



# The State of New York, New York, NY

## Community Development Block Grant Disaster Recovery-Funded Non-Federal Share Match Program



**To:** Stanley A. Gimont, Deputy Assistant Secretary for Grant Programs, DGB  
//SIGNED//

**From:** Kimberly S. Dahl, Regional Inspector General for Audit, 2AGA

**Subject:** The State of New York Did Not Show That Disaster Recovery Funds Under Its Non-Federal Share Match Program Were Used for Eligible and Supported Costs

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the State of New York's Community Development Block Grant Disaster Recovery-funded Non-Federal Share Match Program.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG website. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (212) 542-7984.



**Audit Report Number: 2017-NY-1010**

**Date: September 15, 2017**

**The State of New York Did Not Show That Disaster Recovery Funds Under Its Non-Federal Share Match Program Were Used for Eligible and Supported Costs**

## Highlights

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### What We Audited and Why

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We audited the State of New York's Community Development Block Grant Disaster Recovery-funded Non-Federal Share Match Program. We conducted this audit because the State had used approximately \$223 million for the program as of December 2016 and a U.S. Department of Housing and Urban Development (HUD) review of the program had identified weaknesses related to compliance monitoring and recordkeeping. Our objective was to determine whether the State used disaster recovery funds under its program for eligible and supported costs.

### What We Found

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The State did not show that disaster recovery funds allocated to its program were used only for eligible and supported costs. Specifically, it did not maintain sufficient documentation to show that \$18.8 million used for four of the six activities reviewed was for eligible and supported costs. For example, the State's files did not always contain detailed invoices, proper records to support labor costs, and proof of payment. Further, analysis of the limited documentation maintained by the State showed that approximately \$1.2 million of the \$18.8 million may have been used for transitional shelter assistance payments, which exceeded the period allowed by HUD. These deficiencies occurred because the State relied on work performed by other entities and incorrectly believed that it had received a waiver covering the extended transitional shelter assistance. As a result, HUD did not have assurance that the \$18.8 million was used as intended to assist storm-impacted entities with the cost share associated with other Federal funds and was not used to duplicate other benefits.

### What We Recommend

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We recommend that HUD require the State to (1) provide documentation to show that the \$18.8 million used for the four activities was for eligible and supported costs and did not duplicate other benefits or repay from non-Federal funds any amount that it cannot support; (2) implement procedures to ensure that remaining program costs reimbursed with disaster recovery funds are adequately reviewed for eligibility and support, thereby putting \$9 million to better use; and (3) provide training to its staff on applicable HUD and Federal requirements for eligibility, documentation of costs, and duplication of benefits reviews.

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# Background and Objective

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Through the Disaster Relief Appropriations Act of 2013,<sup>1</sup> Congress made available \$16 billion in Community Development Block Grant Disaster Recovery funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization. These funds were to be used in the most impacted and distressed areas affected by Hurricane Sandy and other declared disaster events that occurred during calendar years 2011, 2012, and 2013. The U.S. Department of Housing and Urban Development (HUD) awarded the State of New York \$4.4 billion of the disaster recovery funds.

The State allocated nearly \$238 million<sup>2</sup> of its disaster recovery funds to its Non-Federal Share Match Program. The program was designed to assist with the non-Federal cost share, or match, associated with other Federal funds for eligible activities. The State’s Division of Homeland Security and Emergency Services initially covered the 10 to 25 percent non-Federal match required by the Federal Emergency Management Agency (FEMA). The Governor’s Office of Storm Recovery then used disaster recovery funds to reimburse it for all or part of the match.

As of December 31, 2016, the State had drawn down approximately \$223 million in disaster recovery funds for this program, including more than \$72 million for the six activities reviewed.<sup>3</sup> The chart below shows the total cost of each FEMA-funded project and the amount of disaster recovery funds used for these six activities.

	Activity name (beneficiary name)	Total project cost	Disaster recovery funds used (percent match)
1	Overhead Power Distribution Lines (Long Island Power Authority)	\$1,409,702,766	\$52,449,894 (3.7)
2	Debris Removal (Nassau County Public Works)	88,549,129	7,219,344 (8.2)
3	Superstorm Sandy - Transitional Shelter Assistance (n/a – administered internally)	69,966,591	6,996,659 (10)
4	Mobilization/Demobilization of Contract Crews (Long Island Power Authority)	17,221,084	4,261,873 (24.7)
5	MacArthur Elementary School Remediation/Abatement (Binghamton City School District)	4,926,420	1,020,194 (20.7)
6	Citywide Debris Removal (City of Yonkers)	3,041,778	304,178 (10)
<b>Totals</b>		<b>1,593,407,768</b>	<b>72,252,142</b>

Our objective was to determine whether the State used disaster recovery funds under its program for eligible and supported costs.

<sup>1</sup> Public Law 113-2, dated January 29, 2013

<sup>2</sup> The State allocated \$300 million to this program in its initial HUD-approved partial action plan but revised this amount in HUD-approved plan amendments.

<sup>3</sup> The Scope and Methodology section of this report details our selection of the six activities.

# Results of Audit

## Finding: The State Did Not Show That Disaster Recovery Funds Were Used for Eligible and Supported Costs

The State did not show that disaster recovery funds allocated to its Non-Federal Share Match Program were used for eligible and supported costs. Specifically, it did not maintain sufficient documentation to show that \$18.8 million used for four of the six activities reviewed was for eligible and supported costs. For example, the State’s files did not always contain detailed invoices, proper records to support labor costs, and proof of payment. Further, analysis of the limited documentation maintained by the State for one of the four activities showed that approximately \$1.2 million of the \$18.8 million may have been used for transitional shelter assistance payments, which exceeded the period allowed by HUD. These deficiencies occurred because the State relied on work performed by other entities and incorrectly believed that it had received a waiver covering the extended transitional shelter assistance. As a result, HUD did not have assurance that the \$18.8 million was used as intended to assist storm-impacted entities with the cost share associated with other Federal funds and was not used to duplicate other benefits.

### The State Did Not Maintain Sufficient Documentation To Show That Costs Were Eligible and Fully Supported

The State used \$18.8 million for four of the six activities reviewed without maintaining sufficient documentation to show that it was for eligible and supported costs. Specifically, its files did not always contain detailed invoices, proper records to support labor costs, and proof of payment. In addition, approximately \$1.2 million of the \$18.8 million may have been used for ineligible costs based on the limited documentation contained in the State’s files for one of the four activities.

	Activity name (beneficiary name)	Disaster recovery funds used	Deficiency	
			Costs were not adequately supported	Some costs may not have been eligible
1	Debris Removal (Nassau County Public Works)	\$7,219,344	X	
2	Superstorm Sandy - Transitional Shelter Assistance (n/a – administered internally)	6,996,659	X	X
3	Mobilization/Demobilization of Contract Crews (Long Island Power Authority)	4,261,873	X	
4	Citywide Debris Removal (City of Yonkers)	304,178	X	
<b>Totals</b>		<b>18,782,054</b>	<b>4</b>	<b>1</b>

A March 5, 2013, Federal Register notice<sup>4</sup> required the State to establish and maintain the records necessary to make compliance determinations for activities carried out. Further, Federal cost principle requirements at 2 CFR (Code of Federal Regulations) Part 225, appendix A, paragraph C(1)(j), required all costs to be adequately documented, and appendix B established documentation requirements for salaries and wages<sup>5</sup> and computation requirements for equipment use allowances.<sup>6</sup> However, for four of the activities reviewed, the State's program files did not contain sufficient documentation to show that costs were eligible and supported.

*Debris Removal (Nassau County Public Works)*

For the Nassau County debris removal activity, the State used \$7.2 million in disaster recovery funds to cover labor, equipment, and material costs paid to a contractor. While the State's program file contained three invoices from the contractor and it later provided proof of payment documentation, the invoices provided only daily totals of charges, the program file did not contain sufficient supporting documentation, and the charges on the invoices did not clearly line up with the fee schedule listed in the contract. The contract fee schedule listed hourly rates for 16 categories of employees, hourly use rates for 27 types of equipment, and per cubic foot, item, or hour rates for 29 services such as debris removal, stump removal, hauling, and disposal. However, the three invoices did not clearly follow the fee schedule and listed only daily billing totals that ranged from approximately \$51,000 to more than \$1.3 million per day. While the contract indicated that compensation could be negotiated as a lump sum or not-to-exceed amount for a task order containing tasks that were not readily covered by the fee schedule, the State did not provide any task orders or other documentation showing that such negotiation was necessary or had taken place.

*Superstorm Sandy - Transitional Shelter Assistance*

For its Superstorm Sandy Transitional Shelter Assistance activity, the State used approximately \$7 million in disaster recovery funds to cover the cost of hotel and motel lodging for disaster survivors for a limited time and related fees charged by FEMA. The State's program file contained lists showing participant names, hotel names, the number of days stayed, and the total costs. However, the file did not include (1) documentation showing that participants were eligible for assistance and (2) receipts, invoices, or other documentation showing the costs incurred by the participants and proof that the costs were paid for on behalf of the participants.

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<sup>4</sup> 78 FR (Federal Register) 14341 (March 5, 2013)

<sup>5</sup> Regulations at 2 CFR Part 225, appendix B, paragraphs 8(h)(3), (4), and (5), state that when employees work solely on one Federal award, charges for their salaries and wages must be supported by periodic certifications that are signed by the employee or a supervisor with firsthand knowledge of the employee's work. In cases in which employees work on multiple activities or cost objectives, their salaries and wages must be supported by personnel activity reports or equivalent documentation to support the distribution of these charges. This documentation was required to reflect an after-the-fact distribution of the actual activity of each employee, account for the total activity for which each employee was compensated, be prepared at least monthly and coincide with one or more pay periods, and be signed by the employee.

<sup>6</sup> Regulations at 2 CFR 225, appendix B, paragraphs 11(b) and (f)(3), state that the computation of use allowances must be based on the actual or estimated acquisition cost of the assets involved and the use allowance for equipment cannot exceed 6.67 percent of the acquisition cost.

Further, according to our analysis of the lists maintained by the State for this program, approximately \$1.2 million of the \$7 million may have been used for transitional shelter assistance, which exceeded the period allowed by HUD. A November 18, 2013, Federal Register notice<sup>7</sup> allowed the State to use disaster recovery funds for subsistence-type goods and services, such as hotels, for up to 3 months. However, 832 of the 6,019 participants received transitional shelter assistance for periods greater than 90 days, including 194 participants who received assistance for more than 180 days and 13 participants who received assistance for more than a year. Of the almost \$70 million<sup>8</sup> in transitional assistance provided, approximately \$12 million was used to cover assistance provided beyond the period allowed by HUD. Because the State's limited documentation did not identify which costs were reimbursed with disaster recovery funds, we estimated that \$1.2 million, or 10 percent, of this amount was covered by disaster recovery funds.

*Mobilization/Demobilization of Contract Crews (Long Island Power Authority)*

For the Long Island Power Authority contract crews activity, the State used approximately \$4.3 million in disaster recovery funds to cover contract costs for labor, equipment, lodging, and meals. The State's program file contained a summary spreadsheet detailing the invoices received and how much was claimed and copies of invoices, timesheets, wire transfers, and accounting system reports. However, the invoices provided did not clearly reconcile to the summary spreadsheet, timesheets, wire transfers, and accounting system reports. Further, the supporting documentation for lodging and meal charges was not always complete and legible, and the program file did not contain documentation showing that equipment use charges were computed in accordance with Federal cost principle requirements.

*Citywide Debris Removal (City of Yonkers)*

For the City of Yonkers debris removal activity, the State used \$304,178 in disaster recovery funds to cover the salary costs of City employees. The State's program file contained labor record worksheets containing the names of employees and the number of hours they charged each day. While these worksheets appeared to qualify as periodic certifications as defined by Federal cost principle requirements, they were not signed by the employees or a supervisor with firsthand knowledge of the employees' work. Further, the program file did not document whether employees that worked fewer hours over the period covered had worked on more than one activity, which would have required more detailed personnel activity reports or equivalent documentation. The program file also did not contain proof that the City had paid the salary costs reimbursed by the State.

In addition to the deficiencies outlined above for four of the activities reviewed, the program files for all six activities reviewed did not include evidence of review for duplication of benefits. Although the State included a duplication of benefits policy in its action plan as required by a

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<sup>7</sup> 78 FR 69110 (November 18, 2013)

<sup>8</sup> This includes approximately \$7 million in disaster recovery funds (10 percent of the almost \$70 million) and \$63 million in FEMA funds.



November 16, 2011, Federal Register notice,<sup>9</sup> the program files did not show that the State had reviewed the costs to ensure that there was no duplication of benefits.

These deficiencies occurred because the State relied too heavily on the work performed by FEMA and program beneficiaries. The State believed that the reviews performed by these entities could replace its own required eligibility reviews. Further, the State incorrectly believed that it had received a waiver covering the extended transitional shelter assistance. As documented in a March 27, 2014, Federal Register notice,<sup>10</sup> HUD provided a waiver allowing the State to use disaster recovery funds for tenant-based rental assistance for up to 2 years. However, this waiver did not apply to transitional shelter assistance. As a result, HUD lacked assurance that the State's Non-Federal Share Match Program effectively met its intended purpose and that disaster recovery funds were not used to duplicate other benefits.

### **Conclusion**

The State did not ensure that disaster recovery funds were used only for eligible and supported costs. The deficiencies occurred because the State relied on work performed by other entities and incorrectly believed that it had a waiver covering extended transitional shelter assistance. As a result, HUD did not have assurance that approximately \$18.8 million was used as intended to assist storm-impacted entities with the cost share associated with other Federal funds and was not used to duplicate other benefits. If the State improves its procedures for reviewing costs for eligibility and support, it could ensure that up to \$9 million not yet drawn down<sup>11</sup> is put to better use.

### **Recommendations**

We recommend that HUD's Deputy Assistant Secretary for Grant Programs direct the State to

- 1A. Provide documentation to show that the \$18,782,054 used for four activities was for eligible and supported costs and did not duplicate other benefits or repay from non-Federal funds any amount that it cannot support.
- 1B. Implement procedures to ensure that remaining program costs reimbursed with disaster recovery funds are adequately reviewed for eligibility and support, thereby putting up to \$8,932,630 to better use.
- 1C. Provide training to its staff on applicable HUD and Federal requirements for eligibility, documentation of costs, and duplication of benefits reviews.

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<sup>9</sup> 76 FR 71060 (November 16, 2011)

<sup>10</sup> 79 FR 17176 (March 27, 2014)

<sup>11</sup> As of July 25, 2017, the State had drawn down approximately \$229 million of the \$238 million in disaster recovery funds allocated to its program, leaving \$9 million available.

# Scope and Methodology

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We conducted the audit from February through July 2017 at the State's offices located at 25 Beaver Street, New York, NY. The audit covered the period January 29, 2013, through December 31, 2016.

To accomplish our objective, we interviewed employees of the State and reviewed

- relevant background information;
- applicable laws, regulations, HUD notices and guidance, FEMA guidance, and the State's policies and procedures;
- the State's HUD-approved action plan and amendments;
- funding agreements between HUD and the State;
- HUD monitoring reports, relevant single audit reports, and the State's quarterly disaster recovery performance reports;
- data and reports from HUD's Disaster Recovery Grant Reporting system<sup>12</sup> and Line of Credit Control System<sup>13</sup> and the State's accounting system; and
- program files for activities selected for review.

During the initial phase of our review, we also reviewed the State's monitoring reports and files to assess its monitoring of subrecipients. However, after determining that the program applicants were beneficiaries, not subrecipients, and confirming this determination with HUD, we discontinued this portion of our review because the State was not required to monitor program beneficiaries.

We selected a sample of activities to review for eligibility and supporting documentation. As of December 31, 2016, the State had used approximately \$223 million in disaster recovery funds for its Non-Federal Share Match Program, including approximately \$195.9 million for hard costs related to 749 different beneficiaries and 3,592 activities. Each of the 3,592 activities was related to one of three activity categories (debris removal, public facilities, or public services) and one of two national objectives (urgent need or benefit to low- and moderate-income persons). For each of the six unique activity category and national objective combinations, we selected the activity with the highest dollar amount drawn. The six activities selected and reviewed represented approximately \$72.3 million, or nearly 37 percent, of the \$195.9 million

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<sup>12</sup> The Disaster Recovery Grant Reporting system was developed by HUD's Office of Community Planning and Development for the disaster recovery program and other special appropriations to allow grantees to access grant funds and report performance accomplishments.

<sup>13</sup> The Line of Credit Control System is HUD's primary grant disbursement system, handling disbursements for most HUD programs.

used for hard costs. Although this approach did not allow us to make a projection to the entire \$195.9 million used for hard costs, it was sufficient to meet our objective and allowed us to review costs from each activity category and national objective.

As of July 25, 2017, the State had drawn down approximately \$229 million of the \$238 million in disaster recovery funds allocated to its program. Therefore, it had not yet used \$9 million of the allocated funds. Due to the extensive supporting documentation issues identified in the finding, we believe that if the State implements procedures to ensure that future program costs reimbursed with disaster recovery funds are adequately reviewed for eligibility and support, the remaining allocated funds will be put to better use.

To achieve our objective, we relied in part on computer-processed data from HUD and the State. We used the data to obtain background information and to select a sample of activities for review. Although we did not perform a detailed assessment of the reliability of the data, we performed minimal testing and found the data to be accurate for our purposes. Specifically, we reconciled the different sources of data to each other and reviewed source documentation for each of the activities selected for review.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

# Internal Controls

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Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

## **Relevant Internal Controls**

We determined that the following internal controls were relevant to our audit objective:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Validity and reliability of data – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.
- Safeguarding of resources – Policies and procedures that management has implemented to reasonably ensure that resources are safeguarded against waste, loss, and misuse.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

## **Significant Deficiency**

Based on our review, we believe that the following item is a significant deficiency:

- The State did not have adequate controls to ensure that it used disaster recovery funds only for eligible and supported costs (finding).

# Appendixes

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## Appendix A

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**Schedule of Questioned Costs and Funds To Be Put to Better Use**

<b>Recommendation number</b>	<b>Unsupported 1/</b>	<b>Funds to be put to better use 2/</b>
1A	\$18,782,054	
1B		\$8,932,630
<b>Totals</b>	<b>18,782,054</b>	<b>8,932,630</b>

- 1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.
- 2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this case, if the State implements procedures to ensure that remaining program costs reimbursed with disaster recovery funds are adequately reviewed for eligibility and support, up to \$8,932,630 will be put to better use.


# Appendix B

## Auditee Comments and OIG's Evaluation

### Ref to OIG Evaluation

### Auditee Comments

### Comment 1



**ANDREW M. CUOMO**  
Governor

**Governor's Office of  
Storm Recovery**

**LISA BOVA-HIATT**  
Executive Director

August 31, 2017

Kimberly Dahl  
Regional Inspector General for Audit  
U.S. Department of Housing and Urban Development  
Office of Inspector General  
26 Federal Plaza, Room 3430  
New York, NY 10278-0068

Dear Ms. Dahl:

This letter is in response to the U.S. Department of Housing and Urban Development's ("HUD") Office of Inspector General's ("OIG") Draft Audit Report ("Draft Report") on the New York Housing Trust Fund Corporation's ("HTFC") Governor's Office of Storm Recovery's ("GOSR") administration of its Community Development Block Grant Disaster Recovery-Funded Non-Federal Share Match Program ("Program"). We have reviewed the Draft Report and appreciate the opportunity to respond in writing. However, we strongly disagree with the OIG's Finding and believe that each part of the Finding should be dismissed. Our responses to the Draft Report are detailed below.

Pursuant to CDBG regulations, GOSR should be afforded the "*maximum feasible deference* to [its] interpretation of the statutory requirements and the requirements of the [CDBG-DR] regulations, provided that [GOSR's] interpretations are not plainly inconsistent with the Act and the Secretary's obligation to enforce compliance with the intent of the Congress as declared in the Act." 24 C.F.R. §570.480(c) (emphasis added). The regulations provide that HUD must not determine that GOSR has failed to carry out its certifications in compliance with requirements of the Act (and this regulation) unless the Secretary finds that procedures and requirements adopted by the State are insufficient to afford reasonable assurance that activities undertaken by units of general local government were not plainly inappropriate to meeting the primary objectives of the Act, this regulation, and the State's community development objectives.

**Background and Objective**  
GOSR created the Program to assist impacted units of local government and other eligible public entities to recover from five presidentially-declared events: Hurricane Irene, Tropical Storm Lee, Superstorm Sandy, Winter Storm NEMO, and Upstate Flooding of 2013 ("Storms"). The Program has successfully achieved the goal of distributing disaster relief aid to the many communities affected by the Storms, while ensuring compliance with all applicable requirements. The Program was developed and administered in compliance with all HUD requirements.

GOSR's Program provides matching funds for projects funded by the Federal Emergency Management Agency ("FEMA"), primarily for the Public Assistance Program ("PA Program"). Working with HUD, GOSR established three FEMA activity types that would be eligible for CDBG-DR funding: debris removal, public services, and public infrastructure. GOSR also used CDBG-DR funds to cover the match for FEMA's Superstorm Sandy Transitional Shelter Assistance Program ("TSA Program"), which allowed disaster survivors unable to occupy their homes, to stay in safe, FEMA-approved hotels until they could return home.

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25 Beaver Street, New York, NY 10004 | Recovery Hotline: 1-855-NYS-Sandy | [www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov)

## Auditee Comments and OIG's Evaluation

### Ref to OIG Evaluation

### Auditee Comments

#### Comment 2

Prior to GOSR's payment of match funds, FEMA reviews all Project Worksheets ("PWs") for eligibility of costs, including ensuring that Federal cost principle requirements are met. Among its criteria for eligibility, FEMA determines whether any duplication of benefits exists. Additionally, for "large" projects, the FEMA Regional Administrator reviews the projects to determine the eligible amount and approves those eligible costs. The Regional Director also evaluates for discrepancies between approved costs and supported funding. See 44 CFR 206.205(b).

New York State Department of Homeland Security and Emergency Services ("DHSES") is the grantee for FEMA funds and provides all funds directly to applicants. Prior to payment, DHSES also ensures that a PW meets all requirements of the FEMA PA Program, including that records are full and accurate and no duplication of benefits has occurred. DHSES only provides payment if the submitted work is in the scope and budget as defined by the PW. Upon confirmation by GOSR that DHSES has funded the match payments to the applicant and that a PW's match amount meets CDBG-DR requirements, GOSR then reimburses the eligible match amount directly to DHSES.

To ensure compliance with multiple Federal programs, maintain efficient use of Federal funds, and avoid units of local government having to provide the same documentation to two agencies, GOSR worked with FEMA to obtain access to FEMA's data warehouse (EMMIE) and the documentation contained therein as a starting point to process PWs through GOSR's Program. This data repository is updated daily and maintained by FEMA. Information contained in EMMIE is current and inclusive of the entire project history, including FEMA's duplication of benefits analysis, closing documents, project status, and any de-obligation of funds if FEMA determines a duplication of benefits occurs. GOSR's PA Match reimbursement process begins when an EMMIE data report is downloaded, providing information that allows Program staff to target which PWs are available for review. Because the PA Match Program is reimbursement-based, GOSR targets PWs for which work was determined to be 100% complete and DHSES provided information indicating that the State had reimbursed the applicant for the match amount. PWs are then assigned to Program staff, who download available documents from EMMIE and begin to create a folder in accordance with GOSR recordkeeping guidelines. Program staff then review the scope of work to determine if the PW is eligible for reimbursement with CDBG-DR funds, review all supporting documentation, fill out a CDBG checklist, populate a Cost Documentation Review, and submit a Review and Recommendation form ("R&R") for subsequent levels of review. As part of its review, GOSR staff also ensures that funded projects are not receiving funds from another GOSR Program, including other match programs. In addition, GOSR's access to EMMIE allows staff to have access to the most current FEMA data as staff reviews projects and makes determinations regarding HUD eligibility, including duplication of benefits. In subsequent reviews, a National Objective and draw amount is assigned to the PW.

If Program staff determine that additional documentation is required to make a positive funding recommendation, PW processing is held until the additional documentation is collected through a document retrieval outreach process. Once an R&R passes through all necessary levels of GOSR review, PW payment information is inputted into a preliminary draw form and shared with DHSES to ensure that reimbursement can be accepted for the PW. Once DHSES confirms the reimbursement can be accepted, a final draw form is generated so that GOSR can reimburse DHSES for applicable PW match payments.

The Program's review of PW files came after FEMA's extensive review of PW files, thereby adding a second layer of quality control to ensure eligibility and compliance. While the OIG asserts that the State was overly reliant on Federal agencies, in fact, the State streamlined processes by making use of existing resources and supplementing that information when necessary. Through this process, the Program's document collection team maintained complete and accurate records and ensured that HUD requirements were met. This resulted in match funds being provided for eligible activities undertaken by approximately 750 public entities.

As referenced in the Draft Report, CDBG-DR funds were used to cover HUD-eligible costs for debris removal efforts in Nassau County ("County") on Long Island. The County was one of the most heavily impacted counties in the Nation, suffering billions of dollars in losses. Immediately following Superstorm Sandy, the County

#### Comment 2



## Auditee Comments and OIG's Evaluation

### Ref to OIG Evaluation

### Auditee Comments

government recognized the need to remove debris from the Storm. The County issued emergency executive orders, which were approved by the County legislature and allowed the County to utilize existing, open, publicly bid contracts for a defined period. Firms already under contract with the County were then able to assist with the expedient removal of Storm-related debris.

Similarly, GOSR provided match funding to the City of Yonkers ("City") in Westchester County. The City also needed to remove large amounts of debris from its streets following the Storm. The City used existing employees in the clean-up effort and, working with FEMA, adequately documented that the work met Federal requirements.

HUD CDBG-DR funds were also used to cover eligible match costs of FEMA's TSA Program. The TSA Program is an important part of post-disaster response and is intended to provide short-term lodging for eligible disaster survivors whose communities are either uninhabitable or inaccessible due to disaster-related damages. Following the occurrence of Superstorm Sandy in late October, cold temperatures made staying in homes without power a risk to health and safety. As FEMA operates the TSA Program, they determined the eligibility of applicants and provided qualifying persons with means to find safe, eligible temporary lodging. The State was then required to reimburse FEMA for a share of the TSA assistance.

Additionally, HUD CDBG-DR funds were used to cover some of the eligible costs of restoring power to Long Island. The Long Island Power Authority ("LIPA"), the largest public utility on Long Island, with a customer base that accounts for 98% of all Long Island residents, suffered system-wide outages following Hurricane Irene. Due to the magnitude and level of damage that occurred after the Hurricane, LIPA required assistance from other utility providers to restore power in an expedited, yet safe and coordinated, manner. After the conclusion of this initial phase of work, LIPA was able to perform remaining restoration work without outside assistance.

**(1) HUD OIG FINDING 1: The State Did Not Show that Disaster Recovery Funds Were Used For Eligible and Supported Costs**

- a. **HUD OIG COMMENT:** The State Did Not Maintain Sufficient Documentation To Show That Costs Were Eligible And Fully Supported

**GOSR RESPONSE:** The State disagrees with this Finding, as there was sufficient documentation and information to support these eligible costs.

**Debris Removal (Nassau County Public Works- PW-00003)**

The OIG finds that the State's Program files for Nassau County debris removal activities lacked sufficient documentation to support contractor labor costs and equipment use charges. However, the State disagrees because sufficient controls exist to ensure the State's match payment is adequately supported.

This PW passed County, State, and FEMA review processes prior to reimbursement by GOSR. At each stage, the PW was determined to be eligible with sufficient documentation to substantiate County payments to the contractors, while the FEMA share and State share were both reimbursed in compliance with Federal cost principles. As the Federal agency directly providing funds, FEMA bears the primary responsibility for determining eligibility and ensuring that Federal requirements are met and adhered to, including Federal cost principles, and the collection and review of labor logs and supporting documentation. HUD CDBG-DR funding is not subject to separate or additional timesheet documentation requirements, including the requirement for signatures. GOSR is subject to the same cost principles as FEMA, and therefore reasonably relied on FEMA's determinations. It

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Comment 3



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Comment 3

would be unnecessary, inefficient, and fundamentally wasteful for GOSR to duplicate or question FEMA's efforts.

Moreover, prior to providing a match payment for this PW, GOSR, following its policies and procedures, used FEMME and conducted its own review of backup documentation to ensure eligibility for CDBG-DR funding. As part of GOSR's process, it also obtained additional documentation directly from the County, where necessary, to determine eligibility. In the case of PW-00003, GOSR only needed to select one vendor and a portion of one of its invoices to meet the match obligation. This contractor invoice did not include a cost breakdown because it pertained exclusively to debris removal. Costs for debris removal were charged by the cubic yard under the applicable contract. Specifically, Article 3 of the contract between Nassau County and the contractor states "[i]f needed, compensation may be negotiated as a lump sum or not-to-exceed amount for any Task Order containing a task covered by the scope of work of this AGREEMENT [sic] but to which the Fee Schedule cannot readily be applied." Therefore, this was not a "time and materials" contract and a timesheet allocating time to specific activities was not necessary or required under Federal cost principles. The PW reviewed and used to support GOSR's match payment contains sufficient eligible expenses to comply with both the contract and applicable HUD-specific regulations.

Comment 4

#### Superstorm Sandy-Transitional Shelter Assistance (PW-00001)

The OIG found that GOSR TSA Program files did not include "documentation showing that participants were eligible for TSA assistance." However, FEMA, not GOSR, is responsible for applicant intake and eligibility determinations and maintains all TSA Program participant files. The TSA Program is managed and run by FEMA, and the State is only required to reimburse FEMA for the Program's match or "cost share." TSA Program participants are not allowed to receive TSA to stay in hotels without having first been determined eligible and accepted into the TSA Program by FEMA.

Comment 5

GOSR's reliance on FEMA's eligibility determinations is justified. FEMA has the legal obligation to ensure that persons who apply for the TSA Program are indeed eligible to participate. GOSR recognized and relied upon FEMA's legal obligation to determine eligibility, and conducting additional eligibility determinations after the fact would have not only been duplicative, but would also second-guess the determinations made by the Federal agency charged with this responsibility.

Comment 4

The OIG further contends that the State did not have "receipts, invoices or other documentation showing the costs incurred by the participants and proof that the costs were paid on behalf of the participants." This documentation is maintained by FEMA, not GOSR. Again, FEMA has the obligation to ensure that only eligible, supported costs for the TSA Program are reimbursed. FEMA has policies and procedures in place that dictate how hotels must submit invoices and supporting documentation. Additionally, FEMA conducts internal reviews to ensure that only eligible costs are paid. In the case of Sandy, by the time FEMA had billed the State for its share of the TSA Program, FEMA had already reimbursed hotels and was seeking the required cost share from the State. The OIG's untenable position that a State entity should have essentially second-guessed FEMA's accounting of the eligible costs calls into question Federal management and implementation of the TSA Program. This is clearly a counterintuitive outcome that adds little value to the administration of this important Program.

The Draft Report also indicates that some TSA Program participants received assistance for stays that lasted more than ninety (90) days, the period allowed by HUD. Based on the data provided to GOSR,

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#### Comment 6

which was also provided to the OIG, the Superstorm Sandy TSA Program had hotel stays that ranged from one (1) to 617 days. Given the catastrophic nature of Sandy and the time of the year that Sandy made landfall, it should be expected that the amount of time some homeowners were displaced from their homes exceeded ninety (90) days. Many homes across New York were still not habitable in the Winter of 2013, and thus an extension was necessary. Congress did not pass the Sandy appropriation bill until January 2014, thereby delaying many New Yorkers' ability to fund their repair projects.

Furthermore, as discussed with the OIG, GOSR needed to reimburse FEMA at the Federal cost share level for Superstorm Sandy, which equates to 10% of the total TSA bill, with FEMA providing the remaining 90%. GOSR informed the OIG that the 10% match amount was achieved by attributing only the portion of the TSA stays in 2012 that were within the ninety (90) day period allowed by HUD.

FEMA provided GOSR with three (3) PDFs that contained TSA Program information. As noted above, the same files were provided to the OIG. The documentation showed, for each TSA Program participant, which FEMA-approved hotel they stayed in, how many nights they stayed at the facility, and their total costs, which FEMA reviewed and determined were eligible. FEMA paid the hotels directly for the TSA stays, and the data provided to GOSR was broken down by date.

The OIG notes that some TSA Program recipients' stays exceeded ninety (90) days. This was because some recipients' residences sustained so much damage that they needed to stay in TSA-designated hotels for periods of time that exceeded HUD's ninety (90) day allowance. Significantly, 5,217 persons stayed in TSA hotels within a ninety (90) day period, which is an allowable HUD expense. The total TSA bill for those who stayed in hotels during the ninety (90) day allowable period, shown below, totaled \$38,140,937 dollars. This amount is far more than the \$6.8 million match payment that GOSR reimbursed using CDBG-DR funds. In fact, of the 5,217 persons who stayed in hotels during a ninety (90) day period, GOSR match payment is justified by costs related to 2,852 persons who stayed in TSA hotels for less than twenty-one (21) days.

The files from FEMA provide adequate documentation that match funds from GOSR were provided only to persons who stayed in hotels within the eligible ninety (90) day period. Although GOSR was unable to obtain a searchable database of TSA materials from FEMA or DHSSES, the data was provided to the OIG. The table below breaks down the data to specify the time periods in which funds were provided by FEMA.

Total Number of TSA stays between	# Person	Total # of Stays	\$ Costs
1-30 days	3,422	39,014	\$10,825,332.96
31-60 days	1,042	46,372	\$12,303,696.98
61-90 days	753	56,366	\$15,011,907.33
Total 1-90 Days	5,217	141,752	\$38,140,937.27

As demonstrated by the information above, GOSR disagrees that \$1.2M of match was used in a manner that "exceeded the period allowed by GOSR," as FEMA funds would have paid for 90% of the total cost of the TSA Program, and all stays of more than twenty-one (21) days, based on the cost share.

**Mobilization/Demobilization of Contract Crews (Long Island Power Authority- PW-07980)**

The OIG finds that the State had inadequate and insufficient documentation to support the

#### Comment 7

## Auditee Comments and OIG's Evaluation

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#### Comment 7

mobilization and demobilization costs of LIPA contractor crews. The State disagrees. Hurricane Irene severely damaged LIPA's entire system. As utility providers travelled to Long Island to help restore power, FEMA captured the costs for the crews' travel to and from Long Island, in addition to lodging, food, and time spent working to restore power. LIPA PW-07980, which accounts for mobilization and demobilization costs for utility and line worker crews who travelled to Long Island, directly ties to multiple PWs that FEMA wrote to accurately capture and reconcile all storm-related costs from Hurricane Irene. Due to the complexity of the restoration work and the size of the service area, FEMA and LIPA worked together to accurately reconcile and record the costs that were determined to be eligible. FEMA was responsible for conducting reviews to ensure that only allowable, eligible costs were paid, including reviews to ensure that Federal cost principles were followed. The PW writing process ultimately took several iterations, with a total of 162 PWs written. A total of sixteen (16) PWs comprised the primary work functions of off-island crews. Examples of primary work functions include mobilization and demobilization, equipment expenses, and contract labor reconciliation. Under the structure developed by FEMA, one invoice's costs would likely be distributed across multiple PWs, because an invoice encompasses all of a contractor's primary work functions. For example, for PW-07980, only a fraction of the costs listed on an invoice would have been used to support a funding recommendation for the mobilization and demobilization of contract crews, as the remainder of the costs listed on the invoice may have been used to support funding recommendations for other LIPA Hurricane Irene PWs.

Because of the way these PWs were consolidated, GOSR had to develop a several "crosswalk" documents to provide a match payment. In 2014, GOSR engaged in regular working sessions with LIPA for over six (6) months to obtain all the documentation needed to confirm the work was HUD-eligible and that supporting documentation for the match payment was obtained and saved on GOSR's network drives. GOSR dedicated specific staff members to learn LIPA's process for developing PW files and created these "crosswalk" documents to track how costs were spread across invoices, vendors, and PWs. At the HUD OIG entrance conference, GOSR Program staff explained the complexity of the LIPA PWs to the OIG, as well as what processes GOSR staff used to learn and catalog where costs were captured. The OIG selected one PW to review during their audit. Because that PW represented a single primary work function, it would be impossible to reconcile a full invoice to any one PW. On several occasions, GOSR offered to aid the OIG in understanding the organization of costs associated with PW-07980, and provided several "crosswalk" documents to facilitate this understanding. Throughout the course of the audit, GOSR offered, and remains prepared, to demonstrate that documentation is adequate and sufficient and how to reconcile match payments to eligible costs within vendor invoices. This walkthrough would likely resolve the OIG's finding on this PW.

#### Citywide Debris Removal (City of Yonkers- PW-00734)

The OIG contends that the State's files contained personnel activity reports that were not signed and did not sufficiently document whether employees worked on more than one activity. The State nevertheless believes that it has adequate supporting documentation to show that the labor charged by the City of Yonkers ("City") was accurate and charged for eligible disaster-related activities. Although occasionally materials such as those used to substantiate force account labor may not be signed when uploaded to FEMA's FMMIE system, additional internal controls exist to ensure the accuracy and reliability of labor records. For example, the City, DHSES, and FEMA would work together to substantiate and document the costs associated with a PW and ensure allowability and eligibility of costs. When reimbursing the match share on a PW, GOSR appropriately relies on FEMA's assessment of Federal cost principles, Force Account Labor Record, and supporting documentation. If GOSR, after obtaining and downloading the available FEMA documentation, determines that there is not adequate documentation to meet HUD-specific requirements prior to making a match payment, GOSR initiates communications with the applicant to obtain additional materials. These materials,

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#### Comment 8

## Auditee Comments and OIG's Evaluation

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### Comment 1

along with proof of payment, are then added to the project file and maintained on GOSR's network drives.

Pertaining to the OIG's statement regarding "whether employees that worked fewer hours over the period covered had worked on more than one activity," the FEMA PA Program and GOSR match can only be paid for work that is directly tied to the PW. Documents available on GOSR's network drives demonstrate the number of hours an employee worked on each PW and how the City and FEMA documented it in a manner that ensures GOSR did not reimburse a match payment for non-disaster related activities.

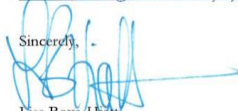
Again, prior to providing funding, FEMA conducted internal reviews to ensure that only allowable, eligible costs were paid, including reviews to ensure that Federal cost principles were followed. HUD CDBG-DR funding is not subject to separate requirements pertaining to timesheet documentation, including the requirement for signatures. GOSR reasonably relied on the determinations made by FEMA.

As such, Recommendations 1A, 1B, and 1C have been addressed and no further action is required.

New York State developed and implemented a thorough and compliant PA Match Program with detailed and practical programmatic controls. This Program delivered much-needed resources to over 750 units of local government and aided the recovery of storm-impacted communities.

Should you require further information, please feel free to contact me via email at [Lisa.BovaHiatt@stormrecovery.ny.gov](mailto:Lisa.BovaHiatt@stormrecovery.ny.gov) or by phone at (212)480-4694.

Sincerely,



Lisa Bova-Hiatt  
Executive Director

Cc: Daniel Greene, General Counsel, GOSR  
Natalie Wright, Deputy Executive Director, GOSR  
John Scarpa, Deputy Director of PA Match, GOSR  
Jane Brogan, Managing Director of Policy, GOSR  
Cassie Ward, Director of Monitoring & Compliance/Senior Counsel, GOSR

## OIG Evaluation of Auditee Comments

- Comment 1 The State disagreed with the finding and believed that its Non-Federal Share Match Program was developed and administered in compliance with all HUD regulations. The State also noted that it should be afforded the “maximum feasible deference” when interpreting requirements. Although the State is afforded maximum feasible deference, it is still required to comply with applicable requirements and our review found that the State’s program files did not contain sufficient documentation to show that \$18.8 million used for four of the six activities reviewed was for eligible and supported costs. As part of the normal audit resolution process, the State will need to provide documentation to HUD showing that the amount paid was for costs that were eligible and supported or repay from non-Federal funds any amount that it cannot support.
- Comment 2 The State contended that prior to its payments of match funds, FEMA reviewed all project worksheets for eligibility of costs, including ensuring that Federal cost principle requirements were met. However, FEMA reviewed supporting documentation for only 20 percent of the costs associated with each project. Further, while the FEMA project worksheets for the activities reviewed generally indicated that it had reviewed supporting documentation for eligibility and correctness, they did not directly state that FEMA had reviewed the documentation for compliance with Federal cost principle requirements. Regulations at 2 CFR Part 225, which contain the cost principle requirements, were mentioned on only one of the project worksheets reviewed and it simply stated that the applicant was required to follow it. Therefore, the State did not demonstrate that FEMA had reviewed the project worksheets for compliance with Federal cost principle requirements. However, regardless of whether FEMA confirmed compliance, 78 FR 14341 (March 4, 2013) required the State to establish and maintain the records necessary to make the compliance determinations.
- Comment 3 The State disagreed that its files lacked sufficient documentation to support labor and equipment use costs for the Nassau County debris removal activity. The State contended that FEMA held the primary responsibility for determining eligibility and that the contract for the costs in question was not a time and materials contract, but a contract exclusively for debris removal charged by the cubic yard. We agree that the contract was not strictly a time and materials contract. Rather, its fee schedule listed hourly rates for 16 categories of employees, hourly use rates for 27 types of equipment, and per cubic foot, item, or hour rates for 29 services such as debris removal, stump removal, hauling, and disposal. However, the three invoices did not clearly follow the fee schedule and listed only daily billing totals that ranged from approximately \$51,000 to more than \$1.3 million per day. While the daily totals were sometimes broken out into three categories – debris, trees, and “hourly” – the totals in the categories ranged from approximately \$18,500 to more than \$542,000 per day rather than being broken out by hour,



cubic foot, or item. While the State also contended that a section of the contract discussed how compensation may be negotiated as a lump sum if the fee schedule could not be readily applied, its files did not contain evidence that the process outlined in the contract had been followed to negotiate and document such compensation. Note that we updated page 5 of the finding to include additional details about the contract, invoices, and compensation to adequately address the State's response.

- Comment 4 The State contended that FEMA was responsible for applicant intake and eligibility determinations and maintained all Transitional Shelter Assistance program participant files, including "receipts, invoices or other documentation showing the costs incurred by the participants and proof that the costs were paid on behalf of the participants." It also stated that FEMA has policies and procedures regarding the submission of hotel invoices and supporting documentation, and that FEMA conducted internal reviews to ensure that only eligible costs were paid. However, the State did not obtain and maintain sufficient documentation so that compliance determinations for activities carried out by its program could be made as required by 78 FR 14341 (March 5, 2013).
- Comment 5 The State contended that conducting eligibility determinations after the fact would have been duplicative of the determinations performed by FEMA. However, in the following page of its comments, the State acknowledged that HUD allowed for subsistence-type goods and services, such as hotels, for up to 3 months whereas FEMA allowed for significantly longer periods under its Transitional Shelter Assistance program. Therefore, the State needed to make a separate eligibility determination.
- Comment 6 The State contended that disaster recovery funds were only used for participants with stays within the eligible 90-day period because the 10 percent match amount was achieved by stays made in 2012. It also claimed that the total transitional shelter assistance bill for those who stayed in hotels for 90 days or less was approximately \$38.1 million. However, the spreadsheets provided by the State contained only applicant information, hotel information, the amount paid, and the number of days stayed. While the titles of the three spreadsheets provided claimed that FEMA paid the costs during certain time periods, the State did not provide receipts, invoices, or other documentation to show that the costs were indeed incurred and paid during these time periods. Therefore, we could not determine and confirm how much of the funds were used for stays within the eligible 90-day period.
- Comment 7 The State disagreed that it had inadequate and insufficient documentation to support the costs of the Long Island Power Authority contractor crews. It acknowledged that the work and documentation were complex, but claimed that it had worked with the Authority for more than 6 months to obtain the documentation necessary to confirm that the work complied with requirements. The State also contended that OIG did not meet with State officials when it

offered to demonstrate that the documentation was adequate and sufficient throughout the audit. However, we met with the State during the audit, provided questions to them on several occasions, and reviewed the documentation provided during fieldwork.

Comment 8 The State contended that it had adequate supporting documentation to show that labor charged by the City of Yonkers was accurate and charged for eligible activities. It also stated that HUD disaster recovery funding is not subject to separate or additional timesheet documentation requirements, including the requirement for signatures, stated that it was subject to the same cost principles as FEMA, and noted that it reasonably relied on FEMA's determinations. The applicable Federal cost principle requirements for labor charges are at 2 CFR Part 225, appendix B, paragraphs 8(h)(3), (4), and (5), and require employee or supervisor signatures depending on how many awards or activities the employees worked on. However, the timesheets maintained by the State in its City of Yonkers program file did not include the required signatures, and there was no evidence that these salary costs were verified and eligible.