



Policy Guidelines for the Ivy Hill Stormwater Mitigation Program



CONTENTS

- 1. Program Overview and Requirements.....1**
 - 1.1. Introduction/Purpose 1
 - 1.2. Project Description 1
 - 1.3. Program Objectives 1
 - 1.4. Funding Source 2
 - 1.5. Method of Distribution 2
 - 1.6. Maximum Award Amount 2
 - 1.7. Timely Expenditures and Project Completion 3
 - 1.8. Funding Period 3
 - 1.9. Extension of Funding 3
 - 1.10. Program Administration 4
 - 1.11. City of Newark Roles and Responsibilities 4
- 2. Eligibility5**
 - 2.1. MID Areas 5
 - 2.2. Disaster Tie-back 6
 - 2.3. Response to Disaster Mitigation Needs 6
 - 2.4. Eligible and Ineligible Activities 6
 - 2.5. National Objective 7
- 3. Citizen Participation.....7**
 - 3.1. Citizen Participation Plan 7
 - 3.2. Public Hearing Requirements..... 8
- 4. Grant Administration9**
 - 4.1. Subrecipient Agreements 9
 - 4.2. Period of Performance 9
 - 4.3. Program Budget..... 9
 - 4.4. Eligible and Ineligible Costs 10
 - 4.5. Duplication of Benefits (DOB) 10
 - 4.6. Disbursement Method 11
 - 4.7. Subrecipient Agreement Modifications and Extensions 11
 - 4.8. Financial Management..... 11
 - 4.9. Program Income 12
 - 4.10. Subrogation 12

4.11. Recapture of Funds 12

4.12. Reporting Requirements 13

4.13. Resilience Performance Metrics 13

4.14. Grant Closeout 14

4.15. Retainage 15

5. Program Implementation 16

5.1. Procurement 16

5.2. Contractors 16

5.3. Environmental Review 17

5.4. Cost Reasonableness Evaluation 18

5.5. Hazard Mitigation Standards 19

5.6. Flood Insurance 20

5.7. Requirements for Flood Control Structures 21

5.8. Uniform Relocation Agreement 21

5.9. Section 3 22

5.10. Davis-Bacon Act 22

6. Other Cross-cutting Requirements 23

6.1. Prevention of Fraud, Waste, and Abuse 23

6.2. Equal Opportunity 23

6.3. Conflict of Interest 24

6.4. Audit 24

7. Monitoring and Compliance 24

7.1. Development of Internal Controls and Reporting 24

7.2. Monitoring Types and Methodology 25

7.3. Monitoring Results and Reporting 25

Appendix A : Disaster Tie-Back 28

Appendix B: Response to Disaster Recovery Mitigation Needs 31

Appendix C: Citizen Participation Plan 32

Appendix D: Duplication of Benefits 33

Appendix E: Financial Management 34

Appendix F: Reporting Requirements 35

Appendix G: Grant Closeout.....38

Appendix H: Procurement.....39

Appendix I: Environmental Review.....40

Appendix J: Section 3.....41

Appendix K: Davis Bacon Act.....42

Appendix L: Prevention of Fraud, Waste, and Abuse43

Appendix M: Development of Internal Controls and Reporting.....44

Appendix N: Monitoring Results and Reporting.....45

Appendix O: Record Keeping46



Version History and Policy

The version history of the policy manual is tracked in the table below, with notes for each change. The dates of each publication also are tracked in the table.

The State will publish a new version after making substantive changes that reflect a policy change. The updated policy manual will be assigned a new primary version number, such as 2.0, 3.0, and so forth.

After making non-substantial changes, such as minor wording and editing or clarification of existing policy that do not affect the interpretation or applicability of the policy, the State will publish a version of the document with a sequential number increase following the primary version number, such as 2.1, 2.2, and so forth.

Amendments made to policy may go into effect on the date of the revision or may be applied retroactively. Whether a policy will be applied proactively or retroactively will be detailed in the version history below and/or within the relevant program sections.

Version No.	Date Revised	Key Revisions
0.1	12/5/23	First Internal Draft
0.2	12/15/23	Second Draft – Added requirement for Newark to develop or adopt procedures for adhering to specified policies and including within Appendix
0.3	1/26/2024	Third Draft
0.4	2/X/2024	Final Draft

1. PROGRAM OVERVIEW AND REQUIREMENTS

1.1. Introduction/Purpose

In alignment with the State of New Jersey’s comprehensive approach to resilient recovery from Tropical Storm Ida, the State is allocating funds to the City of Newark to support resilient infrastructure activities designed to fortify the Ivy Hill neighborhood against severe weather events and flood damage. The Ivy Hill Stormwater Mitigation Program is funded by Community Development Block Grant–Disaster Recovery (CDBG-DR) funds appropriated by the United States Congress for recovery from Tropical Storm Ida. CDBG-DR grants are administered by the U.S. Department of Housing and Urban Development (HUD) and allocated to states and other jurisdictions to address “unmet needs” that are not satisfied by other federal, state, and local recovery resources.

The purpose of this policy manual is to explain the overall objectives and policy requirements of this activity to be administered directly by the City of Newark. This manual describes the process by which the New Jersey Department of Community Affairs (DCA) will award CDBG-DR funds to Newark for resilient recovery activities encompassing acquisition; construction; reconstruction; and installation of public works, facilities, and site or other improvements. DCA will provide oversight of Newark to ensure the city is compliant with all applicable rules and requirements of this funding. This manual summarizes many of the policies and requirements that apply to this allocation of funds, and the State and Newark will work collaboratively to determine appropriate procedures for compliance with the requirements. Therefore, detailed procedures describing how Newark will ensure proper and compliant administration of CDBG-DR funds will be developed and included as an Appendix to this document.

1.2. Project Description

The State of New Jersey is allocating funds directly to Newark, which will administer CDBG-DR funds as a subrecipient of the State. The project, the Ivy Hill Stormwater Mitigation Program, will address the currently undersized stormwater culverts and areas of poor drainage and infiltration. The focus will be to redirect and capture the excess surface runoff that flows to Woodbine Avenue. The funds will address unmet needs remaining in the Ivy Hill area of Newark in Essex County after being impacted by flood during and following Tropical Storm Ida and will help the neighborhood become more resilient to current and future hazards.

1.3. Program Objectives

Program funds will be used to help the community recover from impacts of Tropical Storm Ida and mitigate flooding in order to protect life and property. The activities will focus on achieving the following objectives:

1. Reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by lessening the impact of future disasters.
2. Recover from the disaster impacts of Tropical Storm Ida.
3. Protect publicly funded recovery investments in the impacted Ivy Hill community.

1.4. Funding Source

Funding for the Ivy Hill Stormwater Mitigation Project is provided through HUD's Community Development Block Grant–Disaster Recovery (CDBG-DR) Program, as appropriated by Congress. Funding for 2021 disasters was appropriated by the Extending Government Funding and Delivering Emergency Assistance Act of 2021 and the Disaster Relief Supplemental Appropriations Act of 2022 ("the Act"). The Act directs \$5 billion to HUD for recovery from disasters in 2020 and 2021. HUD allocated \$228,346,000 in CDBG-DR funds to the State of New Jersey as a result of Hurricane Ida, which impacted the State from September 1 to 3, 2021.

CDBG-DR grants are authorized under Title I of the Housing and Community Development Act of 1974 (HCDA) for necessary expenses related to disaster relief; long-term recovery; restoration of infrastructure and housing; and economic revitalization in the most impacted and distressed areas resulting from a major disaster.

Alternative requirements and waivers for the use of CDBG-DR funds are published in the applicable Federal Registers (FRs), including [87 FR 31636](#), which allocates funds to the State of New Jersey.¹ Future FRs and allocations may be applicable and can be referenced on the [HUD Exchange](#).

1.5. Method of Distribution

DCA will directly allocate all funds to the City of Newark through an executed subrecipient agreement. The State and the City of Newark determined that funding was needed to enable the Ivy Hill community to recover from impacts of the disaster and enhance flood water management infrastructure and reduce risk of future flood damage. The administration of the project will be a joint effort between the City of Newark and DCA. DCA will work directly with City officials and staff in a collaborative and coordinated fashion. DCA is providing oversight of the funds allocated for the project and ensuring they are administered in compliance with applicable federal and state laws and regulations, while the City of Newark will be implementing the project and have decision-making authority over the construction scope. DCA will work closely with Newark officials and partnering authorities to ensure completion of this project and to ensure the City of Newark has in place Policies and Procedures to implement the project and ensure funding is compliant with all applicable federal and state laws and regulations.

1.6. Maximum Award Amount

To address the currently undersized stormwater culverts and areas of poor drainage and infiltration, \$10,000,000 is allocated to the Ivy Hill Stormwater Mitigation Program.

¹Federal Register. Department of Housing and Urban Development. Allocation Notice 31636. [87_FR_31636.pdf \(hud.gov\)](#)

1.7. Timely Expenditures and Project Completion

Funding Period

HUD has imposed a 6-year expenditure deadline on CDBG-DR funds, which requires DCA to expend all funds for this project by the expiration of the CDBG-DR grant in early 2029. All funding awarded to a unit of general local government (UGLG) and their sub-awardees are subject to these timelines, as well. DCA may impose a more restrictive performance timeline of expenditures to ensure its ability to manage and meet statutory expenditure guidelines. DCA will include performance benchmarks, evaluation markers, and monitoring schedules in the standard subrecipient agreement with the City of Newark to ensure the statutory deadline is met.

Extension of Funding

HUD may extend the 6-year period of performance, administratively. Such an extension is not an automatic extension to DCA's subrecipients and/or sub-awardees. Extensions to DCA's subrecipients, including Newark, will be determined by various factors such as project performance, subrecipient performance, timelines, overall program performance, national objective criteria, percentage of completion, total investment/expenditures at the time of the request for extension, etc. When the initial and/or extended period of performance has ended, DCA will close out the grant. Any remaining funds not expended by the subrecipients and/or sub-awardees will be recaptured.

1.8. Funding Period

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1.9. Extension of Funding

HUD may extend the six (6) year period of performance, administratively. Such an extension is not an automatic extension to DCA's subrecipients and/or sub-awardees. Extensions to DCA's subrecipients, including Newark, will be determined by various factors such as project performance, subrecipient performance, timelines, overall program performance, national objective criteria, percentage of completion, total investment/expenditures at the time of the request for extension, etc. When the initial and/or extended period of performance has ended, DCA will close out the grant. Any remaining funds not expended by the subrecipients and/or sub-awardees will be recaptured.

1.10. Program Administration

DCA is responsible for oversight of the funds allocated for the project. DCA will retain the role of Responsible Entity, ensuring all activities and expenditures of Newark and contractors meet statutory and regulatory program requirements: national objectives; fair housing; social equity and non-discrimination; procurement and labor standards; environmental regulations; compliance; construction standards; and eligibility. The City of Newark will be directly implementing the project and overseeing construction scope of work and subcontractors.

1.11. City of Newark Roles and Responsibilities

As subrecipient to the State, Newark's key roles include, but are not limited to:

- ▶ **Procedures:** Develop and provide to DCA detailed pProcedures that guide administration of the funds to ensure compliance with all applicable federal and state rules and regulations. The City of Newark must develop new procedures or adopt existing procedures that demonstrate how it will adhere to the requirements of this grant. Procedures, forms, templates, and/or workflows or reference to such must be included within the respective Appendix of this document. DCA will review and approve procedures as part of finalizing the Policies and Procedures. Procedures need not be finalized prior to Newark entering into a subrecipient agreement with the state, but must be finalized as a requirement of grant terms and conditions.
 - Disaster Tie-back – Appendix A
 - Response to Disaster Recovery Mitigation Needs – Appendix B
 - Citizen Participation Plan – Appendix C
 - Duplication of Benefits – Appendix D
 - Financial Management – Appendix E
 - Reporting Requirements/Resilience Performance Metrics – Appendix F
 - Grant Closeout – Appendix G
 - Procurement – Appendix H
 - Environmental Review – Appendix I
 - Section 3 – Appendix J
 - Davis Bacon Act – Appendix K
 - Prevention of Fraud, Waste, and Abuse – Appendix L
 - Development of Internal Controls and Reporting – Appendix M
 - Monitoring Results and Reporting – Appendix N
 - Record Keeping – Appendix O
- ▶ Perform grant administration of the grant award.
- ▶ Meet all established performance goals and measures.
- ▶ Assist with outreach to local communities, development communities, and localities in sphere of influence regarding program and development projects.
- ▶ Negotiate, execute, manage, and monitor construction contractor agreements.
- ▶ Provide management and oversight of contractors.
- ▶ Enforce policies, program guidelines, and procedures.

- ▶ Create and maintain a monitoring plan to monitor contractor performance and compliance with subrecipient agreement and applicable federal regulations related to administrative and financial management, federal crosscutting requirements (e.g., suspension and debarment, Davis Bacon, Section 3, MBE/WBE), and other requirements. Provide evidence of monitoring upon request.²
- ▶ Manage any URA triggered relocation process, if applicable.
- ▶ Conduct project-specific environmental review process to ensure compliance.
- ▶ Manage project approval processes (e.g., approval of construction drawings, permits).
- ▶ Ensure contractors are adhering to roles and responsibilities as spelled out in executed agreements.
- ▶ Review and approve payments/reimbursements to contractors.
- ▶ Submit request for reimbursement to the DCA for review.
- ▶ Maintain project financial and budget records.
- ▶ Submit data to DCA for proper reporting (e.g., DRGR reporting, Section 3, Davis Bacon)
- ▶ Track/oversee project progress (e.g., status, time, and expenditure reports).
- ▶ Follow recordkeeping requirements established by DCA and establish additional requirements as needed for contractors.
- ▶ Ensure payment requests, reports, and program documents exist and are accurate.
- ▶ Confirm completion of related construction work prior to the release of reimbursements to the developer.
- ▶ Review and approve change orders, when necessary.
- ▶ Commit and budget for long-term operations and maintenance.
- ▶ Assist with Duplication of Benefits process to ensure no duplication exists related to infrastructure and the overall development of the project.
- ▶ Oversee contractor with the management of the closeout process and other aspects of Program/grant closeout related to the development project.
- ▶ Participate in DCA monitoring and auditing processes including coordinating with subcontractors during and after the lifecycle of the program. Provide relevant documentation upon request.

2. ELIGIBILITY

2.1. MID Areas

As required by the Federal Register, the State will allocate at least 80% of the funds to address unmet needs within HUD-identified “most impacted and distressed” (MID) areas that have been Presidentially declared as a major disaster as a result of Tropical Storm Ida. The City of Newark is located within Essex County, which is a HUD-identified MID county.

²The responsibility of the City of Newark to monitor contractor performance and compliance with the grant agreement and applicable federal regulations does not negate DCA’s responsibility to monitor the Program. DCA will continue to monitor this and all its programs in accordance with the DCA CDBG-DR Monitoring Plan.

2.2. Disaster Tie-back

HUD permits the State to fund eligible mitigation activities that address the impacts of the disaster, as well as mitigation activities that respond solely to the Mitigation Needs Assessment. Activities funded under this program will address unmet recovery and mitigation needs in HUD-identified and State-identified MIDs related to Tropical Storm Ida. The City of Newark must document how the Program responds directly to Tropical Storm Ida-related risks and impacts using the template in Appendix A.

Refer to Appendix A for a template for documenting tie-back and national objective.

2.3. Response to Disaster Mitigation Needs

This project responds to unmet recovery needs in the community that would otherwise not receive funding through other sources. As described in the Unmet Needs Assessment, there are many infrastructure needs resulting from Tropical Storm Ida that are not covered by FEMA's Public Assistance Program or Hazard Mitigation Grant Program. The area benefitting from this project was impacted by flooding resulting from Tropical Storm Ida, showing significant stormwater infrastructure issues. CDBG-DR funding for the Ivy Hill Stormwater Mitigation Project will be used to address those unmet infrastructure needs resulting from the disaster and not already covered by FEMA or other federal agencies. This project seeks to enhance floodwater management capacity in order to reduce the risk of future and repeated flooding to people and property. This project will reduce future disaster risks in the community and address climate change and other future conditions as they relate to critical services to the community and will, therefore, meet HUD's definition of mitigation. In coordination with DCA, Newark will document how the project incorporates mitigation measures and will be reported as a mitigation activity type within HUD's reporting system, as described below. The City of Newark must document how the Program mitigates hazard risk in the area of benefit.

Refer to Appendix B for specific procedures, documentation requirements, and Appendix F for example resilience performance metrics available for documenting a mitigation activity.

2.4. Eligible and Ineligible Activities

Activities for the project will include acquisition, planning, project scoping, and pre-construction as well as construction and installation of drainage improvements to promote recovery and hazard mitigation. Funds cannot be used to cover the costs for maintenance and operation, purchase of construction equipment, or buildings used for general use by government entities. In general, this Program will fund acquisition, construction, reconstruction, or installation of public works, facilities, and sites or other improvements, as described at HCDA Section 105(a)1, 2, 4, 9, 12, and 14. Refer to Section 5.4 Eligible and Ineligible Costs for more detail.

2.5. National Objective

HUD enforces compliance with the overall benefit requirements in the Housing and Community Development Act of 1974 (HCDA) and 24 CFR 570.484,³ 24 CFR 570.200(a)(3),⁴ and 24 CFR 1003.208⁵ and requires that all CDBG-DR funded activities meet one of the specifically defined national objectives which ensures the funding is predominantly used to assist low to moderate income individuals, supports efforts to eliminate slums or blight, or addresses post-disaster urgent needs (within a prescribed timeframe). The assistance provided under this program will benefit an area that meets the criteria for Low- or Moderate-Income (LMI) Area National Objectives. DCA, in coordination with Newark, is responsible for documenting the necessary income data that demonstrates how the project meets the LMI Area National Objective.

In coordination with the City of Newark, DCA is responsible for adhering to National Objective documentation requirements and procedures outlined within its broader CDBG-DR grant administration policies. Subrecipients will determine and document national objective within the template in Appendix A allowing DCA to conduct further review before finalizing documentation.

Refer to Appendix A for a template for documenting tie-back and national objective.

3. CITIZEN PARTICIPATION

3.1. Citizen Participation Plan

New Jersey has developed a Citizen Participation Plan to meet the requirements of the CDBG-DR funding to comply with the requirements outlined in 24 CFR Part 91.115. The Plan reflects the alternative requirements as specified by the U.S. Department of Housing and Urban Development (HUD) in the Federal Register (FR-5696-N01 and 6326-N-01) and notice of specific waivers. The State will ensure that any local governments who receive funds will be required to follow this Citizen Participation Plan. The New Jersey Citizen Participation Plan for CDBG-DR Recovery is on the official website of the Department of Community Affairs at nj.gov/dca.

The State has laid out targeted actions to encourage participation and allow equal access to information about programs by all citizens, especially those of low and moderate income; those living in slum and blighted areas and in areas where CDBG-DR funds are proposed to be used; non-English-speaking persons; minorities; and those with disabilities. The State also encourages the participation of statewide and regional institutions and other organizations (including businesses, developers, and community and faith-based organizations) that are involved with or affected by the programs or activities covered by the Action Plan.

³ Code of Federal Regulations. Title 24, Housing and Urban Development. National Objective- Low and Moderate Income. [eCFR :: 24 CFR 570.484 -- Overall benefit to low and moderate income persons.](#)

⁴ Code of Federal Regulations. Title 24. Compliance with Primary Objective. 24 CFR 570.200 (a) (3): [eCFR :: 24 CFR 570.200 -- General policies.](#)

⁵ Code of Federal Regulations. Title 24, Housing and Urban Development. Criteria for compliance with the primary objective. [eCFR :: 24 CFR 1003.208 -- Criteria for compliance with the primary objective.](#)

Subrecipients of the State’s CDBG-DR grant are required to adhere to the requirements for local governments stated in DCA’s Citizen Participation Plan⁶ at Section V – Citizen Participation Requirements for Local Governments Participating in CDBG-DR Programs. As stated, jurisdictions receiving CDBG-DR funds must develop a written Citizen Participation Plan (CPP) that includes opportunities for citizens to learn about the project and provide feedback. Subrecipients must publish the CPP on its website. New Jersey’s CDBG-DR Citizen Participation Plan is triggered when the project is federalized, otherwise understood to be when CDBG-DR funds are first allocated to the project. Therefore, the City of Newark is required to develop a CPP that adheres to the stated requirements and include this within the Appendix. DCA will review and approve Newark’s CPP.

Refer to Appendix C for Newark’s CDBG-DR Citizen Participation Plan.

3.2. Public Hearing Requirements

The City of Newark must provide for and encourage citizen participation, particularly by low- and moderate-income persons who reside in areas in which CDBG-DR funds are proposed to be used and is required to solicit public feedback on their proposed projects. A key element of the hazard mitigation process is the discussion it promotes among community members about creating a safer, more disaster-resilient community. Community engagement and other outreach activities that capture a community’s values and priorities are likely to result in a project having greater legitimacy and support, leading to greater success in implementation.

As part of adhering to its Citizen Participation Plan, the City of Newark is required to provide a minimum of two public hearings, each during a different stage of the program, for the purpose of obtaining residents’ views and responding to proposals and questions. The City of Newark can solicit feedback through a virtual or in-person public meeting with municipality, county, and tribal governments, followed by a 14-day public comment period. Hearings must cover community development and housing needs (including affirmatively furthering fair housing); the needs for LMI households; other development and housing needs; and how the potential activity will address that need. The public hearing(s) to cover community development and housing needs must be held before executing a subrecipient agreement with the State. Hearings must also cover the development of proposed activity and application including when the application will be submitted, requested amount of funds, location of the project, and plans to minimize displacement of persons and businesses as a result of the funded activity.

City of Newark must keep documentation that would normally be required to demonstrate that a meeting was held, including the following:

- ▶ A public meeting notice, posted at least 5 days prior to the meeting
- ▶ A sign-in sheet
- ▶ Meeting minutes

⁶ https://nj.gov/dca/ddrm/pdf_docs/CDBG-DR%20Citizen%20Participation%20Plan.pdf

The meeting notice should be posted in a newspaper with general circulation and on the City of Newark's website and must include the following:

- ▶ Type(s) of project(s) to be undertaken
- ▶ Source(s) of funds (i.e., CDBG-DR funds)
- ▶ Amount of funding requested
- ▶ Date by which comments must be made
- ▶ Contact person from whom to obtain a copy of the proposed project
- ▶ Accommodations for non-English-speaking citizens (All information posted must be translated into Spanish, unless less than 5% of population of the community benefitting from the project speaks Spanish.)

4. GRANT ADMINISTRATION

4.1. Subrecipient Agreements

A written subrecipient agreement will be provided to the City of Newark before any disbursement of CDBG-DR funds. At a minimum, the subrecipient agreement will include terms and conditions of administering CDBG-DR funds in a manner compliant with federal and state rules and regulations (either explicitly stated or by reference to applicable source documents); statement of scope of work; period of performance with schedule of activities and milestones; budget; record and reporting requirements; and recapture of funds guidance, among other provisions. Prior to the execution of the grant agreement, the City of Newark will have time to review the terms and conditions for their project(s).

4.2. Period of Performance

To ensure that projects are completed within the required timeline, DCA will impose a period of performance for all activities funded under the Project. The period of performance will be defined within the subrecipient agreement terms and conditions.

The period of performance will commence upon execution of a grant agreement between DCA and the City of Newark. DCA may approve extensions of the period of performance, contingent upon the overall grant timeline and HUD approval, provided that the City of Newark demonstrates that good cause exists.

4.3. Program Budget

Funds will be granted in accordance with DCA's assessment of reasonable and necessary work, which may equal the original budgets proposed. The City of Newark's budget must provide a comprehensive picture of the Project funds, including CDBG-DR funds, local funds, and any other committed sources for the project, and a requested CDBG-DR reimbursement payment schedule based on project milestones.

4.4. Eligible and Ineligible Costs

Eligible costs for this program must comply with the eligibility requirements outlined in Section 3 of this policy manual and be reasonable and necessary as determined by DCA and the detailed eligibility requirements of [24 CFR §§ 570.201–206](#). Examples of basic eligible activities include, but are not limited to, the following:

- ▶ Acquisition
- ▶ Planning
- ▶ Project scoping
- ▶ Pre-construction
- ▶ Construction and installation of drainage improvements

Costs associated with activities not outlined in 24 CFR §§ 570.201–507.206 are generally considered to be ineligible for CDBG funds unless waived by HUD. The following activities are specifically stated in [24 CFR 570.207](#) to be ineligible:

- ▶ General government expenses
- ▶ Political activities

The following activities are generally ineligible unless authorized specifically under special provisions of 24 CFR [§ 570.203](#):

- ▶ Purchase of equipment
- ▶ Operating and maintenance expenses
- ▶ Buildings used for general government entities

Further, this program will not reimburse pre-award expenses, including design and engineering work done prior to execution of the subrecipient agreement.

A fully detailed list of ineligible activities and their descriptions can be found in [24 CFR § 570.207](#), unless waived by HUD, and are applicable to this manual.

4.5. Duplication of Benefits (DOB)

Section 312 of the Stafford Act prohibits any person, business, or other entity from receiving duplicative financial assistance for the same disaster recovery purpose from multiple sources of federal and other support (42 United States Code [U.S.C.] 5155(a) and (c)). Duplication occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular disaster recovery purpose. The amount of the duplication is the amount of assistance provided in excess of the need. CDBG-DR funds are intended to assist grantees in responding to disaster recovery needs that are otherwise unmet through other sources of funding; therefore, other funds available for the same purpose are considered duplicative of CDBG-DR.

Per CDBG-DR regulations, subrecipients are required to disclose all other benefits (e.g., cash, in-kind, grants, loans) received, or which will be received for the proposed project to ensure that federal funds do not duplicate funds received from other sources, and agree to return funds that are found to be duplicative in accordance with the Subrogation Policy in this document described at Section 5.10.

The determination of the duplication of benefits (DOB) will be completed by City of Newark administrators following DCA's Duplication of Benefits Policy 2.10.73. The City of Newark is required to develop procedures that adhere to requirements of 2.10.73 or adopt DCA procedures. DCA will review and approve the procedures as part of finalizing the Policies and Procedures.

Refer to Appendix D for specific procedures and documentation requirements.

4.6. Disbursement Method

DCA will directly allocate all funds to the City of Newark through a subrecipient agreement to ensure completion of the project. The administration of the project will be a joint effort between Newark and DCA. DCA will function in an oversight and support role, ensuring Newark is implementing the project in accordance with applicable requirements. Funding will be provided as a grant on a cost reimbursement basis according to the terms identified in the subrecipient agreement. Subrecipients must verify all costs before submitting invoices to DCA for reimbursement and provide all required reporting and supporting documentation (e.g., subrecipient agreements, contracts and procurement files, program files) requested by DCA.

4.7. Subrecipient Agreement Modifications and Extensions

The City of Newark may request a grant amendment to extend the period of performance and for scope changes that affect the grant award through the change order process identified in Section 6.2.1. DCA will review the submission and determine whether a grant amendment is warranted. Recipients must submit the request for a grant amendment as soon as the need is identified. Requests should be submitted at least 90 days prior to the termination date of the grant agreement.

4.8. Financial Management

The City of Newark is responsible for developing finance Policies and Procedures that describe how the subrecipient will ensure activities adhere to all applicable financial rules and requirements.

As per this program policy and other documentation, and in coordination with DCA, the City of Newark must ensure that it has the Policies and Procedures for expending and accounting for all CDBG-DR funds received and to maintain adequate source documentation to demonstrate that CDBG-DR funds are used in compliance with all terms and conditions of the CDBG-DR award, only spent for reasonable and necessary costs, and not used for general expenses to carry out other responsibilities of State and local governments.

The City of Newark's financial policies also will ensure that the following are met:

- ▶ Newark will charge the CDBG-DR award only necessary, allowable, reasonable, and allocable costs incurred during the period of performance.
- ▶ Newark will minimize the time elapsing between the receipt of federal funds from the State and the reimbursement of funds to subrecipients or contractors.
- ▶ If applicable, Newark will disburse funds available from program income before requesting additional grant funding.

- ▶ For any changes made to the approved budget, scope, or objectives, Newark will notify DCA about the changes and any substantial changes must be approved by HUD.

Newark will submit to DCA mandatory quarterly progress reports for HUD's review of program progress. See Reporting Requirements, Section 5.12.

The City of Newark is required to develop financial procedures or adopt the DCA procedures that adhere to applicable financial requirements. Procedures, forms, templates, and/or workflows or reference to such must be included within the respective Appendix of this document. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

Refer to Appendix E for specific procedures and documentation requirements.

4.9. Program Income

Program income is the gross income received by DCA or any of its subrecipients that is directly generated from the use of CDBG-DR funds. Information regarding how program income may be generated and used is available at 24 CFR 570.489, 24 CFR 570.504, and 87 FR 31636, as well as on HUD's website. DCA does not anticipate generating program income through the Ivy Hill Stormwater Mitigation Program. If program income is generated, it will be subject to the applicable terms and conditions within the subrecipient agreement and managed by DCA in accordance with policy 2.10.6, Program Income. In general, program income is transferred from the subrecipient to DCA to pay the next CDBG-DR-eligible expense.

4.10. Subrogation

The City must agree to subrogate (commit to the State) any future payments they may receive after the award amount is determined from sources that represent a potential duplication of benefits. The subrogation agreement, included as part of the subrecipient agreement, requires the City to notify the State if additional funds are received. The City will conduct a DOB analysis to determine whether the funds received are duplicative. If the funds received are deemed duplicative, the City is required to return the funds to the State.

4.11. Recapture of Funds

During the implementation and ongoing monitoring of the Ivy Hill Floodwater Mitigation Program, files must be made available for review by program staff and state and federal auditors. In some instances, the review may identify a situation that would require the recapture of funds. Under the circumstances listed below, the City of Newark may be required to repay all, or a portion of the CDBG-DR assistance received. The reasons for grant recapture include, but are not limited to, the following scenarios:

- ▶ City of Newark is determined to have provided false or misleading information to the program.
- ▶ City of Newark withdraws from the program prior to completion of the project (withdrawal from the program must be in writing or by email).
- ▶ The project is not completed due to non-cooperation by the City of Newark.
- ▶ City of Newark did not comply with the approved scope of work in a manner that made the project eligible.

- ▶ City of Newark failed to report the receipt of any additional funds received after a DOB analysis was conducted.

Subrecipients who have been identified for the recapture of program funding will not be able to close out of the program until all funds have been repaid to the program.

4.12. Reporting Requirements

In order to meet the HUD requirement for submitting the DRGR Quarterly Performance Report, DCA will require the City of Newark to provide quarterly progress update reports. These reports will provide updates on various elements of the award, including, but not limited to, the following:

- ▶ Progress narratives
- ▶ Current expenditures of federal funds
- ▶ Progress on performance metrics, including resilience performance metrics

The specific data and schedule for submitting progress reports will be completed within DCA's system of record for all CDBG-DR data, SIROMS. The requirements will be part of the subrecipient agreement terms and conditions. DCA will include specific procedures and documentation requirements within Appendix F of this document.

4.13. Resilience Performance Metrics

To improve long-term community resilience, the Allocation Announcement Notice (87 FR 31636) requires DCA and its subrecipients to incorporate mitigation measures into its recovery activities that will protect the public, including members of protected classes, vulnerable populations, and underserved communities, from the risks identified. Mitigation measures also help ensure that communities are more resilient to the impacts of recurring natural disasters and climate change.

For all activities designed to reduce hazard risk and that will meet the State's 15% mitigation set-aside requirements, DCA will work with the City of Newark to establish resilience performance metrics that are feasible and meet HUD requirements. Metrics will be included within the City's quarterly progress reports to DCA. See Section 5.12 Reporting Requirements.

The process for developing resilience performance metrics includes:

- ▶ An estimate of the projected risk to the completed activity from natural hazards, including those hazards that are influenced by climate change (e.g., high winds destroying newly built homes),
- ▶ Identification of the mitigation measures that will address the projected risks (e.g., using building materials that are able to withstand high winds), and
- ▶ An assessment of the benefit of the mitigation measures through verifiable data (e.g., 10 newly built homes will withstand high winds up to 100 mph).

Tracking and reporting resilience performance metrics will be a required activity included within the terms of the subrecipient agreement. The benefit of each activity should be a quantifiable metric that illustrates how the resilience measure is expected to improve outcomes compared with the conditions if the activity had not been implemented.

In DRGR, HUD has published specific measures for mitigation activities, which are to be used to document outcomes of resilience activities. Refer to Appendix F.

In order to count activities towards the CDBG-DR mitigation set-aside, DCA must document how those activities and how the incorporated mitigation measures will meet HUD's definition of mitigation. These activities will be reported as a mitigation activity type ("MIT") in the HUD Disaster Recovery Reporting system called DRGR. By tracking these activity types in DRGR, DCA will be able to demonstrate to HUD how the 15% mitigation set-aside was expended.

If a project includes known mitigation activities, to the extent feasible, the City of Newark should work with vendors to delineate those costs as separate line items in the budget. This will allow DCA to create separate mitigation activities in DRGR to track those costs under a program.

If it is not feasible to separate out the mitigation activities from the larger project, DCA may also treat the entire cost of a project as counting towards the 15% mitigation set-aside. The City of Newark will coordinate DCA and HUD on the best reporting approach.

4.14. Grant Closeout

The closeout process is designed to ensure that all CDBG-DR activities are completed, and funds are expended in accordance with the grant agreement, program rules, and State and federal requirements. A discrete project closeout process is distinct from a program closeout, and subrecipient must work with DCA to ensure the applicable procedures are followed in each case. Closeout ensures that all financial, administrative, and performance issues as stipulated in the subrecipient agreement have been resolved to the satisfaction of DCA, HUD, and the subrecipient. The City of Newark must adopt DCA's Closeout Manual, which provide procedures for adhering to all applicable requirements. These are referenced in Appendix G of this document. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

The project will be ready for closeout when the following conditions are met:

- ▶ All eligible activities are completed in accordance with the scope of work agreed upon within the signed subrecipient agreement, as certified by an engineer.
- ▶ DCA has conducted a final closeout site inspection.
- ▶ All funds are expended in full, or the remaining funds are planned to be returned to HUD.
- ▶ All reporting requirements (e.g., Quarterly Performance Reports, HUD Monthly Status Reports, HUD Contract Reports, other internal reporting) were completed.
- ▶ Any special conditions of the program were met.
- ▶ All audit and monitoring issues were resolved.

Closeout Documents

Refer to Appendix H for specific procedures and documentation requirements described within DCA's Closeout Manual. Subrecipients are required to submit the following to DCA to complete the closeout process for each project. DCA is responsible for ensuring completion of *program* closeout, which is a distinct process for closing out a state-administered program:

- ▶ Final request for funds
- ▶ Documentation reporting the grant accomplishments and expenditures of each project to the residents of the jurisdiction, as well as the HUD national objective met
- ▶ Documentation that funds were expended in full, or certification of the return of the remaining funds
- ▶ Documentation describing the resolution of any outstanding audit or monitoring issues
- ▶ Duplication of Benefits Form
- ▶ Certification of Completion from an engineer
- ▶ Flood insurance documentation, where applicable
- ▶ Final inspection documentation
- ▶ Checklist for environmental review

DCA will review the documentation and process the final request for funds if all provided documentation and the circumstances of the project warrant closeout. DCA will disencumber any remaining funds, if applicable, and enter all needed information into DRGR to show that the activities and projects have been completed.

Once all closeout documentation has been processed and DRGR has been updated, DCA will send a closeout letter to the subrecipient. Subrecipients are advised to sign and return the closeout letter to DCA in order to receive retainage. Subrecipients are required to retain CDBG-DR records for at least 7 years after the final closeout in accordance with State and federal records retention requirements.

Flood Insurance at Closeout

Section 102(a) of the Flood Disaster Protection Act of 1973 ([42 U.S.C. 4012a](#)) requires certain property owners located within a Special Flood Hazard Area assisted through CDBG-DR funds to purchase and maintain flood insurance protection for any HUD-assisted property (building or personal property). Newark must work with DCA and HUD to ensure they are in compliance with flood insurance requirements, and must obtain flood insurance for applicable projects. DCA will review documentation of flood insurance as part of the closeout procedures, when applicable. If the City fails to comply with flood insurance requirements, to the extent applicable, at the time of closeout, they may have to repay all or a portion of the assistance provided under the program.

Duplication of Benefits at Closeout

If there are any additional DOB funds disbursed after the subrecipient agreement is signed, the subrecipient is required to pay back these funds to DCA. See Section 5.10 Subrogation. DCA will conduct a final DOB analysis to ensure that the City has not received any additional funding. In accordance with HUD reporting requirements, following the completion of the compliance period, DCA will communicate to HUD that the file is formally closed.

4.15. Retainage

The program will develop a retainage of at least 2% of the subrecipient award. The amount withheld is to ensure that the subrecipient completes all of the work agreed upon within the subrecipient agreement. The release of retainage will be contingent upon the subrecipient providing all necessary documentation and certifications as required by the program.

5. PROGRAM IMPLEMENTATION

5.1. Procurement

All awardees of CDBG-DR funds must follow [DCA's Procurement Policy – CDBG-DR, No. 2.10.2.](#), § 200.317-330⁷ procured in compliance with Uniform Guidance—that is, free and open competition—would not be eligible for federal funds.

Any entity that is listed as excluded, debarred, or suspended on the System for Award Management (<https://sam.gov/SAM/>), including affiliated businesses with the same employer identification number, is not eligible to receive CDBG-DR funds under the Ivy Hill Stormwater Mitigation Program, and may not be selected as a subrecipient, partner, subcontractor, or vendor. The City of Newark must develop new procedures or adopt existing procedures that demonstrate how it will adhere to the procurement requirements of this grant. Procedures, forms, templates, and/or workflows or reference to such must be included within the respective Appendix of this document. DCA will review and approve procedures as part of finalizing the Policies and Procedures

Refer to Appendix H for specific procedures and documentation requirements.

5.2. Contractors

Contractors must comply with the Contract Work Hours and Safety Standards Act (CWHSSA) and the Copeland Anti-Kickback Act (Copeland Act). CWHSSA requires that, for any project in which the prime contract exceeds \$100,000, workers must be paid one-and-a-half times their normal hourly rate for any hours worked in excess of 40 hours weekly, based on a work week of 7 consecutive days. The Copeland Act prohibits any person from inducing a worker on a federally funded project to give up any part of the compensation to which the worker is entitled. No payroll deductions are permitted that are not specifically listed in the Copeland Act unless the contractor has obtained written permission from the employee as specified in 29 CFR 3.5 for otherwise permissible payroll deductions.

Change Orders

Change orders to contracts executed by subrecipients of this program may be required to address unforeseen and/or unanticipated circumstances. Any changes that revise line items in the schedule of values or increase project costs due to unanticipated scope requirements must be submitted to DCA through a written change order with supporting documentation prior to amending a contract. The supporting documentation may include, but is not limited to, the contractor's estimate and schedule, a written justification for the change order, and evidence of cost reasonableness. DCA will review the change order and determine whether a grant amendment or environmental re-evaluation is necessary. Any amount in excess of the grant award will be considered an overage and will be the responsibility of the subrecipient. Based on

⁷ Code of Federal Regulations. Title 2 Grants and Agreements . Procurement. [eCFR :: 2 CFR Part 200 -- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)

the circumstances and the availability of CDBG-DR funds, DCA may allow for an increase to the grant award in order to complete projects.

5.3. Environmental Review

The National Environmental Policy Act of 1969 (NEPA), as amended, established national policies, goals, and procedures for protecting, restoring, and enhancing environmental quality. It requires an evaluation of the environmental impacts of proposed federally funded projects and the identification of mitigation measures to minimize or prevent adverse impacts.

All projects funded by HUD CDBG-DR funds will require an Environmental Review Record (ERR) to be completed in compliance with 24 CFR Part 50,⁸ 51, 55, and 58; and all applicable State and local regulations.

For the purpose of compliance with state and federal environmental regulations, DCA will act as the Responsible Entity for activities funded through the Ivy Hill Stormwater Mitigation Program. DCA is responsible for decision-making, and actions that would otherwise apply to HUD under NEPA approvals, including reviews determining whether activities are exempt or categorically excluded from environmental rules and not subject to federal rules (CENST) and providing Notice to Proceed permitting subrecipients to continue with the project.

Subrecipients are responsible for conducting environmental reviews including categorically excluded and subject to federal rules (CEST), Environmental Assessments (EA), and Environmental Impact Statements (EIS), and demonstrating compliance with all applicable regulations. To achieve compliance, subrecipients must determine the appropriate level of environmental review for a project (e.g., environmental impact statement, environmental assessment, categorically excluded subject) and establish an Environmental Review Record (ERR) to support environmental clearances, in coordination with DCA. Once a subrecipient enters into a grant agreement with DCA, an ERR is required to support the following:

- ▶ Request for Release of Funds (RROF) submitted by the Responsible Entity (DCA) to HUD – applies to categorically excluded subject to 24 CFR 58 (CEST), Environmental Assessments (EA), and Environmental Impact Statements (EIS) levels of review.
- ▶ Authority to Use Grant Funds (AUGF) issued by HUD does not trigger funding disbursement but is required ahead of disbursement of funds.
- ▶ A Notice to Proceed from DCA to the subrecipient, approving the ER with possible mitigating actions and conditions.

Other previously performed environmental reviews may not satisfy all applicable HUD requirements for the project but may be submitted for review if completed within the last five years. It is the responsibility of the subrecipient to develop the scope of services needed for development of the ERR and to include these costs within its project budget.⁹ If an environmental condition identified on a proposed activity site cannot be cleared or mitigated, the site may not be an eligible location for activities. The subrecipient shall ensure that its

⁸ Code of Federal Regulations. Title 24 Housing and Urban Development. Protection and enhancement of Environmental Quality. [eCFR :: 24 CFR Part 50 -- Protection and Enhancement of Environmental Quality](#)

⁹ To develop the ERR, 30% design is needed but the scope of services cannot exceed 30% design until the ERR is complete.

assessment efforts and compilation of documentation are in accordance with applicable local, state, and federal requirements. Once a subrecipient is allocated funds through a subrecipient agreement, it is the subrecipient's responsibility to conduct appropriate environmental compliance activities for awarded projects and to ensure that contractors and subcontractors are notified that work must comply with environmental mitigation and conditions and is subject to all local, state, and federal requirements.

Subrecipients need not start the environmental review process until subrecipient agreement execution but are encouraged to begin earlier if local resources permit and only once the project plans have reached 30% design. A finding of Exempt or Categorically Excluded (CENST) is required for planning or design activities up to 30% design. Decisions following 30% design are likely choice-limiting. Subrecipients are prohibited from initiating choice-limiting actions as defined at 24 CFR 58.226 until the ERR is approved and the Notice to Proceed is provided by DCA. Choice limiting actions include acquisition, demolition, site clearance, bidding and construction. Subrecipients can continue planning and design efforts up to 30% of design in order to initiate an ERR.

Please note, grant funds cannot be used to reimburse expenditures for activities occurring prior to execution of a subrecipient agreement, including project scoping or the environmental review record. Subrecipients that choose to plan and design a project prior to executing a subrecipient agreement and start the environmental review process must do so with sources of funding other than anticipated CDBG-DR funds and will not be reimbursed for activities occurring prior to grant execution. DCA staff will provide oversight and guidance to subrecipients on the environmental compliance process as needed.

The City of Newark must develop new Environmental Policies and Procedures or adopt existing procedures that demonstrate how it will adhere to all applicable environmental requirements. Procedures, forms, templates, and/or workflows or reference to such must be included within the respective Appendix of this document. DCA will review and approve procedures as part of finalizing the Policies and Procedures. Refer to Appendix I for specific procedures and documentation requirements.

5.4. Cost Reasonableness Evaluation

Costs incurred for the completion of the program must be considered necessary and reasonable. Costs are considered reasonable if, in their nature and amount, they do not exceed that which would be incurred by a prudent person in the conduct of competitive business. 2 CFR 200.404. The City of Newark is responsible for determining what costs are considered necessary and reasonable, but DCA will review and approve reimbursement of expenses that meet its necessary and reasonable standards. The City may request DCA's review and approval prior to paying invoices. In reviewing expenses, DCA may use analytical techniques and procedures to ensure that the final costs are fair and reasonable, such as a cost analysis detailing the individual cost elements of projects to certify elements such as necessity, pricing, and consistency before reimbursing the subrecipient for expenses. The specific process for submitting and reviewing expenses will be defined in Appendix E – Financial Management Procedures.

5.5. Hazard Mitigation Standards

Infrastructure Planning and Design

All newly constructed infrastructure that is assisted with CDBG-DR funds must be designed and constructed to withstand extreme weather events and the impacts of climate change. To satisfy this requirement, subrecipients will work with DCA to identify and implement resilience performance metrics that will protect the public, including members of protected classes, vulnerable populations, and underserved communities, from any risks identified in the Action Plan. See Section 5.13.

For the purposes of this requirement, an infrastructure activity includes any activity or group of activities (including acquisition or site or other improvements), whether carried out on public or private land, that assists the development of the physical assets that are designed to provide or support services to the general public in the following sectors: surface transportation, including roadways, bridges, railroads, and transit; aviation; ports, including navigational channels; water resources projects; energy production and generation, including from renewable, nuclear, and hydro sources; electricity transmission; broadband; pipelines; stormwater and sewer infrastructure; drinking water infrastructure; schools, hospitals, and housing shelters; and other sectors as may be determined by the Federal Permitting Improvement Steering Council.

Additionally, for the purposes of this requirement, an activity that falls within this definition is an infrastructure activity regardless of whether it is carried out under sections 105(a)(2), 105(a)(4), 105(a)(14), another section of the HCDA, or a waiver or alternative requirement established by HUD.

Floodplain Standards

Non-residential structures, including infrastructure, assisted with CDBG-DR funds must be elevated or floodproofed in accordance with the FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii)¹⁰ or a successor standard.

All critical actions funded through CDBG-DR, as defined at 24 CFR 55.2(b)(3),¹¹ within the 500-year (or 0.2% annual chance) floodplain must be elevated or floodproofed (in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(2)–(3) or a successor standard) to the higher of the 500-year floodplain elevation or 3 feet above the 100-year floodplain elevation. If the 500-year floodplain or elevation is unavailable and the critical action is in the 100-year floodplain, then the structure must be elevated or floodproofed at least 3 feet above the 100-year floodplain elevation. Activities subject to elevation requirements must comply with applicable federal accessibility mandates. Critical actions are defined as “any activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons or damage to property.” For example, critical actions involve hospitals, nursing homes, emergency shelters, police stations, fire stations, and principal utility lines.

¹⁰ Code of Federal Regulations. Title 44, Emergency Management and Assistance. Flood plain management criteria for flood-prone areas. [eCFR :: 44 CFR 60.3 -- Flood plain management criteria for flood-prone areas.](#)

¹¹ Code of Federal Regulations. Title 24, Housing and Urban Development. Terminology. [eCFR :: 24 CFR 55.2 -- Terminology.](#)

Subrecipients must certify that they will not use CDBG-DR funds for any activity in an area identified as flood-prone for land use or hazard mitigation planning purposes by the State, local, or tribal government or delineated as a Special Flood Hazard Area (or 100-year floodplain) in FEMA's most current flood advisory maps, unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain, in accordance with Executive Order 11988 and 24 CFR 55.

The program will comply with the rules set by the applicable Federal Register Notices but also will follow the more stringent rules set by the New Jersey Department of Environmental Protection.¹² The rules go above what is expected by FEMA and HUD in that the rules would require a new design flood elevation that is determined by adding a minimum of 3 feet to FEMA's 100-year flood elevation and allow compliance with local ordinances that exceed FEMA's standard.

5.6. Flood Insurance

Prohibition on Assisting Properties That Failed to Comply With the Flood Insurance Mandate

Section 582 of the National Flood Insurance Reform Act of 1994, as amended (42 U.S.C. 5154a),¹³ prohibits recipients of this grant program from providing disaster assistance for the repair, replacement, or restoration of certain properties to a property owner who has failed to satisfy the federal requirement to obtain and maintain flood insurance following previous disaster assistance from the federal government. Subrecipients must develop and implement a process to verify and monitor for compliance with Section 582 and the requirement to obtain and maintain flood insurance, if this requirement applies to the project being funded.

Requirement to Purchase and Maintain Flood Insurance

Section 102(a) of the Flood Disaster Protection Act of 1973 ([42 U.S.C. 4012a](#)) requires certain property owners located within a Special Flood Hazard Area assisted through CDBG-DR funds to purchase and maintain flood insurance protection for any HUD-assisted property (building or personal property). The requirement for purchasing flood insurance will be stated within the grant agreement and proof of compliance included within the closeout procedures, when applicable. Subrecipients must develop and implement a process to ensure that property owners adhere to this requirement.

Responsibility to Inform Property Owners of Flood Insurance Mandate

Section 582 of the National Flood Insurance Reform Act of 1994 mandates that certain property owners receiving disaster assistance that triggers the flood insurance purchase requirement have a statutory responsibility to notify any transferee about the requirement to obtain and maintain flood insurance and maintain such written notification in the documents evidencing the transfer of the property, and that the transferring owner may be liable if he or she fails to do so. A grantee or subrecipient receiving CDBG-DR funds must notify property owners of their

¹² New Jersey Department of Environmental Protection – Watershed and Land Management

¹³ US Code. Title 42, Public Health and Welfare. [42 U.S.C. 5154a](#)

responsibilities. Subrecipients must develop and implement a process that ensures property owners adhere to this requirement, when applicable.

5.7. Requirements for Flood Control Structures

Subrecipients that use CDBG-DR funds to assist flood control structures (i.e., dams and levees) are prohibited from using CDBG-DR funds to enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event without obtaining pre-approval from HUD and any federal agencies that HUD determines are necessary based on their involvement or potential involvement with the levee or dam.

Subrecipients that use CDBG-DR funds for levees and dams are required to:

1. Register and maintain entries regarding such structures with the United States Army Corps of Engineers (USACE) National Levee Database or National Inventory of Dams.
2. Ensure that the structure is admitted to the USACE Levee Rehabilitation and Inspection Program (Public Law 84-99).
3. Ensure that the structure is accredited under the FEMA National Flood Insurance Program.
4. Enter the exact location of the structure and the area served and protected by the structure into the DRGR system.
5. Maintain file documentation demonstrating that the grantee has conducted a risk assessment before funding the flood control structure and documentation that the investment includes risk reduction measures.

Subrecipients funding levees or dams will work with DCA to ensure that the project is compliant with these guidelines.

5.8. Uniform Relocation Agreement

The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA), as amended, and its implementing regulations at 49 CFR § 24,¹⁴ establish minimum standards for federally funded programs and projects requiring the acquisition of real property or the displacement of persons from their homes or businesses. The URA applies broadly to all planned or intended federally funded projects, funded in part or in whole, where acquisition, rehabilitation, or demolition occurs during any phase. Additionally, DCA requires submission of a relocation plan for infrastructure projects that include **any** acquisition of permanent easements.

DCA and its subrecipients must consider the potential impacts of displacement on tenants. Subrecipients must work with DCA to develop a relocation plan as soon as activity plans identify a need to acquire occupied properties that results in displacement or any permanent easement. If an identified project results in tenants leaving their homes involuntarily (being displaced), the tenants may be eligible for Tenant Relocation Assistance under the URA. These requirements apply to the relocation of any displaced person as defined at 49 CFR § 24.2(a)(9). Displaced persons under this definition must be fully informed about their right and entitlement to

¹⁴ Code of Federal Regulation. Title 49, Transportation. Uniform Relocation Assistance and Real Property Acquisition Act. [eCFR :: Title 42 of the CFR -- Public Health](#)

relocation assistance and payments provided by the URA and its implementing regulations. As stated, for any infrastructure project requiring acquisition of a permanent easement, DCA requires subrecipients to develop a plan to accommodate relocation and for complying with URA requirements. For more information, refer to 49 CFR § 24, Subpart C.

5.9. Section 3

Section 3 provides that economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low-income persons and contracting opportunities should be directed to Section 3 businesses that employ those individuals.

Under CDBG-DR, DCA is required to report Section 3 labor hour requirements for the number of total labor hours, number of Section 3 labor hours, and the number of targeted Section 3 labor hours for all applicable construction activities. HUD staff will review the data reported to analyze DCA's progress toward meeting Section 3 requirements and to inform on-site and remote monitoring engagements.

The City of Newark must use DCA's Section 3 Reporting Module within SIROMS in order to adhere to Section 3 requirements. Procedures, forms, templates, and/or workflows or reference to such must be included within the respective Appendix of this document. DCA will review and approve procedures as part of finalizing the Policies and Procedures

Refer to Appendix J for specific procedures and documentation requirements.

5.10. Davis-Bacon Act

Under Section 110(a) of the Housing and Community Development Act of 1974, laborers and mechanics employed by contractors and subcontractors on construction work "financed in whole or in part" with CDBG-DR assistance must be paid not less than the wages determined to be prevailing on similar construction work in the locality by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 3141 et seq.). Davis-Bacon prevailing wage requirements do not apply to the rehabilitation, reconstruction, and demolition of residential property containing fewer than eight units, to prime contracts of \$2,000 or less, to bona fide volunteers where the procedures and requirements of 24 CFR § 70 are met, or to demolition that is not followed by construction.

Davis-Bacon requirements do not apply to non-construction activities, such as storm debris removal.

For activities that are subject to the Davis-Bacon requirements, the City of Newark will carry out implementation, monitoring, enforcement, and reporting activities that are specified in HUD Handbook 1344.1 Rev 2, Chapter 1, Section 1-5.B.¹⁵ DCA is responsible for monitoring Newark's compliance with this requirement.

¹⁵ HUD Exchange. [HUD Handbook 1344.1, Federal Labor Standards Requirements in HUD Programs - HUD Exchange](#)

The City of Newark must develop new procedures or adopt existing procedures that demonstrate how it will adhere to Davis-Bacon requirements. Procedures, forms, templates, and/or workflows or reference to such must be included within the respective Appendix of this document. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

Refer to Appendix K for specific procedures and documentation requirements.

6. OTHER CROSS-CUTTING REQUIREMENTS

6.1. Prevention of Fraud, Waste, and Abuse

As the grantee of the CDBG-DR funds, DCA must oversee all activities and expenditures of the funds awarded to subrecipients to ensure subrecipients. Subrecipients are responsible for developing a Fraud, Waste, and Abuse Policies and Procedures document that describes how the subrecipient will ensure activities adhere to all applicable fraud prevention rules and regulations. All projects will be monitored at least once during the life of the activity. The results of the monitoring and audit activities will be reported to the Deputy Commissioner of DCA (DCA Policy No. 2.10.3, Detection of Fraud, Waste, and Abuse).

Procedures, forms, templates, and/or workflows or reference to such must be included within the respective Appendix of this document. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

Refer to Appendix L for specific procedures and documentation requirements.

6.2. Equal Opportunity

Through the use of CDBG-DR funding, no person should be excluded, denied benefits, or subjected to discrimination on the basis of their race, color, national origin, sex, disability, or age. DCA and its subrecipients may not discriminate in any of the following areas: deciding who will be admitted or have access to any CDBG-DR-funded program or activity; providing opportunities in or treating any person with regard to such a program or activity; or making employment decisions in the administration of or in connection with such a program or activity.

DCA and the subrecipients must administer and fund programs that are in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d),¹⁶ the Fair Housing Act (42 U.S.C. 3601–3619),¹⁷ and implementing regulations, and will affirmatively further fair housing.

Residents of Ivy Hill will be informed that if they believe their rights may have been violated, they can file a complaint with the Office of Fair Housing and Equal Opportunity via online submission, email, phone, or mail.

¹⁶ US Code. Civil Rights Act. [42 USC 2000d: Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin \(house.gov\)](#)

¹⁷ US Code. Fair Housing Act. [42 USC 3601: Declaration of policy \(house.gov\)](#)

HUD Form 903 Online Complaint
 Atlanta Regional Office of Fair Housing and Equal Opportunity
 U.S. Department of Housing and Urban Development
 Five Points Plaza
 40 Marietta Street, 16th Floor
 Atlanta, GA 30303-2806
 Phone: 678-732-2493
 Email: ComplaintsOffice04@hud.gov

6.3. Conflict of Interest

No person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients who are receiving funds under this part who exercise or have exercised any functions or responsibilities with respect to CDBG-DR activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities may obtain a financial interest or benefit from a CDBG-DR-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-DR-assisted activity, or with respect to the proceeds of the CDBG-DR-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for 1 year thereafter.

6.4. Audit

As per the provisions of 2 CFR 200, Subpart F, Audit Requirements, grantees that expend \$750,000 or more during their fiscal year in federal awards must have a single or program-specific audit conducted for that year. Subrecipients also must have a single or program-specific audit if they meet the \$750,000 expenditure threshold.

If DCA is disbursing grant funds to subrecipients, DCA is required by 2 CFR 200.331 to ensure that subrecipients comply with Subpart F. DCA will verify that subrecipients, if applicable, have prepared financial statements (including the schedule of expenditures of federal awards) that there are no significant findings in the single audit that impact the use of CDBG-DR funding and, if there are findings, the subrecipient has taken corrective action.

7. MONITORING AND COMPLIANCE

7.1. Development of Internal Controls and Reporting

Internal controls are the established mechanisms, policies, and procedures implemented by an organization to ensure the integrity of fiscal management and accounting information to promote accountability and prevent fraud. Furthermore, internal controls consist of the development of job responsibilities, personnel, and proper recordkeeping to aid organizations with the necessary capacity to maintain adequate program oversight and control of its cash, property, and other assets.

Specifically, effective and efficient internal controls will include:

- ▶ Support for the organization's day-to-day operations
- ▶ Reliable and timely submission of financial reporting

- ▶ Compliance with applicable local, state and, federal laws and regulations
- ▶ Resources to protect against waste, mismanagement, or loss
- ▶ Systems secured to prevent unlawful access and/or disclosure of information
- ▶ Proper utilization of funds for eligible program expenses

Each program subrecipient will cooperate fully with DCA, HUD, or HUD Office of the Inspector General monitors/auditors and assist them by providing all necessary access to databases and documents requested.

Refer to Appendix M for specific procedures and documentation requirements.

7.2. Monitoring Types and Methodology

DRM will generally perform three types of monitoring processes:

- ▶ **Fiscal Reviews.** Fiscal reviews assess whether the recipient's use of the grant funds complies with legal and regulatory requirements and is used only for the purposes detailed in the program's agreement with DCA. Fiscal reviews also assist the programs in maintaining strong management systems.
- ▶ **Programmatic/Performance Reviews.** Programmatic reviews assess whether the goals and objectives of the program are being met. Grants given to the recipients are reviewed against the program's goals and objectives set forth in the program's agreement with DCA and are compared with the recipients' expenditures of grant funds.
- ▶ **On-site Reviews.** It is a focused review that involves further inquiry, including more in-depth and a greater number of monitoring questions that are grounded in grant regulations, Uniform Guidance, and best practices rooted in experience. Construction activities, for example, would require this type of review.

At least 2 weeks prior to a monitoring review, written notification will be provided to the subrecipient or the contracted vendor about the type of review that will be conducted.

7.3. Monitoring Results and Reporting

One or more conclusions may result from a monitoring review that indicates the following, as detailed in the summary monitoring report:

- ▶ The performance complied with the requirements of the program.
- ▶ There are findings that require corrective actions by the subrecipient.
- ▶ There are concerns about the performance of the projects or activities.
- ▶ There are observations for efficiencies or items of note.
- ▶ Technical assistance is necessary.

The subrecipient is responsible for remedying any instances of deficiency. Refer to Appendix N for template and document requirements.

File Management

Below is a list of supporting documentation that DCA staff may review to validate the disbursement of funds. This is not an exhaustive list and not all documentation will be required for a single request. Activity-specific documentation will be pulled and reviewed when applicable.

- ▶ Project work (e.g., cost, scope, maps)
- ▶ Procurement files (e.g., bids, contracts)
- ▶ System for Award Management (SAM) active unique entity identification verification
- ▶ Payroll records, justification, and reports
- ▶ Memorandum of understanding or subrecipient agreement
- ▶ Award letter
- ▶ Eligibility of the activity
- ▶ Evidence of having met a national objective
- ▶ Duplication of Benefits (DOB) assessment
- ▶ Budget, expenditure information, and CDBG-DR draw-down requests
- ▶ Source documentation (e.g., purchase orders, invoices, canceled checks)
- ▶ Applicable environmental review records
- ▶ Applicable monitoring and audit reports
- ▶ Evidence of compliance with cross-cutting requirements such as Section 3 and the Davis-Bacon Labor Standards

Record Keeping

Accurate record keeping is crucial to the successful management of CDBG-DR-funded activities. Insufficient documentation is likely to lead to monitoring findings and those findings will be harder to resolve if records are missing, inaccurate, or inadequate. DCA and the subrecipients are required to maintain complete and accurate documentation, by project, for all disaster-related costs. DCA, through their individual management information systems, as applicable, retain relevant program files as electronic records for 7 years after final closeout. Subrecipients are required to retain records for at least 6 years. This policy is more stringent than 24 CFR 570.490,¹⁸ which states that files should be retained for the greater of 3 years from the closeout of the grant. Full details of the records retention policy can be found in the New Jersey Policy for Record Keeping, No. 2.10.19.

As defined in the policy, records must be retained and audited after the end of the program. To assist compliance with these codes, DCA will work with the New Jersey Division of Revenue and Enterprise Services, Records Management Services, to submit and obtain electronic imaging system certification, if applicable. This will include documenting the retention schedule outlined by program policy, defining the system configuration, quality control, disaster prevention/recovery, scanning policy, and procedures and a data migration plan.

Documentation must be available to DCA, the New Jersey Office of Emergency Management, or HUD for review and monitoring upon request. The State Integrated Recovery and Operations Management System (SIROMS) will hold documentation about program information, disbursements, justification for eligible activity, and national objectives. New Jersey Office of Emergency Management may only have the details required for FEMA reimbursement. Some project details may exist at the local level. Agreements will detail the record-keeping requirements for how documentation should be retained between DCA and its subrecipients.

¹⁸ Code of Federal Regulations. Title 24: Housing and Urban Development. 570.490: Recordkeeping requirements. [eCFR :: 24 CFR 570.490 -- Recordkeeping requirements.](https://www.ecfr.gov/current/title-24/chapter-I/subchapter-B/part-570/subpart-490/section-570.490)

The City of Newark is responsible for developing procedures that describe how it will adhere to applicable requirements (New Jersey's Policy for Record Keeping, No. 2.10.19). DCA will review and approve the procedures.

Refer to Appendix O for specific procedures and documentation requirements.

Destruction of Records

In no case shall the record destruction date be less than 7 years from the time of final closeout for original copies of documents. All original records become property of the State of New Jersey. These original records shall be transferred to DCA for storage consistent with the plan. All public agencies must submit a proposal to the State's record disposal system before disposing of retained records.

APPENDIX A : DISASTER TIE-BACK

The City of Newark must document how the Project responds directly or indirectly to disaster-related risk and impacts, using this form.

NOT A HUD FORM

COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY

ELIGIBILITY/NATIONAL OBJECTIVE/TIE BACK DETERMINATION RECORD

- I. CDBG-DR Appropriation Grant Number:
- II. Activity Name:
- III. Activity Location (Street Address):
- IV. CDBG-DR Funding Amount:
- V. CDBG-DR National Objective Compliance:

The above referenced Project has been determined to be eligible for Community Development Block Grant Disaster Recovery (CDBG-DR) funding and meets the following National Objective as required at 24 CFR 570.200. Documentation is attached.

- Low/Mod area benefit activity
- Low/Mod limited income clientele
- Low/Mod housing activity
- Low/Mod job creation/retention
- Slum/Blight activity area basis
- Slum/blight spot basis
- Slum/Blight activity to complete an urban renewal area
- Urgent Need (Waiver per March 5, 2013 Federal Register Notice)

- VI. CDBG-DR Eligibility Criteria: The above referenced Project is an eligible activity and meets the following CDBG-DR eligibility criteria as indicated:

*Basic Eligible Activities (24 CFR 570.201):

- (a) Acquisition
- (j) Loss of rental income
- (b) Disposition
- (k) Housing Services
- (c) Public facilities and improvements
- (l) Privately owned utilities
- (d) Clearance/Remediation Activities
- (m) Construction of housing
- (e) Public Services
- (n) Homeownership assistance



- _____ (f) Interim Assistance
- _____ (g) Payment of non-federal share
- _____ (h) Urban renewal completion
- _____ (i) Relocation
- _____ (o) Microenterprise Assistance
- _____ (p) Technical Assistance
- _____ (q) Assistance to institutions of
- _____ (r) higher education

_____ *24 CFR 570.202 Eligible Rehabilitation and Preservation Activities

_____ *24 CFR 570.203(b) Special Economic Development Activities and Economic Revitalization per Applicable FR Notice.

_____ *24 CFR 570.204 Special Activities by Community-Based Development Organizations (CBDO'S)

_____ *24 CFR 570.205 Eligible planning, urban environmental design and policy-planning-management-capacity building activities.

_____ *24 CFR 570.206 Program administration costs.

VII. Brief Narrative Description of the CDBG-DR Assisted Activity:

VIII. Supporting Documentation for CDBG-DR National Objective and Eligibility Compliance:¹⁹ The following supporting documentation has been attached as evidence of project/activity eligibility:

- _____ Neighborhood Analysis Data
- _____ Participant Qualifying Data-On File in Community Development
- _____ Census Tract Data
- _____ Agreements On File In Community Development Department
- _____ Other: _____

¹⁹ This is a preliminary determination. Subrecipients will determine and document National Objective for further review by DCA.



IX. Use of CDBG-DR Funds: The Appropriations Act requires funds to be used only for specific disaster recovery-related purposes.

- (1) Describe how the use of CDBG-DR funds for this specific activity are authorized under Title 1 of the Housing and Community Development Act of 1974 or allowed by a waiver or alternative requirement published in an applicable Federal Register Notice:
- (2) Describe how the use of CDBG-DR funds for this specific activity responds or ties back to a disaster-related impact and provides for long term recovery. Please, refer to the applicable Federal Registers for guidance on documentation to use to support tie back.



APPENDIX B: RESPONSE TO DISASTER RECOVERY MITIGATION NEEDS

The City of Newark must document how the Program mitigates hazard risk in the area of benefit and include documentation within this Appendix. DCA will review and approve documentation as part of finalizing the Policies and Procedures.

APPENDIX C: CITIZEN PARTICIPATION PLAN

The City of Newark is required to develop a CPP that adheres to the requirements stated within New Jersey's CDBG-DR Citizen Participation Section V.²⁰ and include this CPP within the Appendix. The City of Newark must also publish the CPP on their website. DCA will review and approve the plan as part of finalizing the Policies and Procedures.

²⁰ https://www.nj.gov/dca/ddrm/pdf_docs/Citizen%20Participation%20Plan%20Update%202023_508.pdf



APPENDIX D: DUPLICATION OF BENEFITS

The City of Newark is required to develop procedures that adhere to requirements of 2.10.73 or adopt DCA procedures and include them within this Appendix. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

APPENDIX E: FINANCIAL MANAGEMENT

The City of Newark is required to develop financial procedures or adopt DCA procedures that adhere to financial requirements. Procedures, forms, templates, and/or workflows or reference to such must be included within this Appendix. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

APPENDIX F: REPORTING REQUIREMENTS

DCA will include specific procedures and documentation requirements within this Appendix.

Resilience Performance Metrics

Before carrying out CDBG–DR funded activities to construct or reconstruct, on non-residential structures that are intended to qualify as expenditures to meet HUD’s mitigation set-aside requirement, DCA and its subrecipients must establish resilience performance metrics for the activity. The process for developing resilience performance metrics includes:

- ▶ An estimate of the projected risk to the completed activity from natural hazards, including those hazards that are influenced by climate change (e.g., high winds destroying newly built homes).
- ▶ Identification of the mitigation measures that will address the projected risks (e.g., using building materials that are able to withstand high winds).
- ▶ An assessment of the benefit of the mitigation measures through verifiable data (e.g., 10 newly built homes will withstand high winds up to 100 mph).

In DRGR, HUD has published specific measures for mitigation activities. The following are those currently available for reporting on resilience outcomes, which are subject to change.

HUD DRGR Resilience Performance Metrics
acres of newly added or improved green space
acres of wetlands created
cubic feet of stormwater storage added
% decrease in affluent discharged
% decrease in area inundated by flooding
% decrease in disruption hours to residents and businesses from impacts of storm events
% decrease in NFIP CRS score
% decrease in road closures in target area during a flood event
% decrease water surface elevation level during a flood with a qualifying event
\$ estimated flood loss avoidance
\$ funds allocated for water management/flood mitigation improvements
\$ funds allocated for water-quality improvements
% increase in acres of cropland protected from flooding
% increase in groundwater infiltration



HUD DRGR Resilience Performance Metrics
% increase in number of acres converted to open space
% increase in pumping capacity
linear feet of streams restored
occupied structures in floodplain
of acres green infrastructure created
of acres green space created
of acres green space preserved
of acres no longer vulnerable to flood events
of acres of native vegetation planted
of acres with improved multiple hazard risk mapping
of brownfield acres converted to wetland
of buildings (non-residential)
of containment systems constructed
of elevated structures
of fewer outages of critical facilities and utilities
of green infrastructure projects constructed
of greenspace users
of linear feet of public improvement
of linear feet of sewer lines
of linear feet of shoreline restored
of linear feet of stream restored
of linear feet of trails constructed
of linear feet of water lines
of linear miles of public improvement
of non-business organizations benefitting
of non-invasive species trees planted on project sites



HUD DRGR Resilience Performance Metrics
of properties protected from future flooding
of properties with access above 100-yr flood level
of public facilities
of pump stations repaired/replaced
of reduced hours streets are flooded
of residents protected from future flooding
of Section 3 labor hours
of small water retention devices/systems installed
of storm water projects implemented
of targeted Section 3 labor hours
of total labor hours
of vacant lots repurposed
of water control structures repaired/replaced
% reduction in emergency maintenance costs
% reduction in energy costs
% reduction in loss of service
% reduction of sanitary sewer overflows
% reduction of watershed nitrate loading
% reduction of water surface elevation level
of structures harden against future flood events



APPENDIX G: GRANT CLOSEOUT

The City of Newark must develop new procedures or adopt existing procedures that demonstrate how it will adhere to Closeout requirements. Procedures, forms, templates, and/or workflows or reference to such must be included within this Appendix. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

APPENDIX H: PROCUREMENT

The City of Newark must develop new procedures or adopt existing procedures that demonstrate how it will adhere to the Procurement requirements of this grant. Procedures, forms, templates, and/or workflows or reference to such must be included within this Appendix. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

APPENDIX I: ENVIRONMENTAL REVIEW

The City of Newark must develop new Environmental Policies and Procedures or adopt existing procedures that demonstrate how it will adhere to all applicable environmental requirements. Procedures, forms, templates, and/or workflows or reference to such must be included within this Appendix. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

APPENDIX J: SECTION 3

The City of Newark must develop new procedures or adopt existing procedures that demonstrate how it will adhere to Section 3 requirements. Procedures, forms, templates, and/or workflows or reference to such must be included within this Appendix. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

APPENDIX K: DAVIS BACON ACT

The City of Newark must develop new procedures or adopt existing procedures that demonstrate how it will adhere to Davis-Bacon requirements. Procedures, forms, templates, and/or workflows or reference to such must be included within this Appendix. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

APPENDIX L: PREVENTION OF FRAUD, WASTE, AND ABUSE

The City of Newark must develop a Fraud, Waste, and Abuse Policies and Procedures document that describes how the subrecipient will ensure activities adhere to all applicable requirements (DCA Policy No. 2.10.3, Detection of Fraud, Waste, and Abuse). Procedures, forms, templates, and/or workflows or reference to such must be included within this Appendix. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

APPENDIX M: DEVELOPMENT OF INTERNAL CONTROLS AND REPORTING

The City of Newark must develop Internal Controls or adopt existing controls describing how it will adhere to all applicable requirements. Procedures, forms, templates, and/or workflows or reference to such must be included within the respective Appendix of this document. DCA will review and approve procedures as part of finalizing the Policies and Procedures.

APPENDIX N: MONITORING RESULTS AND REPORTING

The City of Newark is required to develop a Monitoring Plan or adopt DCA procedures describing how it will adhere to applicable monitoring requirements. DCA will review and approve the procedures.

APPENDIX O: RECORD KEEPING

The City of Newark is responsible for developing procedures that describe how it will adhere to applicable requirements (New Jersey's Policy for Record Keeping, No. 2.10.19). DCA will review and approve the procedures.