



STATEMENT

Comments on Action Plan Amendment 12: Substantial Amendment for the Third Allocation of CDBG-DR Funds: Rebuild by Design

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Thank you for the opportunity to comment on the proposed Amendment 12 to the CDBG-DR Action Plan. New Jersey Future is a nonprofit, nonpartisan organization that promotes responsible land-use policies to help revitalize cities and towns and create livable resilient communities for New Jersey residents.

New Jersey Future commends the state for recognizing that the landscape in New Jersey has changed, and flooding, sea-level rise and increased storm intensity is our new reality. We applaud Rebuild by Design (RBD) for the creation of innovative models that address resiliency that other communities can emulate. We also want to acknowledge the comprehensive public engagement process used by Rebuild By Design and recommend it as a model moving forward. New Jersey Future also commends the development types proposed in Rebuild By Design's New Meadowlands and Hudson River projects. The focus on compact, pedestrian-based, transit-oriented development is consistent with our smart-growth focus.

There are, however, four main areas in Amendment 12 that need to be addressed before it is approved. These are the New Jersey Department of Environmental Protection (DEP)'s capacity to manage and implement the RBD initiatives; vulnerable populations including low- to moderate-income residents; community outreach and participation; and resiliency to storms and flooding.

NJDEP'S CAPACITY

The Amendment designated DEP as the state agency responsible for overseeing and implementing both RBD initiatives. Although DEP's experience and expertise make it a logical choice, New Jersey Future is concerned that the budget cuts that have reduced DEP staff and capacity will limit its ability to oversee and implement the project diligently over the seven- to 10-year time frame specified. (See the New Jersey Office of Legislative Services Analysis of the New Jersey budget: Department of Environmental Protection, April 2013 and April 2014: http://www.njleg.state.nj.us/legislativepub/budget_2014/DEP_analysis_2014.pdf, and http://www.njleg.state.nj.us/legislativepub/budget_2015/DEP_analysis_2015.pdf. Expended FY 2012, \$386,596,000; expended FY 2013, \$380,643,000; Appropriated FY 2014, \$372,909,000)

We recommend that the Amendment commit the state of New Jersey to providing DEP with the staff and funding resources needed for robust management over the full lifetime of these projects, consistent with the federal cap on administrative costs.

VULNERABLE POPULATIONS

Major storms like Hurricane Sandy and Hurricane Irene can afflict economically and socially vulnerable populations, including, but not limited to low-income residents, senior citizens, residents with disabilities, and minorities, in a disproportionate manner. The development and implementation of the RBD projects has the potential to establish a model for the equitable treatment and engagement of all residents in resiliency efforts. However, how this will be achieved is not outlined in either Amendment 12 or in the project proposals. The design teams assessed socially and economically vulnerable populations in the broader New York/New Jersey region, highlighting the most vulnerable populations as measured by poverty rate, children under 10, adults over 65, individuals with poor English skills, immigrants and individuals with disabilities. In addition, Section 4 of Amendment 12 states that, “[o]utreach efforts will engage vulnerable and underserved populations in RBD planning and decision making process, as the RBD process begins to move forward.” However, the identification of, and statistics for, vulnerable populations in the RBD project municipalities were not articulated in the Amendment or the design proposal, nor was a plan for engaging these residents. The needs of and impacts on all communities and populations, particularly low-income and minority residents, must be identified and addressed.

In Hoboken, low-income and minority populations were especially hard hit, as the Hoboken Housing Authority’s properties were among the most damaged. In Moonachie, 36.4 percent of the population lives in manufactured homes next to Berry’s Creek, a highly contaminated waterway prone to flooding. The Moonachie community sustained significant damage during Sandy and does not have the economic or political resources to recover or mitigate future risks. Understanding the risks of flooding and storm surges on these communities and fully engaging the low-income and minority residents in Little Ferry, Moonachie, Hoboken and Weehawken is critical to fulfilling the state’s obligation to the residents of these affected communities.

If the needs of vulnerable residents are not fully integrated into project design, equity issues can be exacerbated. For example, the Meadowlands project proposes to build a berm around most of the developed area to protect the communities from flooding and storm surges, with expanded growth planned for behind these berms. Unless this growth is proposed to include units affordable to households of all income levels, the new units will likely be unaffordable to current residents. Moreover, gentrification in existing neighborhoods could occur that could displace residents.

New Jersey Future recommends that the Amendment include the following items, which were required in [HUD’s Round 1 Allocation Notice](#) of March 5, 2013:

- *A description of how the grantee will encourage the provision of housing for all income groups that is disaster-resistant, including a description of the activities it plans to undertake to address: (a) the transitional housing, permanent supportive housing, and permanent housing needs of individuals and families ... that are homeless and at risk of homelessness; (b) the prevention of low-income individuals and families with children ... from becoming homeless; and (c) the special needs of persons who are not homeless but require supportive housing.*
- *An assessment of how planning decisions may affect racial, ethnic, and low-*

income concentrations, and ways to promote the availability of affordable housing in low-poverty, non-minority areas, where appropriate and in response to disaster-related impacts.

- *A description of how the grantee plans to minimize displacement of persons or entities, and assist any persons or entities displaced (78 Fed Reg 14334).*

In addition, New Jersey Future recommends the Amendment establish a structured process in the design stage that:

- Identifies vulnerable populations as well as their needs and concerns.
- Ensures that project areas will be affordable to those with a range of incomes, and provides expanded economic opportunities to low- and moderate-income residents.
- Describes strategies for preventing low- and moderate-income residents from being displaced and prioritizes funding for these communities.
- Utilizes metrics in the feasibility, design, permit review, preconstruction and construction phases to monitor housing affordability and compliance with HUD requirements.

PUBLIC OUTREACH

The Amendment states that the DEP is committed to a robust community process involving stakeholders in the feasibility, design, environmental review, pre-construction and construction phases. However, the public engagement process is not described. No concrete actions are listed. Unfortunately, the outreach and public comment process for the Amendment was not an ideal model for moving forward, with meetings held immediately following the holiday season, in locations inaccessible via public transportation, and not in any of the RBD project municipalities (Moonachie, Little Ferry, Hoboken and Weehawken).

We recognize that the Amendment cannot contain a detailed, step-by-step description of every action that the department intends to take to engage the public, but the proposed offerings are inadequate. Residents of affected communities, have vital, useful knowledge and experience that can contribute to the conceptualization, development, and implementation of the RBD projects and therefore can aid in their success. A meaningful and well-articulated public outreach process needs to be identified.

New Jersey Future recommends that Amendment 12 be revised to include:

- The establishment of a detailed public participation process, similar to that executed by the RBD process, that outlines the specific groups that will be engaged, the method of informing them, the opportunities for public comment, and how the public's concerns and feedback will be incorporated.
- The development of a comprehensive list of stakeholder organizations and community leaders.
- The creation of a series of community workshops during the feasibility, design, environmental review, pre-construction and construction project phases that allows for interactive engagement by members of the public.
- Public-outreach locations that are accessible by public transportation and in the RBD project areas, and schedules that are convenient for those with different needs (i.e.,

- working parents, the elderly, etc.)
- The creation of a website where draft and final reports are posted in each project phase and where comments can be submitted electronically.

RESILIENCY

Significant taxpayer dollars are being committed to the RBD projects. The investment must result in flood resiliency measures that are protective long term. The changing nature of flood risk, including risks that are increasing due to climate change, demands conservative standards that will withstand the test of time and the forces of nature.

The Federal Notice referred to in the Action Plan Amendment requires the elevation of structures to at least one foot higher than the latest FEMA-issued base flood elevation or best available data. This standard only depicts today's flood risk, not tomorrow's, in part because it does not account for sea-level rise. Therefore, using FEMA maps to define the floodplain and elevating within their mapped floodplain boundaries will not protect communities adequately and leaves them at risk.

The recognition of the need for more protective elevation is demonstrated by the RBD proposals themselves, both of which propose the use of higher standards. The proposed berm in the Meadowlands would be a height that corresponds to a 500-year flood plain plus a few feet of freeboard, along with the use of the 2000-year floodplain as the elevation guideline for critical infrastructure such as power plants, railway hubs and sewage plants. Hoboken proposes the 500-year level of protection for its flood defenses.

To ensure that the RBD projects mitigate risks from flooding and stronger storms appropriately, New Jersey Future recommends the following adjustments to the Action Plan Amendment:

- A detailed description of the flooding vulnerabilities of each municipality today, in 2050 and in 2100 (incorporating sea level rise) as part of the feasibility and design phases.
- Commitment to the adoption of a flood-elevation standard in the design phase of both projects that will be protective through 2100.
- The identification and construction of protective measures in the event that berms are overtopped by storm surge. The Meadowlands proposal increases density and growth behind the berms. The early development phases of this project should include identification of measures to protect these communities if the berms and floodgate fail. Redundant protective measures should be in place in case of failures.
- A requirement for detailed hydrological studies in the design phase to ensure that communities upstream and downstream will not be negatively affected during the pilot projects and construction phases.

CONCLUSION

Thank you for the opportunity to provide comments on the proposed Action Plan Amendment 12. If revised prior to approval, the Amendment can ensure that vulnerable populations are treated fairly, that the projects areas are resilient to storms and flooding and that the public is actively engaged and participating in the projects.

New Jersey Future supports the overall concept of the RBD projects and looks forward to working with DEP to ensure their success.