreements must be approved by the DCA’s Division of Housing and Community Resources prior to execution and may not exceed a 36 month option period from the date of signing of the agreement.

Home Buyer Counseling
CDBG-DR buyers who are purchasing a CDBG-DR-assisted unit are required to receive and complete a minimum of eight (8) hours of CDBG-DR buyer education counseling before obtaining a mortgage loan from a HUD certified counseling agency. The course will include an overall view of CDBG-DR ownership, credit, budgeting, the mortgage process, CDBG-DR maintenance, repairs and Enhancements. Educators will collect and maintain specific information from education clients in accordance with the laws and governing organizations.

If the CDBG-DR Project activities involve assistance to CDBG-DR buyers, then the EDE/developer is responsible for fulfilling the HUD requirement that such CDBG-DR buyers must receive at least eight (8) hours of CDBG-DR buyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan. In the circumstance where such a HUD-approved housing counseling agency is not within the sub recipient or for-profit developer’s jurisdiction, then the required CDBG-DR buyer counseling may be obtained from another such qualified organization that has been specifically approved by HUD at the grantee’s request, for the grantee's CDBG-DR projects, including this Project.

Documentation that the assisted buyers received such counseling must be maintained by the sub-recipient or developer and DCA and should be maintained in the qualified family’s folder.

Loan Documents, Closing and Recapture Provisions
The CDBG-DR program requires only that the unit be sold to an income eligible buyer. However, the State of New Jersey has chosen to restrict any unit developed under the Neighborhood Enhancement...
Program for a period of 5 years. The restrictions will be in the form of a five (5) year zero-percent forgivable loan.

There is also a requirement that a restrictive covenant be placed on the deed advising this and future buyers that flood insurance must be maintained on the property in perpetuity, if property is located in a flood zone.

Although recaptured funds are not anticipated due to program design any recaptured funds will be held in a separate account to be utilized for like projects utilizing the CDBG-DR regulations.

41. **Initial Occupancy and Leasing of Rental Properties**

Create project abstract for loan portfolio
DCA’s Division of Housing and Community Resources Staff should review the specific terms and conditions of the CDBG-DR Program loan agreements to detail the financial assistance to the project and draft a project abstract that includes:

- The specific number of CDBG-DR-assisted units;
- The unit by bedroom size; i.e. the number of bedrooms in the unit;
- The applicable affordability period;
- The initial rent schedule; and
- The utility allowance applicable to the project.

The project abstract should be used for entry into a database for financial and project monitoring that forms the DCA’s Division of Housing and Community Resources’ rental housing loan portfolio. Information should also include contact information of the developer or owner along with any property management firm or owner’s representative.

Complete initial occupancy requirements
The DCA’s Division of Housing and Community Resources should conduct a meeting with the owner’s representative or property manager to review the CDBG-DR program requirements, specifically the following:

- Requirements for income verification and certification of households;
- Initial rent schedule;
- Applicable utility allowance schedule;
- Requirements for property standards;
- Tenant screening and selection procedures;
- Affirmative marketing plan; and
- Lease requirements.

Under an MOU with the New Jersey Housing and Mortgage Finance Agency will be responsible for income certification and assistance in marketing the units on the Housing Resource Center website.

**Determination of Income**
EDE is required to use the New Jersey Housing Affordability Service to certify all occupants or purchasers. The initial Rental Compliance Report must be completed by the owner’s representative or property management agent and submitted to the DCA’s Division of Housing and Community Resources once all CDBG-DR-assisted units have initially leased up in the project. The DCA’s Division
of Housing and Community Resources requires property owners/managers to use the Annual (Gross) Income definition found at 24 CFR Part 5.609 (also referred to as the Section 8 definition) to determine applicant income eligibility. Eligibility is based on anticipated income during the next 12 months. HUD’s income calculator is also a useful tool to help determine a household’s income. The income calculator may be accessed at


42. Verification that National Objective Has Been Met and Other Requirements of DCA
Once the unit has been occupied by an income eligible individual or household and this has been verified, a national objective has been met. At this point, there is no further monitoring required unless DCA decides to impose a second or forgivable mortgage on the property. In that instance, the property will remain affordable until the end of the retention period, or until the subsidy (or some portion thereof) has been repaid.

If DCA’s Division of Housing and Community Resources determine that the project should be required to remain affordable beyond initial occupancy, then the appropriate retention documents must be prepared and executed with the EDE/developer.

Note: CDBG-DR program requires that only the initial tenant of the unit be income eligible to meet the national objective. Once that criterion has been satisfied, CDBG-DR imposes no additional income or monitoring requirements on the grantee. However, the State of New Jersey has a separate policy regarding long term affordability for assisted units that may impose additional monitoring requirements on the Department of Community Affairs and its developers.

43. DRGR data entry
The DCA’s Division of Housing and Community Resources should prepare and submit DRGR information to the Finance Department to move the subject CDBG-DR-assisted project from “final draw” status to “competed” status.