

THE COUNCIL OF THE CITY OF NEW YORK

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## Oversight – Examining the Expenditure and Reimbursement of Funds in Relation to Superstorm Sandy

**April 9, 2014**

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## Introduction

On Wednesday, April 9, 2014, the Committee on Recovery and Resiliency and the Committee on Finance will hold a joint oversight hearing examining the expenditure and reimbursement of funds in relation to Superstorm Sandy. This report includes background information on Superstorm Sandy, a summary of the federal government's response, and a more detailed review of funding made available by the U.S. Federal Emergency Management Agency (FEMA) and the U.S. Department of Housing and Urban Development ("HUD"). Updated information on New York City (NYC) allocations and spending is included where possible.

## Superstorm Sandy

Superstorm Sandy hit New York City with intensity unparalleled by any coastal storm in recent history. The storm began on October 22, 2012, as a tropical depression cyclone in the southern Caribbean with wind speeds below 39 mph.<sup>1</sup> The depression strengthened and became Tropical Storm Sandy, with maximum winds of about 40 mph.<sup>2</sup> By October 24<sup>th</sup>, Sandy was a Category 1 hurricane and crossed Jamaica with reported winds of 80 mph. On October 26<sup>th</sup>, Sandy struck Cuba with winds of about 110 mph, just below the status of a major Category 3 hurricane and on October 27<sup>th</sup>, the storm turned to the northeast, off the coast of Florida, and left in its path an estimated death toll in the Caribbean of 70 or more. After briefly weakening to a tropical depression, Sandy re-intensified into a Category 1 hurricane and meteorologists warned that the storm would likely morph into a powerful, hybrid super-storm as it moved further northward towards a high-pressure cold front that was expected to force Sandy to start turning to the northwest toward Baltimore, Washington, Philadelphia and New York.<sup>3</sup> The full moon was expected to make Sandy's storm surge – initially expected to be 11 to 12 feet in some places – even a higher as it made landfall.<sup>4</sup>

On October 29<sup>th</sup>, Sandy made the anticipated sharp turn toward the northwest on a path to the coast of New Jersey.<sup>5</sup> The storm began interacting with other weather systems and gained energy and by approximately 8 p.m. Sandy's center had come ashore near Atlantic City, New Jersey. The storm's unusual path from the southeast made its storm surge much worse for New Jersey and New York.<sup>6</sup> In fact, the National Weather Service's New York office reported that the nearly 14 foot surge was a new record for a storm surge in the harbor. The surge topped the seawall at The Battery in Lower Manhattan and flooded parts of the City's subway system. The surge also flooded the Hugh Carey Tunnel that links Lower Manhattan to Brooklyn and did unprecedented damage

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<sup>1</sup> See Posting of Willie Drye to National Geographic Newswatch, *A Timeline of Hurricane Sandy's Path of Destruction*, Nov. 2, 2012, available at <http://newswatch.nationalgeographic.com/2012/11/02/a-timeline-of-hurricane-sandys-path-of-destruction/>; see also Hurricane Sandy Advisory Archive, NOAA National Hurricane Center, available at <http://www.nhc.noaa.gov/archive/2012/SANDY.shtml>.

<sup>2</sup> Id.

<sup>3</sup> See Hurricane Sandy Advisory Archive, NOAA National Hurricane Center, available at <http://www.nhc.noaa.gov/archive/2012/SANDY.shtml>.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

throughout Staten Island, Coney Island, and the Rockaways.<sup>7</sup> As a result, forty-three New Yorkers lost their lives – half of whom were on Staten Island – and tens of thousands were injured.<sup>8</sup> By December of 2012, the NYC Department of Buildings (DOB) had tagged about 800 buildings as damaged or destroyed around the City, and 70,000 housing units were registered with FEMA and found to have suffered some amount of damage.<sup>9</sup>

## Federal Assistance

The devastation caused by Sandy resulted in severe financial hardship and economic loss to New York City and the surrounding region. Despite the U.S. Senate and U.S. House of Representatives not being able to agree on an approximately \$60 billion aid package, the same results were eventually achieved through the passage of multiple bills. The Hurricane Sandy Relief Bill was enacted on January 6, 2013 which increased the borrowing authority for the National Flood Insurance Program Administered by FEMA by \$9.7 billion to \$30.4 billion.<sup>10</sup> On January 29, 2013, President Barack Obama signed into law the Disaster Relief Appropriations Act, 2013 (DRAA), which provided funding to support emergency response and recovery for states and communities affected by Hurricane Sandy.<sup>11</sup> Between the DRAA and a supplemental Sandy bill, more than \$50 billion was appropriated to 19 federal agencies. Federal sequestration reduced the total appropriations by about five percent, bringing the total to around \$47.9 billion.<sup>12</sup>

In December 2012, President Obama appointed HUD Secretary Shaun Donovan as head of the newly created Hurricane Sandy Rebuilding Task Force. A Program Management Office was set up within the task force to track the progress of the funding, which is available on HUD's website.

Major Grant programs will reimburse state and local governments to rebuild impacted public facilities (such as roads, bridges, hospitals, and public transit) include the Disaster Relief Fund (DRF) appropriated to FEMA, and the Community Development Fund administered by HUD. Other significant grant programs the City is expected to benefit from include ones administered by the U.S. Department of Transportation and the U.S. Army Corps of Engineers (see Appendix A for a list of DRAA appropriations by federal agency).

### FEMA Public Assistance and Hazard Mitigation

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) authorizes the President to declare a major disaster and makes funds available to state and local governments to help them respond to, and recover from, a catastrophe.<sup>13</sup> FEMA administers most of the authority that the statute grants to the President. Through the DRAA, Congress appropriated approximately

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<sup>7</sup> Id.

<sup>8</sup> City of New York, *Hurricane Sandy After Action*. May 2013. Report and Recommendations to Mayor Michael R. Bloomberg, available at [http://www.nyc.gov/html/recovery/downloads/pdf/sandy\\_aar\\_5.2.13.pdf](http://www.nyc.gov/html/recovery/downloads/pdf/sandy_aar_5.2.13.pdf).

<sup>9</sup> NYC Special Initiative for Rebuilding and Resiliency Report, *A Stronger, More Resilient New York*, June 2013, Foreword from Mayor Michael Bloomberg, available at [http://nytelecom.vo.llnwd.net/o15/agencies/sirr/SIRR\\_singles\\_Lo\\_res.pdf](http://nytelecom.vo.llnwd.net/o15/agencies/sirr/SIRR_singles_Lo_res.pdf).

<sup>10</sup> Major H.R.1 Actions". Thomas. The Library of Congress. Retrieved April 15, 2013.

<sup>11</sup> See Disaster Relief Appropriations Act of 2013, Pub. L. No. 113-22, 127 Stat. 4 (H.R. 152, 113th Cong., Jan. 29, 2013).

<sup>12</sup> See HUD's website, Sandy Recovery Progress Home Page, available at <http://portal.hud.gov/hudportal/HUD?src=/sandyrebuilding/accountability>.

<sup>13</sup> See 42 U.S.C. §§ 5121-5208 (2006).

\$11.5 billion to the DRF through the U.S. Department of Homeland Security, of which \$5.4 billion was specifically designated for major disasters declared under the Stafford Act.<sup>14</sup> DRF funds can be disbursed through several Stafford Act programs, two of which have potential to be used to adapt public facilities: (1) the Public Assistance (PA) program which, among other things, reimburses state and local governments for the long-term rebuilding of public facilities, and (2) the Hazard Mitigation Grant Program (HMGP), which provides funding for state and local governments following a disaster to undertake projects to mitigate future damage.

### FEMA Public Assistance Grant Program

State governments, local governments and certain not-for-profit organizations are eligible applicants for FEMA PA funding. Eligible categories of work include emergency work: (A) Debris Removal; (B) Emergency Protective Measures; and permanent work including: (C) Roads and Bridges; (D) Water Control Facilities; (E) Buildings and Equipment; (F) Utilities; and (G) Parks, Recreational Facilities, and Other Facilities. The chart below shows the FEMA PA awards, obligations and revenues for NYC as of April 7, 2014. The total cost of projects to date is \$1.4 billion with \$633 million that has been reimbursed to the City which will show in the City expense budget as revenue.

**Table 1: FEMA PA by Category as of April 7, 2014 (in millions)**

Category	Category Type	Award <sub>1</sub>	Federal Match (Obligated) <sub>2</sub>	Total Revenue <sub>3</sub>
A	Debris Removal	\$215	\$181	\$152
B	Emergency Response	1,014	809	466
C	Roads and Bridges	26	20	10
E	Buildings and Equipment	100	35	4
F	Utilities	22	20	1
G	Parks, Recreational Facilities and Other Items	25	16	0
<b>Total</b>		<b>\$1,402</b>	<b>\$1,081</b>	<b>\$633</b>

Source: NYC Office of Management and Budget

<sup>1</sup>The current total of the Project Worksheet (PWs) costs to date. PWs are submitted to FEMA for every project for which the City is seeking reimbursement.

<sup>2</sup>The cost of projects that FEMA has determined to be eligible for Public Assistance funding at current federal cost share (90%).

<sup>3</sup>The amount of federal money that has been dispersed to and used by the City on Sandy-related activities.

Eligible costs include costs that can be directly tied to eligible work which requires extensive documentation and time consuming audits. FEMA's PA Grant Program reimburses no less than 75 percent of eligible costs, but because Superstorm Sandy hit a threshold of financial damages, New

<sup>14</sup> See Disaster Relief Appropriations Act, tit. 10, ch. 6, 127 Stat. at 29, available at <https://www.govtrack.us/congress/bills/113/hr152/text>.

York State requested and was granted a reimbursement of 90 percent of eligible costs.<sup>15</sup> CDBG-DR funding may be used to cover the remaining 10 percent of eligible costs. The program is administered collaboratively with FEMA, the State (grantee), and the applicants (subgrantees). In the case of New York City, over fifty individual City agencies applied individually as subgrantees.

As of April 7, 2014 estimated costs of capital damage and expense costs relating to Superstorm Sandy for City agencies is \$5.4 billion. Of that total, the City has submitted paperwork for reimbursement and FEMA has determined that \$1.4 billion is eligible. Of this amount the federal match is \$1.1 billion. To date the City has been reimbursed by FEMA PA funding in the amount of \$633 million.

**Table 2: FEMA PA Cost Estimates and Reimbursement Revenue as of April 7, 2014**

Agency Name <i>(In millions)</i>	Cost Estimates			Project Worksheet Info		
	Expense	Capital	Total <sup>1</sup>	Award <sup>2</sup>	Obligated <sup>3</sup>	Total Revenue <sup>4</sup>
Health and Hospitals Corporation <sup>5</sup>	\$161	\$1,027	\$1,188	\$165	\$142	\$65
Department of Parks and Recreation	105	710	815	83	70	33
Department of Environmental Protection	696	58	753	451	406	179
Department of Transportation	48	565	613	39	19	7
New York City Housing Authority <sup>6</sup>	150	399	549	132	13	3
School Construction Authority	0	440	440	39	35	24
Police Department	199	22	220	152	137	126
Department of Sanitation	144	10	154	143	123	103
Department of Cultural Affairs	1	128	129	0	0	0
All Other	356	175	530	198	136	92
<b>Total</b>	<b>\$1,859</b>	<b>\$3,533</b>	<b>\$5,392</b>	<b>\$1,403</b>	<b>\$1,081</b>	<b>\$633</b>

Source: NYC Office of Management and Budget

<sup>1</sup>The cumulative amount of all estimated funding to be spent on Sandy-related needs, both capital and operating. The expenditure amounts include personnel costs and direct costs other than personnel.

<sup>2</sup>The current total of the Project Worksheet (PWs) costs to date. PWs are submitted to FEMA for every project for which the City is seeking reimbursement.

<sup>3</sup>The cost of projects that FEMA has determined to be eligible for Public Assistance funding at current federal cost share (90%).

<sup>4</sup>The amount of federal money that has been dispersed to and used by the City on Sandy-related activities.

<sup>5</sup>HHC figures do not include \$222 million of operational housing readiness funded by CDBG-DR funds; HHC capital figures do include over \$700 million of possible FEMA PA Hazard Mitigation funds.

<sup>6</sup>NYCHA figures include damages to be covered by \$380 million of insurance (\$135 million expense and \$245 million capital).

<sup>15</sup> See US Senator Charles Schumer's website, *New York State Has Now Crossed Critical Threshold Allowing for Increased Federal Aid - Schumer Urges Feds to Increase Their Share of Sandy Recovery Costs To 90% From 75*, dated May 1, 2013, available at <http://www.schumer.senate.gov/Newsroom/record.cfm?id=341609>.



In addition to City agencies applying for FEMA PA funding as subgrantees to the State, a number of not-for-profits in NYC were eligible for applying for funds. Before the state's deadline to apply, which was extended multiple times, the City reached out to some 10,000 organizations and conducted eight applicant briefings.

### **FEMA Hazard Mitigation**

FEMA offers multiple Hazard Mitigation Assistance programs, but following a Presidential disaster declaration the Hazard Mitigation Grant Program (HMGP) is designed to fund mitigation projects that would reduce losses and protect life and property from possible future disasters. HMGP funds are administered by the state (applicant) that then provides subgrants to local governments, tribal organization and eligible not-for-profits. The State is able to prioritize the subapplications which are then submitted to FEMA for further consideration.

Before it can receive funds, the state must submit a State Hazard Mitigation Plan and a State Administrative Plan outlining how it plans to administer funds to FEMA for approval. The administrative plan must make clear the State's priorities and the criteria that proposed mitigation activities will be rated on. The State must determine eligibility of subapplicants, provide technical assistance, and disburse funds received by FEMA to the chosen subapplicants.

### **Community Development Block Grant – Disaster Relief**

Under the CDBG program, authorized by the Housing and Community Development Act of 1974 and administered by HUD, Congress can appropriate funds to finance state and local recovery efforts.<sup>16</sup> As funds issued through block grants, state and local recipients (grantees) have tremendous discretion over the use of these funds. The only requirement is that the funded activities meet three national priorities to: (1) benefit low- and moderate-income families; (2) aid in the prevention or elimination of slums or blight; or (3) meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community.<sup>17</sup> It is under the third priority that Congress has funded the CDBG-DR program to support disaster relief.<sup>18</sup>

In the DRAA, Congress appropriated \$16 billion (\$15.18 billion after the sequester)<sup>19</sup> to the CDBG-DR program 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.<sup>20</sup> These non-competitive, non-recurring Disaster Recovery grants are provided based on a

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<sup>16</sup> See 42 U.S.C. § 5306(d) (2006).

<sup>17</sup> See 24 C.F.R. § 570.200(a)(2).

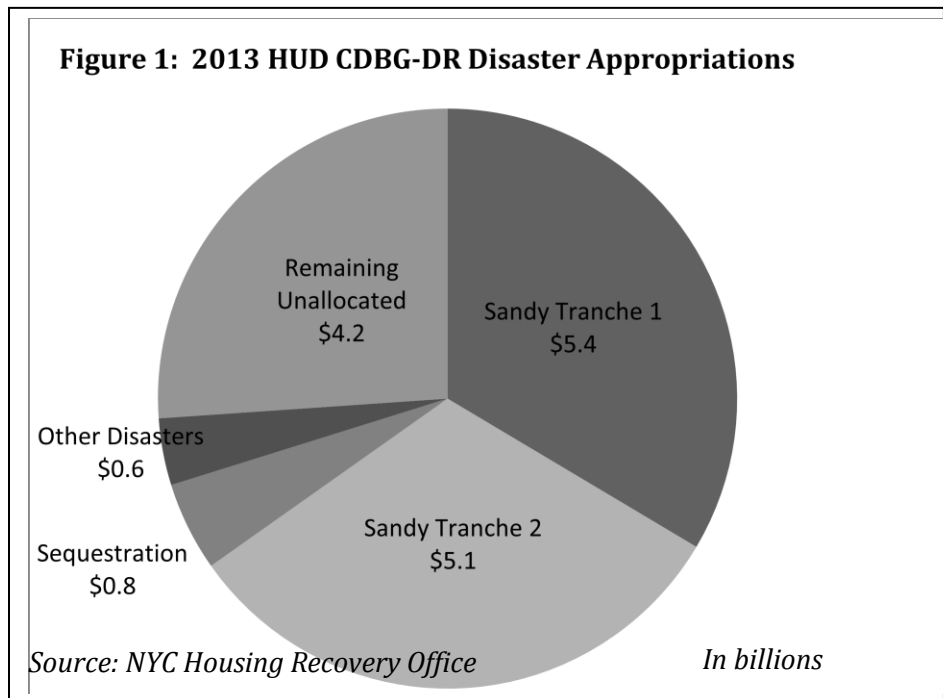
<sup>18</sup> Many communities have used CDBG funds to support disaster relief, including, for example, Louisiana which used CDBG funds to acquire properties in floodplains after Hurricane Katrina. See Nicole Smith and Jessica Grannis, *Georgetown Climate Center, Understanding the Adaptation Provisions of the Sandy Disaster Relief Appropriations Act (H.R.152)*, at 16, available at <http://www.georgetownclimate.org/understanding-the-adaptation-provisions-of-the-sandy-disaster-relief-appropriations-act-hr-152>, citing David A. Lewis, *The Relocation of Development from Coastal Hazards through Publicly Funded Acquisition Programs: Examples and Lessons from the Gulf Coast*, 5 SEA GRANT LAW AND POL'Y J. 1, 98-139 (2012).

<sup>19</sup> See FEMA website, CDBG Disaster Recovery Assistance, available at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/programs/drsi](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/drsi).

<sup>20</sup> See Sandy Relief Act, tit. 10, ch. 9, 127 Stat. at 38.

formula that considers disaster recovery needs unmet by other Federal disaster assistance programs, and can be used to supplement FEMA assistance.<sup>21</sup>

Of the total CDBG-DR appropriation, \$5.4 billion was allocated in Tranche 1 (see Figure 1). Less than a week after the DRAA was signed into law it was announced that NYC would get its own allocation of \$1.77 billion in Tranche 1, separate from NYS, which would allow the City greater autonomy in prioritizing funding for the recovery effort.



To be eligible for CDBG-DR funds, the Sandy Relief Act requires each state or local grantee to submit an “action plan” for using the funds to the HUD Secretary for approval.<sup>22</sup> The plan must demonstrate how the intended use of the funds will address the “long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas.”<sup>23</sup> Fifty percent of the funds must be used to support activities benefitting persons of low or moderate income, unless the Secretary waives this requirement based upon a finding of compelling need to further reduce the percentage requirement.<sup>24</sup> The City submitted a HUD-required Action Plan that outlined the needs, strategies, and projected uses which was approved by HUD on May 10, 2013 (See Table 3 for details).<sup>25</sup>

Each time the Action Plan is substantially amended the proposed amendment must be made available for public review as per HUD requirements. A substantial change is defined as any change greater than \$1 million to a certain program, adding or deleting a program, modifications to the eligibility criteria or to the designated beneficiaries.<sup>26</sup> There have been five amendments; the first and fourth were substantial amendments and the second and third were technical adjustments.

<sup>21</sup> See *supra* note 9.

<sup>22</sup> See *id.*; see also Sandy Relief Act, Pub. L. No. 113-2, 127 Stat. 16 (Jan. 29, 2013).

<sup>23</sup> See *id.*

<sup>24</sup> See *id.* at Sandy Relief Act, Pub. L. No. 113-2, 127 Stat. 16 (Jan. 29, 2013).

<sup>25</sup> See HUD website, *Donovan Announces Approval Of New York City’s Disaster Recovery Plan*, available at [http://portal.hud.gov/hudportal/HUD?src=/press/press\\_releases\\_media\\_advisories/2013/HUDNo.13-070](http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2013/HUDNo.13-070).

<sup>26</sup> *The City of New York, Community Development Block Grant – Disaster Recovery Partial Action Plan A*, January 29, 2013, available at [http://www.nyc.gov/html/cdbg/downloads/pdf/action\\_plan\\_amendment\\_5.pdf](http://www.nyc.gov/html/cdbg/downloads/pdf/action_plan_amendment_5.pdf).

On October 28, 2013 HUD announced Tranche 2 of the CDBG-DR allocations, with \$1.45 billion allocated to NYC<sup>27</sup>. The Bloomberg Administration compiled Amendment 5 to the Action Plan to account for how the City's Tranche 2 allocation would be allocated by the City (See Table 3 for details). After the required public comment period which ended March 2, 2014 the de Blasio Administration submitted Amendment 5 to HUD for review. HUD has sixty days to review the proposal.

It is the Committee's understanding that Amendment 5 did not change significantly since the public review. If the de Blasio Administration plans to reprioritize the CDBG-DR funding moving forward that would be done in a future amendment to the Action Plan.

### Prohibition on the Duplication of Benefits

CDBG-DR funding is meant to be supplemental to other federal grant programs and insurance settlements. There is a prohibition on the duplication of benefits which means that CDBG-DR funding cannot be used until other funding sources have been exhausted and accounted for. Any insurance settlements; FEMA, U.S. Small Business Administration (SBA), or U.S. Army Corps of Engineers funding applicable to a project must be subtracted before the CDBG-DR payments are finalized<sup>28</sup>.

#### Examples of CDBG-DR Eligible Activities under HUD

- Buying damaged properties in a flood plain and relocating residents to safer areas;
- Relocation payments for people and businesses displaced by the disaster;
- Debris removal not covered by FEMA;
- Rehabilitation of homes and buildings damaged by the disaster;
- Buying, constructing, or rehabilitating public facilities such as streets, neighborhood centers, and water, sewer and drainage systems;
- Code enforcement;
- Homeownership activities such as down payment assistance, interest rate subsidies and loan guarantees for disaster victims;
- Public services (generally limited to no more than 15 percent of the grant);
- Helping businesses retain or create jobs in disaster impacted areas; and
- Planning and administration costs (limited to no more than 20 percent of the grant).

*Source: U.S. Dept. of Housing and Urban Development*

Under the City's Build it Back program it has become evident that a federal requirement that the full amount of an SBA loan offered to an applicant count against the applicant's CDBG-DR grant amount has proven to be extremely problematic for struggling home owners. The de Blasio Administration has testified that it was able to get some leniency in the cases where an applicant turned down the loan without accepting any money. For cases where applicants accepted some money before cancelling the loan the full amount of the loan is still counted against the applicant's CDBG-DR grant.

<sup>27</sup> See HUD website, *HUD Announces Additional \$5.1 Billion In Recovery Funds For Communities Impacted By Hurricane Sandy*, dated October 28, 2013, available at [http://portal.hud.gov/hudportal/HUD?src=/press/press\\_releases\\_media\\_advisories/2013/HUDNo.13-153](http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2013/HUDNo.13-153).

<sup>28</sup> See HUD website, *CDBG Disaster Recovery Assistance*, available at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/programs/drsi](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/drsi).

**Table 3: Community Development Block Grant - Disaster Relief Appropriations (as of 12/31/13)**

<i>(in thousands)</i>	CDBG-DR Allocations <sup>1</sup>			Spent <sup>3</sup>	Funds Finalized <sup>4</sup>
	Tranche 1	Tranche 2 <sup>2</sup>	Total		
<b>Housing Programs</b>					
Build it Back Rehabilitation and Reconstruction for 1-4 Unit Homes	\$306,000	\$716,000	\$1,022,000	\$14,925	\$0
Rental Assistance	19,000	0	19,000	323	253
Build it Back Multi-Family Building Rehabilitation	215,000	131,000	346,000	615	0
Public Housing Rehabilitation and Resilience	108,000	200,000	308,000	0	0
<b>Subtotal</b>	<b>\$648,000</b>	<b>\$1,047,000</b>	<b>\$1,695,000</b>	<b>\$15,862</b>	<b>\$253</b>
<b>Business Programs</b>					
Business Recovery Loan and Grant Program	\$72,000	(\$30,000)	\$42,000	\$945	\$13
Business Resiliency Investment Program	90,000	20,000	110,000	77	0
Neighborhood Game Changer Investment Competition	90,000	(6,000)	84,000	150	0
Resiliency Innovations for a Stronger Economy (RISE: NYC)	41,000	(11,000)	30,000	135	0
<b>Subtotal</b>	<b>\$293,000</b>	<b>(\$27,000)</b>	<b>\$266,000</b>	<b>\$1,307</b>	<b>\$13</b>
<b>Infrastructure and Other City Services</b>					
Public Services	\$237,000	\$130,000	\$367,000	\$237,000	\$183,000
Emergency Demolition	1,000	1,000	2,000	1,000	0
Debris Removal/Clearance	8,000	4,500	12,500	8,000	0
Code Enforcement	1,000	0	1,000	1,000	0
Rehabilitation/Reconstruction of Public Facilities	15,000	309,500	324,500	15,000	0
Interim Assistance	98,000	0	98,000	98,000	0
<b>Subtotal</b>	<b>\$360,000</b>	<b>\$445,000</b>	<b>\$805,000</b>	<b>\$360,000</b>	<b>\$183,000</b>
<b>Resilience</b>					
Coastal Protection <sup>5</sup>	\$174,000	\$50,000	\$224,000	\$0	\$0
Residential Building Mitigation Program	120,000	(60,000)	60,000	0	0
<b>Subtotal</b>	<b>\$294,000</b>	<b>(\$10,000)</b>	<b>\$284,000</b>	<b>\$0</b>	<b>\$0</b>
<b>Citywide Administration and Planning</b>					
Planning	\$89,820	(\$17,000)	\$72,820	\$747	\$0
Administration	88,000	9,000	97,000	1,905	760
<b>Subtotal</b>	<b>\$177,820</b>	<b>(\$8,000)</b>	<b>\$169,820</b>	<b>\$2,652</b>	<b>\$760</b>
<b>Total</b>	<b>\$1,772,820</b>	<b>\$1,447,000</b>	<b>\$3,219,820</b>	<b>\$379,821</b>	<b>\$184,027</b>

Source: NYC CDBG-DR Partial Action Plan A; NYC Sandy Funding Tracker

<sup>1</sup>Amount of funding identified by HUD as available to cover certain recovery activities, once the City has described these activities in its Action Plan.

<sup>2</sup>HUD is reviewing NYC's edits to Amendment 5 after the public comment period. Appropriations not finalized.

<sup>3</sup>The costs associated with activities performed as a result of Hurricane Sandy.

<sup>4</sup>The amount of funding HUD has paid to the City as reimbursement for dollars spent.

<sup>5</sup>Including \$50 million which was until recently specified as Rehabilitation/Reconstruction of Public Facilities.

## Sandy Tracker

On December 19, 2013 the City Council passed Local Law 140 which seeks to deliver public-sector values by focusing on transparency, accessibility of information, and accountability of the way in which Sandy funds are used. Goals of the legislation included ensuring the integrity of each contract recipient and creating a tool to track key performance measurements such as jobs created and maintained.

The legislation requires the City to establish a searchable, interactive online database to be updated monthly that includes summaries of the administration of Hurricane Sandy funds (defined as local, state, or federal funds in excess of \$100,000 provided to a recipient to recover or rebuild from Hurricane Sandy).<sup>29</sup> For each project (and construction, services or programs paid for with Sandy funds) the database should include: (1) the name of the contractor and subcontractor if known; (2) a description of the project including physical address, block and lot numbers, estimated dates of start and completion; (3) the purpose of the project in relation to the City's recovery and rebuilding efforts; (4) the value and type of funding provided, including but not limited to grants, loans, contracts, or other such forms of financial assistance, and the total number of jobs at the time of award of Hurricane Sandy funds; and (5) the total number of additional jobs to be created and retained over the life of the Hurricane Sandy funded project. The data provided for such projects should be aggregated by zip code.<sup>30</sup>

To be able to track the companies earning money from the rebuilding effort and whether local companies and workers are being included in the process the Council required various reporting on contracts and subcontracts. For each executed city procurement contract associated with Hurricane Sandy funding data should be provided on: (1) the name of the contract vendor; (2) contract identification number; (3) the purpose of the contract or grant; (4) original contract value in dollars; (5) revised contract value in dollars, if applicable; (6) whether the bid was subject to public bidding; (7) original contract start and end date, if applicable; (8) revised contract and end date, if applicable; (9) contract or grant status; (10) grant name; (11) information on the contract or grant recipient's qualification for receipt of Hurricane Sandy funds for a Hurricane Sandy funded project; and (12) the total number and type of jobs to be expected to be created and retained over the life of the Hurricane Sandy funded project.<sup>31</sup>

For city procurement contracts related to the rebuilding or repairing of four or fewer residential units, data will not include information on the contract recipient's qualification for receipt of Hurricane Sandy funds for a Hurricane Sandy funded project if the recipient is a homeowner, tenant or resident of the affected units. Further privacy is provided for such recipients in the legislation. Their names will not be posted and grant or loan data will not be provided.<sup>32</sup>

The bill also sought to provide data that would allow analysis on job retention relating to the rebuilding and resiliency effort. It requires the database to provide extensive information relating

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<sup>29</sup> See § 6-138 (a)(1) of the Administrative Code of the city of New York.

<sup>30</sup> See § 6-138 (b)(1).

<sup>31</sup> See § 6-138 (b)(2).

<sup>32</sup> See *id.*

to job creation and retention. The bill requires the database to include the total number of jobs at the time of award of Hurricane Sandy funds and the total number of additional jobs to be created and retained in each Hurricane Sandy funding program (in the case of CDBG-DR assistance) or for each agency (in the case of FEMA). The data should be aggregated by zip code, and be based upon the best practicable methodology for calculating such number over the life of the Hurricane Sandy funded project. The data should be broken down by: (1) the number of permanent full-time employees, (2) the number of temporary full-time employees, (3) the number of permanent part-time employees, (4) the number of temporary part-time employees, and (5) the total number of contract employees.<sup>33</sup>

Additional reporting requirements include estimates of income ranges and whether employees are receiving health benefits.<sup>34</sup> To know if the local residents are being hired for rebuilding jobs in their own neighborhoods data is required comparing the zip code of the employee with the zip code of the project on which they are working.<sup>35</sup>

Data is required on whether the recipients of grant money has ever been determined to have violated laws relating to occupational safety, health, unemployment, workers compensation, employee misclassification, employment discrimination, employment disability or other labor laws.<sup>36</sup> Further reporting requirements include information on whether union construction apprenticeship program and/or other local workforce development program are being used, whether any of the contacts require prevailing wage laws, and whether the project is subject to and in compliance with Section 3 of the Housing & Urban Development Act of 1968.<sup>37</sup> Section 3 requirements are designed to provide employment and economic development opportunities from projects funded by HUD to low- and very low-income people to the “greatest extent feasible”.<sup>38</sup>

As previously mentioned, grants or loans related to the rebuilding or repairing of four or fewer residential units due to privacy concerns this data will not be provided if the recipient is a homeowner, tenant or resident of an affected unit.

The bill officially took effect on April 1, 2014. The NYC Sandy Funding Tracker website is operational but not all the required elements are available yet. An update was provided at a Council hearing March 31, 2014 on the Build It Back program and more data will be made available in the coming month.

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<sup>33</sup> See § 6-138 (c)(1).

<sup>34</sup> See § 6-138 (c)(2) and (c)(3).

<sup>35</sup> See § 6-138 (c)(4).

<sup>36</sup> See § 6-138 (c)(5).

<sup>37</sup> See § 6-138 (c)(8).

<sup>38</sup> See HUD’s website, *Frequently Asked Questions (FAQs) Section 3 of the Housing & Urban Development Act of 1968*, available at <http://portal.hud.gov/hudportal/documents/huddoc?id=11secfaqs.pdf>.

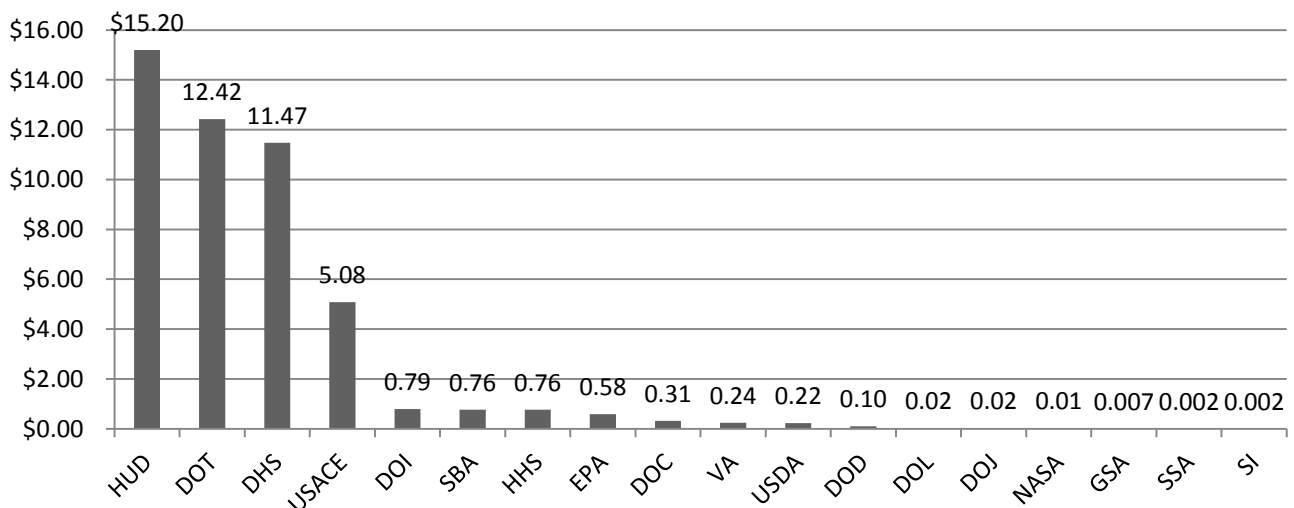
## Appendix A – Federal Sandy Appropriations

### Appendix A: Federal Appropriations by Agency (in billions)

Federal Agency	Acronym	Appropriation
Department of Housing and Urban Development	HUD	\$15.20
Department of Transportation	DOT	12.42
Department of Homeland Security	DHS	11.47
United States Army Corps of Engineers	USACE	5.08
Department of the Interior	DOI	0.79
Small Business Administration	SBA	0.76
Department of Health and Human Services	HHS	0.76
Environmental Protection Agency	EPA	0.58
Department of Commerce	DOC	0.31
Department of Veterans Affairs	VA	0.24
Department of Agriculture	USDA	0.22
Department of Defense	DOD	0.10
Department of Labor	DOL	0.02
Department of Justice	DOJ	0.02
National Aeronautics and Space Administration	NASA	0.01
General Services Administration	GSA	0.007
Social Security Administration	SSA	0.002
Smithsonian Institution	SI	0.002
<b>Total</b>		<b>\$47.99</b>

Source: HUD

### Appendix A: Federal Appropriations By Agency (in billions)



## Appendix B – New York State’s Share of Federal Sandy Appropriations

### Appendix B: New York State’s Share of Federal Funding by Federal Agency (in millions)

Federal Agency	Funds Awarded	Funds Paid Out
Department of Agriculture	\$4.66	\$2.87
Department of Health and Human Services	241.81	2.82
Department of Homeland Security	4,687.67	3,671.42
Department of Housing and Urban Development	1,868.00	654.29
Department of Justice	10.19	4.61
Department of Labor	20.49	16.88
Department of the Interior	62.58	32.12
Department of Transportation	1,301.49	360.31
Environmental Protection Agency	2.38	0.00
General Services Administration	0.65	0.15
Legal Services Corporation	0.12	0.12
Small Business Administration	49.55	28.28
US Army Corps of Engineers	163.89	90.90
<b>Total</b>	<b>\$8,413</b>	<b>\$4,865</b>

Source: Federal Recovery Accountability and Transparency Board