



Office of Long-Term Resiliency Mitigation Policy Manual

VERSION 7.0

JANUARY 22, 2024

VERSION HISTORY

Version Number	Date	Summary of Changes
1.0	December 23, 2020	Draft Policies and Procedures Manual published to ODR website – http://floridajobs.org/rebuildflorida/mitigation
1.1	January 8, 2021	Updated references to ODR Financial and Grant manual, which is not posted for public reference
1.2	March 27, 2021	Updated references to Office of Long-Term Resiliency to Office of Long-Term Resiliency to reflect name change
2.0	June 11, 2021	<p>Updated 1.8.2 Anti-Fraud Waste and Abuse. Removed redundant material and added link to OLTR Anti-Fraud Waste and Abuse Policy</p> <p>Removed outdated contact number from Fair Housing Complaints section</p>
3.0	September 17, 2021	<p>Updated Version Policy,</p> <p>Inserted Policy Change Control section,</p> <p>Added language to 1.1.1.1 regarding DEO’s second CDBG-MIT allocation</p> <p>Updated 1.2.2, FEMA National Flood Insurance Program (NFIP) Insurance with language regarding maintaining flood insurance</p> <p>Updated 2.1, Duplication of Benefits Procedures for Subrecipients/Subgrantees to match other Policy Manuals</p> <p>Updated language on Monitoring procedures in 2.3.1.1 Risk Assessment/Monitoring Procedure</p> <p>Updated language on frequency of Monitoring in 2.3.2.2 Onsite Monitoring</p> <p>Added “funding building used for the general conduct of government, emergency response services, “ to section 3.1.2.</p> <p>Updated 3.1.2 Ineligible Activities to include funding of buildings for the general conduct of government, and funding for emergency response services</p> <p>Updated Appendices with additional program information and links</p> <p>Reorganized document and updated formatting throughout for consistency with other program Policy Manuals.</p>
4.0	October 28, 2021	<p>Moved Definitions and Acronyms above Introduction to mirror other OLTR Policy Manuals</p> <p>Added paragraph to Introduction describing the second allocation of CDBG-MIT funding received by DEO</p>

		<p>Added “Hurricane Michael Site-Specific Checklist” to 1.5.7.3 Mold, list of Environmental Review Process resources</p> <p>Added Hurricane Michael to Overview section under 1.6.2.1 Conversion of LMI Units, 24 CFR 42 Requirements</p> <p>Corrected broken link to “Making Davis-Bacon Work: A Practical Guide for States, Indian Tribes and Local Governments” under 1.8.5 Semi-Annual Reports</p> <p>Updated language under 1.9.2 Fair Housing, to link to reference the most current version of the 5-year Consolidated Action Plan.</p> <p>Renamed 1.10.1 “Citizen Complaints and Inquiries” to create consistency across program documents.</p> <p>Added reference to Federal Register governing the second CDBG-MIT allocation to 3.1 Overview</p> <p>Updated language under 3.1.1 Most Impacted and Distressed Counties, for clarity and to include State-identified MID counties.</p> <p>Added language regarding HUD identified MID counties for 2018 disasters to 3.1.1 Most Impacted and Distressed Counties</p> <p>Added Table 3: MID Counties for 2018 Disaster</p> <p>Added reference to FR Vol 86 No 3 to 3.1.2 Ineligible Activities</p> <p>Updated language under 3.1.2 Ineligible Activities to match the CDBG-MIT Action Plan</p> <p>Added “2018” to list of major disaster declarations in 3.2.1.3</p> <p>Added language to 3.2.2.3 stating that all funds must be spent in areas given a presidential major disaster declaration in 2016, or 2017.</p> <p>Added clarifying language to 3.2.2.3 stating that 50% of funds allocated in FR Vol 84, No. 169 need to be spent in HUD MID areas under the Critical Facility Hardening Program</p> <p>Updated 1.10.2 “DEO URA Appeals”</p>
<p>5.0</p>	<p>January 14, 2022</p>	<p>Removed duplicative definition for Activity/Project/Program</p> <p>Clarified definition for Project/Program/Activity</p> <p>Updated definition for Section 3</p> <p>Updated definition for Section 3 Business or Business Concern</p> <p>Updated definition of Section 3 Resident to Section 3 Worker, per 24 CFR 75</p> <p>Added definition for Targeted Section 3 Worker</p> <p>Added definition for Youthbuild</p> <p>Updated 1.1.1.1 Federal Funding Accountability and Transparency with a link to the USASpending page with information on the second CDBG-MIT allocation</p> <p>Removed Examples of Typical Mitigation Projects table in section 1.5.3.3 Step 3: Determine Activity Classification, as the level of</p>

		<p>environmental review required for a project varies greatly based on location and nature of the project</p> <p>Updated 1.10 Section 3:</p> <ul style="list-style-type: none"> • Replaced instances of “Section 3 resident” with “Section 3 worker” throughout the section, following 24 CFR 75 • Updated language on 1.10.2 Section 3 Thresholds to expand on Section 3 compliance requirements • Added language on “Safe Harbor” to 1.10.3 Section 3: Good Faith Effort • Updated 1.10.4 What is a Section 3 Worker? To include the updated definitions of a Section 3 worker provided in 24 CFR 75, and define “Targeted Section 3 Worker” as defined in 24 CFR 75 • Updated 1.10.5 What is a Section 3 Business Concern? To update criteria that determines what a Section 3 Business Concern is as defined in 24 CFR 75 • Updated 1.10.6 Section 3 Goals to include the new numerical goal and requirements defined in 24 CFR 75 • Updated 1.10.9 Section 3 Reporting with the new reporting requirements outlined in 24 CFR 75 • Updated 1.10.10 Section 3: Roles and Responsibilities, Contractors’ responsibility for Section 3 to update the subrecipient and contractor responsibilities
5.1	March 15, 2022	Separated Section 3 from Section 1.9 Civil Rights to Section 1.10 Section 3 for clarification
6.0	March 24, 2023	<p>Added section 3.3 for the Housing Oversubscription Program (HOP)</p> <p>Updated 2.3.1.1 Risk Assessment/Monitoring Procedure to clarify language on Monitoring Work procedures</p> <p>Moved Record Keeping from Section 1.10.1 to Section 1.9.4 for clarity</p> <p>Updated Section 1.10 Section 3 to include new rules for Section 3</p> <p>Updated Section 2.3 Compliance Monitoring Plan, CDBG-MIT Programs for consistency with OLTR’s Compliance Monitoring Plan</p>
7.0	January 8, 2024	<p>Updated 1.3 Environmental Review Record (ERR) to clarify language around the environmental review process.</p> <p>As of July 1, 2023, and per Florida HB 5, ch. 2023-173, L.O.F. the former Florida Department of Economic Opportunity has been renamed the Florida Department of Commerce, referred to as “FloridaCommerce.”</p> <p>To reflect this change, all references to the former Florida Department of Economic Opportunity (including “the Department” and “DEO”) have been updated to represent FloridaCommerce.</p>

		<p>Associated branding (including logos, fonts, and colors) has been updated throughout the document.</p> <p>Added Section 1.4.5 Applicability of Cost Principals to Awarded Projects to provide guidance on underwriting and cost reasonableness for subrecipient awards.</p> <p>Removed subsections "Findings/Reporting/Issue Resolution Process" and "Roles and Responsibilities" from 1.13.2 Quality Assurance/Quality Control (QA/QC) Procedures for consistency with the Compliance Monitoring Plan which further details these processes.</p>
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VERSION POLICY

Version history is tracked in the table above, with notes regarding version changes. The dates of each publication are also tracked in this table.

This manual will be updated as needed to incorporate changes based on information obtained from attending program-related training workshops, seminars, webinars, and other resources, including changes in federal and state laws, rules, regulations and program policies and procedures. In addition, information obtained at the training sessions and an overview of the training sessions will be provided to all staff in the Office of Long-Term Resiliency that did not attend the training as part of a continuous education program. Updated guidelines specific to each program will also be posted on the Office of Long-Term Resiliency's Mitigation webpage. Information about FloridaCommerce's Office of Long-Term Resiliency CDBG-MIT program can be found at: www.floridajobs.org/rebuildflorida/mitigation.

Substantive changes in this document that reflect a policy change will result in the issuance of a new version of the document. For example, a substantive policy change after the issuance of Version 1.0 would result in the issuance of Version 2.0, an increase in the primary version number. Non-substantive changes such as minor wording and editing or clarification of existing policy that do not affect interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number (i.e., Version 2.1, Version 2.2, etc.).

POLICY CHANGE CONTROL

Policy review and changes for the State of Florida Office of Long-Term Resiliency are considered through a change-control process. Policy clarifications, additions, or deletions are needed during the course of the program to more precisely define the rules by which the Program will operate. Program staff will document policy-change requests that will be tracked in the program files. Requests are compiled and brought before supervisory staff in a policy meeting. Subject matter experts working in a particular policy area or task area that will be affected by the policy decision may be invited to assist in policy evaluation, if necessary. Policy meetings will be held as frequently as is necessary to consider policy decisions critical to moving the Program forward in a timely manner. Policy decisions will be documented and will result in the revision of the document in question.

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Definitions and Acronyms

100-year flood plain: The geographical area defined by FEMA as having a 1% chance of being inundated by a flooding event in any given year.

500-year flood plain: The geographical area defined by FEMA as having a .2% chance of being inundated by a flooding event in any given year.

Acquisition - The acquiring of real property, in whole or in part, by the recipient, or other public or private nonprofit entity through purchase, long-term lease, donation, or otherwise for any public purpose, subject to the limitation of 24 CFR 570.207. Real property includes air rights, water rights, rights-of-way, easements, and other interests therein. (24CFR 570.201)

Appraisal - A written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Bid - An offer by a company, firm or individual to provide goods or services submitted in response to solicitation for those goods or services.

BRACE: Building Resilience Against Climate Effects

Business concern: a business entity formed in accordance with state law, and which is licensed under state, county or municipal law engaging in the type of business activity for which it was formed. A business concern that provides economic opportunities for low-and very low-income persons.

CDBG: Community Development Block Grant

CDBG-DR: Community Development Block Grant - Disaster Recovery

CDBG-MIT: Community Development Block Grant: Mitigation

CFR: Code of Federal Regulations.

Concern: An issue identified in the Department of Economic Opportunity's monitoring report sent to the subgrantee and/or subrecipient that, if not addressed or corrected, may result in a finding in a future monitoring report.

Corrective Action: Required steps to be taken to resolve findings and/or concerns identified in the FloridaCommerce's Office of Long-Term Resiliency.

Cost Reimbursement: Payment made to the subgrantee and/or subrecipient after a request for funds has been submitted and approved by the State of Florida. In CDBG agreements with subgrantees, subgrantees initially pay invoices for work completed under a CDBG sub-agreement. The subgrantee and/or subrecipient is reimbursed for the payment made for work performed.

Covered Project: An infrastructure project having a total project cost of \$100 million or more, with at least \$50 million of CDBG funds (regardless of source (CDBG-DR, CDBG-National Disaster Resilience (NDR), CDBG-MIT, or CDBG). More information on Covered Projects can be found in FR 84 Vol. 169.

Declined Loans: Declined loan amounts are loan amounts that were approved or offered by a lender in response to a loan application, but were turned down by the applicant, meaning the applicant never signed loan documents to receive the loan proceeds.

Deficiency: An inadequacy based on a federal or state statutory, regulatory or program requirement.

DEM: Florida Division of Emergency Management

FloridaCommerce: Florida Department of Commerce.

DEP: Department of Environmental Protection

Designated area: The land determined by the subrecipient that is eligible for mitigation assistance.

DOB: Duplication of Benefits. A duplication of benefits occurs if FloridaCommerce provides assistance to a participant for the same purpose as any previous financial or in-kind assistance provided to that participant for the same purpose. The FloridaCommerce CDBG-MIT program is prohibited from creating a DOB. This prohibition comes from the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) and therefore, these other sources of funds must be deducted from any potential award or expenditures for individual participants.

DOH: Department of Health

DR: Disaster Recovery

DRGR: Disaster Recovery Grant Reporting System, HUD's web-based reporting and grants management system.

ESHMP: Enhanced State Hazard Mitigation Plan

Federal Register: The official journal of the federal government of the United States that contains government agency rules, proposed rules, and public notices issued by federal administrative agencies.

FEMA: Federal Emergency Management Agency

Finding(s): A specific issue of noncompliance with federal or state regulatory requirements, including the CDBG subgrant agreement provisions, that is identified in a monitoring report produced by the Department of Economic Opportunity sent to the subgrantee.

Grantee: As used in this manual, the State of Florida, FloridaCommerce's Office of Long-Term Resiliency as recipient of disaster recovery CDBG funds from the U.S. Department of Housing and Urban Development.

HAZUS-MH: Hazards U.S. Multi-Hazard

HelpFL: Hazard Events and Location Prognosticator: Florida. A tool developed by the University of South Carolina used to update and advance the science of spatially enabled hazard models and to develop and deploy a hazards analysis web mapping application. Project was funded by an HMGP planning grant.

HMGP: Hazard Mitigation Grant Program

HUD: U.S. Department of Housing & Urban Development

IBC: International Business Code

ICE: Independent Cost Estimates

Indirect Cost: Any cost not directly identified with a cost objective, such as a specific project, facility, or function. Indirect costs include administration, personnel, and security costs.

LMA: Land Management Agencies

LMI: Low to Moderate Income. An income of less than 50% to 80% of the local area median income.

LMH: Low to Moderate Income Household. A household with an income of less than 50% to 80% of the local area median income (AMI).

LMS: Local Mitigation Strategy

MIDs: Most Impacted and Distressed areas

NCEI: National Centers of Environmental Information

NFIP: National Flood Insurance Program.

Offer: A response to a solicitation that, if accepted, would bind the offer. Responses to an Invitation to Bid (ITB) are offers called "bids" or "sealed bids".

Office of Long-Term Resiliency: The Florida Department of Economic Opportunity's long-term disaster recovery office.

Private Loans: A loan that is not provided by or guaranteed by a governmental entity, and that requires the CDBG–DR applicant (the borrower) to repay the full amount of the loan (principal and interest) under typical commercial lending terms, e.g., the loan is not forgivable.

Program Income: Gross income received by the subgrantee and/or subrecipient and/or subrecipient directly generated from the use of Disaster Recovery CDBG funds. [Revenue that is received by a state, unit of general local government or subrecipient as defined at 24 CFR 570.500.]

Project Cost: Total of Disaster Recovery CDBG funds, local and other matching funds, and total business investment in the project.

Project Delivery Cost: Costs used specifically to meet the requirements to complete a particular project, especially as it applies to meeting CDBG requirements.

Project/Program/Activity: The housing, infrastructure, economic development, or planning endeavor undertaken by FloridaCommerce, the subgrantee, subrecipient, and/or subrecipient using CDBG funds.

Real Property: Land, including all the natural resources and permanent buildings on it. Real property includes air rights, water rights, rights-of-way, easements, and other interests therein. (24CFR 570.201)

Request for Proposals (RFPs): A solicitation, often made through a bidding process, by an agency to communicate an entity’s requirements for goods or services to prospective contractors.

Request for Quote (RFQs): An oral, electronic, or written request for written pricing or services information from a Florida state term contract vendor for commodities or contractual services available on state term contract from that vendor.

RFF: Request for Funds: Subgrantee request for funds from FloridaCommerce.

ROF: Release of Funds: HUD’s or FloridaCommerce’s granting approval to use CDBG funding. This approval, or authority to use grant funds, is executed through HUD form 7015.16. The authority to use CDBG funds usually occurs after the project environmental review is completed and approved by FloridaCommerce.

RROF: Request for Release of Funds - A subgrantee request for a release of funds. This request is executed through HUD form 7015.15.

SBA: Small Business Administration, a federal agency.

Subsidized Loans: Subsidized loans (including forgivable loans) are loans other than private loans. Both SBA and FEMA provide subsidized loans for disaster recovery.

Sealed bid: A method of contracting that employs competitive bids, public opening of bids, and awarding the bid.

Section 3: Means Section 3 of the Housing and Community Development Act of 1968, as amended, and the implementing regulation, 24 CFR Part 75 relating to employment and other economic opportunities for low- and very-low income persons.

Section 3 Worker: A public housing resident or an individual residing in a metropolitan area or a non-metropolitan county who meets the definition of a low-income or very low-income person.

Section 3 Business or Business Concern: As related to Section 3 of the of the HUD Act of 1968, as amended:

- Is at least 51 percent owned and controlled by low- or very low-income persons;
- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
- It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

Section 3 Covered Contracts: A contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project.

Section 3 Covered Non-Construction Project: A project associated with the Section 3 Covered Project such as maintenance contracts, re-painting, routine maintenance, HVAC servicing, and professional services (architectural, engineering, legal services, accounting, marketing, etc.)

Section 3 Covered Project: Any project assisted by any programs administered by HUD in which financial assistance is provided to support housing, urban planning, development, redevelopment or renewal of public and community facilities and new community development. This includes the construction, reconstruction, conversion or rehabilitation of housing and other public housing construction, which includes building or improvements assisted with housing or community development assistance. All CDBG-MIT funded activities are considered Section 3 Covered Projects.

SERA: "Subrecipient Enterprise Resource Application" is FloridaCommerce's web-based reporting and grants management system. This system is used by CDBG-DR and CDBG-MIT vendors, subgrantees and subrecipients to submit invoices and supporting documentation to be reimbursed for goods and services. The transactions in this system are linked to the state's FLAIR system as well as HUD's DRGR system.

Service Area: Means the total geographic area to be directly or indirectly served by a subgrant project that addresses the Low- and Moderate-Income National Objective, where at least 51 percent of the residents are low- and moderate-income persons. A service area must include all, and only those, beneficiaries who are reasonably served or would be reasonably served by the activity.

Solicitation: Any request to submit offers or quotations to the local government. Solicitations under sealed bid procedures are called "invitations for bids". Solicitations under negotiated procedures are called "requests for proposals." Solicitations under simplified acquisition procedures may require submission of either a quotation or an offer.

Subcontract: As used in this manual, any contract as defined above as a "Contract" entered into by a subcontractor to furnish supplies or services for performance of a prime contract, or another subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

Subcontractor: As used in this manual, any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a subrecipient. As related to Section 3 of the of the HUD Act of 1968, as amended, any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance or arising in connection with a Section 3 covered project.

Subgrantee: As used in this manual, a recipient that demonstrated its abilities to carry out competitive applications due to their expertise related to goals of the program. For example, Florida Housing Finance Corporation.

Subrecipient: A competitively-selected recipient, usually a local government, that is provided CDBG-DR or CDBG-MIT funds from FloridaCommerce, to agreed-upon eligible disaster recovery activities documented in a Subrecipient Agreement.

Subgrantee Agreement: An agreement between FloridaCommerce and the subgrantee to undertake the activities the subgrantee will undertake using CDBG funds.

Subrecipient Agreement: An agreement between FloridaCommerce and the subrecipient to undertake the activities the subrecipient agreement will undertake using CDBG funds.

Targeted Section 3 worker: A Section 3 worker who is:

- A worker employed by a Section 3 Business concern; or
- A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:

- A resident of public housing or Section 8-assisted housing;
- A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
- A YouthBuild participant.

TBD: To Be Determined

UGLG: Units of General Local Government. Municipalities and counties

URA: Uniform Relocation Assistance and Real Property Acquisition Policies Act.

Vendor - An entity competitively selected to provide clearly-specified goods or services meeting the procurement requirements at 24 CFR 85.36, 2 CFR 200, Section 287.055, Florida Statutes, and Rule 73-23.0051(3), Florida Administrative Code. In accordance with 24 CFR 85.36(c), such procurement actions must be conducted in a manner that provides for free and open competition.

Waiver: A revision to the standard CDBG regulations, requirements, and activities, granted by HUD.

WMD: Water Management District

YouthBuild: National organization administered by the U.S. Department of Labor with community-based pre-apprenticeship program that provides job training and educational opportunities for at-risk youth ages 16-24 who have previously dropped out of high school

Introduction

In April 2018, the U.S. Department of Housing and Urban Development (HUD) announced that the state of Florida's Department of Commerce (FloridaCommerce) would receive \$633,485,000 in funding to support long-term mitigation efforts (following Hurricanes Hermine, Matthew and Irma) through HUD's Community Development Block Grant Mitigation (CDBG-MIT) Program. The Federal Register Vol. 84, No. 169, which delineates all program requirements, was released on August 30, 2019.

A second allocation of \$46,926,000 was provided to Florida's Department of Economic Opportunity (FloridaCommerce) by HUD to support long-term mitigation efforts (Hurricane Michael) through HUD's Community Development Block Grant Mitigation (CDBG-MIT) program. The Federal Register Vol. 86, No. 3, which delineates all program requirements, was released on January 6, 2021.

This funding is designed to address mitigation needs to ensure that the state of Florida is more resilient when future natural disasters occur. FloridaCommerce is the lead agency and responsible entity for administering the CDBG-MIT funds allocated to the state. The state of Florida's Action Plan, which was submitted to HUD on February 3, 2020, details how this funding, along with subsequent allocations, will be apportioned to address unmet mitigation needs in Florida that represent targeted strategic investments for grantees based on current or foreseeable risks.

These mitigation funds represent a unique and significant opportunity for the state, in the areas most impacted by recent disasters, to carry out strategic and high-impact activities to minimize or eliminate risks and reduce losses from future disasters. In addition to mitigating disaster risks, the funds provide an opportunity to improve state and local planning protocols and procedures.

Florida's focus is to support data-informed investments through high-impact projects that will reduce risks attributable to natural disasters, with particular attention to repetitive losses of property and critical infrastructure. FloridaCommerce's strategy is built on a comprehensive Risk Based Mitigation Needs Assessment, presented in its Action Plan, that identified flooding, severe storms, tropical cyclones, coastal erosion and wildfires as the most significant risks to Floridians.

The state supports the adoption of policies that reflect local and regional priorities that will have long-lasting effects on community risk reduction, to include the reduction of risk to community lifelines. Community lifelines enable the continuous operation of government functions and critical businesses that are essential to human health and safety or economic security.

The goal is to help protect critical community lifelines which are illustrated in Figure 1: Community Lifelines:



Figure 1: Community Lifelines

Purpose

This Policies and Procedures Manual for the Office of Long-Term Resiliency is provided to assist CDBG-MIT program staff, subgrantees and subrecipients in implementing and managing the mitigation grant. It provides guidance regarding the general requirements that apply to units of local government. It is the responsibility of the Department of Economic Opportunity's disaster recovery staff to ensure that subgrantees comply with all provisions of this manual, state and federal rules and regulations, and the grant award agreement. Subgrantees and subrecipients must also carry out proper and efficient grant administrative practices. The Policies and Procedures Manual is intended to provide clear areas of responsibility to ensure consistent application of the procedures outlined in the manual. It is anticipated that circumstances will arise that will require deviations from the processes outlined in this manual. In those instances, the reason for the deviations need to be clearly documented and included in the subgrantees file. In some cases, these circumstances will require amending the Policies and Procedures Manual to include new or revised policies or procedures to accommodate these situations.

If there are any questions, subgrantees and subrecipients should contact the Florida Department of Economic Opportunity's Office of Long-Term Resiliency at:

Florida Department of Commerce
Office of Long-Term Resiliency
107 East Madison Street
Caldwell Building, MSC 420
Tallahassee, FL 32399
(850)-717-8474

Executive Summary

In April of 2018, the U.S. Department of Housing and Urban Development (HUD) announced that the state of Florida would receive \$633 million for mitigation activities in communities that experienced major declared disaster events during 2016 and 2017. In February of 2021, HUD announced that the state of Florida would receive an additional \$46 million for mitigation activities in communities affected by major declared disasters in 2018. These funds will be administered by the Florida Department of Commerce's (FloridaCommerce) Community Development Block Grant Mitigation (CDBG-MIT) Program.

Community Development Block Grant Mitigation (CDBG-MIT) funds represent a unique and significant opportunity for the state of Florida, in the areas most impacted by recent disasters, to carry out strategic and high-impact activities that minimize or eliminate risks and reduce losses from future disasters. In addition to mitigating disaster risks, the funds provide an opportunity to improve state and local planning protocols and procedures.

The Florida Department of Commerce (FloridaCommerce) created a Mitigation Action Plan that provides a high-level strategy for how the funding will be used to address eligible communities' disaster mitigation needs. The State Action Plan has been developed in partnership with state agencies working on resiliency efforts, as well as with input from local communities and stakeholders to determine Florida's most critical disaster mitigation needs.

Florida's focus is to support data-informed investments through high-impact projects that will reduce risks attributable to natural disasters, with particular attention to repetitive losses of property and critical infrastructure. The state also supports the adoption of policies that reflect local and regional priorities that will have long-lasting effects on community risk reduction, to include the reduction of risk to community lifelines such as Safety and Security and Communications.

Due to its unique geography, the state of Florida is at risk of experiencing a variety of hazards including tropical winds, storm surge, flash flooding, sea level rise, coastal erosion, extreme heat, drought and wildfires. Florida has experienced more landfalling hurricanes than any other state in the nation. Winds can potentially affect any county in Florida and storm surge can impact all of Florida's coastal counties. In addition, according to the 2018 Florida Division of Emergency Management's Enhanced State Hazard Mitigation Plan (ESHMP), sea levels have been rising at a rate of about one foot per century in much of the United States. In combination with land subsidence, rising sea levels can affect drinking water supplies and infrastructure and can also amplify storm surge risk and coastal erosion.

Florida has more than 11,000 miles of rivers, streams and waterways with 1,197 miles of coastline and 663 miles of beaches. Florida is also home to the 700-square mile Lake Okeechobee, the second largest freshwater lake in the United States. Of the state's 67 counties, 35 have coastlines bordering either the Atlantic Ocean or the Gulf of Mexico. These counties comprise approximately 1,350 miles of general coastline. When considering the intricacies of the Florida coastline, with its bays, inlets and waterways, there are more than 8,000 miles of coastline. All of these factors combined create complex and interconnected disaster risks that require innovative approaches to mitigate.

Part 1: Regulatory and CDBG-MIT–Specific Processes

1.1 Overview

CDBG-MIT falls under the regulatory umbrella of the Community Development Block Grant (CDBG). The federal government uses CDBG as a tool to provide aid in the wake of a disaster because it is a proven method of assisting communities that can be adapted to disaster recovery with relative ease. Unless there are specific waivers granted, it is safe to assume all the same rules apply to the Rebuild Florida programs.

The CDBG program has layers of regulations that have an impact on CDBG-MIT program processes and activities. These regulations exist alongside administrative and programmatic requirements and have serious implications for activities undertaken through CDBG-MIT. State staff charged with oversight of CDBG-MIT directly implement these processes and provide guidance to subrecipients to ensure a basic knowledge of CDBG-MIT regulations and processes.

1.1.1 Acceptance of HUD’s Funding Allocation

1. HUD notifies the Governor’s office of the funding allocation.
2. The Governor’s office notifies FloridaCommerce’s Executive Director, the Office of Long-Term Resiliency Director and Policy unit.
3. FloridaCommerce Drafts and submits Action Plan, Implementation Plan, and Financial Certification
4. HUD reviews and approves Action Plan and Implementation Plan
5. Once the Action Plan is approved, the Bureau of Financial Management will create grant codes specifically for the CDBG-MIT grant and enter them in the Florida Accounting Information Resource (FLAIR) system to capture all state pre-award expenditures allowable under the grant for reimbursement.
6. Once the Financial Certification has been approved, HUD provides FloridaCommerce written notification of the grant award along with the CDBG-MIT Grant Agreement to be signed.
7. The Policy Unit drafts a transmittal letter to HUD for the FloridaCommerce Executive Director to sign. Along with the transmittal letter, the CDBG-MIT Grant Agreement is routed through the ODR Director, the General Counsel’s Office, the Chief Operating Officer and then to the Executive Director.
8. The Executive Director reviews and signs the grant agreement form and returns the signed grant agreement and letter to the Policy Unit. The Policy Unit then mails and/or emails the agreement to HUD’s Disaster Recovery and Special Issues Division (DRSI).
9. Once the Policy Unit receives the signed CDBG-MIT Grant Agreement from HUD, a copy of the executed agreement is distributed to FloridaCommerce’s Bureau of Financial Management, the Office of General Counsel, Office of Long-Term Resiliency director, Bureau Chiefs, and other essential personnel. A hard copy and an electronic copy of the CDBG-MIT Grant Agreement is maintained by the ODR Bureau of Finance & Administration.
10. Once the executed grant agreement is received by the Bureau of Financial Management, information from the approved Action Plan is entered into HUD’s DRGR system creating a DRGR Action Plan for HUD’s review and approval.
11. Once HUD approves the DRGR Action Plan, the CDBG-MIT funds will be made available for FloridaCommerce to draw down.

1.1.1.1 Federal Funding Accountability and Transparency

As a recipient of a federal financial assistance award over \$25,000, the Department of Commerce is subject to the requirements of Public Law 109-282, the Federal Funding Accountability and Transparency

Act of 2006 as amended (FFATA). Public Law 109-282 requires disclosure of all entities and organizations receiving federal funds through a single publicly accessible website, USASpending.gov. Pursuant to these requirements, information on the first CDBG-MIT allocation provided to FloridaCommerce by HUD is available at https://www.usaspending.gov/award/ASST_NON_B-18-DP-12-0002_8620. Information on the second allocation provided to FloridaCommerce by HUD is available at https://www.usaspending.gov/award/ASST_NON_B-19-DT-12-0001_8620.

1.1.2 Action Plan Development

1.1.2.1 Action Plan Substantial Amendment

1. The AP substantial amendment is prepared by the policy unit in coordination with the applicable program area.
2. Once completed by the policy unit, the draft AP substantial amendment is routed to the applicable bureau chief, the ODR and FloridaCommerce finance units if there is a financial impact, the ODR director and finally, the ODR communications office.
3. Once final approval is given by ODR director, the draft substantial amendment is submitted to translation services. Once translated, both versions (English and translated) are sent to ODR communications to be posted on the FloridaCommerce website for 30 days public comment period as required.
4. After the 30-day public comment period ends, the policy unit incorporates any public comments and drafts response(s) to public comments incorporating the responses into the final version of the substantial amendment. Once draft is completed, it once again follows the previous route for final approval.
5. The approved final version of the substantial amendment is transmitted to the appropriate HUD office for review and approval. HUD has 60 days to review and approve the substantial amendment. Once the substantial amendment is approved by HUD, it becomes effective.
6. The substantial amendment is published on the website for the public to view and is incorporated into the Mitigation Consolidated Action Plan

1.1.2.2 Action Plan Non-Substantial Amendment

1. The AP non-substantial amendment is prepared by the policy unit in coordination with the applicable program area.
2. The draft AP non-substantial amendment is routed to the applicable program bureau chief, applicable program area staff, the ODR director and ODR communications for final edits and approval.
3. Once the division director approves the draft non-substantial amendment, HUD is sent a copy of the non-substantial amendment via email.
4. The amendment becomes effective 5 working days after HUD acknowledges receipt.
5. The amendment is then translated and published on the website for the public to view and is incorporated into the Mitigation Action Plan.

1.2 Duplication of Benefits

Many federal and state agencies are involved in responding to presidentially declared major disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (the “Stafford Act”). Under Stafford Act requirements, Congress instituted a goal to achieve greater coordination and responsiveness of disaster preparedness and relief programs. Accordingly, Stafford Act duplication of benefits (DOB) requirements apply to all federal agencies, including HUD, administering a disaster recovery program providing financial assistance for emergency response and long-term recovery. The CDBG-MIT grants are subject to these requirements.

Section 312(a) of the Stafford Act requires the Federal Government to assure that no entity receiving Federal financial assistance receives funds for any part of a loss already paid by insurance or any other source. Section 312(c) makes any entity receiving duplicative assistance liable to the Federal Government for the duplicative amount and states that “the agency which provided the duplicative assistance shall collect [it] from the recipient when the head of such agency considers it to be in the best interest of the Federal Government” (42 USC 5155(c)). Additionally, Section 312(b) of the Act permits the payment of assistance to an entity who is or may be entitled to future payments from insurance or another source “if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance” (42 USC 5155(b)).

The Stafford Act requirements are reinforced by other requirements on the use of CDBG-MIT funds. Public Laws governing each of the allocations require the HUD Secretary to certify in advance of making grant awards that grantees have adequate procedures to prevent any duplication of benefits. To support the Secretary’s certification, grantees must certify that they have “established adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act.”

Additionally, the Appropriations Act, regulations, and cost principles within uniform administrative requirements applicable to all CDBG-MIT grantees require that costs are necessary and reasonable (24 CFR part 570 and Uniform Requirements at 2 CFR part 200). “A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost” (2 CFR 200.404).

DOB verification is most often a complex compliance requirement for housing activities, but it also applies to public facilities and businesses, depending on the activity. Fundamentally, the state and subrecipients must prove that they have accounted for private insurance, SBA, NFIP, FEMA and/or any other funding an applicant has received for the same purpose as the CDBG-MIT grant, prior to expenditure of CDBG-MIT funds.

FloridaCommerce staff will coordinate with FEMA, NFIP and SBA to establish a process whereby information can be obtained to determine if applicant has applied for or received funding from either of these agencies. FloridaCommerce currently has secured data sharing agreements with FEMA and SBA to ensure the most recent assistance data is used in confirming other federal assistance. In addition, FloridaCommerce has secured data from the National Flood Insurance Program (NFIP).

The Stafford Act directs administrators of Federal assistance to ensure that no person, business, or other entity will receive duplicative assistance and imposes liability to the extent that such assistance duplicates benefits available to the person for the same purpose from another source. The amount of the duplication is the amount of assistance provided in excess of need. The Stafford Act requires that recipients of federal disaster recovery funding make certain that no “person, business concern or other entity” will receive duplicative assistance. A Duplication of Benefits (DOB) occurs when:

- A beneficiary receives assistance, and
- The assistance comes from multiple sources for the same purpose (e.g., private insurance, FEMA, NFIP, non-profits, etc.), and
- The total assistance amount exceeds the need for a particular recovery purpose.

Eligible applicants may have previously received assistance from other sources. Under the requirements of Stafford Act (42 U.S.C. 5121, et seq.), as interpreted and applied by HUD, the Program must take into account certain aid received by applicants in determining the amount of assistance which can be granted. In accordance with the Stafford Act, all projects, both directly and subrecipient administered, must perform due diligence to identify potentially duplicative sources of funding, analyze whether the source is duplicative, and include duplicative sources in an assessment that is deducted from the project’s need-based award determination.

The following are sources of funding assistance provided for structural damage and loss that may be considered a DOB and under federal law must be deducted from the assistance provided:

- FEMA National Flood Insurance Program (NFIP)
- Private Insurance,
- Increased Cost of Compliance (ICC),
- Small Business Administration (SBA),
- Any other funding source available to the applicant for the same purpose as a CDBG-MIT grant that may duplicate assistance (i.e., charities/non-profits).

Funds received from any source, including flood insurance, FEMA, and hazard insurance that were used to cover repairs will reduce the amount of disaster assistance if the evidence of expenditures at least equals the amount of assistance provided from the source(s). Documentation must be provided demonstrating the cost and type of repair conducted.

Any additional funds paid to applicants for the same purpose as the CDBG-MIT assistance award after the State has completed the repair, rehabilitation, or replacement of the applicant’s damaged structure must be returned to FloridaCommerce as detailed in the subrogation agreement.

For additional information on duplication of benefits see the following Federal Register Notices 76 FR 71060, 84 FR 28836, and 84 FR 28848 available on the HUD Exchange website.

Table 1: HUD’s Duplication of Benefits Guidance

Federal Register Notice	Publication Date	Subject
<u>84 FR 28836</u>	June 20, 2019	June 2019 Duplication of Benefits Notice
<u>84 FR 28848</u>	June 20, 2019	June 2019 Duplication of Benefits Implementation Notice
<u>76 FR 71060</u>	November 16, 2011	Duplication of Benefits

On June 20, 2019, HUD issued two Federal Register notices applicable to duplication of benefits, 84 FR 28836 and 84 FR 28848. Federal Register 84 FR 28836, entitled “Updates to Duplication of Benefits Requirements under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grants,” outlines the new DOB requirements consistent with the Disaster Recovery Reform Act of 2018 (DRRA) as provided in division D of Public Law 115-254. Federal Register 84 FR 28848, entitled “Applicability of Updates to Duplication of Benefits Requirements under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees” provides implementation considerations for 84 FR 28836. The 2019 DOB Notices, 84 FR 28836 and 84 FR 28848, are applicable to any new activities the grantee submits to HUD on or after the applicability date of June 25, 2019. The Rebuild Florida Program and CDBG-MIT subrecipient programs must adhere to the 2019 DOB notice.

DRRA, 84 FR 28836 and 84 FR 28848 apply so that a non-profit could provide funds to a homeowner, impacted by major disaster or emergency declared between 2015 and 2023, to address a Duplication of Benefit (DOB) gap by structuring the assistance as a zero-interest forgivable loan.

1.2.1 FEMA National Flood Insurance Program (NFIP) Insurance

Any payments for loss to structures under NFIP insurance policies may be deducted from the amount the applicant is eligible to receive. Payments for contents or other expenses are not deducted from the applicant’s award, as these are not duplicative of payments for structural loss. FloridaCommerce will verify payments by reviewing FEMA claim information or by providing a request for verification to FEMA. If an applicant is able to provide documentation demonstrating that the insurance proceeds amount provided by the FEMA database includes items not related to the structural loss, the Program will use the documentation provided by the applicant to adjust the insurance.

When any structure being rehabilitated or reconstructed with federal disaster assistance is located in a Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, then the property owner is required to maintain flood insurance in perpetuity, and any successive purchaser of the property must also maintain flood insurance. Structures constructed, reconstructed, or substantially improved in a SFHA are required to be elevated or floodproofed

1.2.2 Increased Cost of Compliance (ICC)

Structures damaged by a flood may be required to meet certain building requirements to reduce the risk of future flood damage before the structure can be repaired or rebuilt. To help cover these costs, the National Flood Insurance Program (NFIP) includes Increased Cost of Compliance coverage for all new and renewed Standard Flood Insurance Policies. ICC is a duplication of benefits if a structure owner requests reimbursement or additional assistance for elevation, demolition, flood proofing or relocation—one of the four options available under ICC—and has already received an ICC benefit under the NFIP. The program will determine DOB regarding ICC funds for elevation and/or demolition activities. If the Program is unable to determine the amount/or purpose of the ICC proceeds using documentation provided by the applicant, FloridaCommerce will seek additional information from other reliable sources including other governmental programs, including direct information available from NFIP.

1.2.3 Small Business Administration (SBA)

As described in HUD's [Duplication of Benefits Guidance as written in Federal Register, Vol. 84, No. 119, June 20, 2019](#), the full amount of an SBA loan available to an applicant for the same purpose as CDBG-MIT assistance is assistance that must be included in the DOB calculation, unless one of the exceptions in Section V.B.2. of 84 FR 28836 applies. An SBA loan is available when it is accepted, meaning that the Borrower (applicant) has signed a note or other loan document that allows the lender (SBA) to advance loan proceeds.

The approved SBA loan for repair of the damaged dwelling will be counted as a duplication of benefits, except in the following circumstances:

- **Declined Subsidized Loans.** If an applicant (borrower) was approved for a loan but did not execute a loan agreement (applicant never signed loan documents to receive the loan proceeds), the offered loan amount will be considered declined and not considered a duplication of benefits.
 - Declined loans must be documented through the SBA data feed (absent an LAA Date) in conjunction with written communication from the lender (SBA).
- **Cancelled Subsidized Loans.** The applicant (borrower) has entered a loan agreement, but for a variety of reasons, all or a portion of the loan amount was not disbursed and is no longer available to the applicant. The loan cancellation may be due to default of the borrower, agreement by both parties to cancel the undisbursed portion of the loan, or expiration of the term for which the loan was available for disbursement. The cancelled loan amount is the amount that is no longer available to the applicant. If an applicant cancels all or a portion of an SBA loan related to the repair of the dwelling, only the accepted loan amount will be considered a duplication of benefits.
 - Cancelled loans that were never drawn must be documented through the SBA data feed demonstrating the \$0 draw in conjunction with written communication from the lender (SBA).
 - Cancelled loans that had a portion of the loan drawn, but the remainder cancelled must be verified in the SBA data feed in conjunction with written communication from the lender (SBA). The accepted current loan amount will be considered a duplication of benefits.
- **Accepted but Undisbursed Loan Amounts.** This situation is similar to cancelled loans, but no formal action was taken by the applicant (borrower) or lending agency (SBA) to formally cancel the loan. Accepted but undisbursed subsidized loan amounts are not considered a DOB but are subject to further requirements. The undisbursed loan amount will not be considered a DOB; however, applicants may not request subsequent draws from the undisbursed portion of the loan.

A written agreement will be required between the applicant and FloridaCommerce. The applicant must agree, in writing, that he/she will not pursue future draws against any open SBA loans or reinstate declined, cancelled, or expired loans.

- Accepted but undisbursed loans that were never drawn must be documented through the SBA data feed demonstrating the \$0 draw in conjunction with written communication from the lender (SBA).
- Accepted but undisbursed loans that had a portion of the loan drawn, but the remainder never disbursed must be verified in the SBA data feed in conjunction with written communication from the lender (SBA). The disbursed loan amount will be considered a duplication of benefits.

If necessary, the Office of Long-Term Resiliency will revise DOB calculations retroactively to be consistent with this policy in order to address cases where SBA loans were counted as DOB prior to the issuance of 84 FR 28836 and 84 FR 28848. Further, all future calculations of DOB will exclude SBA loans that meet the parameters of this policy.

1.3 Procurement Method and Contractual Requirements

1.3.1 Overview

The standards and guidelines for procurement of supplies, equipment, construction, engineering, architectural, consulting and other professional services have been established in the FloridaCommerce Purchasing and Contracting Guidelines that have been developed in compliance with federal and state requirements.

The following regulations should be reviewed for more detailed information:

- 2 CFR 200, Subpart D (federal procurement regulations)
- 24 CFR 135 (Section 3 of the Housing and Urban Development Act to guide economic development to low- and very-low income local residents and the businesses that hire them)
- Compliance with Minority and Woman-Owned Business Enterprises reporting requirements
- Section 255.0525, Florida Statutes (advertising for competitive bids or proposals)
- Section 287.055, Florida Statutes (Consultants Competitive Negotiations Act)
- Section 287.133, Florida Statutes (public entity crimes)
- The following checklists that address procurement, Section 3, and minority and woman-owned business requirements:
 - Procurement Desk Monitoring Checklist (DR-15)
 - Planning and Design Specifications Desk Monitoring Checklist (DR-28)
 - Property Acquisition Monitoring Checklist (DR-18)
 - Housing Rehabilitation Monitoring Checklist (DR-25)

FloridaCommerce grant managers are responsible for monitoring of subrecipients to ensure the procurement methods and contractual requirements and other reporting requirements are met. Plans and specifications, procurement for professional services and construction procurement will be monitored by the disaster recovery grant manager.

1.3.2 Procurement Management Procedure

1.3.2.1 Procedures for Competitive Solicitations

1. Purchasing Office will hold a Preliminary Meeting with Contract Manager/Requestor to review the procurement checklist and ensure an understanding of the solicitation methods, requirements, and identification of spending authority. Note: Remind Program Area Contract Manager to refer any inquiries/questions regarding the solicitation to the Purchasing Office.

2. Both Purchasing Office and the Program Area Contract Manager will sign the Procurement Checklist, and a copy of the signed checklist will be provided to the Program Area Contract Manager.
3. Both Purchasing Office and the Program Area will determine if the services to be provided meet the statutory definition of an “outsource” activity. The Program Area shall complete a business case for any outsourcing project that has an expected cost in excess of \$10 million within a single fiscal year. The business case shall be submitted pursuant to s. 216.023, F.S. Please contact the Budget Office for further instructions. The business case shall be available as part of the solicitation but is not subject to challenge.
4. When implementing information technology (IT) projects, Program Area is required to engage the Division of Information Technology and will use the Florida Information Technology Project Management and Oversight Standards set forth in Section 282.0051(3), F.S., and Chapter 74-1, F.A.C.
5. If applicable, Purchasing Office will review PRIDE and RESPECT purchasing requirements and provide a product and service list from both PRIDE and RESPECT to the Program Area prior to deciding on another procurement method. If not utilizing PRIDE and/or RESPECT product or service, the Purchasing Office will need to obtain justification from the Program Area.
6. Program Area will need to complete and provide a copy of Conflict of Interest Certification to the Purchasing Office.
7. The Procurement Office will setup a physical folder for the solicitation and create a solicitation folder in SharePoint for all documentation related to the procurement. Program Area is required to complete the solicitation template, SOW and all other referenced documents as applicable.
8. If contractual services/items are mission critical to the Agency’s maintenance of effort, the solicitation document shall include the emergency preparedness plan language.
9. Procurement Office will ensure all IT project related procurements address the standards set forth in Section 282.0051(3), F.S., and Chapter 74-1, F.A.C., and include any Performance Bond Language in the SOW.
10. If a Construction related procurement equal to or greater than \$100,000, then the solicitation includes a bid bond requirement and a requirement for the respondent to provide a letter of intent to provide a performance bond. Also, include the following statement: “Within five (5) days after notification of selection, Contractor shall be required to submit and maintain in effect throughout the life of the contract a performance bond in the amount of 100 percent (100%) of the contract price. The bond must be issued by a surety company licensed to do business in the State of Florida and must be payable to the Agency.”
11. When the Program Area has completed the solicitation documents, the documents will go through Purchasing Office, Contracts and Grants Administration (CGA), and Office of General Counsel (OGC) as applicable for preliminary review in SharePoint. The Program Area will be notified by email when the documents are ready for review. This process will continue until a final solicitation document is approved.
12. When the final documents are approved, the Program Area Contract Manager will hard copy route the solicitation document through the procurement routing review process.
13. Program Area will need to identify the statutory authority on the procurement routing review form.
14. **If the solicitation is not an ITB**, specify the type of procurement that will provide the best value to the State. Program Area must provide justification on the Procurement Routing Review Form.
15. **If RFP or ITN**, the Program Area Contract Manager will provide a list of recommended Evaluation/Negotiation Team Members on the routing review form.
16. The Procurement Routing Review Form must follow the Delegation of Authority; once final approval is obtained, the solicitation will be released and posted by the Procurement Office to the Vendor Bid System (VBS).
17. Procurement Officer will print and file the final solicitation documents in the procurement folder.

18. Procurement Officer will print the VBS posting, post to bulletin board, and file one copy in the procurement folder.
19. Procurement Officer will need to send an e-mail to OSD advising them of the solicitation and file a copy of the e-mail in the procurement file.
20. Procurement Officer will notify the Program Area by email that the solicitation has been posted to VBS.
21. Procurement Officer will set-up the solicitation "Calendar of Events" in Outlook.
22. Purchasing Office will facilitate the pre-response conference or site visit, if applicable.
23. Once the Technical Questions are received from prospective Respondents, the Purchasing Office will upload the Technical Questions to SharePoint for the Program Area Contract Manager to respond.
24. Technical Answers will be uploaded to SharePoint by the Program Area Contract Manager for Purchasing and OGC review if applicable.
25. Procurement Office will post Technical Questions and Answers posted on the Vendor Bid System.
26. Procurement Officer will notify the Program Area by email that the Technical Questions and Answers have been posted to VBS.
27. Procurement Office will assist Program area with any Addenda if needed and post any addenda on the Vendor Bid System as well as the bulletin board.
28. **(RFP/ITN only)** Procurement Officer will prepare the Evaluator Training PowerPoint presentation, as well as assist the program area in the development of the individual evaluator workbooks.

RFP/ITN Only

1. The Procurement Officer will print copies of the solicitation receiving form and put them in the copy room to be used as responses come in.
2. The Public Response Opening will be held by Purchasing (sign-in sheet, evaluation summary sheet will be needed). Purchasing will only announce the names of the vendors at this time.
3. Procurement Office will perform the Responsiveness and Responsibility Determination.
4. Procurement Office will verify the vendor's eligibility status on the Federal Debarment Excluded Parties List and print and place the results in procurement file.
5. For goods or services of \$1 million or more, Procurement Officer will verify the Scrutinized Companies List, and print and place the results in procurement file.
6. If less than two responsive responses received, FloridaCommerce may determine to negotiate on the best terms and conditions and Program Area Contract Manager must provide justification as to why re-soliciting would not be in the best interest of FloridaCommerce.

RFP/ITN Procedures for Evaluations, Demonstrations and Negotiations

1. Procurement Office will facilitate the Evaluation/Negotiation Training for all evaluators and negotiators.
2. Procurement Office will obtain the Conflict of Interest Questionnaires and Conflict of Interest Certifications from each Evaluation/Negotiation Team Member.
3. **(ITN only)** Purchasing Office will obtain the Confidentiality and Non-Disclosure Agreement from each Negotiation Team Member and SME, if applicable.
4. Evaluations completed by Evaluation Team and all Evaluation Material will be returned to the Purchasing Office for the procurement file.
5. Procurement Office will complete the Evaluation Summary Score Sheet, verify, and file in the procurement file.
6. Procurement Office will post the Vendor Shortlist to Vendor Bid System, if applicable.
7. Procurement Office will facilitate the Negotiation meetings as applicable.

8. Procurement Office will facilitate the Public Meeting for the Intent to Award with the Negotiation Team to determine 'Best Value' and Award Recommendation.
9. Once the Lead Negotiator has drafted the Recommendation of Award (RFP/ITN), the Procurement Office will route for approval by Agency Head or delegation of authority.
10. Procurement Office will post the agency decision on the Vendor Bid System.
11. Once the Agency decision has posted, it will start the 72-hour Protest Period. If a Notice of Intent to Protest is received, the Procurement Officer will forward to Legal and place copy in the procurement file.
12. Procurement Officer will prepare bid protest bond letter, have legal review and then send to Respondent, if applicable. Formal Protest and Bid Bond must be received within 10 days of receipt of Notice of Intent to Protest.
13. The Protest will either get resolved by FloridaCommerce Legal, or it will go to DOAH. If resolved with FloridaCommerce Legal, the Procurement Officer will place Legal approval in procurement file and the completed procurement can proceed with contract development.
14. Procurement Office will ensure all documentation relating to the procurement is filed in the procurement file.

1.4 Contracts, Agreements and Modification Procedure

1.4.1 Preliminary Review Phase

1. Prepare and attach routing review form and agreement.
2. Send agreement and routing review form to "contract number request" inbox for agreement number.
3. The Bureau of Financial Management (BFM) and the Bureau of Budget Management (BM) assign agreement number and verify budget information on the routing review form,
4. BFM sends routing review form to program area
5. Program area receives routing review form, prepares packet, and sends to Contracts and Grants FloridaCommerce email inbox
6. Contracts and Grants Administration (CGA) loads the draft agreement packet to SharePoint folder and conducts a preliminary review
7. CGA notifies Office of General Counsel (OGC) agreement is ready to review
8. OGC reviews and edits agreement in SharePoint
9. CGA reviews agreement and notifies program area agreement packet is ready for review and finalization
10. Program area will review and finalize agreement and notify CGA

1.4.2 Pre-Execution Hard Copy Review Phase

1. CGA will prepare packet/DocuSign envelope and send it to RM
2. RM reviews and approves agreement packet and sends to CGA
3. CGA routes completed agreement packet according to delegation authority threshold
4. Bureau Chief reviews and approves agreement packet
5. Division reviews and approves according to delegation
6. CGA notifies program contract is ready to send to entity
7. Program area sends package to entity for signature

1.4.3 Final Execution Phase

1. Program receives signed agreement from entity
2. Program sends agreement packet (hard copy or e-copy) to CGA for execution

3. CGA reviews agreement and routes to OGC
4. OGC reviews, signs for legal sufficiency and notifies CGA
5. CGA sends agreement and obtains appropriate signatures according to delegation of authority for final signature
6. Program sends final copy of agreement to entity
7. Program sends FACTS forms to CGA
8. CGA reviews and sends FACTS forms to RM
9. RM updates FACTS

1.4.4 FloridaCommerce Management of Contracts and Grants

The contract management process begins when the agency has posted its Intent to Award and a contract has been executed. The executed contract or grant is transferred to the contract administrator or grant manager.

Responsibilities include:

- Creating and maintaining a contract file.
- Maintaining financial information on all contracts.
- Managing changes to the contract.
- Serving as a liaison between FloridaCommerce and the Subgrantee or vendor.
- Managing the receipt of commodities and contractual services.
- Conducting cost reconciliation for grants.
- Maintaining a contract management file pursuant to CFO Memo No. 06 (2011-2012).
- Providing written certification that services were performed and completed in accordance with terms and conditions of the contract before requesting payment.

The contract file must contain:

- Original contract/grant
- Amendments
- Renewals
- Bonds
- Insurance
- Performance documentation
- Correspondence
- Payment documentation
- Monitoring plan and documentation
- Deliverables

There may be additional requirements for the contract file. The contract file is the complete history of the contract. It should be organized so that the activities conducted during the contract management process can be reconstructed and understood by someone who is not familiar with the contract. All contract and grant managers will use the agency's Contract Management File Checklist to maintain the file.

1.4.5 Applicability of Cost Principals to Awarded Projects

FloridaCommerce will ensure that costs incurred and awarded to its' subrecipients are compliant with 24 CFR § 570.489(p) which states that the grantee will ensure that the costs incurred and awarded to its sub-recipients are based on the cost principals applicable to all CDBG-DR and CDBG-MIT funds. These

cost principals are found at 2 CFR §§ 200.402-200.404. These principals define composition of costs, factors affecting allowability of costs, and reasonable costs.

§ 200.402 Composition of costs.

Total cost. The total cost of a federal award is the sum of the allowable direct and allocable indirect costs less any applicable credits.

§ 200.403 Factors affecting allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally financed program in either the current or a prior period. See also § 200.306(b).
- (g) Be adequately documented. See also §§ 200.300 through 200.309 of this part.
- (h) Cost must be incurred during the approved budget period. The Federal awarding agency is authorized, at its discretion, to waive prior written approvals to carry forward unobligated balances to subsequent budget periods pursuant to § 200.308(e)(3).

§ 200.404 Reasonable costs.

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally funded. In determining reasonableness of a given cost, consideration must be given to:

- (a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.
- (b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.
- (c) Market prices for comparable goods or services for the geographic area.
- (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.
- (e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

1.4.5.1 Implementing Cost Principals and Underwriting Methodology

FloridaCommerce will follow a standard methodology to verify all sources of funding provided to the sub-recipients for their projects and performing an underwriting analysis to lessen the risk of overcommitting funds, duplication of work performed, or costs that are not necessary or reasonable.

Commerce will take the following project information into account when performing its analysis to determine whether a project's proposed costs meet federal cost principals.

1. What is the total project cost for the proposed project?

2. What sources of funding have been committed or received by the sub-recipient for implementing the project (this also includes any funds that the sub-recipient will contribute to the project costs).
3. After considering all other committed or available project funding, what is the remaining unmet need that will be covered by the CDBG-MIT funds?
4. Have all costs been determined to meet the necessary and reasonable cost principals found at 2 CFR §§ 200.402-200.404.
5. Will the project generate program income? FloridaCommerce and its subrecipients will follow established FloridaCommerce requirements for program income. ?
6. If the funds are to be spent on a for-profit facility that also serves a public purpose the following additional analysis is required:
 - A. What funds does the facility owner have to contribute to the project?
 - i. If prior funds were obligated to the project by the facility owner, those funds cannot be supplanted by the CDBG-DR or CDBG-MIT funds and must be included as part of the total project funding.
7. Does the completed project increase revenue for the facility?
 - A. If the project will increase revenue for the for-profit facility, the increased revenue will be considered program income. FloridaCommerce and its subrecipients will follow established FloridaCommerce requirements for program income.
8. Provide a written analysis of how the underwriting determination was made and attach relevant support documentation that support the conclusions.

1.5 Environmental Review Record (ERR)

1.5.1 Overview

The National Environmental Policy Act of 1969, as amended (NEPA), established national policies, goals, and procedures for protecting, restoring, and enhancing environmental quality. NEPA requires the evaluation of environmental impacts of proposed federally funded projects and identification of mitigation measures to minimize or prevent adverse impacts. All State- or Subrecipient-managed projects funded by HUD CDBG-MIT funds will require an Environmental Review Record (ERR) to be completed by the Responsible Entity (RE) in compliance with NEPA, Council on Environmental Quality (CEQ) regulations [40 CFR Parts 1500–1508](#); [24 CFR Part 35, 51, 55, and 58](#), and all applicable state and local regulations.

Every project undertaken with CDBG-DR funds and all additional activities related to that project are subject to environmental review and the provisions of NEPA, as well as the HUD environmental review regulations at 24 CFR Part 58.

An environmental clearance must be obtained for each project prior to the firm commitment of federal funds, even if non-federal funds are also being used. No work may start on a proposed project prior to completion of the environmental review. A violation of this requirement will jeopardize all federal funding for the project, and all costs that were incurred before the completion of the environmental review will be disallowed.

The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites and to develop procedures to ensure compliance with regulations pertaining to these factors. The environmental review includes an evaluation of potential adverse effects and mitigation related to: noise abatement and control; historic preservation; coastal zone management; the Clean Air Act; environmental justice; airport clear zones; floodplains; wetlands; sole-source aquifers; wild and scenic rivers; explosives and flammable operations; hazards, toxics, and radioactive material substances; endangered species; and farmland protection.

All CDBG-MIT -funded projects and activities must have documentation that they are in compliance with NEPA and all other environmental requirements. The purpose of this section of the manual is to provide guidance in the ERR process to meet NEPA and environmental requirements.

Further information on environmental review processes is available on the [HUD Exchange](#) and FloridaCommerce's [OLTR website](#).

1.5.2 Environmental Review Record and Responsible Entity

An ERR is a written record of the environmental review undertaken by the RE for each project and must be available for public review upon request. As defined in 24 CFR 58.2(a)(7), the RE can be FloridaCommerce or a unit of general local government (also known as the grantee or subrecipient). The RE is responsible for developing the project description, determining the level of environmental review, preparing and maintaining the ERR, submitting the ERR for review to the State's Certifying Officer for approval, and performing monitoring, inspection, and enforcement actions to assure that decisions adopted through the environmental review process are carried out during project development and implementation.

The Grantee must designate a Certifying Officer as the responsible Federal official to assume legal responsibility for certifying that the Grantee or Subrecipient followed all the requirements of section 102 of NEPA and the related provisions in 40 CFR parts 1500 through 1508, and 24 CFR part 58, including the related Federal authorities listed in §58.5. The Subrecipient's Certifying Officer assumes legal responsibility for certifying that the Grantee or Subrecipient has complied with the requirements that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies and regulations of these laws and authorities. The ERR must provide a comprehensive project description and evidence of the process from start to finish, including environmental review documents, public notices, and written determinations or environmental findings as required by 24 CFR Part 58.

The three basic steps of environmental reviews are the following:

- **Project Aggregation** – The RE shall evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. The project scope should include any related activities necessary to accomplish the project, regardless of the funding source.
- **Determine the Level of Review** – The RE must determine which level of environmental review is appropriate for each identified activity within the project scope.
- **Documentation** – The RE must conduct the appropriate consultations with local, state, and federal agencies as well as any other interested parties and complete the review of the required compliance factors, depending on the level of review. The RE must maintain documentation of all consultation and review activities necessary to demonstrate compliance as the process is comprehensive and detailed. The amount of information needed to complete the review depends on the type of project the RE is proposing. All ERRs must be submitted to FloridaCommerce and approved by the state's Certifying Officer prior to committing or expending funds on the project.

1.5.3 Environmental Review Record Procedure

The process for completing the ERR in compliance with [24 CFR Part 58](#) includes the following:

1.5.3.1 Step 1: Designate Responsible Entity

The RE is the state or subrecipient responsible for establishing a Subrecipient Agreement, preparation of the ERR, environmental decision-making, designating a Certifying Officer, and all other environmental actions. The RE must be knowledgeable, qualified, and have the experience necessary to prepare and evaluate ERR documents for conformance with NEPA and 24 CFR Part 58. Step 2: Develop Project Description

The project description is critical in determining the level of environmental review required. A reader unfamiliar with the project and the project area should clearly understand the scope, scale, nature, and extent of the proposed project from the description. At a minimum, the project description should contain the following:

- ALL proposed project activities by all funding sources, described in detail.

- Entire project scope and all phases of the project from beginning to end.
- Exact project location(s)/area(s), supported by a locational map.
- Color photographs, site plans, project plans, or maps available at the time.
- Total project costs by all funding sources.
- Existing environment on and around project site and how it is expected to change as a result of the project.

1.5.3.2 Step 3: Determine Level of Review Required

The RE must ensure the level of environmental review per 24 CFR 58.34 through [24 CFR 58.37](#) is appropriate for the proposed project in order to correctly complete the necessary review process and documentation. Determining the required level of review is the responsibility of the RE. To do this, the RE or Grant Administrator must list all activities associated with the project and match the activities to the appropriate classification. The five levels of environmental review are:

- Exempt § 58.34
- Categorically Excluded Not Subject to § 58.5 (CENST)
- Categorically Excluded Subject to § 58.5 (CEST)
- Environmental Assessment § 58.36 (EA)
- Environmental Impact Statement § 58.37 (EIS)

Some types of projects may benefit from tiering the environmental review as provided by § 58.15. Tiered reviews are most commonly applied to projects involving repair, replacement, reconstruction and/or buyout of a large number of single-family homes.

- Tier I (also known as a Broad-Level Review or Unspecified Site Strategy)
- Tier II (Site Specific Review)

Exempt Activities

A proposed activity is Exempt when there are no anticipated effects on the physical environment. In general, qualifying activities are associated with Administration and Planning activities, such as studies, design, and training activities conducted at existing facilities. The complete list of exempt activities is available in [24 CFR 58.34](#). If the proposed project consists only of exempt activities, the RE will need to complete the required Exemption Form provided by FloridaCommerce along with related supporting documentation. A Notice of Intent/Request for Release of Funds (NOI/RROF) is not required.

If the proposed project consists of both exempt and non-exempt activities, the RE will need to complete the HUD [Exemption Form](#) and provide it to FloridaCommerce along with the related supporting documentation to cover any exempt activities carried out prior to the completion of the remaining environmental review process.

Categorically Excluded Not Subject to (CENST) § 58.5 Activities

Proposed activities that qualify as Categorically Excluded Not Subject To (CENST) are activities that would not alter any conditions that would require a review or compliance determination under 24 CFR 58.5. In general, these activities are associated with financial assistance, support services, and operating and maintenance costs. The complete list of CENST activities is available in [24 CFR 58.35\(b\)](#). If the proposed project consists only of qualifying Exempt and CENST activities, the RE will need to complete the required CENST Form provided by FloridaCommerce, which is the same as the Exemption Form, along with the related supporting documentation to FloridaCommerce. A Notice of Intent/Request for Release of Funds (NOI/RROF) is not required.

Categorical Excluded Subject to § 58.5 (CEST) Activities

Proposed activities that qualify as Categorical Excluded Subject To § 58.5 (CEST) are activities that are not expected to require an Environmental Assessment or Environmental Impact Statement except under extraordinary circumstances. These activities are associated with:

- Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent;
- Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons;
- Rehabilitation of buildings and improvements when specific conditions are met;
- An individual action (other than rehabilitation of a residential building) on up to four dwelling units where there is a maximum of four units on any one site;
- An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site; or
- Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

A complete list of CEST activities is available in [24 CFR 58.35\(a\)](#). If the proposed project consists only of qualifying Exempt, CENST and CEST activities, the RE will need to complete the HUD [CEST Form](#) or the similar form provided by FloridaCommerce and provide supporting documentation demonstrating compliance with all the Compliance Factors listed on the form. HUD offers worksheets for each relevant law and authority to guide the review process. The proposed project may benefit from a Tiered approach if activities are repetitive. A Notice of Intent to Request Release of Funds (NOI-RROF) is required.

Environmental Assessment (EA)

A project that cannot be classified as Exempt or Categorical Excluded will require the completion of an EA under [24 CFR 58.36](#). These activities are usually those that have a greater potential for a direct impact on the physical environment. Example activities include:

1. A change in the use of the project site;
2. Any new construction;
3. Major rehabilitation;
4. A change in size or capacity of facilities or multi-family housing by more than 20 percent;
5. New single-family housing in which 5 or more homes are located within 2,000 feet of one another.

If the proposed project includes any qualifying EA activities, the RE will need to complete the HUD [EA Form](#) or the similar form provided by FloridaCommerce and provide supporting documentation demonstrating compliance with all the Compliance Factors listed on the form. The HUD worksheets related to law and authority should be used to guide the review process. A Combined/Concurrent Notice of Finding of No Significant Impact and Request for Release of Funds (FONSI/RROF) is required.

Environmental Impact Statement (EIS)

If the proposed project is determined to have a potentially significant impact on the physical and/or human environment, an EIS is required. This determination is based upon the environmental responses collected from the applicable agencies.

In the event this situation does occur, the RE must use the recommended format of the CEQ regulations (40 CFR 1502.10).

The [EIS Notice of Requirements for Responsible Entities Memo](#) details the Public Notice requirements for EIS.

REs should contact FloridaCommerce for assistance if they believe a project requires preparation of an EIS.

Tiered Approach

Tiering is a method for streamlining the environmental review process and increasing efficiency by enabling the RE to eliminate repetitive discussions of the same issues and focus on the actual issues ready for decision at each level of environmental review ([24 CFR 58.15](#)). The Tiered approach can be applied to proposed activities that qualify for CEST and EA level environmental reviews and consists of two phases (tiers): Broad-Level Review (Tier I) and Site-specific Review (Tier II). Collectively, the Broad-Level Review and Site-specific Review satisfy ERR requirements under 24 CFR Part 58.

Broad (Tier I) Review

Broad-Level Reviews (also known as the Unspecified Site Strategy) encompass geographical areas or neighborhoods which often share similar environmental characteristics. During the Broad-Level Review, the RE must consider all Compliance Factors (environmental laws and authorities). If the proposed activities can be determined to have no adverse impact on an environmental resource with respect to a particular Compliance Factor, compliance with the associated environmental law/authority should be documented and that Compliance Factor can be cleared during the Broad-Level Review.

When proposed activities have the potential to adversely impact environmental resources or compliance with the associated environmental law/authority cannot be determined, then a protocol for evaluating compliance must be developed and included in the Broad-Level Review. The protocol will establish parameters to achieve compliance for each unresolved Compliance Factor during the Site-Specific Review.

The RE should follow the guidance provided by FloridaCommerce's Steps for Developing an Unspecified Site Strategy and will need to complete either the HUD Environmental Review Form (when conducting a tiered CEST review) or adapt either the HUD EA Form or similar form for EAs provided by FloridaCommerce (for tiered EAs) to clearly document whether compliance was achieved at the Broad Level for each Compliance Factor. The RE will provide supporting documentation demonstrating compliance with all the Compliance Factors cleared during the Tier I review and provide a written strategy that documents the protocol for clearing the unresolved Compliance Factors. A Notice of Intent to Request Release of Funds (NOI-RROF) is required for CEST activities. A Notice of Finding of No Significant Impact and Request Release of Funds (FONSI/RROF) is required for Environmental Assessment activities. Regardless of whether a CEST or EA review is conducted, the public notice must clearly indicate the environmental review is tiered, that site specific reviews will be completed to address those laws and authorities for which compliance was not cleared during the Broad-Level Review and list the Compliance Factors to be evaluated at the Site-Specific level.

Site-Specific (Tier II) Review

The Tier II Site-Specific Review will address all outstanding potential impacts to environmental resources by assessing compliance with the Compliance Factors not previously cleared by the Broad-Level Review. The RE will use the protocol established in the Broad-Level Review to evaluate the unresolved Compliance Factors and document the outcome of that analysis using a Tier II Site-Specific Checklist developed for the specific project. Supporting documentation, at a minimum, should include:

1. Project site photographs,
2. Property tax card,
3. Site specific maps produced using mapping programs from the state and federal agencies related to any Compliance Factors not cleared during the Broad-Level Review,
4. Documentation of the status and potential impact of nearby Toxic and/or Hazardous Sites from relevant state or federal agencies, and

5. Correspondence from state or federal agencies documenting compliance.

1.5.3.3 Step 4: Complete and Document the Environmental Review

1. Agency Coordination (Consultation): Contact appropriate federal, state, and local agencies, and other known interested parties.
 - A. Provide a thorough project description/scope of work and invite participation in the consultation process.
 - B. Provide a minimum 30 days from the date of receipt for agency comments or concerns. Some agencies may require 45-60 days.
 - i. If a consulted party raises project concerns, requests further consultation, or requires further documentation and/or study, it is the RE's responsibility to address the issue and to obtain the necessary documentation, clearances and/or permits prior to certifying the review as complete and submitting the ERR to FloridaCommerce.
 - C. Letters delivered by U.S. mail shall be sent by "Certified Mail, Return Receipt".
 - D. Letters sent via email shall request a delivery receipt. The RE may also choose to request a read receipt.
 - E. Only the RE may formally contact and consult with the State Historic Preservation Office (SHPO) and the Native American Indian Tribes. Letters sent to these agencies must be on the RE's official letterhead, signed by the RE's Certifying Officer (e.g., mayor), and sent from a member of the RE's staff's email or mailing address.
 - F. Maintain a complete record of all correspondence for inclusion in the ERR.
2. Complete the relevant HUD or Department form (based on the level of review). Provide a detailed project description (scope of work) and include all HUD and non-HUD funded portions of a project or activity and the associated amount of funding from each source.
3. Complete all requirements of Part 58 associated with the project or activity; (e.g., conduct the 8-Step Decision-Making Process under 24 CFR Part 55 for projects located in a floodplain and/or wetland). The use of HUD worksheets for each Compliance Factor is highly recommended to streamline documentation and ensure a thorough review.
4. All maps should be in color with the project location marked (e.g., FEMA FIRM or FIRMet for floodplain management compliance).
5. At the conclusion of the environmental review, the RE's Certifying Officer will sign the ERR, certifying the project is appropriate for the level of review completed (e.g., CEST or EA), that all review requirements have been met, and the outcomes of the environmental reviews (environmental determination or finding).
6. Provide the appropriate public notice based on the review conducted (NOI-RROF for CESTs or a Combined/Concurrent Notice of FONSI and NOI-RROF for EAs). Ensure the public, relevant agencies, and known interested parties are allowed the required period of time to comment/respond based on the type of notice. The first day of the public comment period is the day after the notice is published or posted and the comment period must end on a workday (non-holiday and non-weekend day).
 - A. For Tiered reviews, the public notice and public comment period follow completion of the Tier I review.
7. Address any comments received as a result of the public notice and maintain a complete record of all correspondence.
8. Once the public comment period is complete and any comments have been satisfactorily addressed, the RE's Certifying Officer signs the RROF (form 7015.15).
9. For subrecipients, the completed and signed ERR (including copies of all public notices and the any comments received) must then be submitted to FloridaCommerce along with the signed RROF.

10. FloridaCommerce is required to hold the RROF for 15 days to allow for objections to the release of funds. The objection period begins the date after the RROF is received and will be extended, if necessary, in order for the objection period to end on a workday.
11. The RE will be notified by FloridaCommerce, as applicable, if additional information is needed as a result of the ERR review. If any deficiencies are noted during FloridaCommerce's review, the subrecipient must provide the additional documentation requested and revise the ERR to include requested revisions.
12. Once the ERR has been cleared by FloridaCommerce, the 15-day hold for objections is complete, and any public comments addressed, FloridaCommerce will issue the Authority to Use Grant Funds (AUGF, form 7015.16) to the RE. No HUD or non-HUD funds may be committed to a project until the AUGF is received by the RE (except for administrative or similar activities adequately documented as Exempt or CENST, as described in this Manual).
13. For projects in which a site-specific Tier II environmental review is required, the Tier II ERR must be completed by the RE and submitted to FloridaCommerce for review. An additional site-specific clearance must be received from FloridaCommerce prior to expenditure of non-Exempt funds on the individual project site.
14. Projects for which the AUGF (7015.16) was previously issued but the scope of work has changed must comply with 24 CFR 58.47. Prior to the commitment of funds for new project activities, an updated ERR is to be submitted to FloridaCommerce, and the new scope of work must receive Department clearance.

1.5.4 Public Notices

The required public notice affords the public the opportunity to be informed of the upcoming project or activity. Notices which are published must be in a news medium that reaches the local community in which the project will be located. The publication of notices shall be followed by a comment period counted in calendar days. A comment period may not end on a weekend or holiday. If this occurs, the official last day to comment is moved to the next weekday.

1. Early Notice and Public Review of a Proposed Activity in a 100-Year Floodplain or Wetland
 - A. Public Comment Period: 15- days (publication required)
2. Final Notice and Public Review Explanation of a Proposed Activity in a 100-Year Floodplain or Wetland
 - A. Public Comment Period: 7-days (publication required)
3. Notice of Intent to Request Release of Funds (NOI-RROF)
 - A. Public Comment Period: 7-days (published); 10-days (posted)
4. Concurrent Notice – Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds
 - A. Public Comment Period: 15-days (published); 18-days (posted)

The ERR is to include a copy of the public notice and a notarized statement from the news medium verifying the date of publication. Notices which are posted must be located in multiple locations (e.g. post office, community center, government offices) and the ERR is to include a notarized statement from an official with knowledge of the placement and timing of the posting verifying the locations posted.

1.5.5 Procedures for Making Determination on Floodplain and Wetland Management

Projects located within a floodplain or a designated wetland are subject to Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands). HUD regulations describe measures for protecting floodplains and wetlands. The required 8-Step Decision-Making Process must be completed for these projects and is summarized below. For more information on the 8-

Step Process, see 24 CFR 55.20

1. **Step 1:** Determine whether the proposed action is located in a 100-year floodplain (500-year floodplain for critical actions) and/or would result in new construction in a wetland. This is determined by reviewing FEMA Floodplain Maps and Wetlands Maps available from sources such as the US Fish and Wildlife Service. If no maps are available, use the best available information. If the proposed action would not be conducted in a 100-year floodplain (500-year floodplain for critical actions) and/or would result in new construction in a wetland., then no further compliance with these Compliance Factors is required. Categorically Excluded projects that are subject to 24 CFR 58.5 (CEST) are NOT excluded from this process. CENST (Categorically Excluded, not subject to 58.5) ARE excluded from this requirement.
2. **Step 2:** Notify the public as early as possible if a proposed project includes an action in a floodplain and/or will result in new construction in a wetland and involve the affected and interested public in the decision-making process. This process begins with publication of the Early Public Review Notice.
 - A. The public notices required in this section may be combined with other project notices wherever appropriate. All notices must be published in an appropriate local printed news medium.
 - B. Notices must be published in the pertinent language if the affected public is largely non-English speaking.
 - C. Notices must be sent to federal, state, and local public agencies, organizations and individuals known to be interested in the proposed action, including FEMA.
 - D. A minimum of 15 calendar days shall be allowed for comment on the Early Public Review Notice.
 - E. A notice under this paragraph shall state: the name, proposed location and description of the activity, the name and title of the Certifying Officer (CO), and phone number to contact for information. The notice shall indicate the hours of operation for the Unit of Local Government (UGLG's) at which a full description of the proposed action may be reviewed.
3. **Step 3:** Identify and evaluate practicable alternatives to locating the proposed action within the floodplain and/or wetland.
 - A. The consideration of practicable alternatives to the proposed site or method may include:
 - i. Locations outside the floodplain and/or wetlands;
 - ii. Alternative methods to serve the identical project objective; and
 - iii. A determination not to approve any action.
 - B. In reviewing practicable alternatives, the RE shall consider feasible technological alternatives, hazard reduction methods, related mitigation costs, environmental impacts and the social and economic value of the various alternatives.
4. **Step 4:** Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain and/or wetland and the potential for future development of the floodplain or wetlands as a foreseeable result of the project.
5. **Step 5:** Where practicable, design or modify the proposed action to minimize the potential adverse impacts within the floodplain and/or wetland and to restore and preserve its natural and beneficial values.
6. **Step 6:** Re-evaluate the proposed action to determine:
 - A. Whether it is still practicable in light of its exposure to flood hazards in the floodplain, the extent to which it will aggravate the current hazards to other floodplains and/or wetlands, and its potential to disrupt floodplain and/or wetland values; and
 - B. Whether alternatives preliminarily rejected at Step 3 of this section are practicable in light of the information gathered in Steps 4 and 5 of this section.
7. **Step 7:** Publish the Final Notice of Explanation.

- A. If the re-evaluation results in a determination that there is no practical alternative to locating the proposed project in the floodplain and/or wetland, the RE shall publish the Final Notice of Explanation that includes:
 - i. The reasons why the project must be located in the floodplain and/or wetland;
 - ii. A list of the alternatives considered; and
 - iii. All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values.
 - B. Notices must be sent to federal, state, and local public agencies, organizations and individuals known to be interested in the proposed action, including FEMA.
 - C. In addition, a minimum of 7 calendar days shall be provided for public comment before the approval of the proposed action.
8. **Step 8:** Upon completion of the decision-making process in Steps 1 through 7, the implementation of the proposed action will proceed. There is a continuing responsibility to ensure that the mitigation measures identified in Step 7 are executed.

1.5.6 Re-Evaluation of Previously Clear Projects

Sometimes projects are revised, delayed or otherwise changed such that a re-evaluation of the environmental review is necessary. The purpose of the re-evaluation is to determine if the original findings are still valid. If the original findings are still valid, but the data and conditions upon which they were based have changed, the RE must update their ERR by including this re-evaluation and its determination based on the changed circumstances. The re-evaluation is to be submitted to the State for clearance and should include:

- A written statement, on the RE's letterhead, explaining why the re-evaluation must occur and how it was conducted.
- Reference the original ERR and the issuance of funds (AUGF, 7015.16).
- Describe the new project activities.
- Provide maps delineating both old and new project areas, if different.
- Include all correspondence and associated documentation from all relevant agencies contacted.
- Cost of the project and funding source(s).
- Determine if the original FONSI or other environmental determination is still valid [see 24 CFR 58.47 (b)(1)].
- Indicate whether comments or concerns were received during the initial environmental review.
- Utilize Statutory Worksheet or Environmental Assessment documents, if applicable.
- A written statement, signed and dated by the RE.

If it is determined that the original findings are no longer valid, and the re-evaluation indicates potentially significant impacts, the RE must prepare the next higher level Environmental review (EA or EIS).

1.5.7 Lead-based Paint, Asbestos, and Mold

Requirements pertaining to the health and well-being of families and children must be evaluated in conjunction with building rehabilitation or repair and demolition projects.

1.5.7.1 Lead-based Paint

The presence of lead-based paint in housing units constructed prior to January 1, 1978, is a concern in any housing rehabilitation, or any project converting from previously non-residential structures to housing, and must be addressed in any such activity receiving CDBG-DR funds. Housing units assisted with disaster recovery funding must comply with the federal regulations in 24 CFR Part 35. Subrecipients are required to include an assessment of the presence of lead-based paint in their environmental

documentation submitted to FloridaCommerce. If lead-based paint is present in residential properties, the safe containment, mitigation, and removal and disposal of the lead-based paint must be addressed. The subparts of 24 CFR 35 that apply to the disaster recovery program are:

- Subpart A—Disclosure of Known Lead-based Paint and/or Lead-based Paint Hazards Upon Sale or Lease of Residential Property;
- Subpart B—General Requirements and Definitions;
- Subpart J—Rehabilitation;
- Subpart K—Acquisition, Leasing, Support Services, or Operation; and
- Subpart R—Methods and Standards for Lead-Based Paint Hazard Evaluation and Reduction Activities.

Exemptions to 24 CFR 35 Subparts B, L, K and R are described in 24 CFR 35.115:

- Residential construction that was completed on or after January 1, 1978;
- A zero-bedroom dwelling unit, including a single room occupancy dwelling unit;
- Housing exclusively for the elderly (specifically retirement communities or similar types of housing reserved for households composed of one or more persons meeting the age requirements of 24 CFR 35.110 “Housing for the elderly”) or for persons with disabilities, unless a child under the age of six resides or is expected to reside in the dwelling unit;
- Residential property in which all lead-based paint has been identified, removed, and clearance has been achieved in accordance with the requirements outlined in 24 CFR 115(5);
- An unoccupied dwelling unit or residential property pending demolition that will remain unoccupied until demolition;
- Property or a part of a property that will not be used for human residential habitation, except entryways, hallways, corridors, passageways or stairwell serving both residential and nonresidential uses in a mixed-use property shall not be exempt;
- Any rehabilitation that does not disturb painted surfaces;
- Emergency actions immediately necessary to safeguard against imminent danger to human life, health, or safety, or to protect property from further damage (However, occupants must be protected from exposure to lead in dust and debris generated from the emergency actions to the extent practical); or
- Property seized by a federal law enforcement agency, which the agency has owned for less than 270 days.

In addition:

- Subpart K does not apply if assistance being provided is for emergency rental assistance or foreclosure prevention assistance. This exemption expires no later than 100 days after initial payment or assistance.
- Required evaluation or lead-based paint hazard-reduction or lead-based paint abatement on an exterior painted surface is delayed due to weather conditions or unsuitable conventional construction activities.
- If the property is listed, or has been determined to be eligible for listing on the National Register of Historic Places, or contributing to a National Register Historic District, the designated party may, if requested by SHPO, conduct interim controls, maintenance, and reevaluation in accordance with 24 CFR 35.115(13).

For more information, please review [24 CFR 35.115](#).

24 CFR 35 Subparts B, J K, and R are referred to as the Lead Safe Housing Rule. and require different approaches to addressing lead-based paint hazards in different housing rehabilitation projects based on the amount of funding assistance. The funding levels are (1) up to and including \$5,000 per unit, (2) more

than \$5,000 up to and including \$25,000 per unit, and (3) more than \$25,000 per unit. The method for calculating these amounts can be found in [24 CFR 35.915](#), and the applicable evaluation and hazard reduction requirements are located in [24 CFR 35.930](#).

More information on monitoring for lead-based paint is available in [HUD's CPD Monitoring Handbook \(6509.2\)](#).

1.5.7.2 Asbestos

The Subrecipients are required to address asbestos in their environmental evaluation of a housing rehabilitation or demolition project in the environmental documentation submitted to FloridaCommerce.

HUD does not have specific regulations related to asbestos as it does for lead-based paint. Nonetheless, to ensure housing units are decent, safe and sanitary, which is a HUD requirement, housing rehabilitation and demolition projects need to determine if asbestos is present, especially in structures built prior to January 1, 1989. Federal requirements that apply to asbestos removal and safe disposal of asbestos containing materials can be found in the U.S. Environmental Protection Agency's air pollution standards, particularly Clean Air Act and Occupational Safety and Health Act requirements. Subrecipients should consult with the appropriate District Office of the Florida Department of Environmental Protection for state requirements related to implementation of EPA asbestos regulations.

In addition to the federal regulations discussed above, asbestos-abatement requirements are located in Florida Statutes Chapter 469. A qualified asbestos inspector must be used to undertake a comprehensive evaluation of the housing unit for the presence of asbestos.

1.5.7.3 Mold

Mold can be a significant problem in homes that receive water damage due to a qualifying storm event. HUD does not have specific regulations related to mold. Nonetheless, to ensure housing units are decent, safe, and sanitary, which is a HUD requirement, housing rehabilitation projects need to determine if mold is present. The United States Environmental Protection Agency has published two useful guides on mold and cleanup: "A Brief Guide to Mold, Moisture and Your Home" and "Mold Remediation in Schools and Commercial Buildings." Additional information can be found at: <http://archives.hud.gov/news/2004/pr04-087.cfm>. Chapter 468, Florida Statutes, addresses licensing and qualifications for individuals conducting mold assessments.

1.6 Acquisition and Relocation

1.6.1 Overview

Displacing residents from their homes is a serious undertaking that requires advance planning and careful consideration of the law. Undertaken with proper care, the Uniform Relocation Act (URA) process provides valuable guidance and financial assistance to people whose homes are being renovated or acquired. The state and its subrecipients plan to minimize displacement of persons or entities and assist persons or entities displaced as a result of implementing a project with CDBG-MIT funds.

It is the responsibility of the FloridaCommerce MIT Subgrantee manager to coordinate with the Subgrantee to ensure that any activities undertaken meet the applicable URA requirements. FloridaCommerce's Office of Long-Term Resiliency will request URA training from HUD and will schedule this training as soon as possible after receiving the disaster recovery funding for distribution.

A useful guide to URA requirements and their applicability is HUD's "Tenant Assistance, Relocation and Real Property Acquisition Handbook (1378.0)", located at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/13780

1.6.2 Relocation, Real Property Acquisition Waivers & Requirements

1.6.2.1 Conversion of LMI Units, 24 CFR 42 Requirements

Section 104 (d) One-for-One Replacement

One-for-one replacement requirements at section 104(d)(2)(A)(i) and (ii) and (d)(3) of the HCD Act and 24 CFR 42.375 are waived in connection with funds allocated under [FRN 83 FR 5844](#), published February 9, 2018 for lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. The section 104(d) one-for-one replacement requirements generally apply to demolished or converted occupied and vacant occupiable lower-income dwelling units. This waiver exempts disaster-damaged units that meet the grantee's definition of "not suitable for rehabilitation" from the one-for-one replacement requirements. Before carrying out activities that may be subject to the one-for-one replacement requirements, the grantee must define "not suitable for rehabilitation" in its action plan or in policies/procedures governing these activities. A grantee with questions about the one-for-one replacement requirements is encouraged to contact the HUD regional relocation specialist responsible for its jurisdiction.

HUD is waiving the section 104(d) one-for-one replacement requirement for lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation because it does not account for the large, sudden changes that a major disaster may cause to the local housing stock, population, or economy. Further, the requirement may discourage grantees from converting or demolishing disaster damaged housing when excessive costs would result from replacing all such units. Disaster-damaged housing structures that are not suitable for rehabilitation can pose a threat to public health and safety and to economic revitalization. Grantees should reassess post-disaster population and housing needs to determine the appropriate type and amount of lower-income dwelling units to rehabilitate and/or rebuild.

Grantees should note that the demolition and/or disposition of PHA owned public housing units is covered by section 18 of the United States Housing Act of 1937, as amended, and 24 CFR part 970.

Relocation Assistance

The relocation assistance requirements at section 104(d)(2)(A) of the HCD Act and 24 CFR 42.350 are waived to the extent that they differ from the requirements of the URA and implementing regulations at 49 CFR part 24, as modified by [FRN 83 FR 5844](#), for activities related to disaster recovery. Without this waiver, disparities exist in relocation assistance associated with activities typically funded by HUD and FEMA (e.g., buyouts and relocation). Both FEMA and CDBG funds are subject to the requirements of the URA; however, CDBG funds are subject to section 104(d), while FEMA funds are not. The URA provides at 49 CFR 24.402(b) that a displaced person is eligible to receive a rental assistance payment that is calculated to cover a period of 42 months. By contrast, section 104(d) allows a lower-income displaced person to choose between the URA rental assistance payment and a rental assistance payment calculated over a period of 60 months. This waiver of the section 104(d) relocation assistance requirements assures uniform and equitable treatment by setting the URA and its implementing regulations as the sole standard for relocation assistance under the Federal Register Notice. If CDBG-MIT is matched with any other HUD funding sources, it will be subject to standard URA or Section 104(d) of the Housing and Community Development Act requirements.

Overview

The requirements of 24 CFR 42 are applicable to CDBG-MIT-funded programs or activities when lower income (i.e., low- or moderate-income [LMI]) housing units, whether occupied or vacant, are demolished or converted to a use other than LMI dwelling units. It is not anticipated that CDBG-MIT funding for Hurricane Irma and Hurricane Michael will result in the conversion of LMI dwelling units. In the event that LMI dwelling units are demolished, the state or subrecipient is responsible for replacing the dwelling unit with an equivalent unit in the same neighborhood.

The requirements include:

1. The demolished or converted units must be replaced on a one-for-a-basis with comparable lower-income dwelling units.
 - A. The replacement units must be located in the subgrantees' jurisdiction and to the extent possible, within the same neighborhood.
 - B. The replacement units must be of sufficient number and size to house the number of occupants who could have occupied the units that are being demolished or converted. Replacement housing cannot be smaller than the units they are replacing (e.g., replacing two-bedroom units with one-bedroom units), unless it is demonstrated that the smaller units are consistent with the needs assessment in the HUD-approved consolidated plan. For non-entitlement, local governments that do not have a consolidated plan, must make available public information demonstrating that the replacement housing is consistent with the housing needs of lower-income households in its jurisdiction.
 - C. The units must be in standard condition. Replacement housing can be obtained from substandard units improved to standard condition provided:
 - i. No person was displaced from the unit, and
 - ii. The unit was vacant for three months before an agreement was executed with the property owner.
 - D. Units must initially be made available for occupancy at any time during the period beginning one year before the Subgrantee makes public the information demonstrating that replacement housing is not required (see item b above) and ending three years after the completion of the demolition or rehabilitation related to the conversion.
 - E. The units must remain lower-income dwelling units for at least 10 years from the date of initial occupancy. Replacement housing may include public housing or existing housing receiving Section 8 project-based assistance.
2. Before the Subgrantee enters into a contract to provide funds to demolish or convert lower-income dwelling units, the Subgrantee must make available to the state disaster recovery CDBG program:
 - A. A description of the proposed assisted activity.
 - B. A map of the location and identify the number of dwelling units by size (number of bedrooms) that will be demolished or converted.
 - C. A time schedule for the commencement and completion of the demolition or conversion.
 - D. A map of the location and the number of dwelling units by size (number of bedrooms) that will be provided as replacement units. If the information is not available, include the general location on a map, identify the approximate number of dwelling units by size, and provide information as to when the specific location and number of units by size will be submitted and disclosed to the public.
 - E. The source of funding and the time schedule for providing the replacement units.
 - F. The basis for concluding the replacement units will be available to lower-income households for at least 10 years from the date of initial occupancy.
 - G. Information demonstrating that any proposed smaller units used as replacement units are consistent with the needs assessment in the HUD-approved consolidated plan. For non-entitlement, local governments that do not have a consolidated plan, make available to the public information demonstrating that the replacement housing is consistent with the housing needs of lower-income households in its jurisdiction.
3. Replacement housing is not required if the HUD field office determines, based on objective data, that there is an adequate supply of vacant lower-income units in standard condition and available on a non-discriminatory basis within the area. The Subgrantee must submit the required information to the disaster recovery CDBG program staff to support the conclusion the replacement housing is not required. The submitted information must be made public and inform

interested parties they have 30 days from the date of submission to provide the state opposing information. If the state agrees with the request, the state must provide its recommendation and supporting information to the field office. Similar requirements must be met if the state intends to demonstrate that replacement housing is not required.

Anyone who disagrees with a displaced person determination or the amount of relocation assistance received can file a written appeal with the Subgrantee. If the appeal is not resolved with the Subgrantee, the individual may submit a written request for the state to review the determination. Similarly, in the instance where the state has directly undertaken an activity that results in an individual that disagrees with the state's displaced person determination or the amount of relocation assistance provided, a written appeal can be filed with the state. If the appeal is not resolved with the state, the individual may submit a written request for HUD to review the determination. If the full relief is not granted, the individual must be advised, by the Subgrantee or the state, as appropriate, of his or her right to seek judicial review.

1.6.3 URA Regulation, 49 CFR 24 Requirements

1.6.3.1 Arm's Length Voluntary Purchase

The requirements at 49 CFR 24.101(b)(2)(i) and (ii) are waived to the extent that they apply to an arm's length voluntary purchase carried out by a person who uses funds allocated under FRN 83 FR 5844 and does not have the power of eminent domain, in connection with the purchase and occupancy of a principal residence by that person. Given the often-large-scale acquisition needs of grantees, this waiver is necessary to reduce burdensome administrative requirements following a disaster. Grantees are reminded that tenants occupying real property acquired through voluntary purchase may be eligible for relocation assistance.

1.6.3.2 Overview

Title 49 CFR Part 24 consists of Subparts A through G and applies across the government, including HUD-funded programs such as CDBG, CDBG-MIT, and HOME. Handbook 1378 provides an excellent overview of 49 CFR 24 as it applies to HUD programs.

Subpart A establishes the purpose of the regulations are to ensure owners of real property acquired for federal or federally-assisted projects and persons displaced as a result of these projects are treated fairly and consistently. In addition, the purpose of the regulations is to ensure that agencies that implement the regulations do so in a manner that is efficient and cost effective.

Subpart A: General Requirements

In addition to the purpose above, this subpart includes:

1. Definitions and acronyms
2. Prohibits a person from receiving URA payments if payments are received under federal, state, or local laws or insurance that are determined to have the same purpose and effect as a URA payment.
3. Requirements that the state must provide assurances that it will comply with the URA if a project is undertaken with federal assistance that will result in acquisition of real property or displacement, is subject to monitoring by HUD, and must take measures to minimize fraud, waste, and mismanagement.
4. Requirements for information to be contained in notices and how those notices are to be written and delivered.
5. Guidelines for administration of jointly-funded projects when two or more federal agencies provide financial assistance to a non-federal agency.
6. Authority for a federal agency to waive regulations.
7. Lists of other federal laws and regulations with which the implementation of the URA must ensure compliance with.

8. Requirements for record keeping in sufficient detail to demonstrate compliance with the URA requirements, three-year retention, confidentiality of records, and submitting reports every three years or as the URA requires on real property acquisition and displacement activities. NOTE: FloridaCommerce's CDBG program requires records retention for six years.
9. Appeal procedures.

Subpart B: Real Property Acquisition Requirements

1. Applicability of acquisition requirements.
2. Basic acquisition policies.
3. Criteria for appraisals.
4. Review of appraisals.
5. Acquisition of tenant-owned improvements.
6. Expenses incidental to transfer of title to the Agency.
7. Certain litigation expenses.
8. Donations

Subpart C: General Relocation Requirements

This subpart addresses relocation payments and other relocation assistance to displaced persons as defined in 49 CFR 24.2(a)(9) including:

1. Relocation notices.
2. Availability of comparable replacement dwelling before displacement.
3. Relocation planning, advisory services, and coordination.
4. Eviction for cause.
5. General requirements—claims for relocation payments.
6. Aliens not lawfully present in the United States.
7. Relocation payments not considered as income.

Subparts D and E: Requirements Paying Moving and Related Expenses and Replacement Housing

Subpart F: Mobile homes, Mobile Home Site, and the Partial Acquisition of a Mobile Home Park

Subpart G: Certifications to Allow a State Laws and Regulations to Fulfill URA Requirements

1.6.4 Minimizing Displacement, 24 CFR 570.606 Requirements

1.6.4.1 Optional Relocation Policies

The regulation at 24 CFR 570.606(d) is waived to the extent that it requires optional relocation policies to be established at the grantee level. Unlike the regular CDBG program, States may carry out disaster recovery activities directly or through subrecipients, but 24 CFR 570.606(d) does not account for this distinction. This waiver makes clear that grantees receiving CDBG-DR funds under [FRN 83 FR 5844](#) may establish optional relocation policies or permit their subrecipients to establish separate optional relocation policies. This waiver is intended to provide States with maximum flexibility in developing optional relocation policies with CDBG-MIT funds.

1.6.4.2 Overview

This regulation establishes HUD's policy that efforts are to be taken to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of activities undertaken with CDBG funds. It also provides that relocation assistance will be provided to a displaced person based on the requirements in 49 CFR 24. In the discussion that follows, it is important to remember the grantee is the State of Florida CDBG-MIT program and the Subgrantee is the local government that receives a sub-grant agreement from the state under the disaster recovery program.

A displaced person is defined in 24 CFR 570.606(2) as “any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of rehabilitation, demolition, acquisition for any activity assisted under this part”. The criteria for determining if a move is permanent and involuntary includes a permanent move from real property:

1. That occurs after notice from the grantee or sub-grantee to move permanently from the property and the move will occur after the initial official submission to HUD or the grantee, as applicable, for a grant, loan, or loan guarantee funds under the CDBG disaster recovery program.
2. That occurs after a notice by the property owner to move permanently from the property and the move will occur after the date of submission of a request for financial assistance by the property owner or person in control of the site and is later approved for the requested activity.
3. Before the dates established in 1 or 2, above, and the grantee determines that the displacement directly resulted from acquisition, rehabilitation, or demolition for the requested activity.
4. After the “initiation of negotiations”, if the displaced person is a tenant-occupant and one of the following apply:
 - A. The tenant has not been provided a reasonable opportunity to occupy a unit in the same building or complex at a monthly rent and estimated utility cost prior to the initiation of negotiations or 30 percent of the household’s average monthly gross income. Or
 - B. The tenant is required to relocate temporarily but is not offered payment for all reasonable out-of-pocket expenses in connection with the move, including the cost of moving and any increased housing costs or other reasonable conditions and the tenant does not return to the building or complex. OR
5. The tenant is required to move to another unit in the building or complex but is not offered reimbursement for all reasonable out-of-pocket expenses related to the move.

Initiation of negotiation is defined in 24 CFR 570.606(3) to mean: “if the displacement is the direct result of privately undertaken rehabilitation, demolition, or acquisition of real property, the term “initiation of negotiations” means the execution of the grant or loan agreement between the [State or Subgrantee, as applicable] and the person owning or controlling the real property.”

A displaced person does not include:

1. A person evicted for cause.
2. A person who moves into the property after the date of one of the notices described in items 1 and 2 in the displaced person discussion above but did receive a written notice about the expected displacement before occupancy.
3. A person who is not displaced as described in 49 CFR 24.2(g)(2).
4. A person the grantee determines is not displaced as a direct result of the acquisition, rehabilitation, or demolition for the assisted activity and the decision is approved by HUD.

Other provision in 24 CFR 570.606 include:

1. The state or Subgrantee may request HUD to determine whether a person is a displaced person.
2. Compliance with the residential anti-displacement and relocation assistance plan requirements in 24 CFR part 42, subpart B.
3. An opportunity to develop policies to provide optional relocation assistance.
4. A reference that the acquisition of real property is subject to 49 CFR part 24, subpart B.
5. Appeals.
6. Establishes that the state is responsible for ensuring compliance with 24 CFR 570.606.
7. Provides that the cost of assistance may be paid from local public funds, funds provided under 24 CFR 570.606, or from other sources.

8. The state or Subgrantee, as applicable, must maintain records in sufficient detail to demonstrate compliance with 24 CFR 570.606.

1.7 System of Record

The Department's Subrecipient Enterprise Resource Application (SERA) has been enhanced to provide an integrated System of Record (SoR) to support the Community Development Block Grant Disaster Recovery (CDBG-DR) and Mitigation (CDBG-MIT) programs and activities. The SoR provides both a user platform for the case management and administrative functions as well as a reporting environment for the purposes of management, oversight, and performance reporting of CDBG-MIT programs and activities.

1.8 Labor Standards and the Davis-Bacon Act

The Davis-Bacon Act (DBA) applies to all construction contracts greater than \$2,000 unless the program's authorizing legislation contains exceptions. It requires that all workers or mechanics working on projects covered by the act be paid minimum hourly wages and fringe benefits according to the wage decision(s) applicable to that contract. If any portion of a contract requires DBA, then all work performed under the contract is subject to DBA. In the CDBG-MIT program, only rehabilitation of residential property containing less than eight housing units is exempt from DBA. Work done by a local government's employees (force account) is not subject to DBA.

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

Davis Bacon does not apply to single-family scattered site rehabilitation and reconstruction programs.

1.8.1 Construction Categories

Under DBA, construction work is categorized as residential, building, heavy or highway work. Wage decisions are based on the category (or categories) of work to be performed. Each construction contract to which DBA applies must contain the wage decision(s) for the appropriate category (or categories) of work. A separate wage decision for a category is not required if the value of work (as bid) in that category does not exceed 20 percent of the total "as bid" construction cost. The actual bid cost, not the estimated project cost, determines whether a separate wage decision is used. If more than one wage decision is used, payrolls must reflect which wage decision is applicable unless all workers are paid at least the highest hourly rate possible under either wage decision.

1.8.2 Wage Decisions

After determining the proper labor categories, the local government should request a wage decision by submitting a wage decision request form to the FloridaCommerce disaster recovery grant manager. A copy of this form is available on the FloridaCommerce disaster recovery website. Since wage decisions are subject to modification, the wage decision request should not be submitted earlier than 45 days prior to advertisement of the project.

If more than one wage decision is used, bidding instructions must identify which portions of the work are covered by each wage decision. It is not the responsibility of the contractor to make this determination. Lack of guidance or improper guidance may result in the local government being liable for any wage restitution.

The FloridaCommerce disaster recovery program tracks wage decisions through the bidding and contract award phase to determine if a modification of a wage decision occurs. FloridaCommerce will advise the local government if a modified wage decision may be required. The applicability of a wage decision modification is dependent on the bid opening date and the date the local government accepts the bid (i.e., the date the local government awarded the bid). Ten days prior to bid opening, the subrecipient must check to determine if the wage decision has been modified. If it has been modified, all potential bidders must be notified. If a contract has been awarded but construction has not been initiated within 90 days of the award, the subrecipient must determine if any modifications have been issued. If so, the contractor must be notified and adhere to the modified wage decisions.

The Bidding Information and Contractor Eligibility form advises FloridaCommerce of the bid date for review of wage decision validity. A contract should not be awarded prior to FloridaCommerce's verification that the contractor is eligible to participate in a federally funded contract. After contract execution and issuance of a notice to proceed, the local government should submit a copy of the notice and the minutes from the meeting at which the contract was awarded. A copy of the Bidding Information and Contractor Eligibility form is included on the FloridaCommerce disaster recovery website.

1.8.3 Monitoring Construction Activities and Labor Standards

During project construction, the local government must monitor compliance with DBA, CWHSSA and the Copeland Act by reviewing contractor and subcontractor payrolls. DBA applies to laborers and mechanics working on any project when the primary contract exceeds \$2,000. It does not apply to supervisory staff if 80 percent of their time during the work week is spent performing supervisory duties. Supervisory personnel who fall below the 80 percent threshold are subject to DBA for non-supervisory hours worked during that particular work week.

"Self-employed owners" are not exempt from DBA and must submit a payroll report reflecting the hours worked on the project, the type of work performed and that they are the owner of their business. Hourly rates need not be reported if this information is not known, but the amount of the subcontract should be indicated.

Supply contracts are not subject to DBA. A supply contract is one that furnishes equipment, materials or supplies, with no (or only "incidental") construction activities performed at the project site. Construction is "incidental" if it does not exceed 13 percent of the contract or subcontract price. There must be documentation to support this percentage.

During project construction, the local government must also conduct interviews with the contractors' and subcontractors' workers to verify the accuracy of payroll information. Interviews must cover a representative sample of each classification used by the contractor/subcontractor. On-site interviews should be conducted whenever possible, but mail interviews are acceptable if on-site interviews cannot be performed. Discrepancies between information gained in the interviews and payroll data must be resolved in a timely manner. Additionally, interviews and resolution of discrepancies should be conducted in such a manner as to shield the identity of the worker(s).

If a contractor or subcontractor is required to pay a cumulative total of more than \$100 in back wages during the contract period, the local government must submit an enforcement report to the Office of Long-Term Resiliency. Any corrective actions by a contractor must be documented in the project files. For back wages over \$10, there must be a copy of the front of the wage restitution check and a signed acknowledgment from the worker stating the amount of the check and that it was received. If there are overtime violations, the local government must assess the contractor liquidated damages of \$10 per day/per worker for those who should have received overtime. Restitution is also required. The contractor may request waiver of liquidated damages through FloridaCommerce.

FloridaCommerce will monitor compliance with labor standards until the project is complete. A Labor Standards Monitoring Checklist is available on the FloridaCommerce Disaster Recovery website. During monitoring visits, special attention will be given to the following:

- Ensuring payroll information is being submitted and reviewed in a timely manner.

- Ensuring all labor classifications are included in the wage decision or have been conformed and/or added with FloridaCommerce approval.
- Ensuring trainee and apprentice labor classifications are applied in accordance with regulations for those titles.
- The helper, trainee or apprentice program must be certified by the Florida Office of Apprenticeship and Training. If trainees or apprentices are used, the contractor must provide a copy of the state certification to the subrecipient and the FloridaCommerce disaster recovery grant manager.
- Ensuring signed authorizations are on file for any employees with “other” payroll deductions.
- Ensuring interviews have been conducted with the prime contractors and any subcontractor’s employees. HUD Form 11 can be used for interviews.
- In the case of multiple wage decisions, investigating payrolls to ensure that they distinguish which was applied to each worker.
- Posting the wage-rate decision in a conspicuous location at the project site and posting a copy of “Notice to All Employees Working on Federal or Federally Financed Construction Projects” (a copy of this poster and other required posters are available at <http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>).

Typical findings from past monitoring activities include the following:

- Inappropriate use of the apprentice and trainee classifications;
- Use of a classification that is not in the wage decision or is vague (i.e., “operator”);
- Failure to obtain subcontractor payrolls;
- Lack of signed authorizations from workers with “other” deductions;
- Lack of interviews, including not covering enough classifications or not interviewing subcontractors;
- “Salaried” workers covered by DBA not treated as hourly workers for regular and overtime purposes;
- Using one wage decision when two are required based on the type of work in each category; and
- Payrolls failing to reflect which wage decision(s) is applicable to which worker, particularly if two wage decisions are used, and workers are not paid the highest hourly rate possible for that classification.

1.8.4 Restitution

Prime contractors must be notified in writing of any underpayments found during the review of payrolls or other reviews. The prime contractor has 30 days to correct the under payments and make restitution. Wage restitution must be for the full amount due, less any permissible and authorized deductions. The employer is required to report the restitution on a corrected certified payroll. A signed Statement of Compliance must be attached to the corrected payroll signed by the employee that has received the restitution.

In the event that restitution is due to an employee(s) who cannot be located, the prime contractor is required to place the amount of restitution due in an escrow account at the end of the project. The subrecipient should continue to attempt to locate the employee(s) for three years after the completion of the project. After three years, the amount of restitution still available in the escrow account should be sent to HUD.

1.8.5 Semi-Annual Reports

Every six months, the FloridaCommerce CDBG-MIT program must report to HUD on all covered contracts awarded and on all enforcement actions taken. The Semi-Annual Report form (HUD-4710) and instructions for the form (HUD-4710i) are available on HUD’s website at

<https://www.hudexchange.info/resources/documents/HUD-Form-4710-Semi-Annual-Labor-Standards-Enforcement-Report.pdf>

Additional labor standards information can be found in these HUD publications:

- Making Davis-Bacon Work: A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects (<http://portal.hud.gov/hudportal/documents/huddoc?id=4812-LRguide.pdf>)
- Making Davis-Bacon Work: A Practical Guide for States, Indian Tribes and Local Governments (<https://www.hud.gov/sites/documents/MAKINGDAVISBACONWORK001.PDF>)
- Basically CDBG for States (<https://www.hudexchange.info/resource/269/basically-cdbg-for-states/>)
- Community Development Block Grant Toolkit on Crosscutting Issues, Module 3: Federal labor Standards (http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_15953.pdf)

1.8.6 The Wage Request Process

This process may begin before or after the environmental review of the project.

- The subrecipient submits the Wage Decision Request(s) to FloridaCommerce.
- Program staff gets the wage decision(s) from the U.S. Department of Labor website.
- Program staff prepares and signs the letter to the chief elected official informing the subrecipient of the wage decision(s).
- Program staff routes the wage decision letter to supervisory staff for their review and approval.
- After approval of the letter, program staff provide a copy for the grant file and mails the original letter to the subrecipient.
- The program staff enters a comment in the SERA system acknowledging the approval of the wage decision and includes the date the letter was mailed.
- If the wage decision changes, the program staff sends a letter to the subrecipient notifying the subrecipient of the change in the wage decision.
- The subrecipient must notify all potential bidders of a wage determination that occurs 10 days prior to bid opening. If a contract has been awarded but construction has not been initiated within 90 days of the award, the contractor must be notified and adhere to the modified wage decisions.

1.9 Civil Rights

Recipients of CDBG-MIT funds must comply with federal and state civil rights, fair housing, equal opportunity and equal employment opportunity regulations and requirements. These laws are designed to ensure that members of protected groups are treated fairly by avoiding discrimination, providing equal opportunity and taking affirmative action to correct past discrimination based on race, color, religion, gender, national origin, age, sex/gender, disability and/or family status.

By signing the assurances in the Disaster Recovery CDBG application and the sub-grant award agreement, the Subgrantee and/or subrecipient agrees to:

- Comply with civil rights laws and conduct the Disaster Recovery CDBG program in a non-discriminatory manner.
- Take affirmative action, where discrimination has been found in the past, to overcome its effects.
- Ensure equal opportunity in employment and contracting opportunities connected with the Disaster Recovery CDBG program.
- Maximize choice within the community's total housing supply; lessen racial, ethnic, and economic concentrations of housing; and administer the Disaster Recovery CDBG program in a manner that affirmatively furthers fair housing.

- Develop/maintain records of efforts undertaken to ensure fair housing and conduct four quarterly activities each year to further fair housing.
- Facilitate desegregation and racially inclusive patterns of occupancy and use of public facilities.

The Civil Rights Checklist is used to monitor the Subgrantee and/or subrecipient for compliance with the civil rights issues discussed in this section.

1.9.1 Civil Rights Requirements: Laws, Statutes, and Executive Orders

Civil rights laws applicable to Florida CDBG-MIT programs are set forth in the following statutes and Executive Orders:

- **Title VI of the Civil Rights Act of 1964:** This act states that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of race, color, or national origin.
- **Section 3 of the Housing and Urban Development Act of 1968, as amended:** To the greatest extent feasible, employment and other economic opportunities, should be directed to low- and very low-income persons and business concerns which provide economic opportunities to low- and very low-income persons.
- **Title VIII of the Civil Rights Acts of 1968, as amended (Fair Housing Act):** This act prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin. It also requires HUD to administer its programs in a manner that affirmatively promotes fair housing.
- **Section 504 of the Rehabilitation Act of 1973, as amended:** This act states that no otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits, subjected to discrimination.
- **Section 109 of the Housing and Urban Development Act of 1974, as amended:** This act states that, under any program or activity funded in whole or in part under Title I or Title II of the act (regardless of a contract's dollar value), no person shall be excluded from participation (including employment), denied program benefits or subjected to discrimination on the basis of race, color, national origin, or sex.
- **The Age Discrimination Act of 1975, as amended:** This act states that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age.
- **Executive Order 11063:** This act states that no person shall, on the basis of race, color, religion, sex or national origin, be discriminated against in housing (and related facilities) provided with federal assistance, or lending practices with respect to residential practices when such practices are connected with loans insured or guaranteed by the federal government.
- **Executive Order 11246, as amended:** This act states that no person shall be discriminated against, on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of federal or federally assisted construction contracts in the excess of \$10,000.
- **Equal Access to HUD-assisted or Insured Housing—24 CFR 5.105 (a)(2)(i) and (ii):** This regulation requires equal access to housing in HUD programs, regardless of sexual orientation, gender identity, or marital status.
- **Chapter 760, Florida Statutes:** Which includes the Florida Civil Rights Act and Fair Housing Act.

1.9.2 Fair Housing

The first step in developing a fair housing program is to determine the needs of the community. This can be done by preparing the HUD required Analysis of Impediments to Fair Housing Choice. The State of Florida has prepared an Analysis of Impediments to Fair Housing Choice that is current in effect. The

analysis identified potential impediments to fair housing choice and includes actions to be undertaken to help overcome these impediments. The potential impediments include, but are not limited to:

- Local planning and zoning and land use controls.
- Lending practices of financial institutions serving the community.
- Real estate sales and rental practices within the community.
- Areas of minority population concentrations.
- Quality of services provided to areas with high concentrations of minority persons.

Fair housing activities that can be taken by the Subgrantee depend on the type and the fair housing needs in an area, but consideration should be given to:

- Adopting a local fair housing ordinance that is equivalent to the federal fair housing law and include enforcement provisions.
- Revising formal and informal policies and practices of the local housing authority.
- Modifying local planning, zoning, and land use laws to permit construction of multi-family housing and less expensive single-family housing.
- Revising zoning ordinances and comprehensive plans to insure they promote de-concentration of assisted housing units.
- Creating a local housing authority.
- Advertise the community as a “fair housing community”.
- Developing a public information and education program to promote fair housing and a fair housing assistance program for special needs populations such as minorities, single women, the disabled, and large family households.
- Provide information concerning housing services and activities that can be disseminated through agencies and organizations which routinely provide services to protected groups.
- Meeting with community financial institutions to encourage broad lending practices.
- Working with developers and residents to ensure that new assisted housing is located outside areas of minority or low-income concentrations.
- Assisting local housing developers in developing outreach programs to attract minorities and woman-owned businesses.
- Working with real estate brokers to promote non-discriminatory practices in real estate transactions.
- Include a “fair housing” logo on community stationary.
- Sponsoring fair housing seminars and campaigns.

Recipients of Disaster Recovery CDBG grants will be required to undertake at least four fair housing activities each year (one activity per quarter) to affirmatively further fair housing within the community during the time the sub-grant agreement is open. The Subgrantee will need to carefully document these activities because documentation will be required to demonstrate these activities were undertaken during monitoring visits.

The State of Florida Analysis of Impediments to Fair Housing Choice can be found in the 5-year Consolidated Action Plan at:

http://www.floridajobs.org/docs/default-source/2015-community-development/community-revitalization/cdbg/annual-action-plan/conplan2024aap2020.pdf?sfvrsn=a32c4ab0_2.

It is current through 2024 and contains a great deal of useful data.

HUD also has many excellent Fair Housing resources that can be found at <https://www.hud.gov/fairhousing>. State and subrecipient staff may use this resource to download print-ready posters, brochures and other written materials.

1.9.3 Equal Employment Opportunity

Equal Employment Opportunity is a family of laws that prohibit discrimination of various kinds against protected classes of people. The laws include the following:

- Title VII of the Civil Rights Act of 1964
- The Pregnancy Discrimination Act
- The Equal Pay Act of 1963
- The Age Discrimination in Employment Act of 1967
- Title I of the Americans with Disabilities Act
- Sections 102 and 103 of the Civil Rights Act of 1991
- Sections 501 and 505 of the Rehabilitation Act of 1973
- The Genetic Information Nondiscrimination Act of 2008

The State, unit of general local government (UGLG) or State subrecipient should strive to set a high community standard for providing equal employment opportunities. The State, unit of general local government (UGLG) or State subrecipient must maintain records documenting compliance with fair housing, equal opportunity and civil rights requirements.

Suggested actions for furthering such opportunities at the local level include:

- Preparing accurate job descriptions for basing all employment selection and testing criteria.
- Establishing a network of contacts, including workforce boards, newspapers, and radio and television stations, and notifying them of all CDBG-related position openings and requesting assistance in the recruitment process.
- Distributing recruitment literature to women and minority organizations, and organizations that assist the disabled and older workers, and where appropriate, translating the materials into other languages.
- Identifying minority, women, and disabled staff to assist with applicant interviews; and providing them with training in proper interviewing techniques.
- Encouraging employees to refer qualified minority and women candidates for job openings, training, promotions, and transfers.
- Evaluating local recruitment, hiring, and other personnel policies and materials to ensure that they do not contain or perpetuate discriminatory intent, practices, or procedures.
- Reviewing job turnover to determine vacancy patterns and to plan appropriate recruiting efforts.
- Establishing entry-level professional positions to provide career opportunities for employees, particularly for minorities and women.
- Working with the private sector to fill job openings that result from economic development activities, establishing procedures that facilitate nondiscrimination and increased opportunities for women, minorities, disabled, and lower-income residents.
- Taking affirmative action to overcome the effect of past discrimination.
- Advertising as an equal opportunity employer in bid solicitations.
- Soliciting bids from minority, women and locally owned businesses.
- Maintaining a list of locally owned businesses that were awarded contracts.
- Informing contractors of equal opportunity requirements at the pre-construction conference or through other means of notification.
- Monitoring contractor compliance at work sites.

1.9.4 Record Keeping

Local governments must maintain records documenting compliance with fair housing, equal opportunity, and civil rights requirements. Documentation must be obtained concerning:

- Employment in each local government operating unit which performs CDBG-MIT funded projects.
- The local government's affirmative actions to further fair housing.
- For direct benefit activities, records relating to persons who have participated in any CDBG-MIT funded program.
- For area-wide activities, information on the area and the services provided and the race and ethnic character of the service area.
- Race, ethnic character, age, handicapped status, gender of heads of households, and number of elderly benefiting from the project.
- Race and ethnic character of households and handicapped status of persons displaced as a result of CDBG-MIT activities.
- Actions undertaken to meet Section 3 requirements and the written Section 3 Plan.
- Information on the racial/ethnic character of each business that receives a contract or subcontract of \$10,000 or more paid with CDBG-MIT funds, including identification of women-owned businesses.
- The affirmative actions the local government has taken to overcome the effects of prior discrimination in administering a CDBG-MIT funded program.

1.10 Section 3

1.10.1 Section 3 Compliance

Section 3 of the Housing and Urban Development Act of 1968, as amended, requires FloridaCommerce to ensure that employment and other economic and business opportunities generated by HUD financial assistance, to the greatest extent feasible, are directed to low- and very low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low-income persons.

It is the policy of the Florida Department of Economic Opportunity's (FloridaCommerce) Office of Long-Term Resiliency (OLTR) to ensure that economic opportunities generated from U.S. Department of Housing and Urban Development (HUD) funded projects, to the greatest extent feasible, will be directed to low and very low-income persons, particularly those receiving assistance for housing, and the businesses that provide economic opportunities to these persons. OLTR will utilize its policies with the intent to direct opportunities to local residents and businesses by requesting all contractors and subrecipients to make a good faith effort to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

OLTR implements this policy through the awarding contracts to contractors, vendors, professional service providers, consultants and suppliers, to create employment and business opportunities for residents in in disaster declared areas throughout Florida and other qualified low- and very low-income persons. OLTR hopes to strengthen local economies and level the playing field for Section 3 workers and businesses who are most vulnerable post-disaster.

This policy will ensure that, in good faith, OLTR will have a reasonable level of success in the recruitment, employment, and utilization of Section 3 workers and other eligible persons and Section 3 business concerns working on contracts partially or wholly funded with the HUD monies. OLTR shall examine and consider a contractor's professional service provider, consultant or vendor's potential for success by

providing employment and business opportunities to Section 3 workers and business concerns prior to acting on any proposed contract award.

OLTR will encourage any entity receiving assistance through the CDBG-DR grant will comply with Section 3 requirements. These entities could be units of local government, public housing authorities, Indian tribes, or other public or private nonprofit organization. Housing and community activities related to Section 3 are housing construction, rehabilitation and/or other public construction activities.

The requirements of Section 3 are dependent upon the date of contract award.

- Contracts awarded before November 30, 2020 are subject to the Section 3 requirements in 24 CFR 135,
- Contracts awarded on or after November 30, 2020 are subject to the Section 3 requirements in 24 CFR 75

Contracts subject to 24 CFR 75 are also responsible for meeting the compliance requirements of 24 CFR 135 unless superseded by 24 CFR 75.

1.10.2 Section 3 Thresholds

Section 3 requirements apply for projects involving housing construction, demolition, rehabilitation or other public construction activities (e.g., roads, sewer, water, community centers) and the completion of these projects creates the need for new employment, contracting or training opportunities.

FloridaCommerce has incorporated Section 3 requirements into its program policies and has adopted a Section 3 contracting policy to be included in procurements with HUD funding. Section 3, 24 CFR 135, and 24 CFR 75 do not supersede the general requirement that all procurement transactions be conducted in a competitive manner. However, Section 3 allows geographic preference to be a consideration when evaluating a bid or proposal.

A person seeking preference under Section 3 has the responsibility to provide evidence (if requested) of eligibility for the preference. A Section 3 worker must meet the minimum qualifications of the positions to be filled and a Section 3 business that seeks preference must document (if requested) that it qualifies as a Section 3 business. A Section 3 business concern must have the ability and capability to perform successfully under the terms and conditions of the proposed contract. As acknowledgment of the Section 3 contracting and employment provisions required by this section, all contractors, as appropriate, seeking Section 3 preference must complete certification documents.

FloridaCommerce and covered contractors, subcontractors, professional service providers, consultants or subrecipients will in good faith comply with the requirements of Section 3 for new employment, training, or contracting opportunities resulting from the expenditure of HUD funding.

Contracts Awarded before November 30, 2020 (24 CFR 135)

Contracts awarded before November 30, 2020 are subject to the requirements of 24 CFR 135. Under this regulation, recipients of Housing and Community Development Assistance of at least \$200,000, and contractors or subcontractors that receive awards in excess of \$100,000 are subject to Section 3 requirements.

Contracts Awarded on or after November 30, 2020 (24 CFR 75)

Contracts awarded on or after November 30, 2020 are subject to the requirements of 24 CFR 75. Under this regulation, compliance with Section 3 is required for a recipient of Housing and Community Development Assistance on a per-project basis rather than per contracted program activity.

24 CFR 75.3(a)(2) defines project as the site(s) together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing. For individual projects with funding under \$200,000, Section 3 is encouraged but not required.

1.10.3 Section 3: Good Faith Effort

Safe harbor can be achieved through qualitative efforts made towards compliance such as outreach, training/apprenticeship opportunities, procurement, and/or technical assistance. At a minimum, the following tasks must be completed to demonstrate a good faith effort with the requirements of Section 3. OLTR and each contractor, subcontractor, professional service provider, vendor or supplier seeking to establish a good faith effort as required should be filling all training positions with persons residing in the target area.

1. Send notices of job availability subcontracting opportunities subject to these requirements to recruitment source, organizations, and other community groups capable of referring eligible Section 3 applicants.
2. Include in solicitations and advertisements a statement to encourage eligible Section 3 workers to apply.
3. When using a newspaper of major circulation to request bids/quotes or to advertise employment opportunities to also advertise in minority-owned newspapers.
4. Maintain a list of all residents from the target area who have applied either on their own or by referral from any service, and employ such persons, if otherwise eligible and if a trainee position exists. If the contractor has no vacancies, the applicant, if otherwise eligible, shall be listed for the first available vacancy. A list of eligible applicants will be maintained for future vacancies.

Any construction contractor, professional services provider, vendor or supplier must certify that any vacant employment position, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligation under 24 CFR Part 135.

1.10.4 What is a Section 3 Worker?

A Section 3 Worker is any employee who meets one of the following categories at the time of project or within five years of project start date or hire, whichever is later:

1. The worker's income for the previous or annualized calendar year is below 80% of the area median income for the area in which the worker resides. Use the worker's annual gross income based on AMI for a single-person household; or
2. The worker is employed by a Section 3 business concern; or
3. The worker is a YouthBuild participant.

FloridaCommerce will certify Section 3 program participants who reside in disaster-declared areas and are seeking preference in training and employment by completing and attaching adequate proof of Section 3 eligibility.

Current Section 3 workers who were certified under 24 CFR 135 must be re-certified under 24 CFR 75.

Contracts Awarded on or after November 30, 2020 (24 CFR 75)

For contracts awarded on or after November 30, 2020, per 24 CFR 75, there are additional requirements regarding total project hours that must be worked by Targeted Section 3 Workers.

A Targeted Section 3 worker is a Section 3 worker who is:

- A worker employed by a Section 3 Business concern; or
- A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - A resident of public housing or Section 8-assisted housing;
 - A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or

- A YouthBuild participant.

For Targeted Section 3 workers, grantees must document one of the following:

- Employer's confirmation that a worker's residence is within the Section 3 service area
- Employer's certification that the worker is employed by a Section business concern; or
- Worker's self-certification of YouthBuild participation.

1.10.5 What is a Section 3 Business Concern?

What determines a Section 3 Business Concern is dependent upon the date of contract award.

Contracts Awarded before November 30, 2020 (24 CFR 135)

For contracts awarded before November 30, 2020, a Section 3 Business Concern refers to a business that meets at least one of the following criteria:

- 51 percent or more owned by Section 3 Workers, or
- At least 30 percent of employed staff are currently Section 3 Workers or were Section 3 Workers within three years of the date of first employment, or
- 25 percent or more of subcontracts committed to Section 3 Business Concerns

Contracts Awarded on or after November 30, 2020 (24 CFR 75)

For contracts awarded on or after November 30, 2020, a Section 3 Business Concern refers to a business that meets at least one of the following criteria, documented within the last six-month period:

- At least 51 percent or more owned and controlled by low-or very low-income persons
- Over 75 percent of the labor hours performed for the business over the prior three-month period were performed by Section 3 workers; or
- A business at least 51 percent owned and controlled by current public housing residents or resident who live in Section 8-assisted housing

The six-month period starts the date the contract is executed or at any later point while the project is underway.

1.10.6 Section 3 Goals

FloridaCommerce has established employment and training goals that contractors and subcontractors should meet in order to comply with Section 3 requirement. To the greatest extent feasible, OLTR will comply with the minimum numerical goals listed below.

It is the responsibility of contractors, professional service providers, consultants, vendors and suppliers to implement progressive efforts to attain Section 3 compliance. Any firm that does not meet the Section 3 numerical goals must demonstrate why meeting the goal was not feasible.

Contracts Awarded before November 30, 2020 (24 CFR 135)

Contracts awarded before November 30, 2020 must meet the following conditions in order to be in compliance with section 3 requirements:

- 30 percent of the aggregate number of new hires, and
- 10 percent of the total dollar amount of covered construction contracts, and
- 3 percent of the total dollar amount of covered non-construction contracts

It is the responsibility of contractors, professional service providers, consultants, vendors and suppliers to implement progressive efforts to attain Section 3 compliance. Any firm that does not meet the Section 3 numerical goals must demonstrate why meeting the goal was not feasible.

Contracts Awarded on or after November 30, 2020 (24 CFR 75)

OLTR will comply with the minimum numerical goal that 25 percent of the total project hours be done by Section 3 workers, with 5 percent or more of the total hours of a project performed by targeted Section 3 workers.

Professional services that require specialized degrees or licensing are not subject to Section 3.

1.10.7 Section 3 Workers Recruitment, Training and Employment

FloridaCommerce will develop resources to provide training and employment opportunities to Section 3 program participants by implementing the following:

- Promoting outreach to recruit Section 3 workers through local community action agencies;
- Endorsing outreach to recruit residents in receipt of public housing assistance;
- Advocating outreach to recruit Section 3 business concerns;
- Coordinating outreach with Public Housing Agencies, Chambers of Commerce, community organizations, Small Business Administration and other local stakeholders;
- Encourage training and employment of Section 3; and
- Documenting actions taken to comply with Section 3.

FloridaCommerce will also provide contractors with a [directory of Section 3 certified businesses](#).

1.10.8 Section 3: Developers and Contractors Obligations

Under OLTR's Section 3 policy, funded subgrantees, subrecipients, and vendors will have the following responsibilities:

1. Conduct employment outreach to Section 3 eligible business concerns and Section 3 workers for sub-contracting and business opportunities.
2. Accept and give preferential business engagement consideration to Section 3 business concerns.
3. Document outreach efforts related to eligible business concerns and Section 3 workers.
4. Maintain proper documentation of utilization of Section 3 eligible business concerns.

1.10.9 Section 3 Reporting

All contractors are required to maintain documentation demonstrating compliance with the Section 3 Final Rule established in 24 CFR 75, and must be made available to FloridaCommerce upon request for monitoring.

Contracts Awarded on or after November 30, 2020 (24 CFR 75)

For contracts awarded on or after November 30, 2020, contractors will submit their collected information to FloridaCommerce through their Quarterly Performance Reports.

In accordance with 24 CFR part 75, annual Section 3 reports are required to be submitted by FloridaCommerce to HUD through the Disaster Recovery Grant Reporting System (DRGR) and are due by July 1st of each year. The report measures OLTR's effort in meeting the minimum numerical goals.

1.10.10 Section 3: Roles and Responsibilities

The Section 3 Coordinator will be responsible for ensuring compliance by:

- Identifying programs, projects and activities which may trigger Section 3 compliance for OLTR as the recipient of HUD funds
- Ensuring all Section 3 Clauses are in each Program's Contractor agreements

- Assisting in training the OLTR Programs to ensure they understand their responsibility concerning Section 3
- Monitoring each Program to assure they are assisting contractors where necessary
- Collecting required reports from Programs
- Reporting all annual DR program accomplishments regarding employment and other economic opportunities provided to low and very low-income persons under Section 3, to the Bureau Chief of Finance and Administration

Program Staff responsibilities include:

- Notifying Section 3 workers about training and employment opportunities and Section 3 businesses about contracting opportunities
- Inserting Section 3 Clauses into all Bid Documents (monitor if they are awarding funds to a subrecipient to carry out the Section 3 covered project)
- Inserting Section 3 Contract Clauses into contracts for Section 3 covered activities (monitor if they are awarding funds to a subrecipient to carry out the Section 3 covered project)
- Informing contractors or subrecipients of the language necessary to include in their agreements with all lower tiered contracts for Section 3 covered projects
- Annually updating Section 3 compliance documents with HUD Section 8 income limit
- Serving as point of contact for information regarding Section 3 compliance, reporting, business certification process and all other related matters
- Refraining from entering into contracts with contractors that fail to comply with Section 3
- Obtaining information necessary for the OLTR Section 3 Coordinator to collect HUD form 60002.
- Attending scheduled pre-bid, pre-construction, bid opening and construction meetings for all Section 3 covered projects that they are implementing directly and be available to attend when requested by a subrecipient when feasible
- Promoting outreach to recruit Section 3 workers through local community action agencies
- Endorsing outreach to recruit residents in receipt of public housing assistance
- Advocating outreach to recruit Section 3 business concerns
- Coordinating outreach with Public Housing Agencies, Chambers of Commerce, community organizations, Small Business Administration and other local stakeholders
- Encourage training and employment of Section 3
- Documenting actions taken to comply with Section 3 requirements, results of actions taken, and any impediments

Contractors' responsibility for Section 3:

- **For Contracts Awarded before November 30, 2020 (24 CFR 135)**
 - Meeting Numerical Goals
 - 30 percent of the new hires
 - 10 percent of the total dollar value of the construction contracts to Section 3 Business
 - 3 percent of the non-construction contract value
 - Conducting employment outreach to Section 3 eligible business concerns and Section 3 workers for sub-contracting and business opportunities
 - Accepting and giving preferential business engagement consideration to Section 3 business concerns
 - Documenting outreach efforts related to eligible business concerns and Section 3 workers

- **For Contracts Awarded on or after November 30, 2020 (24 CFR 75)**
 - Makes best effort to comply with Section 3 requirements by awarding contracts to business concerns that provide economic opportunities to Section 3 workers, where feasible
 - Document compliance efforts and submit timely reports to UGLG/Subrecipient/FloridaCommerce, as appropriate.

Subrecipient responsibilities include:

- Notifying Section 3 workers about training and employment opportunities and Section 3 businesses about contracting opportunities
- Inserting Section 3 Clauses into all Bid Documents (monitor if they are awarding funds to a subrecipient to carry out the Section 3 covered project)
- Inserting Section 3 Contract Clauses into contracts for Section 3 covered activities (monitor if they are awarding funds to a subrecipient to carry out the Section 3 covered project)
- Informing contractors or subrecipients of the language necessary to include in their agreements with all lower tiered contracts for Section 3 covered projects
- Serving as point of contact for information regarding Section 3 compliance, reporting, business certification process and all other related matters
- Refraining from entering into contracts with contractors that fail to comply with Section 3
- Obtaining information necessary for the OLTR Section 3 Coordinator to collect HUD form 60002
- Attending scheduled pre-bid, pre-construction, bid opening and construction meetings for all Section 3 covered projects that they are implementing directly and be available to attend when requested by a subrecipient when feasible
- Promoting outreach to recruit Section 3 workers through local community action agencies
- Endorsing outreach to recruit workers in receipt of public housing assistance
- Advocating outreach to recruit Section 3 business concerns
- Coordinating outreach with Public Housing Agencies, Chambers of Commerce, community organizations, Small Business Administration and other local stakeholders
- Encourage training and employment of Section 3
- Documenting actions taken to comply with Section 3 requirements, results of actions taken, and impediments, if any.

1.11 Constituent Management Services

1.11.1 Citizen Complaints and Inquiries

All complaints and inquiries that are brought forward to FloridaCommerce will be addressed through the Office of Long-Term Resiliency's Constituent Management Services staff. Complaints are any verbal or written statement of grievance – including phone calls, emails, faxes, or letters that are received by the state, its contractor, and/or other program sources. Inquiries are requests for information or assistance. All complaints and inquiries that are received will be reviewed by the Constituent Management Services staff for:

1. Investigation, as necessary;
2. Resolution; or
3. Follow-up actions.

Every complaint and inquiry will be included in the Constituent Management Services (CMS) Log. Constituent Management Services staff will maintain electronic files that include:

- Name of the complainant and contact information

- Date the complaint was received,
- Description of the complaint,
- Name of each person contacted in relation to the complaint,
- A summary of the result and the date of the response to complainant
- Explanation of the resolution of the file.

The state will provide a written response to all complaints within 15 working days of receipt of the complaint via email or U.S. mail. Following the initial response, the state will make every effort to provide a resolution to complaints within the 15-working day period. If a resolution cannot be reached within the 15-working day period, the complainant will receive a status update on the issue(s) and, if possible, a timeframe for when a resolution can be reached. Constituent Management Services Lead will monitor response times to ensure compliance and will adjust timeframes for additional responses as needed.

The aim of the state will be to always attempt to resolve complaints in a manner that is both sensitive to the complainant's concerns and appropriately addresses their needs, while complying with Program requirements as well as state and federal regulations.

The Constituent Management Services staff will review these complaints and inquiries at least monthly to determine if there is a pattern developing and, if so, determine if the issue warrants a policy change or further training.

Complaints and inquiries can be submitted in any of the following ways:

1. Directly to FloridaCommerce:
 - A. Via online by visiting the Rebuild Program website to complete an online complaint form by going to: <http://floridajobs.org/rebuildflorida/rebuild-florida-homeowner-complaint-form>
 - B. Via U.S. mail to:

Attention: Constituent Services Management
Florida Department of Economic Opportunity
Division of Community Development
107 East Madison Street Caldwell Building, MSC 420
Tallahassee, Florida 32399
 - C. Via email to: CMS@FloridaCommerce.myflorida.com
 - D. Contacting Constituent Management Services (CMS) staff directly. CMS e-mail addresses and phone numbers are listed on the Office of Long-Term Resiliency's main website (www.floridajobs.org/CDBG-DR).
2. Directly to a program-level representative:
 - A. Via calling the Rebuild Florida Program hotline at 844-833-1010 to receive assistance from a Call Center Agent.
 - B. In-person at an Intake Center to receive assistance from an Intake Specialist

A Complaint Log of all filed complaints at the Program level, with an Intake Specialist, the call center or other on-the-ground program representative is located on SharePoint under Departments > Applicant Relations > Complaint Tracker.

1.11.2 FloridaCommerce URA Appeals

Applicants may appeal any case in which he or she believes that FloridaCommerce has failed to properly consider his or her application for assistance. This includes, but is not limited to, the applicant's eligibility for, or the amount of, a payment required for relocation assistance. The applicant must appeal within 60 days of receiving a written determination from the program outlining the program's decision related to his or her eligibility for benefits or amount of benefits

Households have the right to appeal the following agency determinations:

- Eligibility for URA assistance, including the requirement to relocate
- Amount of relocation or other related expense payments
- Timeframe to exercise rights and entitlements of URA, including relocation timeframes

Households are encouraged to include any statement of fact or other material which they feel has a bearing on the appeal. Agency representatives may assist households in their appeal submission.

Appeals must be submitted within sixty (60) of the date the person receives notification of FloridaCommerce's decision regarding his or her claim and must be directed to FloridaCommerce in writing to the following postal address:

ATTN: URA APPEALS
Florida Department of Economic Opportunity Division of Community Development
107 East Madison Street
The Caldwell Building, MSC 400
Tallahassee, Florida 32399

For more information see Office of Long-Term Resiliency's Uniform Relocation Assistance Guide and Residential Anti-Displacement and Relocation Assistance plan that can be found [here](#).

1.11.3 Anti-Fraud, Waste, and Abuse (AFWA)

Rebuild Florida constituents, employees and contractors may report suspected fraud, waste, or abuse by contacting Constituent Management Services staff, submitting information via the Report Fraud, Waste or Abuse online form (<http://floridajobs.org/rebuildflorida/report>; (all contact information fields are optional to allow for anonymity) or by sending an e-mail to cdbg-dr_antifraudwasteabuse@FloridaCommerce.myflorida.com.

All suspected cases of fraud will be taken seriously, and complaints will be reported to OLTR's Compliance and Reporting Manager and FloridaCommerce's Office of the Inspector General at OIG@FloridaCommerce.myflorida.com. If FloridaCommerce's OIG determines that it is appropriate, it will coordinate its investigation with agencies such as the Florida Office of the Inspector General, the Florida Office of the Attorney General, or the Florida Department of Business and Professional Regulation.

All substantiated cases of fraud, waste, or abuse of government funds will be forwarded to the United States Department of Housing and Urban Development (HUD), Office of Inspector General (OIG) Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov) and FloridaCommerce's HUD Community Planning and Development (CPD) Representative. *OLTR must provide a timely response within 15 working days of the receipt of a complaint, as stated in 84 FR 169.*

Office of Long-Term Resiliency's comprehensive Anti-Fraud Waste and Abuse Policy can be found [here](#).

1.11.4 Public Records Request

Pursuant to Article 1, Section 24, Florida Constitution and Chapter 119, Florida Statutes, the Department of Economic Opportunity is subject to the Florida Public Records Law. Accordingly, unless an exemption exists, all records produced or received pursuant to law or in connection with the official business of the Department can be requested and provided for inspection. All Public Records requests will be processed in accordance with FloridaCommerce Administrative Policy 1.06, Processing Public Records Requests.

A Public Records Request may be verbal or take any form (e.g., email, written correspondence, in-person). The Public Records Act does not require that requests be in writing, comply with a certain form or have any specific content. A public records request may come from a member of the media, the general

public, an employee, or any other individual. FloridaCommerce cannot mandate receipt of the name of the requestor or purpose of the request in order to fulfill the Public Records Request.

A Public Record is defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance, or in connection with the transaction of official business by any agency.

Public records include all things made or received in connection with FloridaCommerce business. All such materials, electronic and on paper, regardless of whether they are in draft or final form, are open to public inspection unless exempt or confidential.

A revision to Chapter 119 went into effect on July 1, 2020 per Senate Bill 966 from the 2020 Florida State Legislature regular session that directly effects the Department of Economic Opportunity and its disaster recovery programs.

As a general matter, all Program related information is subject to Florida's public records laws, which may be viewed by anyone upon request. There are limited exemptions to Florida's public record laws. The following list of exemptions are applicable to the Rebuild Florida Program:

- Social security numbers; and/or
- Bank account numbers; and/or
- Documentation related to ongoing litigation and legal negotiations; and/or
- Limited proprietary information; and/or
- Certain persons in qualifying categories, E.G. active or former sworn or civilian law enforcement personnel; current or former firefighters certified in compliance with s. 633.408; current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors.

Senate Bill 966 retained the above exemptions, and expanded exemptions to include the following "Other Personal Information" relative to information held by the Department of Economic Opportunity, et al:

- Medical history records and information related to health; and/or
- Information related to property insurance; and/or
- Property photographs; and/or

The above items, personal identifying information (information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual), are considered confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution per Senate Bill 966.

To read Senate Bill 966 in its entirety, go to:
<https://www.flsenate.gov/Session/Bill/2020/966/BillText/er/PDF>

As an agent of FloridaCommerce and all subcontractors and employees are subject to Florida Public Record laws. All project documents and communications, even in draft form, are considered public records including, but not limited to, policies, training material, letters, emails, memos and texts. Any document or communication related to the project, that are not exempt, is a public record.

The Public Record Coordinator is the person appointed by FloridaCommerce charged with the responsibility of maintaining the Office of Public Records, including processing and tracking public record requests. The Public Records Coordinator is responsible for overseeing FloridaCommerce's compliance with public record/open government requirements and maintains a complete record of all FloridaCommerce public record requests and corresponding disclosures. The Public Records Coordinator also serves as the primary liaison between FloridaCommerce and the Office of Open Government in the Executive Office of the Governor.

The Office of Long-Term Resiliency's Constituent Services Management Lead will act as a Public Record Division Liaison and is the primary contact for all public record requests regarding the Office of Long-Term Resiliency/Rebuild Florida Program. The Office of Long-Term Resiliency's Public Record Division Liaison will coordinate with the respective managers of each program to determine (1) what is and what is not a responsive record; and (2) where to find all responsive records.

1.11.4.1 Public Records Request Procedure

1. Intake and Processing

- A. When an Employee receives a Public Records Request:
 - i. All employees who receive a Public Records Request will immediately forward the request to the Public Records Coordinator (PRRequest@FloridaCommerce.myflorida.com) for acknowledgement and tracking.
 - ii. Employees should then immediately notify their supervisor and Division Liaison regarding the request.
 - iii. Any Employee receiving a Public Records Request will immediately coordinate with a supervisor and the Division's Public Records Liaison regarding questions pertaining to the request such as: (i) what is and what is not a responsive record; and (ii) where to find all responsive records.
 - iv. Employees will diligently and expeditiously work with their Division Liaison to gather all responsive records to provide to the Public Records Coordinator, however collaboration with the Public Records Coordinator is expected throughout the process.
 - v. The Public Records Coordinator will remain, at all times, the point of contact between the requestor and FloridaCommerce.
- B. When a Division Liaison receives a Public Records Request:
 - i. Division Liaisons will immediately forward the request to the Public Records Coordinator (PRRequest@FloridaCommerce.myflorida.com) for acknowledgement and tracking.
 - ii. Division Liaisons will then work with staff in their Division to expeditiously gather all responsive records to provide to the Public Records Coordinator.
 - iii. The Public Records Coordinator will remain, at all times, the point of contact between the requestor and FloridaCommerce.
 - iv. When the Public Records Coordinator receives a Public Records Request:
 - v. The Public Records Coordinator will communicate with the requestor to acknowledge receipt of the public record request by email, letter, or facsimile, as appropriate.
 - vi. The Public Records Coordinator will then work with Division Liaisons to gather all responsive records to complete the request.
 - vii. If the request is from a member of the media, the Public Records Coordinator will immediately forward the request to the Office of Communications and External Affairs (media@FloridaCommerce.myflorida.com). The Office of Communications and External Affairs will acknowledge all media Public Records Requests. The Public Records Coordinator will be informed of all responses to media that include public records.
- C. Estimates
 - i. The Public Records Coordinator will communicate in writing with the requestor to provide the actual cost and an estimate of the special service charge, if applicable.

- ii. Payment of the estimated costs is required prior to processing the records for production.
- iii. Review and Redaction
- iv. Once the requested materials have been gathered by the Division, the Division will redact confidential and exempt information before releasing the records to the Public Records Coordinator for transmittal.
- v. The Division will specify and provide all citations for any redactions.
- vi. The Liaison and/or Division employee will consult with OGC as necessary regarding redactions.
- vii. Each Division is responsible for redacting records with redaction tape or electronically and, if necessary, must be prepared to assume the cost of paper copies used in the redaction process. Do not redact with a marker.

2. Production of Records to Requestor

- A. Responses to Public Records Requests will be made within a reasonable time taking into account the extent and nature of the request.
- B. Copies of the request, acknowledgment, response, invoice, records produced, or a record of what was produced, any related correspondences, and payments will be maintained by the Public Records Coordinator.
- C. When the requestor requests in-person inspection of the records, and all necessary fees have been paid, the Public Records Coordinator and the Division Liaison, if necessary, must supervise the inspection of records to ensure confidential information is protected.

3. Public Record Requests for Email Correspondences

- A. The Public Records Coordinator will review the request and consult with the requestor and Liaison as necessary, to determine possible search terms and time frames to obtain the information requested.
- B. The Public Records Coordinator will provide the request for emails to IT with search terms and time frames.
- C. Once emails have been retrieved by IT, an estimate will be transmitted by the Public Records Coordinator, if applicable, including the cost of retrieval and review of the emails for exempt or confidential information.
- D. Upon retrieval and payment of necessary costs by requestor, the Public Records Coordinator will provide the emails to the Division Liaison for review and redaction (if required), and then provide all responsive documents to the requestor.

1.11.5 Appeals

All applications, guidelines and websites will include details on the right to file a complaint or appeal, and the process for filing a complaint or beginning an appeal.

1.11.5.1 Appeals Process

Throughout the process, decisions will be made on an application and/or project to be delivered. The decisions are made based on statutes, codes of federal regulation, local administrative code, state and local guidelines as they are interpreted by the Program. Applicants have a right to participate in the process, and where they believe that a mistake has been made regarding their file, the Program includes an appeal process to provide the applicant with a mechanism for requesting further review on a decision made on their file. Program policies are not appealable.

1.11.5.2 Formal Appeal/Notice of Administrative Appeals Rights

Any person whose substantial interests are affected by FloridaCommerce's determination has the opportunity for an administrative hearing pursuant to section 120.569, Florida Statutes. For the required

contents of a petition challenging agency action, refer to rules 28-106.104(2), 28-106.20(2), and 28-106.301, Florida Administrative Code.

Depending on whether or not material facts are disputed in the petition, a hearing will be conducted pursuant to either sections 120.569 and 120.57(1), Florida Statutes, or sections 120.569 and 120.57(2), Florida Statutes. Pursuant to section 120.573, Florida Statutes, and Chapter 28-106, Part IV, Florida Administrative Code, mediation is available to settle administrative disputes. Any petition must be filed with the Agency Clerk within 30 calendar days of receipt of FloridaCommerce's determination

If an applicant files a request for reconsideration or informal appeal, the requirement to timely file a petition challenging agency action will be tolled until a decision under either method is rendered by the Department. At that time a new appeal window will begin. No applicant will lose their rights under Chapter 120, Florida Statutes, by filing a request for reconsideration or request for informal appeal.

Any petition must be filed with the Agency Clerk within 30 calendar days of receipt of this determination. A petition is filed when it is received by:

Agency Clerk

Department of Economic Opportunity

Office of the General Counsel

107 East Madison Street, MSC 110

Tallahassee, Florida 32399-4128

Fax: (850) 921-3230

Email: Agency.Clerk@FloridaCommerce.myflorida.com

1.11.6 Uniform Relocation Act (URA) Appeals

Tenants may appeal in any case in which he or she believes that the Program has failed to properly consider his or her application for assistance. This includes, but is not limited to, the tenant's eligibility for, or the amount of, a payment required for relocation assistance. The tenant must appeal Program decisions related relocation assistance within 30 days of receiving a written determination from the Program outlining the program's decision related to his or her eligibility for benefits or amount of benefits. The URA appeals process will be governed by FloridaCommerce's administrative appeals process.

1.11.7 Fair Housing Complaints

Persons alleging a violation of fair housing laws will be referred to FloridaCommerce's local contact and process to file a complaint. FloridaCommerce will retain a log and record of all fair housing inquiries, allegations, complaints, and referrals. In addition, FloridaCommerce will report suspected non-compliance to HUD. The contact for Fair Housing Complaints is:

CMS@FloridaCommerce.myflorida.com

1.11.8 Citizen Participation Plan

Florida values citizen and stakeholder engagement. Florida has developed a Citizen Participation Plan in compliance with 83 Fed. Reg. 5844, 83 Fed. Reg. 40314, § 24 CFR 91.115 and applicable U.S. Housing and Urban Development (HUD) requirements to set forth the policies and procedures applicable to citizen participation. This plan is intended to maximize the opportunity for citizen involvement in the planning and development of the CDBG-MIT Program.

In order to facilitate citizen involvement, Florida has laid out target actions to encourage citizen participation and allow equal access to information about the Rebuild Florida program. Florida intends to focus outreach efforts to facilitate participation from individuals of low-and moderate-income, those living in slums and blighted areas, those living in areas identified for recovery through Rebuild Florida, non-

English speaking persons and other disadvantaged populations. Florida will publish its action plan in Spanish, French Creole and English.

FloridaCommerce's Citizen Participation Plan is available on the Mitigation website at:

http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/cdbg-mit-citizen-participation-plan-12-15-2020.pdf?sfvrsn=95054ab0_2

1.11.9 Client and Public Outreach and Communication

The public outreach strategy used to market the Rebuild Florida Program is complex and multifaceted. It is outlined in detail within a separate Strategic Communications Plan and requires all external communications to be sent to FloridaCommerce for approval prior to usage. Outreach for MIT included seven community workshops held around the state and meetings with state agency heads as part of development of the State Action Plan, and distribution of press releases. The presentation given at the community workshops is available on the Mitigation webpage, <http://www.floridajobs.org/rebuildflorida/mitigation>. Since program launches occurred, further outreach and communication has included press releases, email campaigns and outbound call campaigns to stakeholders.

FloridaCommerce's Communication Strategy is available as a separate attachment.

1.11.10 Management of the Website

1.11.10.1 Introduction and Purpose

FloridaCommerce manages a set of disaster recovery webpages and a set of webpages devoted to Rebuild Florida programs that serve as the primary repository of information for the state of Florida's disaster recovery and mitigation actions and resources. For information and resources specific to the Rebuild Florida Mitigation program see <http://www.floridajobs.org/rebuildflorida/mitigation>. The website contains links to all Action Plans, Action Plan Amendments, quarterly performance reports (QPRs), the Citizen Participation Plan, procurement policies, procurement notices and/or advertisements, executed contracts, activity/program information for activities described in the Action Plan and other information relevant to CDBG-MIT program funds.

1.11.10.2 Action Plan

FloridaCommerce will make available via its CDBG-MIT website its initial Action Plan, all amendments to the initial Action Plan, and a master version of the Action Plan, which will be inclusive of all amendments. In addition, FloridaCommerce will provide for the ability for the public to submit comments relative to the items covered in the initial Action Plan and subsequent amendments.

Initial Action Plan

The initial Action Plan for CDBG-MIT activities will be posted to FloridaCommerce's website and made available for the public's review in accordance with federal regulations. Once the public comment period has expired, the Action Plan will be submitted to HUD for review and approval. Upon receiving approval from HUD, the date of approval will be clearly indicated on FloridaCommerce's website.

Amendments

Substantial amendments to the initial Action Plan (i.e. those that result in a change in program benefit or eligibility criteria, the allocation or re-allocation of more than 25% of the total HUD CDBG-MIT allocation to the state, or the addition or deletion of an activity) will be posted to FloridaCommerce's website and made available for the public's review in accordance with federal regulations. Once the public comment period has expired, the amendment will be submitted to HUD for review and approval.

All substantial amendments will be translated into Spanish and Haitian Creole –the languages identified by FloridaCommerce's language analysis of Limited English Proficient (LEP) Floridians in areas impacted by 2016 and 2017 disasters. FloridaCommerce will ensure that all citizens have equal access to

information about the programs, including persons with disabilities (vision and hearing impaired) and limited English proficiency (LEP). FloridaCommerce’s website features embedded technology to provide accessibility to the visually impaired and includes an Interpretive Translation Notice informing citizens in 15 different languages that translation services are available upon request.

FloridaCommerce will notify HUD of non-substantial amendments to the initial Action Plan but will not post them to the FloridaCommerce’s website for public comment. Once HUD has acknowledged receipt of a non-substantial amendment or after five days have elapsed since the submission to HUD, FloridaCommerce will post the non-substantial amendment to its website.

All amendments (substantial and non-substantial) will be numbered sequentially and incorporated into FloridaCommerce’s Master Action Plan for Mitigation.

Master Action Plans

FloridaCommerce will maintain Master Action Plans that will serve as a single point of reference with regards to its plans for utilizing the CDBG-MIT appropriations. The CDBG-MIT Master Action Plans will incorporate all amendments and will be made available to the public via FloridaCommerce’s website.

Public Comments

In accordance with federal regulations and in the interest of ensuring that the public is afforded ample opportunities to provide feedback to FloridaCommerce on its plans for the recovery effort, FloridaCommerce will make available multiple methods by which public comments can be submitted:

Florida Department of Economic Opportunity
Office of Long-Term Resiliency
The Caldwell Building
107 East Madison Street, MSC 400
Tallahassee, FL 32399

CDBG-MIT@FloridaCommerce.myflorida.com

The website will clearly identify the individual serving as the primary point of contact for all public comment related communications.

1.11.10.3 Reporting

As required by HUD and furthering FloridaCommerce’s commitment to transparency, FloridaCommerce will complete a Quarterly Performance Report (QPR) detailing the expenditures, accomplishments, and beneficiaries associated with the appropriation of funding over each quarter. All quarterly reports are due to HUD on the 30th of each month after a quarter ends. FloridaCommerce will post each QPR when it is submitted to HUD. Initially, the report will be labeled as “Pending HUD Approval” until FloridaCommerce receives notification from HUD that the QPR has been reviewed and accepted.

1.11.10.4 Grants Management

FloridaCommerce will post the policies and procedures that govern its management of the CDBG-MIT funding in order to ensure that all individuals are afforded an opportunity to gain an understanding of how the Department manages the mitigation dollars.

Policy Manual

FloridaCommerce’s Office of Long-Term Resiliency (ODR) Policy Manual sets forth the policies and procedures by which FloridaCommerce manages its mitigation funding – with respect to ensuring compliance with applicable local, state, and federal rules and regulations. The manual will be updated on an as needed basis and FloridaCommerce will ensure that the latest version of the manual is available on its website.

Internal Controls

In addition to the topics covered in the FloridaCommerce's Policy Manual, FloridaCommerce will post to its website additional documents that address the various internal controls put in place to ensure the appropriate use and management of the CDBG-MIT funds:

- Compliance Monitoring Plan
- Purchasing Policy
- Purchasing and Contracting Guidelines
- Anti-Fraud, Waste and Abuse policy

Policy Unit staff of the FloridaCommerce's Office of Long-Term Resiliency coordinates reviews with staff from relevant bureaus/units on a quarterly basis to ensure that FloridaCommerce's Policy Manual and the documents that address the internal controls accurately describe FloridaCommerce's administrative and program operations at any given point in time. At a minimum, Policy Unit staff will make changes to the policies and procedures on an annual basis; however, changes determined to be of critical importance or that address or cause a substantive change to the ODR's operations will be made within 30 days of the change being approved.

Contracts

ODR will post to its website copies of all executed contracts as well as a list of all ODR and subrecipient contracts updated on a monthly basis. In addition, any substantial amendments to those contracts (e.g., contract value is increased, or scope of services is revised) will be posted to ODR's website.

Further, ODR will make available information (via a link to FloridaCommerce's Purchasing Department webpage) on the status of services or goods currently being procured. Information on the phase of the procurement, requirements for proposals, winning bidder, etc. will be included.

Points of Contact

An organizational chart depicting ODR leadership and the personnel responsible for managing the CDBG-MIT funding will be posted to FloridaCommerce's website. Contact information for key personnel will be included as well. If a material staffing change occurs, ODR will update the applicable item(s) within 30 days of the official change.

1.11.10.5 Accessibility of Information

FloridaCommerce strives to implement an all-inclusive implementation strategy that recognizes the diversity of the citizens of the state of Florida. To that end, FloridaCommerce will translate all vital program documents into Spanish and Haitian Creole (as determined by the completion of a Limited English Proficiency analysis) and make available staff members that are able to communicate effectively with non-English speakers.

In addition, the FloridaCommerce's CDBG-MIT website will utilize features allowing for automatic translation into the language of the reader's choice via Google translation services.

1.11.10.6 Website Maintenance Procedures

The ODR's Communications Unit directs and supervises the content of the website. Staff within the Communications Unit develops the narrative and visual content. The Communications Specialist is responsible for updating the website, usually on a monthly basis, with information they receive from CDBG-MIT staff members within ODR and from other areas of FloridaCommerce (e.g., Finance, Purchasing, etc.).

Florida Department of Economic Opportunity
Office of Long-Term Resiliency
Attention: Communications Specialist Andrew Wilber

107 East Madison Street
Caldwell Building, MSC 400
Tallahassee, FL 32399
(850)-717-8447

Andrew.Wilber@FloridaCommerce.myflorida.com

FloridaCommerce maintains an Office of Long-Term Resiliency website providing information for all programs funded by CDBG-DR and CDBG-MIT funding (<http://www.floridajobs.org/rebuildflorida/>) in addition to the stand-alone CDBG-MIT website, <http://www.floridajobs.org/rebuildflorida/mitigation>.

1.12 Reporting, Records Management and Retention

FloridaCommerce will maintain Program records in accordance with FloridaCommerce policies and procedures for records retention. Regarding Program records that relate to individual property activities, applicant files will be maintained within the FloridaCommerce System of Record. The FloridaCommerce System of Record is built on the Salesforce platform. The System of Record has been built by and will be maintained by FloridaCommerce-procured resources. Salesforce should be designed to maintain project/applicant files that document the activities undertaken with respect to specific individual beneficiaries, property owners and/or properties. Any paper records produced during the course of Program implementation will be turned over to FloridaCommerce for FloridaCommerce retention upon contract closeout.

FloridaCommerce requires subrecipients to maintain all program- and project-related documentation such as financial records, supporting documents, and statistical records. Per 24 CFR 570.490, these records must be retained for a period of not less than five (5) years after the physical year of the grant or three (3) years after grant closeout with HUD, whichever is longer. The subrecipient will be provided with guidance and technical assistance regarding establishment of a filing system to keep records that is easy to use while providing an accurate account of activities for examination and review by the FloridaCommerce disaster recovery grant manager, auditors, and local subrecipient staff. CDBG-MIT records are subject to the Freedom of Information Act and relevant state laws regarding public availability. The filing system should be established on a project basis. Files should, to the extent possible, be maintained in a central location.

1.12.1 File Security

All records will be maintained in an electronic format. File security is defined between FloridaCommerce and the System of Record vendor.

1.12.2 Record Retention

Records are maintained to document compliance with Program requirements and federal, state, and local regulations and to facilitate an audit review by HUD. Records are maintained in accordance with 24 CFR 570.3, which states they must be maintained for a period of five years following the closeout of HUD's grant agreement with the State. Proper records management ensures that:

- The State complies with all requirements concerning records and records management practices under Federal and state regulations;
- The State has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements and community expectations;
- These records are managed efficiently and can be easily accessed and used for as long as they are required; and

- These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner based on HUD Handbook 2225.6, Records Disposition Schedules and HUD Handbook 2228.2.

1.13 Compliance Monitoring

A separate document titled [Compliance Monitoring Plan](#) provides a series of systematic procedures and activities that ensures compliance with CDBG-DR and CDBG-MIT requirements. ODR has established this Monitoring Plan to:

- Gauge the overall progress and effectiveness of program implementation.
- Identify and resolve compliance issues that may compromise program integrity, funding, and service delivery.
- Identify areas that would benefit from technical assistance and/or training.

The Monitoring Plan and Standard Operating Procedures (SOPs) will allow ODR Compliance to carryout activities uniformly, efficiently and effectively. The monitoring plan may be updated as needed based on program design, risk assessment results, and any policy changes to federal and local requirements over the life of the grant.

1.13.1 FloridaCommerce Monitoring for Civil Rights Requirements

Following a grant award, the State, unit of general local government (UGLG) or State subrecipient is required to adhere to and monitor performance relating to civil rights requirements. The areas of the review include the following:

- Current employment and personnel policy;
- Civil rights profile;
- Job advertisements;
- Employment discrimination complaints;
- Employment data that indicates that persons are not being denied benefits or treated differently because of their race, color, sex/gender, national origin, or disability status;
- Documentation of steps taken to further fair housing during the year and the annual fair housing activity;
- Housing discrimination complaints and documentation describing the process used to handle such complaints;
- Board minutes indicating when the local fair housing ordinance was adopted; and
- The title of the civil rights compliance officer.

1.13.2 Quality Assurance/Quality Control (QA/QC) Procedures

Quality Assurance/Quality Control (QA/QC) review is an independent and objective activity intended to add value and improve the Florida Department of Economic Opportunity (FloridaCommerce) Office of Long-Term Resiliency (ODR)'s Community Development Block Grant – Mitigation (CDBG-MIT) operations while reducing risks of HUD and program nonconformance. To achieve these objectives, ODR will:

- Exercise impartial, unbiased professional care when completing QA/QC reviews.
- Exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information, findings, and conclusions about the processes and data being examined.
- Ensure a balanced assessment of each file review by not being unduly influenced by their own interests or by others in forming judgments.

ODR's QA/QC plan was developed to outline a formal process to identify potential compliance issues and implement best practices for disaster recovery. More specifically, this plan and review checklists will assist ODR in complying with program monitoring requirements and:

- Perform file reviews and utilize data collected during the desk review process to improve program processes and procedures.
- Monitor programs that are operating within the terms of the Action Plan, approved by HUD, and program guidelines established by ODR.
- Confirm that program expenditures/draw requests are eligible based on applicable laws and CDBG regulations.
- Report exceptions and concerns to reduce HUD monitoring concerns, findings, and/or repayment.
- Follow-up with identified compliance issues, initiate corrective actions, and implement program controls, as necessary.
- Implement continuous process improvement.

1.13.2.1 Training

Beyond the recommendations made in compliance review reports, QA/QC can be a valuable tool in educating program staff giving ODR the advantage of reviewing a population of program applications and utilizing these reviews to gain a strong understanding of common, systematic issues.

Gathering information on work product, root cause investigations, and opportunities for improvement, the QA/QC Team Lead will provide supplemental training on those subjects that the Bureau Chief of Finance and Administration believes are necessary for program success.

1.14 Grant Closeout

After all the activities are completed and all the subrecipient agreements are final closed, the Office of Long-Term Resiliency can closeout the grant with HUD. The Grant Accounting Office completes and signs Standard Form 424 (Federal Financial Report) and completes HUD Form 40153 (State CDBG-Closeout Checklist). Form 40153 is signed by the FloridaCommerce Executive Director or authorized designee. These forms, as well as all attachments, are mailed to the:

Director, Office of Block Grant Assistance
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, DC 20410
or as specified by HUD

Part 2: Regulatory and CDBG-MIT Specific Processes for Subrecipient and Subgrantee Managed Disaster Programs

2.1 Duplication of Benefits Procedures for Subrecipients/Subgrantees

Subrecipients must comply with The Robert T. Stafford Act and associated Duplication of Benefits guidance as detailed in Section 1.2, Duplication of Benefits, of this document. FloridaCommerce will provide Standard Operating Procedures for subrecipients to follow when a duplication of benefits occurs. These Procedures will be available on the Mitigation website.

The FloridaCommerce DOB review process includes forms to assist subrecipients and program staff in determining the amount of financial assistance that may be available to eligible Mitigation subrecipients and to help ensure a duplicative benefit is not received by an applicant. Applicants requesting CDBG-MIT funds will be required to submit the following forms for all proposed activities prior to approval:

1. FEMA Declaration and Release Authorization Form, if applicable
2. Florida Eligibility Release Form, if applicable
3. Florida Duplication of Benefits Calculation Form, if applicable
4. Duplication of Benefits Exception Acknowledgement Form, if applicable
5. Florida Insurance Affidavit, if applicable
6. Florida Subrogation and Assignment Agreement

Grant Managers will be responsible for obtaining documentation from subrecipients to determine if they received benefits from other sources and to confirm that these funds were not used to duplicate any benefits. A best practice related to DOB analysis is for grantees or subrecipients to coordinate with FEMA, NFIP, and SBA via a Memorandum of Understanding to establish a process to obtain data related to the assistance these agencies have provided.

Subrecipients are required to maintain original completed forms and support documentation in contract files, and one copy of completed forms and support documentation are to be submitted to the FloridaCommerce Grant Manager assigned to the subgrant agreement. Subrecipients must also address the requirement of any DOB forms required by their local government's policies and procedures.

FloridaCommerce program staff will review subrecipient files during monitoring visits. If a duplicative benefit is discovered after a mitigation award was made, the subrecipient will be required to recapture the amount of duplicative benefits provided and return the duplicative amount to FloridaCommerce. FloridaCommerce will withhold payment on any project or suspend activities if a duplicative benefit issue is not resolved. FloridaCommerce will not complete the subgrant closeout processing until all identified duplication of benefits issues are resolved.

Standardized monitoring checklists are used to evaluate project files and to determine if the subrecipient has adequately reviewed applicants for these activities to prevent a potential duplicative benefit. Monitoring checklists may be found in the [CPD Monitoring Handbook 6509.2](#). Further information on monitoring can be found in the [Compliance Monitoring Plan \(CMP\)](#) located on the FloridaCommerce Office of Long-Term Resiliency website.

2.2 Environmental Review Record Subrecipient/Subgrantee Responsibilities

The CDBG-MIT funds will be used to fund disaster mitigation programs to better protect Florida from future disasters. These funds are made available to FloridaCommerce's subrecipients through the following subrecipient-administered programs: Critical Facility Hardening Program, General Planning Support Program and Mitigation General Infrastructure Program. The Subrecipient is the RE for subrecipient projects and as such is responsible for completion of the ERR and submittal to FloridaCommerce for review and acceptance by the Certifying Officer. The subrecipient can either conduct the review themselves or hire a qualified consultant to do so. The RE then supplies the ERR to FloridaCommerce for review, identification of additional needs, approval and certification. The six primary responsibilities of Grantees/Subrecipients related to completion of the environmental review record process are:

- Designate an Environmental Officer to conduct the environmental review record process.
- Confirm that the Environmental Officer is provided with guidance and technical assistance during the environmental review process.
- Assure that no CDBG-MIT funds (except those that are administration or planning requests) are released until all environmental review record requirements have been satisfied.
- Verify that proper environmental certification has been completed including documentation and public notice and comment periods, if required.
- Conduct re-evaluation of the environmental review record process when there are modifications to proposed project activities that are not exempt.
- Satisfy monitoring requirements, including an examination of the environmental review record process and project specific ERRs.

2.3 Compliance Monitoring Plan, CDBG-MIT Programs

2.3.1 Introduction

Per CDBG regulations at 24 C.F.R. 570.501(b), grantees of CDBG-MIT funds are responsible for carrying out their programs in compliance with CDBG-MIT program, statutory, and regulatory requirements, including monitoring their project administrators, contractors, and subcontractors.

Additionally, 2 CFR 200.328 states that the non-federal entity is responsible for the oversight of the operations of federal award supported activities and that such monitoring must cover each program, function, or activity.

As such, throughout the application, planning, design, and implementation phase of the program(s), FloridaCommerce's OLTR will conduct monitoring of processes, procedures, policy, applications, planning, design, construction, and other applicable phases. OLTR will work to ensure that programs are operating efficiently and effectively and that CDBG-MIT funds are being used appropriately. Conducting effective monitoring of program compliance with program guidelines, requirements, and procedures is important for identifying areas of strong performance and areas that need improvement and/or corrective action.

OLTR has established the Compliance Monitoring Plan (CMP) to:

- Gauge the overall progress and effectiveness of program implementation.
- Identify and resolve compliance issues that may compromise program integrity, funding, and service delivery.
- Identify areas that would benefit from technical assistance and/or training.

The CMP will allow OLTR's Compliance Unit to carry out activities uniformly, efficiently, and effectively. The CMP may be updated as needed based on program design and any applicable changes to federal and local requirements over the life of the grant.

2.3.2 Types of Monitoring

OLTR will perform an initial risk assessment to evaluate each program to determine what level of monitoring will be conducted to ensure that all projects are compliant. A range of monitoring methods will be used including, but not limited to:

- **Desk Reviews** – a review of documents submitted by program staff, subrecipients, and contractors/vendors.
- **Onsite Reviews** – a review of documentation of eligibility and national objective compliance, financial expenditure records, interviews with staff, and inspection of records for the CDBG-MIT activities conducted.
- **Strike Team Reviews** – pre-monitoring assistance provided during both the early stages of program development and during instances of program staff turnover to assess critical risks and rebuild capacity, including a review of detailed processes to preempt any potential future compliance issues.

Standardized monitoring checklists will be used to ensure consistency and to provide a detailed record of the monitoring. The monitoring checklists are tailored from the HUD monitoring exhibits found in the CPD Monitoring Handbook (6509.2).

2.3.3 Risk Analysis

OLTR will conduct risk analyses annually on all programs in order to identify those entities and programs that are most susceptible to fraud, abuse, or mismanagement. OLTR will primarily review Program award and allocation amounts in determining the risk level of entities and programs. OLTR will consider:

- The amount of funding an entity has received or been awarded as a factor in determining level of risk.
- Entities who have allocations totaling above \$5 million as being high risk.
- Entities who have not expended initial funding within an appropriate timeframe and have allocations in between \$2 and \$4 million.

OLTR's Compliance Unit may also utilize a program and subrecipient risk assessment as an additional measure to provide critical information and effectively target resources toward entities and programs that pose other risks to the integrity of OLTR's CDBG-MIT funding. The CMP includes a Risk Matrix which lists the general risk assessment criteria. In addition to the quantitative measures listed in the matrix, qualitative risk factors may also be considered. The consideration of qualitative risk factors will not change the overall risk score but may provide justification for including an entity in the Monitoring Workplan and Approach. Such qualitative factors include but are not limited to local media reports, litigation, major new programs undertaken, subsequent disasters, staff turnover, and citizen complaints.

2.3.4 Monitoring

After the risk analyses are complete and results are finalized, high-risk programs, as identified through the primary factors above, may be reviewed more frequently. Technical assistance may be provided for additional guidance and support.

As necessary and possible, OLTR will conduct programmatic and fiscal monitoring reviews for each active CDBG-MIT program or subrecipient (2 CFR 200.332(b)). Desk reviews may be performed if an onsite review is not feasible. Additional monitoring may occur if a matter is uncovered by an external audit or additional monitoring is necessitated by the possibility of fraud, waste, or mismanagement.

2.3.5 Strike Team Support

Once a program risk assessment is completed on a new program and if assistance needs are identified in the early stages of program development, FloridaCommerce may approve Strike Team Support. The Strike Team coordinates with FloridaCommerce program staff to ensure full understanding of program status and complete pre-monitoring assistance to address identified potential risks that may arise as the program progresses towards implementation and establishes a work plan to implement solutions throughout the life of the program. Following are the three stages of the Strike Team Support process:

1. Post-Program Risk Assessment and Work Plan Development
 - A. Identify key findings of assessment and discuss remedies with program staff.
 - B. Develop recommendations for resolving identified risks.
 - C. Collaborate with program staff to develop goals and action items for recommendations.
 - D. Develop key milestones and due dates for action items.
 - E. Incorporate work plan into the program implementation timeline.
2. Program Implementation
 - A. Re-evaluate program for identified risks and make assessment on improvements made or outstanding risks to be addressed.
 - B. On-going collaboration with program staff to address risks and complete workplan.
3. Risk Reduction Feedback/Results
 - A. Develop a summary of how the risk analysis recommendations and workplan goals or action items resulted in a measurable reduction in risk within the program, which also includes program best practices and lessons learned.
 - B. Circulate throughout FloridaCommerce, as appropriate, to be referenced for similar programs going forward as institutional knowledge to reference.

2.3.6 Monitoring Process

2.3.6.1 Programmatic Monitoring

Programmatic monitoring can be triggered with any of the following:

- Program/Activity Risk
- Any fiscal-related activity (see section 2.3.7 Fiscal Monitoring)
- Concern(s) for timely activity completion
- OLTR program staff communication regarding:
 - Invoicing/drawdowns
 - Upcoming activity closure
 - Any other issues related to the Program/Activity

The monitoring review is broken into 4 stages: planning, fieldwork, reporting, and response.

2.3.6.2 Planning

In developing the monitoring strategy, the monitoring team will identify key risk factors associated with specific activities to be monitored, the likelihood of non-compliance and the potential impact. This will determine critical risks that should be addressed during the monitoring visit.

Furthermore, for subrecipient monitoring engagements, all subrecipients implementing projects under the monitored programs may undergo a risk assessment as outlined within 2.3.3 Risk Analysis. This assessment will review key risk criteria as identified in the Risk Matrix located in the CMP, but will include additional risk factors such as a review of past OLTR monitoring and federal Single Audit findings for evidence of outstanding sanctions or non-compliance. These risk assessments will be similar in scope to

program risk assessments but will be conducted solely on applicable subrecipients during the planning phase of monitoring engagements. The assessment results will support OLTR's Compliance Team by providing additional information needed to determine the monitoring review scope.

The program and/or entity being monitored will receive a notification letter within 30 days of the planned monitoring review (Onsite Monitoring or Desk Monitoring) which will detail the type of monitoring, timeframe to conduct the monitoring, the nature and scope of the review, and an initial documentation request. Preliminary documentation may be requested to facilitate further planning, such as sample selection, prior to the start of the monitoring. To the greatest extent feasible, documentation on-hand should be reviewed prior to the monitoring engagement to maximize the time available for reviewing documents during the monitoring. Such documentation may include the following:

- Active written agreements with the Monitored Entity;
- Progress and performance reports;
- Drawdown requests;
- Documentation of previous monitoring(s), including open findings;
- Copies of any audit reports of the entity/program; and
- Any documentation requested and received from the Monitored Entity.

Any potential deficiencies or evidence of non-compliance identified from the review of documentation prior to the engagement will be incorporated into the monitoring strategy.

2.3.6.3 Fieldwork

The fieldwork stage is comprised of two monitoring review types: desk monitoring and onsite monitoring. Each form of monitoring has its own process and requirements for monitoring completion:

- **Desk Monitoring:** A desk monitoring should not exceed 10 business days from the start date of the monitoring. Extensions for desk monitoring can be allowed under extenuating circumstances.
- **Onsite Monitoring:** An onsite monitoring should not exceed 5 business days from the start of the monitoring. However, additional onsite reviews at different satellite locations, e.g., different subrecipients, may require an extension of field-time in order to complete the onsite review(s).

During the fieldwork stage, OLTR will conduct an entrance conference with the appropriate representatives to explain the purpose of review. During the meeting, OLTR's Compliance Team will:

- Explain the purpose, scope, and schedule of the Monitoring Event;
- Confirm key personnel that will assist during the monitoring;
- Determine the times for interviews of key personnel, including the times for key personnel to be available to answer questions about files, if necessary;
- Schedule physical inspections, if applicable; and
- Verify the programs to be reviewed and how access to files will be granted.

Thereafter, OLTR should receive access to all documents requested in the notification letter and the sample of files selected for review. OLTR will use the monitoring checklists identified during the planning phase to perform the review. The checklists will be completed by OLTR staff throughout the monitoring event, including the notes related to the file review and interviews with key personnel.

Throughout the engagement, the monitoring staff will maintain an on-going dialogue with the program/project staff. This communication will keep the OLTR staff informed as to how the monitoring is progressing, enable discussion of any problem areas encountered, and provide the program/project team an opportunity to present additional information regarding preliminary findings and concerns. This will also minimize the potential for surprises during the exit conference or in the Monitoring Report.

At the conclusion of the monitoring review, OLTR will conduct an exit conference with key personnel to discuss preliminary findings and concerns. This meeting includes the following objectives:

- To present preliminary results of the monitoring visit and establish a clear understanding of the results of the monitoring review and next steps;
- To provide an opportunity for the program/project team to correct any misconceptions or misunderstandings;
- To secure additional information to clarify or support the position of the program/project team; and
- To provide an opportunity for the program/project team to report any steps taken to correct any deficiencies identified throughout the monitoring review.

During the exit conference, the monitoring team will also communicate next steps with the program/project staff and establish timelines for corrective actions, if necessary. All stakeholders should have a clear understanding of the monitoring results at the conclusion of the fieldwork phase.

Although the monitoring review may conclude once OLTR has conducted the exit conference, the monitored entity may be given the opportunity to provide documents to resolve preliminary findings and concerns notated in the exit conference prior to the issuance of the official Monitoring Report. The provision of such documents could result in a monitoring review conclusion which may impact the final monitoring results. In most cases, this additional review will further clarify monitoring conclusions raised during the exit conference and will not result in any substantial changes in the preliminary monitoring results or review scope. Regardless of the level of changes to the preliminary monitoring results, if any additional items are identified after fieldwork is complete that affect the final report, the program/project staff or subrecipient should be made aware prior to the issuance of the report.

2.3.6.4 Reporting

Once fieldwork is completed, a Monitoring Report will be prepared and signed by the OLTR Compliance and Reporting Manager, Finance and Administration Bureau Chief, or their designee, within 60 days from the date of the exit conference, which summarizes the result of the monitoring review. The report should correspond to items discussed during the exit conference. Monitoring reviews may result in:

- **Findings** – issues that require immediate corrective actions by the program.
- **Concerns** – issues regarding the performance of programs or activities that may result in noncompliance if they are not addressed.
- **Observations** – issues which could lead to a concern or finding if not addressed, but there is not enough evidence at the time of the monitoring that would warrant a concern or finding.

The report will include recommended corrective actions that would remedy the identified deficiency or concern. The tone of the Monitoring Report should be positive and strike a balance between recognizing the common goal of responsibly and effectively implementing CDBG-MIT program(s) and reinforcing the needs and requirements to correct any deficiencies. If appropriate, the report should include significant accomplishments or positive changes to establish and/or maintain positive relationships and to recognize the dedication and commitment of the program/project staff to the program mission.

2.3.6.5 Response

The program/project staff or subrecipient will have 30 days to respond to all findings in the written Monitoring Report, unless an alternate timeline was specified in the report. The management response should include a plan and timeline for completing any required corrective actions, or proposals for alternate actions to remedy the situation. For example, the plan and timeline would outline an avenue for program/project staff or a subrecipient to request an extension of time—usually an additional 30 days—to complete corrective actions or to allow justifications for alternative correction actions. If issues are identified for corrective action and/or the responses to the Monitoring Report are deemed insufficient or incomplete, follow-up actions will be scheduled to track and record the progress of the resolution, including the submission of follow-up letters and issuance of incomplete corrective action determinations.

These follow-up actions should usually take no longer than 60-90 days from the issuance of the initial Monitoring Report, but the timing and frequency of the follow-up communication will be determined at OLTR's discretion and should be based on the severity of the deficiency. All follow-up actions and determinations on incomplete actions or responses will be documented.

Once all findings and concerns have been remediated, the OLTR Compliance and Reporting Manager, Finance and Administration Bureau Chief, or their designee will issue a Clearance Letter to the program/project or subrecipient indicating that the issue has been closed. If in the course of finalizing the Monitoring Report, or during the monitoring visit, prior findings were completely addressed, the Monitoring Report may serve as the Clearance Letter, noting that the prior findings were resolved. All findings must be addressed prior to closure of the program/project.

2.3.7 Fiscal Monitoring

OLTR will perform fiscal monitoring reviews for all programs/projects that receive CDBG-MIT funding. Most monitoring engagements will include fiscal monitoring because of the risk analysis factors which drive OLTR's monitoring strategy. At least one draw request must have been submitted and paid to complete this type of monitoring.

The monitoring process for fiscal monitoring mimics the process for programmatic monitoring. OLTR will combine the two monitoring types when conducted at the same time and will perform planning, fieldwork, reporting, and receive responses for any findings or concerns needing resolution that were noted in the final report.

2.3.8 Technical Assistance

The OLTR Compliance and Reporting Unit will continuously identify areas of opportunity to provide technical assistance (TA) where needed. The objective of TA is to ensure compliance with Federal and State regulations and program requirements. The nature and extent of TA will be determined at the discretion of OLTR's Compliance Team. Some examples of TA include:

- Verbal or written advice;
- Formal training; and/or,
- Documentation and guidance.

When deficiencies are identified through monitoring activities, TA may be required to assist in the resolution of the deficiency. If similar deficiencies are noted for multiple entities, organized TA activities may be coordinated. The training shall be coordinated between monitoring staff and program management staff, and training materials will be posted to the OLTR website for reference.

2.3.9 Remedies for Non-Compliance

In the event that the program/project staff or subrecipient fails to correct identified deficiencies within 90 days from the issuance of the official Monitoring Report, OLTR may, in accordance with 2 CFR 200.338-.342, take one or more of the following actions, as appropriate in the circumstances:

- Temporarily withhold cash payments pending correction of the deficiency by the program/project staff or a more severe enforcement action by OLTR.
- Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the non-compliant activity or action.
- Wholly or partly suspend or terminate the award.
- Recommend the Federal Awarding Agency initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and Federal awarding agency regulations.
- Withhold further awards for the project or program.
- Take other remedies that may be legally available.

Additionally, and as identified within 2 CFR 200.521, OLTR may enact management decisions if continual subrecipient non-compliance or deficiencies exist through incomplete corrective actions. These conditions may arise from monitoring findings as well as audit findings through the use of any federal subaward OLTR has provided. In these cases, OLTR may also utilize the remedies described above in an effort to ensure a subrecipient comes back into compliance. These decisions may occur as a result of the following reviews:

- A systemic or unresolved deficiency from a monitoring engagement as detailed within this section, with the subrecipient responding as outlined within the Response phase; or
- Any deficiency(ies) or determination(s) of non-compliance which are identified through other OLTR- initiated audit review(s), as specified within *Section 6: FloridaCommerce Audit Requirements of the Rebuild Florida OLTR CDBG-DR and CDBG-MIT Comprehensive Financial and Grant Management Policy Manual*.

For audit reviews, the Bureau of Financial Monitoring and Accountability (FMA) develops monitoring tools and conducts department-wide subrecipient financial monitoring of the Department's grant awards and agreements. Audit monitoring and review procedures, including processes related to the tracking and logging of applicable subrecipient audits, delinquent audit notifications, OLTR recordkeeping policy for subrecipient audits, and OLTR involvement in subrecipient resolution of audit findings, are located within the FloridaCommerce Audit Requirements section of the Financial and Grant Management Policy Manual.

2.4 Citizen Participation

Citizen participation is a key element of CDBG-MIT. Subrecipients are required to adopt Citizen Participation Plans that outline broad CDBG processes, including citizen-complaint procedures, amendment procedures, advertising requirements, and other basics of public participation. The requirement is found in 24 CFR 91.105. Subrecipients are required to maintain records related to citizen participation, including the following:

- Copies of all notices of public hearings held and proofs of publication relating to the CDBG-MIT program
- List of persons attending public hearings and minutes of the meetings
- Citizen inquiries and complaints and correspondence responding to inquiries and complaints
- Copy of the Citizen Participation Plan with adopting resolution
- Records documenting implementation and compliance with the Citizen Participation Plan
- Citizen-complaint procedures
- Appeals procedures

2.5 Management of Subrecipient Agreements

The subrecipient agreement management process begins when the agency has posted its Intent to Award and a grant agreement has been drafted and executed. The executed grant agreement is managed by the respective program grant manager.

Responsibilities of the grant manger include:

- Creating and maintaining a subrecipient file.
- Maintaining financial information on all agreements.
- Managing changes to the agreement.
- Serving as a liaison between FloridaCommerce and the Subgrantee or subrecipient.
- Conducting cost reconciliation for grants.
- Maintaining a grant agreement management file pursuant to CFO Memo No. 06 (2011-2012).

- The contract file must contain:
 - Original grant agreement
 - Amendments
 - Renewals
 - Correspondence from subrecipient
 - Monitoring plan and documentation
 - Deliverable Documents

There may be additional requirements for the subrecipient agreement file. The agreement file is the complete history of the agreement. It should be organized so that the activities conducted during the subrecipient agreement management process can be reconstructed and understood by someone who is not familiar with the agreement. An agency [Contract Management File Checklist](#) for use by all grant managers to maintain files is in development.

FloridaCommerce grant managers are responsible for monitoring of subrecipients to ensure the procurement methods and contractual requirements and other reporting requirements are met. Plans and specifications, procurement for professional services and construction procurement will be monitored by the Mitigation grant manager.

2.5.1 Allocating Funding to Subrecipients: Application, Award, and Contract

Program staff members are responsible for ensuring that the subrecipient grant application and application review checklist are prepared. The draft application will be reviewed by program staff and routed for approval.

After the application form is approved, program staff will be responsible for ensuring it is posted on FloridaCommerce's website and for scheduling a pre-application workshop for recipient local governments. FloridaCommerce will publish notice of the pre-application workshop.

Each potential subrecipient will complete the application package and submit it to the FloridaCommerce Office of Long-Term Resiliency in compliance with application instructions.

A panel of program staff members will perform a completeness review of his or her assigned applications using the application review checklist and verify all state and federal requirements. The application is independently reviewed a second time by supervisory staff.

If the application meets the initial threshold requirements and all the proposed activities are eligible for funding, the program staff develops a preliminary list of potentially fundable projects.

If an application is rejected due to an inability to resolve deficiencies in the application, the program staff prepares notification to the applicant that the application is being rejected. The letter will include a notice of the applicant's right to appeal the decision.

The Bureau of Financial Management will also conduct a review of preliminary evaluations once funding recommendations are prepared.

For applicants deemed potentially fundable, a site visit may occur at this point in the process. The purpose of a site visit with the subrecipient is to verify information in the application or obtain additional documentation. Program staff drafts a "Coming to Town" letter that includes the items to be discussed during the site visit and forwards the "Coming to Town" letter for the site visit to supervisory staff for review, revision and / or comment. The final approved letter is emailed or mailed to the subrecipient and a copy is maintained in FloridaCommerce files.

Program staff conducts the site visit by meeting with local government representatives within the county receiving disaster funding to:

- Review and resolve any application and funding-approval issues;

- Visit all project sites included in the application to verify information in the application; and
- Document the resolution for all issues, upon returning from the site visit.

Program staff, at their discretion, may determine additional necessary information may be provided at the site visit.

Subrecipients may be provided up to 10 days to provide documentation to clear any issues identified at the Site Visit. Application and review procedures are complete after all site visits have been conducted, all appeals that have been filed have been completed and the final list of subrecipients has been determined and routed to the Bureau of Financial Management.

2.6 Subrecipient Financial Management

The information provided in this policy and procedures manual is provided as a general guide. Each subrecipient will have their own financial management system which must adhere to federal requirements as outlined in 2 CFR Part 200.

2.6.1 Overview

Financial management and control of CDBG-MIT funds is the responsibility of the Grantee/Subrecipient that accepts the funds. This chapter describes the accounting procedures that must be followed to comply with state and federal requirements for financial management. The Grantee and Subrecipient(s) are required to have a financial management system that provides:

- Effective control over and accountability for all funds, property, and other assets.
- An accurate, complete, and timely disclosure of the status and financial results in accordance with specified requirements.
- Records that adequately identify (by activity) the source and use of funds for each CDBG-MIT-supported project, including the “reasonableness, allowability, and allocability” of costs.
- Procedures to comply with the timely distribution of funds.

The subrecipient’s responsibility is often divided between the local office that has primary responsibility for CDBG-MIT program administrative office, and the subrecipient’s finance officer. The subrecipient’s program administrative office is responsible for reviewing and approving all transactions involving CDBG-MIT funds before the transactions are processed by the subrecipient’s contract manager. The subrecipient’s finance and administrative office’s responsibilities include:

- Approval of purchase orders and contracts to be paid with CDBG-MIT funds.
- Receipt and approval of invoices.
- Assurance that transactions involving CDBG-MIT funds are properly coded.
- Review and approval of requisitions for payments involving CDBG-MIT funds.

The finance officer is responsible for maintaining the official CDBG-MIT financial records and for posting account transactions. Official records may be maintained in either an automated or a manual format. The finance officer’s responsibilities may also include such things as:

- Control of accounting documents once they are approved for processing by the program department.
- Preparation of financial reports (based on accounting records).
- Preparation of Requests for Funds (subject to review by the administration office).
- Entry of transactions into the accounting system.
- Assisting the local government’s auditor in preparing an annual financial audit.

The federal requirements that are applicable to financial management are located in 2 CFR 200, and should be reviewed for additional and more detailed information, including special circumstances.

2.6.2 Internal Controls

Internal controls consist of policies and procedures, job responsibilities, qualified personnel, and records management that are designed to safeguard assets such as cash, property and other assets. FloridaCommerce has outlined internal controls in the Implementation Plan submitted to HUD and will implement a system of internal controls consistent with its agency policies and procedures. FloridaCommerce's internal controls meet the Implementation Plan and consist of the following minimum requirements:

- A single individual must not be allowed to exercise complete control over all phases of any significant transaction. This means, for example, that the same person cannot purchase materials, receive materials, authorize payment and write the check to pay for materials.
- Record keeping must be separate from operations and handling and custody of assets.
- Monthly reconciliation and verification of cash balances with bank statements must be made by employees who do not handle or record cash or sign checks.
- Actual lines of responsibility must be clearly established, and a single person must be identified to assume responsibility for management oversight of the entire financial management system.
- The person who prepares payrolls should not handle related paychecks. If signature stamps are used, they should not be under the control of the same individual who retains blank checks.

An adequate system of internal controls, with specific program and financial management responsibilities, will enable recipients to maintain the books and records necessary to comply with Florida law and federal requirements. Where possible, accounting policies and procedures of the local government should mirror the requirements of the Office of the Auditor General.

2.6.3 Subrogation Agreement

Subrogation is a legal doctrine that allows one person to take on the rights of another. In the context of Mitigation grants, an applicant must enter into a subrogation agreement at the time of or prior to executing a grant agreement where the funding agency (FloridaCommerce) obtains the right to collect any additional funding the applicant receives for Mitigation efforts after the applicant has entered into a grant agreement for Program benefits.

All duplicative funding received must be remitted to or accounted for by the Program, regardless of when it is received by the applicant. If applicants receive additional funding for the same purpose as the CDBG-MIT grant (permanent repair to storm damaged structure) even after the subrecipient agreement is executed or construction is completed, the applicant is required to report the additional funding to the Program.

By accepting the award, applicants agree that they will report any duplicative funds to the Program whenever received. Upon receipt of a report that additional benefits have been received, the Program will recalculate the applicant's award and provide instructions whether the applicant's award will be reduced by such amount, or whether the applicant must remit such amounts to the Program as reimbursement (when additional assistance received after Program disbursements). Each applicant will execute and be bound by a subrogation agreement.

2.6.3.1 Subrogation Agreement

All respective CDBG-MIT awardees will be required to enter into a "Subrogation Agreement" with the Florida Department of Economic Opportunity in order to provide for the repayment of CDBG-MIT funds.

The CDBG-MIT Subrogation Agreement will read as follows:

In consideration of Subrecipient's receipt of funds or the commitment by FloridaCommerce to evaluate Subrecipient's application for the receipt of funds (collectively, the "Grant Proceeds") under the FloridaCommerce Community Development Block Grant-Mitigation Program (the "CDBG-MIT Program") administered by FloridaCommerce, Subrecipient hereby assigns to FloridaCommerce all of

Subrecipient's future rights to reimbursement and all payments received from any grant, subsidized loan, lawsuit or insurance policies of any type or coverage or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency ("FEMA") or the Small Business Administration ("SBA") (singularly, a "Disaster Program" and collectively, the "Disaster Programs") that was the basis of the calculation of Grant Proceeds paid or to be paid to Subrecipient under the CDBG-MIT Program and that are determined in the sole discretion of FloridaCommerce to be a duplication of benefits ("DOB") as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA or the SBA or any other source, and whether or not such amounts are a DOB, shall be referred to herein as "Proceeds," and any Proceeds that are a DOB shall be referred to herein as "DOB Proceeds." Upon receiving any Proceeds, Subrecipient agrees to immediately notify FloridaCommerce who will determine in its sole discretion if such additional amounts constitute a DOB. If some or all of the Proceeds are determined to be a DOB, the portion that is a DOB shall be paid to FloridaCommerce, to be retained and/or disbursed as provided in this Agreement. The amount of DOB determined to be paid to FloridaCommerce shall not exceed the amount received from the CDBG-MIT Program.

Subrecipient agrees to assist and cooperate with FloridaCommerce to pursue any of the claims Subrecipient has against the insurers for reimbursement of DOB Proceeds under any such policies. Subrecipient's assistance and cooperation shall include but shall not be limited to allowing suit to be brought in Subrecipient's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing record and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by FloridaCommerce. Subrecipient further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Subrecipient would be entitled to under any applicable Disaster Program.

If requested by FloridaCommerce, Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to FloridaCommerce, to the extent of the Grant Proceeds paid to Subrecipient under the CDBG-MIT Program, the Policies, any amounts received under the Disaster Programs that are DOB Proceeds and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by FloridaCommerce to consummate and make effective the purposes of this Agreement.

Subrecipient explicitly allows FloridaCommerce to request of any company with which Subrecipient held insurance policies, or FEMA or the SBA or any other entity from which Subrecipient has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by FloridaCommerce to monitor/enforce its interest in the rights assigned to it under this Agreement and give Subrecipient's consent to such company to release said information to FloridaCommerce.

If Subrecipient (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, Subrecipient agrees to promptly pay such amounts to FloridaCommerce, if Subrecipient received Grant Proceeds under the CDBG-MIT Program in an amount greater than the amount Subrecipient would have received if such DOB Proceeds had been considered in the calculation of Subrecipient's award.

In the event that the Subrecipient receives or is scheduled to receive any subsequent Proceeds, Subrecipient shall pay such subsequent Proceeds directly to FloridaCommerce, and FloridaCommerce will determine the amount, if any, of such subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of Subsequent DOB Proceeds shall be returned to the Subrecipient. Subsequent DOB Proceeds shall be disbursed as follows:

1. If the Subrecipient has received full payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be retained by FloridaCommerce.
2. If the Subrecipient has received no payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be used by FloridaCommerce to reduce payments of the Grant Proceeds to the Subrecipient, and all Subsequent DOB Proceeds shall be returned to the Subrecipient.

3. If the Subrecipient has received a portion of the Grant Proceeds, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (A) Subsequent DOB Proceeds shall first be used to reduce the remaining payments of the Grant Proceeds, and Subsequent DOB Proceeds in such amount shall be returned to the Subrecipient; and (B) any remaining Subsequent DOB Proceeds shall be retained by FloridaCommerce.
4. If FloridaCommerce makes the determination that the Subrecipient does not qualify to participate in the CDBG-MIT Program or the Subrecipient determines not to participate in the CDBG-MIT Program, the Subsequent DOB Proceeds shall be returned to the Subrecipient, and this Agreement shall terminate.

Once FloridaCommerce has recovered an amount equal to the Grant Proceeds paid to Subrecipient, FloridaCommerce will reassign to Subrecipient any rights assigned to FloridaCommerce pursuant to this Agreement.

Subrecipient represents that all statements and representations made by Subrecipient regarding Proceeds received by Subrecipient shall be true and correct as of the date of the signing of this Agreement.

Warning: Any person who intentionally or knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.

The person executing this Agreement on behalf of the Subrecipient hereby represents that he/she has received, read, and understands this notice of penalties for making a false claim or statement regarding Proceeds received by Subrecipient.

In any proceeding to enforce this Agreement, FloridaCommerce shall be entitled to recover all costs of enforcement, including actual attorney's fees.

2.6.4 Recapture

A subrecipient may be required to repay all, or a portion of the funds received. The reasons for recapture include but are not limited to the following:

- Providing false or misleading information to the Program;
- withdrawing from the Program prior to completion of the project;
- Not completing the contracted project;
- Having a project that has stalled and is not progressing in a timely manner;
- Not reporting the receipt of additional insurance, SBA, FEMA, non-profit assistance and/or any other duplication of benefits received after calculation of the award;
- Unallowable use of federal grant funds.

2.6.5 Request for Funds (RFF)

Funding will be provided to subrecipients on a cost reimbursement basis upon completion of agreed upon deliverables. Subrecipients must verify all documentation and costs before submission for cost reimbursement to FloridaCommerce. Subrecipients must provide required reporting and supporting documentation to be reimbursed.

Each subrecipient must complete and submit to the CDBG-MIT program a FloridaCommerce Subrecipient Enterprise Resource Application (SERA) Security Access Authorization Form. This form is used to provide access to the SERA system in order for the subrecipients to request reimbursement and report any required financial or programmatic data. There cannot be any erasures or corrections on the FloridaCommerce SERA Security Access Authorization Form. Should it be necessary to change or update information on the Signature Authorization Form, the same instructions apply.

The SERA system was created to allow subrecipients draw cash and report under the executed subrecipient agreements with FloridaCommerce.

The subrecipient will be prohibited from requesting grant funds until all the environmental conditions have been removed and funds have been released for expenditure. Further, a subrecipient cannot draw funds for any activity that has been conditioned in the contract agreement until a Removal of Special Conditions is granted by the Office of Long-Term Resiliency. Subrecipients should check their CDBG-MIT award agreement for special conditions prior to obligating or requesting funds.

The local government must use a separate NON-INTEREST BEARING bank account for CDBG-MIT funds. Any interest paid on the account must be remitted to the Office of Long-Term Resiliency by the local government for return to the U.S. Treasury.

2.6.5.1 Request for Funds Process

The purpose of the cash draw process in the SERA system is to ensure the availability of sufficient cash/revenue as the CDBG-MIT expenditures are recorded in the Florida Accounting Information Resource (FLAIR) system. CDBG-MIT grant funds are not invested with the State Treasury, and no interest is earned by FloridaCommerce.

1. Subrecipients and FloridaCommerce vendors upload supporting documentation and submit the payment request in the SERA system.
2. Agreement manager receives a notification email from the SERA system indicating there is a Financial Activity (FA) in their queue that needs to be reviewed and then approved.
3. Agreement manager reviews the package for all required supporting documentation and ensures all requested expenditure reimbursements are eligible under the CDBG-MIT grant agreements.
4. Once approved, an email is sent to the next level approver which in most cases is a member of upper management, i.e. Director, Deputy Director, Bureau Chief, etc.
5. Once the second level approval has been submitted, the agreement manager prepares an electronic copy of the financial package to be submitted to the BFM.
6. The RFF packet is distributed to BFM grant manager. The BFM grant manager reviews to ensure the expenditures are allowable and charged to the correct funding source. (If not, the packet is returned to the program area).
7. The BFM grant manager approves the payment request in SERA and submits the package to the Disbursements unit for review and approval as well as sending a copy of the invoice package to the BFM GOC II. Once approved, the accountant in the Disbursements unit records the expenditure in FLAIR for payment.
8. The vendor or subrecipient will receive their payment once the voucher has been processed in FLAIR by the disbursements unit.
9. Once the expenditures have been identified in the FLAIR report, the GOC II enters the expenditure data from the invoice packet into DRGR and attaches the backup documentation to support the draw.
10. Once the data has been entered into the DRGR system an email is sent to the Cash Management unit to make the draw from HUD.

2.6.6 Subrecipient Financial Management

The information provided in this policy and procedures manual is provided as a general guide. Each subrecipient will have their own financial management system which must adhere to federal requirements as outlined in 2 CFR Part 200.

2.7 Subrecipient Financial Systems

2.7.1 Financial Records

In the simplest terms, CDBG-MIT financial transactions involve receiving cash (such as contract funds from FloridaCommerce's CDBG-MIT Program or Program income) and spending cash for eligible

activities. Every CDBG-MIT financial transaction must be recorded in the accounting records of FloridaCommerce and, if applicable, the subrecipient, as soon as possible. To do this, there must be appropriate source documents, files and accounting records. Finance and accounting for the Program is governed by the State of Florida Finance and Accounting operating procedures and is managed by FloridaCommerce's Division of Finance and Accounting

2.7.1.1 Source Documents

Source documents should provide all details of a transaction. The information contained in source documents is necessary for accounting purposes and is recorded in one of the books of original entry before being filed. A variety of source documents and records are needed to properly account for CDBG-MIT transactions. Supporting documentation is necessary to show that the costs charged against CDBG-MIT funds were incurred during the effective period of the subrecipient's agreement with the state, were paid out (or properly accrued), were expended on allowable items, and had been approved by the responsible official(s) in the subrecipient's organization. These documents include:

- **Purchase Orders** may be prepared in the same format as other purchase orders, except that appropriate CDBG-MIT program classification data should be coded on the document. Purchase orders should be approved by the subrecipient's program office. After approval, one copy should be retained by the program administrative office to verify receipt of goods, and the remaining copies forwarded to the FloridaCommerce finance officer.
- **Contracts** should be filed in the CDBG-MIT program administrative office. Each contract must identify the activity, program, or project to be charged. If multiple contracts are issued for each project, or if non-contractual charges are recorded against a project, a separate record must be maintained for each contract to provide readily available information on contract balances. There should be a separate obligation for each contract relating to the same activity to prevent overpayment of any contract. In addition, a Cash Control Register should be maintained to provide summary information for all CDBG-MIT contracts.
- **Vendor Invoices** to be paid with CDBG-MIT funds should be referred to the program administrative office, compared to the purchase order, checked for appropriateness and accuracy, approved, and coded as necessary. Approved vendor invoices and appropriate supporting documents may then be forwarded to the finance officer for payment.
- **Time Distribution Sheets** completed by all employees paid from CDBG-MIT funds should be included. Employees must complete time sheets that indicate the number of hours worked on CDBG-MIT projects, other grant projects, local government activities, and job duties. Time sheets are then referred to the finance department so that charges to the correct programs and projects can be computed and properly charged. Payroll expenses can only be paid from CDBG-MIT funds based on time and attendance records.
- **CDBG Financial Files** which demonstrate the program's financial soundness and regulatory compliance must be included. In order to maintain an orderly record of CDBG-MIT transactions that will withstand the scrutiny of an audit, there must be a logical system for maintaining financial files. Two broad categories of files are recommended: process files and permanent files.
- **Space and Utilities:** Space costs must be supported by documentation such as rental or lease agreements. Utility costs will be supported by bills from the utility companies. For subrecipients, both types of expenses will be supported by canceled checks. If the cost of space or utilities is split between the CDBG-MIT program and other sources, there must be a reasonable method in place to allocate the charges fairly among the sources.
- **Supplies** documentation would include purchase orders or requisition forms initiated by an authorized representative of the subrecipient, an invoice from the vendor (which has been signed-off by the subrecipient to indicate the goods were received), the canceled check from the vendor demonstrating payment was made, and information regarding where the supplies are being stored and for what cost objective(s) they are being used.

Administrative funds are not available to subrecipients under this program. Therefore, all overhead costs must be allocated to projects. ODR will provide guidance on the exact procedure for allocating costs.

2.7.1.2 Process Files

Process files are working files that are used until source documents are processed and posted. They include the following:

- **Open Purchase Order File.** All purchase orders, which have been issued but not yet filled by vendors, should be filed sequentially by purchase order number. When the goods are delivered, the invoice received, and all the appropriate approvals obtained, the purchase order file should be removed and filed with related invoices and the receiving report in the pending payments file. This file contains encumbrances against the project budget.
- **Pending Payments File.** All source documents that will generate a cash disbursement are stored in the pending payments file and are organized by due date. If a discount is offered for early payment, early payment should be made. A schedule of bills payable from approved invoices, and the account to be charged, is also kept in this file.
- **Pending Receipt File.** This file contains copies of outstanding bills and requests for funds submitted to the CDBG-MIT program that have not yet been recorded in the Cash Receipts Journal or posted to the CDBG-MIT Cash Control Register.
- **Personnel Payroll File.** This file contains a record for each employee who works on CDBG-DR and CDBG-MIT activities and includes the rate at which the employee's salary can be charged to the CDBG-MIT program. Time sheets showing the amount of time each employee spends on CDBG-MIT activities must be kept on file. This file is maintained in addition to the local government's official personnel records.

2.7.1.3 Permanent Files

These files must be maintained for all source documents and other records once they have been processed or posted to books of original entry. Documents removed from process files are placed in the permanent files after all processing is complete (i.e., placing bank verifications or CDBG-MIT contract payment transactions in a CDBG-MIT Receipt File).

Purchase requisitions, purchase orders, and related invoices are filed together; contracts, related invoices, payment vouchers, and check copies are filed together; grant fund receipt documentation is filed together. The permanent files contain the documents necessary for undertaking an audit of the program. A single individual should be assigned responsibility for file maintenance.

2.7.1.4 CDBG-MIT Accounting Records

CDBG-MIT records are used to accumulate CDBG-DR and CDBG-MIT accounting information for financial reporting. The required CDBG-DR and CDBG-MIT accounting records are listed and discussed below.

- **Cash Receipts Journal.** All receipts of cash that are deposited into the CDBG-DR and CDBG-MIT account(s) are recorded in the cash receipts journal. Receipts may include contract payments to the subrecipient from the CDBG-MIT programs, receipts from the disposition of land, program income, and any other cash received. The general procedure for using this journal is to record every CDBG-MIT receipt by date in the order that it was received, indicate the source of the funds received, an account or activity line item to be credited, a receipt number, and date. A notation regarding final disposition for all funds received must also be included in the journal.
- **Cash Disbursements Journal.** All encumbrances and expenditures for program costs are entered into the cash disbursements journal. Encumbrance is a term used in government accounting that defines a reservation of funds against an appropriation for a future expenditure. An encumbrance is not necessarily an obligation; it is a commitment of funds. While encumbrances are not normally recorded in a disbursements journal, the practice is

recommended for the CDBG-MIT program to conform to the accrual basis required for reporting information to the CDBG-MIT programs. When goods or services are received by the local government, an obligation has been incurred. If the local government uses a warrant or other schedule for bills payable, it need not maintain a separate cash disbursements journal, but must maintain copies of individual warrants.

- **Property Register.** This is a listing of all property acquired in part or whole using CDBG-MIT funds. It must be maintained to comply with state and federal standards relating to the acquisition, control, and disposition of real and personal property. Examples of property which would be recorded include both real property and office equipment.
- **Detailed Activity Ledger.** A subrecipient may have several ongoing projects (e.g., Smith Street sewer line installation and Jones Street repaving). To maintain accounting control, a detailed project ledger must be established for each project. All financial transactions relating to a particular project should be recorded in this ledger.

2.7.1.5 Cash Control Register

In addition to the above control procedures, CDBG-MIT financial reporting and control is enhanced by the use of the CDBG-MIT Cash Control Register. This register is used to document and control the following:

- State of Florida funds received
- Requests for payment (drawdowns on grant reservation)
- Balance of CDBG-MIT cash on hand
- Balance of CDBG-MIT grant funds available by line item
- Collections, refunds, and miscellaneous receipts
- Disbursements

The CDBG-MIT Cash Control registers summarize the status of CDBG-MIT cash on hand. It should be reviewed daily to determine compliance with CDBG-MIT rules and regulations relating to cash on hand. The register also serves as a cross-reference to the journal accounts such as cash receipts, disbursements, and the detailed project ledger.

2.7.1.6 Accounting for Cash Receipts

Cash receipts for the CDBG-MIT program come primarily from the state as contract payments based on Requests for Funds. Local sources of cash receipts may include loan repayments, payment for services provided, rent from CDBG-MIT property, and other miscellaneous receipts. Other sources may include federal or state agencies participating in project funding such as Rural Development. All cash receipts must be logged in the Cash Receipts Journal, CDBG-MIT Cash Control Register, and detailed Project Ledger.

2.7.1.7 Accounting for Cash Disbursements

To allow time for orderly processing and requisitioning of CDBG-MIT contract funds, cut-off dates for receipt of invoices to be paid the next pay date should be established. All cash disbursements must be supported by source documentation, such as invoices, time sheets, and payroll vouchers, which fully explain the reason for the disbursement.

Contractor payments should be made only after determining that the contractor is performing in accordance with contract provisions and time schedules and that any problems identified by the subrecipient during compliance monitoring or inspections have been corrected. To facilitate adequate contract management, a CDBG contract management control card should be maintained. All cash disbursements must be entered in the CDBG Cash Disbursements Journal, the CDBG Cash Control Register, and Detailed Activity Ledger.

2.7.1.8 Allowable Costs

The standards for determining the reasonableness, allowability, and allocability of costs incurred as part of CDBG-MIT-financed activities are found in 2 CFR 200.403. According to general guidelines contained in 2 CFR 200.403, a cost is allowable if:

1. The expenditure is necessary, reasonable, and directly related to the grant.
2. The cost conforms with any limitations or exclusions established in 24 CFR 200 Subpart E (Cost Principles) or the CDBG-MIT award.
3. The expenditure is consistent with policies and procedures that apply uniformly to both federally-funded and other activities of the state or the subrecipient.
4. The cost is accorded equal treatment. For example, a direct cost cannot be assigned if in other similar circumstances the cost was allocated as an indirect cost.
5. It is determined the cost is in accordance with generally accepted accounting principles, except for states and local governments and Indian tribes only, as otherwise provided for in this part [2 CFR 200.416 and 2 CFR 200.417, cost allocation plans and indirect cost proposals; 2 CFR 200.417, Interagency service].
6. The cost is not used to meet cost sharing or matching requirements of any federally- funded program. See also 2 CFR 200.306(b) regarding cost sharing and matching.
7. The costs must be adequately documented. See 2 CFR 200.300 through 2 CFR 200.309 for more information.

For more information about allowable costs see 24 CFR 570 and the HUD's State Community Development Block Grant Program: Guide to National Objectives and Eligible Activities, December 2014.

2.7.1.9 Reasonable Costs

Reasonable costs are described in 2 CFR 200.404: "A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost." In determining reasonableness of a given cost, consideration must be given to:

1. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-federal entity or the proper and efficient performance of the federal award.
2. The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; federal, state, local, tribal, and other laws and regulations; and terms and conditions of the federal award.
3. Market prices for comparable goods or services for the geographic area.
4. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-federal entity its employees, where applicable its students or membership, the public at large, and the federal government.
5. Whether the non-federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the federal award's cost.

2.7.1.10 Allocable Costs

Allocable costs are described in 2 CFR 200.405: "A cost is allocable to a particular federal award or other cost objective if the goods or services involved are chargeable or assignable to that federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:

- Is incurred specifically for the federal award;
- Benefits both the federal award and other work of the non-federal entity and can be distributed in proportions that may be approximated using reasonable methods; and

- Is necessary to the overall operation of the non-Federal entity and is assignable in part to the federal award in accordance with the principles in this subpart [2 CFR 200, Subpart E, Cost Principles]”.

2.7.1.11 Program Income

Program income means gross income received by a state, a unit of general local government or a subrecipient of a unit of general local government that was generated from the use of CDBG-MIT funds that exceed \$35,000 received in a single year [24 CFR 570.489(e)2]. Examples of program income include:

1. Proceeds from the sale or long-term lease of real property purchased or improved with CDBG funds.
2. Proceeds from the disposition of equipment purchased with CDBG funds.
3. Gross income from the use or rental of property acquired by the subrecipient or its subrecipient with CDBG funds, less the costs incidental to the generation of such income.
4. Gross income from the use or rental of property owned by the subrecipient or other entity that was constructed or improved with CDBG funds, less any costs incidental to the generation of such income.
5. Payments of principal and interest on loans made using CDBG funds.
6. Proceeds from the sale of loans made with CDBG funds.
7. Proceeds from the sale of obligations secured by loans made with CDBG funds.
8. Interest earned on program income, pending the disposition of such program income.
9. Funds collected through special assessments made against nonresidential properties owned and occupied by households not of low and moderate income, where such assessments are used to recover all or part of the CDBG portion of a public improvement.

2.7.2 Record Keeping

In the simplest terms, CDBG financial transactions involve receiving cash (such as contract funds from the Office of Long-Term Resiliency’s CDBG-MIT program or program income) and spending cash for eligible activities. Every CDBG-MIT financial transaction must be recorded in the accounting records as soon as possible. To do this, there must be appropriate source documents, files, and accounting records. Records must be maintained for three years from the date of the receipt of the audit for the year in which the grant was close out (2 CFR 200.333).

2.7.2.1 Common Deficiencies

The most common record keeping deficiencies that are encountered during program audits are:

- Inadequate financial records.
- Inadequate source documentation.
- Inadequate procedures for verification of cost allowability.
- Inadequate procedures for certifying operating agencies’ financial systems.
- Delays between drawdown and expenditure of funds.
- Inadequate process to prevent overpayment of an activity budget line item.
- Inadequate accounting of program income.
- Inadequate or untimely financial reports.

2.8 Subrecipient Closeout

2.8.1 Closeout Overview

Subrecipients are responsible for timely submission of closeout documents. A subrecipient agreement cannot be closed out until all activities associated with the project have been completed and the National Objective has been met. For example, a project that provides funds for a new sewage collection and treatment system cannot be closed out until the households are connected to the system and the system is fully functional.

The Office of Long-Term Resiliency staff coordinate with the subrecipient to ensure appropriate closeout documents are submitted. There are two stages in the closeout process: *Administrative Closeout* and *Final Closeout*. Administrative closeout means that the subrecipient has received notice from CDBG-MIT staff that all applicable administrative actions and all required work in the subrecipient agreement have been completed, with the exception of the submission and approval of the final audit required under 2 CFR Part 200. Final closeout means that the subrecipient has received notice from CDBG-MIT staff that the final audit has been submitted and that there are no outstanding audit issues to resolve or an attestation statement has been submitted that a 2 CFR Part 200 audit is not required.

To complete necessary closeout documents, subrecipients and their subcontractors must closeout any subcontracts or subrecipient agreements associated with the funded activities and settle any outstanding financial claims. Subcontractor(s) should be advised to prepare claims or invoices and submit them to the subrecipient within 30 days of the completion of the project to ensure payment requests are made before the closeout process begins.

The Subgrantee or subrecipient's Administrative Closeout package must be submitted within 45 days after termination date of the subrecipient agreement or as soon as the project is completed. The closeout package includes data regarding accomplishments and beneficiaries served and documents how federal and local resources were expended in accordance with the current approved budget. The closeout package must be signed by the subgrantees or subrecipient's chief elected official or by the individual with a designation of signature authority signed by the chief elected official.

After the subrecipient is final closed, the subrecipient must keep all records related to the grant award for a minimum of 6 years after final closeout has been approved or from the end of any audit or legal proceedings involving the subrecipient award.

2.8.2 Closeout Process

The Subgrantee or subrecipient must submit a subrecipient agreement closeout report and documentation to the Office of Long-Term Resiliency within 45 days of the termination of the contract or within 45 days of the completion of all activities. Upon completion of activities contained in the subrecipient agreement, including any amendments, the subrecipient shall submit to the Office of Long-Term Resiliency a closeout report and documentation (closeout package) that includes the following:

- The final statement of costs and copies of the final construction invoices;
- Certification that all construction has been completed, inspected and approved by all parties prior to the sub-grant end date and submission of the administrative closeout;
- Photos of project activities, maps, and documentation of fair housing activities and resolution of citizen complaints and any outstanding monitoring issues;
- Certification that all costs including those reflected on the closeout report have been paid;
- Documentation of the expenditure of any leverage;
- A report of final beneficiary data and final accomplishments;
- A list of the homes receiving direct benefit; and,

In addition:

- All funds drawn from the sub-grant award and not expended must be returned to the FloridaCommerce Office of Long-Term Resiliency prior to submission of the closeout report.
- The closeout report must contain original signatures. Facsimile (FAX) and electronic submissions are not acceptable to meet submission requirements.
- If a Subgrantee or subrecipient fails to meet contractual requirements on time, the FloridaCommerce shall require that the Subgrantee to financially (not administratively) close out a sub-grant to meet federal requirements for the timely distribution of funds set by HUD.
- If an audit report is past due, the sub-grant cannot be administratively closed until the past due audit is received. If an audit report is owed but not past due, the administrative closeout can proceed. Final closeout will not occur until all required audits are received.

Upon receipt of a closeout, the staff will complete an examination of the closeout documents:

- Audit Findings (there can be no open audit findings).
- CDBG Funds on Hand (cannot exceed \$5,000 and must be properly reflected in the closeout documents).
- Monitoring (there can be no open findings).
- Program Income (were funds returned). Unless otherwise authorized, all program income must be returned to the FloridaCommerce Disaster Recovery Unit.
- Proper Disposition of Acquired Property.
- Meeting all Special Requirements (i.e., map and certification statement).
- Final Engineering Certification (Certification is required for all public infrastructure activities paid for with CDBG funds. The Certification of Completion must be executed by a licensed professional engineer and must state that the activity meets design specifications as may have been modified by change orders.)

The Office of Long-Term Resiliency will respond to a closeout request by notifying the subrecipient by mail and identifying any issues that must be resolved before the Office of Long-Term Resiliency will mail Notice of Outstanding Closeout Issues letter identifying these issues and the actions needed to resolve them.

Upon receipt and acceptance of the subrecipient 's final audit required under 2 CFR Part 200, for a subrecipient that has already been administratively closed, Office of Long-Term Resiliency will send the subrecipient a Notice of Final Closeout letter. All audits must conform to the provisions of 2 CFR Part 200 and the subrecipient requirements to be accepted by Office of Long-Term Resiliency. If there are any audit findings related to the CDBG subrecipient, these findings must be resolved before the subrecipient can be final closed.

2.8.3 Procedure: Final Closeout

An important part of the final closeout procedure is reviewing the Subgrantee and/or subrecipient's audit. The subrecipient is responsible for mailing the audit to Office of Long-Term Resiliency. Once the audit is received, Office of Long-Term Resiliency staff will review the audit for findings and concerns related to the CDBG program. If there are none, final grant closeout will proceed.

If unresolved findings and concerns are noted in the audit review, Office of Long-Term Resiliency will contact the subrecipient and coordinate the resolution of the findings and concerns. Only after all findings and concerns are resolved may the final closeout be processed.

2.8.4 Timeliness and Tracking of Expenditures

FloridaCommerce requires subrecipients to demonstrate that progress is being made to complete project activities and expend project funds in a timely fashion pursuant to Activity Work Plans. Completing and submitting Activity Work Plans are a requirement in the Sub-grant Agreement executed between

FloridaCommerce and the subrecipient. Subrecipients provide a detailed schedule for completion of activities and expenditure of grant funds. If the subrecipient does not comply with the Activity Work Plan schedule, a justification for the delay and a plan for timely accomplishment shall be submitted to FloridaCommerce within 21 calendar days of discovery of the delay. Any project for which the subrecipient has not completed activities and expenditures listed in the Activity Work Plans may be rescinded unless FloridaCommerce agrees that the subrecipient provided adequate justification for the delay. FloridaCommerce will compare the Activity Work Plans submitted as part of the award agreement to Monthly Progress Reports and Request for Funds as additional tools to monitor timeliness.

2.9 Financial Audit

2.9.1 Overview

The Subgrantee and/or subrecipient is responsible for conducting a federal single or program specific audit in accordance with 2 CFR Part 200 or an attestation statement that a single audit is not required using the Audit Certification Memo, FloridaCommerce Form SC-47. A federal Single Audit is required if the Subgrantee and/or subrecipient has expended \$750,000 in total federal assistance in the fiscal year. The total federal assistance includes all direct or indirect funds received from a federal agency; not just funding from the CDBG-/Mitigation program.

Within sixty (60) calendar days of the close of the subrecipient's fiscal year, on an annual basis, the Subgrantee and/or subrecipient shall electronically submit a completed Audit Compliance Certification to audit@FloridaCommerce.myflorida.com. The subgrantees timely submittal of one completed Audit Compliance Certification for each applicable fiscal year will fulfill this requirement within all agreements (e.g., contracts, grants, memorandums of understanding, memorandums of agreement, economic incentive award agreements, etc.) between FloridaCommerce and the Subgrantee. This form is in addition to the Audit Certification Memo, Form SC-47, that must be sent to FloridaCommerce if an audit is not required because the local government spent less than seven hundred fifty thousand dollars (\$750,000) in Federal funds during the fiscal year.

The forms referenced are available online at www.FloridaJobs.org/CDBGRecipientInfo or upon request from FloridaCommerce's grant manager.

An annual federal Single Audit under 2 CFR 200 or an attestation statement (Audit Certification Memo, Form SC-47) that a Single Audit is not required, must be submitted electronically from each Subgrantee and/or subrecipient by June 30 following the end of each fiscal year in which the Subgrantee had an open CDBG-MIT sub-grant to FloridaCommerce's grant manager.

The FloridaCommerce Mitigation grant manager for the local government submitting the audit reviews the audit to determine if there are any findings related to the disaster recovery sub-grant awarded to the local government. If there are any findings, the grant manager coordinates with the local government to resolve the findings and issue a management decision letter outlining the corrective actions undertaken to clear the finding. The due date for the management decision letter is established by the FloridaCommerce Audit and Monitoring Office. For any findings that cannot be resolved in time to meet the management decision due date, the grant manager will coordinate with the Audit and Monitoring Office for advice on how to proceed.

Part 3: Mitigation Program Overviews

3.1 Overview

All Rebuild Florida programs funded through CDBG-MIT are subject to the requirements provided for in Federal Register Notice Vol. 84, No. 169 (August 30, 2019) and Federal Register Vol 86, No. 3 (January 6, 2021). FloridaCommerce will encourage subrecipients to leverage CDBG-MIT funds with funding provided by other federal, state, local, private, and nonprofit sources to utilize the limited CDBG-MIT funds. However, the leveraged funds must be in accordance with The Robert T. Stafford Act to ensure that no individual receives duplication of benefits for the same purpose and/or effect to recover from Hurricane Irma.

3.1.1 Most Impacted and Distressed Counties

All activities funded by the initial \$633 million allocation must be in a Presidentially-declared county that is eligible for assistance under FEMA declarations 4280, 4283, or 4337 as amended in Federal Register, Vol. 84, No. 169, published Friday, August 30, 2019. The Program will use 50 percent of the allocated funds to address unmet needs within the HUD-identified Most Impacted and Distressed (MID) areas identified in Table 2 below. Per 82 FR 5592, 82 FR 36814, 83 FR 5844, 83 FR 40315, and 85 FR 4682 the HUD identified MID areas for 2017 and 2017 disasters—Brevard, Broward, Clay, Collier, Duval, Hillsborough, Lee, Miami-Dade, Monroe, Orange, Osceola, Palm Beach, Polk, St. Lucie, Volusia counties as well as ZIP codes 32084, 32091, 32136, 32145, 32771, 33440, 33523, 33825, 33870, 32068 33935, 34266 and the jurisdictions within the counties—are to receive 50 percent of the first allocation of CDBG-MIT funding. The State-identified MID counties for 2016 and 2017 disasters, which will receive the remaining 50 percent of funding, are Alachua, Baker, Bradford, Charlotte, Citrus, Columbia, DeSoto, Dixie, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Indian River, Lafayette, Lake, Leon, Levy, Manatee, Marion, Martin, Nassau, Okeechobee, Pasco, Pinellas, Putnam, Sarasota, Seminole, Sumter, Suwannee, Taylor, Union, and Wakulla.

Table 2: MID Counties for 2016 and 2017 Disasters

Florida IA and PA Declared Counties for 2016 and 2017 Disasters			
Alachua	Flagler	Levy	<u>Polk</u>
Baker	Gilchrist	Manatee	Putnam
Bradford	Glades	Marion	Sarasota
<u>Brevard</u>	Hamilton	Martin	Seminole
<u>Broward</u>	Hardee	<u>Miami-Dade</u>	St. Johns
Charlotte	Hendry	<u>Monroe</u>	<u>St. Lucie</u>
Citrus	Hernando	Nassau	Sumter
<u>Clay</u>	Highlands	Okeechobee	Suwannee
<u>Collier</u>	<u>Hillsborough</u>	<u>Orange</u>	Taylor
Columbia	Indian River	<u>Osceola</u>	Union
DeSoto	Lafayette	<u>Palm Beach</u>	<u>Volusia</u>
Dixie	Lake	Pasco	<u>Wakulla</u>
<u>Duval</u>	<u>Lee</u>	Pinellas	<u>HUD-designated MID Areas</u>

Activities funded by the second allocation of \$46 million must be in a Presidentially-declared county that is eligible for assistance under FEMA declaration 4399 for Hurricane Michael. The Program will use 50

percent of the allocated funds to address unmet needs within the HUD-identified Most Impacted and Distressed (MID) areas identified in Table 3: MID Counties for 2018 Disaster below. Per 86 FR 562-563, the HUD identified MID areas—Bay, Calhoun, Gulf and Jackson counties as well as ZIP codes 32321 (Liberty), 32327 (Wakulla), 32328 (Franklin), 32346 (Wakulla and Franklin), 32351 (Gadsden), and 32428 (Washington)— are to receive 50 percent of the second allocation of funding. For the second allocation of funding, 86 FR 563 allows the grantee to expand program operations to the whole county (county is indicated in parentheses next to the ZIP Code) as a MID area. The remaining 50 percent of funding can be spent in the State-identified MID county for 2016 and 2017 disasters, Holmes county.

Table 3: MID Counties for 2018 Disaster

Florida IA and PA Declared Counties for 2018 Disasters*			
<u>Bay</u>	<u>Gadsden</u>	<u>Jackson</u>	<u>Washington</u>
<u>Calhoun</u>	<u>Gulf</u>	<u>Liberty</u>	
<u>Franklin</u>	Holmes	<u>Wakulla</u>	<u>HUD-designated MID Areas</u>

*Zip codes designated as 2018 HUD MID areas were expanded to the whole county as a MID area. This is allowable per 86 FR 563.

3.1.2 Ineligible Activities

All activities must be CDBG-eligible as authorized under Title I of the Housing and Community Development Act of 1974 or otherwise eligible pursuant to a waiver or alternative requirement. Ineligible activities identified in the Federal Register, Vol. 84, No. 169 (August 30, 2019) and FR Vol. 86, No. 3 (January 6, 2021), include the use of CDBG-MIT for forced mortgage payoff, construction of a dam/levee beyond original footprint, incentive payments to households that move to disaster-impacted floodplains, assistance to privately owned utilities, not prioritizing assistance to businesses that meet the definition of a small business, assistance for second homes, emergency response services, or funding of buildings for the general conduct of government, activities identified in 24 CFR 570.207, and activities and uses not authorized under Title I of the Housing and Community Development Act of 1974 or allowed by waiver. In addition, any activities reimbursable by, or activities for which funds are made available by the Federal Emergency Management Agency (FEMA) or the Army Corps of Engineers are considered ineligible activities.

3.1.3 Use of Urgent Need

The Risk Assessment documents unmet need in housing, infrastructure, and economy throughout the impacted areas. The state will seek to meet the requirement that 50 percent of funds are utilized for Low-and-Moderate (LMI) income families. Program activities are presumed to meet the use of Urgent Need as a national objective if they occur in the sectors and regions, particularly for housing and infrastructure activities, that were impacted as documented in the Risk Assessment. However, the state will first seek to determine if the activity meets the LMI national objective before utilizing the Urgent Need national objective.

Pursuant to the Federal Register, Volume 84, No. 169 (August 30, 2019), the CDBG-MIT certification requirements for documentation of urgent need, located at 24 CFR 570.483(d), are waived and replaced with an alternative requirement. Formal certification statements to qualify an activity as meeting the urgent need national objective is no longer needed. Instead FloridaCommerce and subrecipients will document how each program and/or activity funded under the urgent need national objective responds to a disaster-related impact.

The Program will ensure, as is required and identified in the Federal Register, that at least 50 percent of the entire CDBG Mitigation grant award will be used for activities that benefit low- and moderate-income persons. CDBG-MIT funding is available to the state of Florida for disaster mitigation projects in areas impacted by presidentially declared disasters in 2016 and 2017.

3.2 Infrastructure Activities

3.2.1 General Infrastructure Program

The GIP program is designed to provide funding to units of general local government (UGLG) such as municipalities and counties, state agencies, non-profits and nongovernmental organizations to implement innovative, collaborative, multi-jurisdictional and/or large-scale mitigation activities that reduce previously-identified hazard risks for local communities to better withstand emergency-related challenges. These regional investments include, but are not limited to, upgrading of water, sewer, solid waste, communications, energy, transportation, health and medical and other public infrastructure projects.

3.2.1.1 National Objective

The national objective for this program is to benefit Low- and moderate-income or Urgent Need communities.

3.2.1.2 Responsible Entity for Administering

The Florida Department of Economic Opportunity and subrecipients.

3.2.1.3 Program Requirements

1. Funds must be used solely for necessary expenses related to mitigation activities in the MID areas for which the President declared a major disaster in 2016, 2017, or 2018 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.
2. At least 50% of funds must be spent in HUD-identified MID areas. The remaining 50% may be spent on state-identified MID areas that were declared disaster areas eligible for FEMA Individual and Public Assistance.
3. Funds may not be used to supplant existing funding sources or programming.
4. Entities applying for funding through the GIP program must submit an application that meets the criteria outlined in the General Infrastructure Program Guidelines located on the Mitigation webpage.
5. All CDBG-MIT projects must comply with all applicable federal, state and local requirements.

3.2.1.4 Types of Assistance Offered

Eligible activities include projects that demonstrably increase community resilience. For purposes of GIP the following types of infrastructure projects are encouraged:

- Restoration of critical infrastructure (such as water and sewer facilities, streets, removal of debris, drainage, bridges, etc.).
- Renourishment of protective coastal dune systems and state beaches.
- Building or fortifying buildings that are essential to the health, safety and welfare of a community (this can include police stations, fire stations, parks and recreational centers, community and senior centers, hospitals, clinics, schools and educational facilities, other public properties).
- Rehabilitation or construction of stormwater management systems.
- Improvements to drainage facilities.
- Reconstruction of lift stations and sewage treatment plants.
- Road repair and improvement and bridge strengthening.

Note that the above are examples and not an exhaustive list of the possible projects that may be undertaken with GIP funding.

3.2.1.5 Application Process

Applicants were strongly encouraged to use the online application. However, a fillable PDF application was made available on the General Infrastructure Program page on the Mitigation website and could be emailed to CDBG-MIT@FloridaCommerce.myflorida.com or mailed to:

Florida Department of Economic Opportunity
Attention: Office of Long-Term Resiliency
Mitigation Team
107 East Madison Street
Caldwell Building, MSC 420
Tallahassee, FL 32399

The GIP application window opened on June 15, 2020 and closed on September 14, 2020. Applications were required to describe the activity being proposed and address how and why the activity needed to be executed or updated to mitigate risks attributable to threats identified in the State of Florida Action Plan Risk-Based Mitigation Needs Assessment. Projects were also required to include a proposed budget with a detailed description of anticipated costs by category, including support services, program management and administration. Responses were evaluated to ensure proposed projects met the minimum criteria as outlined in the application materials.

Application Scoring Process:

Applications that met minimum threshold requirements were scored and evaluated to determine the mitigation value and cost effectiveness of the proposed project.

FloridaCommerce utilized a two-phased review process when scoring applications. The first phase is the threshold checklist. This includes a signed and completed application with all necessary attachments of the provided templates and forms and Public Notice that was submitted on time by an eligible applicant such as a county or municipality that benefits HUD and/or State identified MID areas. Project proposals that did not meet the Mandatory Threshold Compliance Criteria did not move on to Phase 2.

Phase 2 awarded applicants a score based on specific scoring categories and cost effectiveness. Only the application itself (including requested attachments) was scored. Any documents submitted with the application that were not requested were not scored. Under the Phase 2 process, there were 150 maximum points available broken out into the following categories: Project Description, Community Value, Capacity Plan, Implementation Plan, Budget, Leveraged Dollars, MID areas, Overall LMI Benefit, Social Vulnerability, and Special Designations. If eligible responses exceeded available funding, applicants were funded in rank order based on evaluation scores.

Additional Information on the General Infrastructure Program Application Scoring Process is located on the General Infrastructure Program page of the Mitigation website.

3.2.1.6 Total Program Budget Breakdown

The General Infrastructure Program has a total budget of \$475,000,000

There is a max award of \$475,000,000 per applicant.

There is a minimum award of \$500,000 per applicant.

3.2.1.7 Program Resources

Further information about the General Infrastructure Program and its activities is available in the program specific guidelines available at:

http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/mitigation-general-infrastructure-program/gip-guidelines-8-9-21.pdf?sfvrsn=e1746b0_10.

3.2.2 Critical Facility Hardening Program

The Critical Facility Hardening Program (CFHP) will allow units of general local government (UGLG), state agencies, non-profits and non-governmental agencies that apply in partnership with their local UGLG or state agencies, to harden critical buildings that serve a public safety purpose for local communities. This program will enable critical facilities to better withstand the effects of previously-identified hazard risks. For purposes of this program, FloridaCommerce is defining the following types of structures as critical facilities:

- Potable water facilities;
- Waste water facilities;
- Police departments;
- Fire departments;
- Hospitals;
- Emergency operation centers; and
- Emergency shelters.

Applicants for this program will need to identify critical facilities that need hardening and/or must update or replace existing power sources (such as generators or resiliency systems) to mitigate emergency-related challenges.

3.2.2.1 National Objective

The national objective for this program is to benefit Low- and moderate-income or Urgent Need communities.

3.2.2.2 Responsible Entity for Administering

The Florida Department of Economic Opportunity (FloridaCommerce) and subrecipients.

3.2.2.3 Program Requirements

- Funds must be used solely for necessary expenses related to mitigation activities in the MID areas for which the President declared a major disaster in 2016 or 2017 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.
- Activities must meet the National Objective of LMI and Urgent Need.
- At least 50% of the \$633M in funding allocated in FR Vol. 84 No. 169 must be spent in HUD-identified MIDs. The remaining 50% can be spent on state-identified MIDs that were declared disaster areas eligible for both individual and public assistance.
- CDBG-MIT requires that projects must be a quantifiable resilience improvement to a critical facility. Funds may not be used to supplant existing funding sources or programming.
- Entities applying for funding through the CDBG-MIT program must submit an application that meets the criteria outlined in these Program Guidelines.
- All CDBG-MIT projects must comply with all applicable federal, state and local requirements.

3.2.2.4 Types of Assistance Offered

Eligible activities are limited to projects that increase the resilience of critical facilities. Examples include hardening and/or updating or replacing existing power sources (such as generators or resiliency systems) to mitigate emergency-related challenges.

Examples of hardening against flood, fire, storms and coastal erosion include, but are not limited to:

- Dry proofing;
- Wet proofing;
- Anchoring roof-mounted heating;
- Ventilation and air-conditioning units; and

- Retrofitting building exteriors with hazard-resistant materials in accordance with national safety standards

The CFHP will also consider energy resiliency projects that help ensure that the most critical facilities in Florida communities have access to power throughout and following an emergency when local sources of power are down. Critical facilities include, but are not limited to, potable water facilities, waste water facilities, police departments, fire departments, hospitals, emergency operation centers and emergency shelters. Local units of government that apply for this program will need to identify critical facilities that have a need to update or replace existing power sources (such as generators or resiliency systems) so as to allow these facilities to safely maintain power during emergencies.

3.2.2.5 Application Process

Applicants were strongly encouraged to use the online application. However, a fillable PDF application was made available on the General Infrastructure Program page on the Mitigation website and could be emailed to CDBG-MIT@FloridaCommerce.myflorida.com or mailed to:

Florida Department of Economic Opportunity
Attention: Office of Long-Term Resiliency
Mitigation Team
107 East Madison Street
Caldwell Building, MSC 420
Tallahassee, FL 32399

The CFHP application window opened on April 15, 2020 and closed on June 30, 2020. Applicants were required to describe what was being identified as a critical facility and address how and why it needed to be hardened to mitigate risks attributable to natural disasters. Plans were also required to include a proposed budget with a detailed description of anticipated costs by category, including support services and program management and administration. Application materials included in appendices B-E of the CFHP guidelines (Appendix 2) contain the application form and instructions, the application checklist, and a sample application. Responses were evaluated to ensure proposed projects met the minimum criteria as outlined in the application materials.

Application Scoring Process:

Applications that met minimum threshold requirements were scored and evaluated to determine the mitigation value and cost effectiveness of the proposed project.

FloridaCommerce utilized a two-phased review process when scoring applications. The first phase is the threshold checklist. This includes a signed and completed application that was submitted on time by an eligible applicant such as a unit of general local government (UGLG) that benefits HUD and/or State MID identified areas. Project proposals that do not meet the Mandatory Threshold Compliance Criteria did not move on to Phase 2.

Phase 2 awarded applicants a score based on specific scoring categories and cost effectiveness. Only the application itself (including requested attachments) was scored. Any documents submitted with the application that were not requested were not scored. Under the Phase 2 process, there were 150 maximum points available broken out into the following categories: Project Description, Community Value, Capacity Plan, Implementation Plan, Budget, Leveraged Dollars, MID areas, Overall LMI Benefit, Social Vulnerability, and Special Designations. If eligible responses exceeded available funding, applicants were funded in rank order based on evaluation scores.

Additional Information on the Critical Facility Hardening Program Application Scoring Process is located on the Critical Facility Hardening Program page of the Mitigation website.

3.2.2.6 Total Program Budget Breakdown

The Critical Facility Hardening Program has a total budget of \$75,000,000

There is a max award of \$15,000,000 per applicant.

There is a minimum award of \$50,000 per applicant.

3.2.2.7 Program Resources

Further information about the Critical Facility Hardening Program and its activities is available in the program specific guidelines available at:

http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/critical-facility-hardening-program/cfhp-guidelines/english-cfhp-guidelines.pdf?sfvrsn=9c7647b0_64.

3.3 Housing Activities

3.3.1 Housing Oversubscription Program (HOP)

Hurricane Irma (2017) had a devastating impact on the Florida housing market, destroying thousands of homes. The Hurricane Irma HRRP is a state-run housing program administered under the State of Florida Action Plan for Disaster Recovery.

However, a portion of applicants to the Hurricane Irma HRRP remain unserved. This housing unmet need has only been exacerbated by rising construction costs following Hurricane Michael and the 2019 Novel Coronavirus (COVID-19) pandemic. In order to accomplish more of the remaining unmet housing need in the Hurricane Irma impacted counties, FloridaCommerce is creating the HOP. The HOP will follow the mission of the HRRP—to repair, replace, or reconstruct eligible homes—with an additional focus on providing mitigation measures which increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters for homeowners located in HUD and State MID areas affected by 2017 disaster, Hurricane Irma.

At present, the HRRP program is oversubscribed, with the number of HRRP applications for assistance exceeding the available program funds needed to move forward with the repair or replacement of damaged homes. Consequently, HRRP applicants potentially eligible for assistance are unable to be served until further funding becomes available. Additional CDBG-MIT funding is being allocated to help address HRRP funding limitations so that additional homeowners may be served in the state's recovery process. The HRRP awarded applicants based on specific prioritization of vulnerable populations. For additional details of this housing recovery program, please refer to the state action plan on FloridaCommerce's CDBG-DR website at <https://www.floridajobs.org/rebuildflorida/mitigation>.

Table 4: 2016-2017 Housing Oversubscription Program (HOP)

Housing Oversubscriptions Program (HOP)	
Funding Dollars	\$41,993,205.84
Funding Percentage	7%
HUD-MID Area Allocation Minimum	\$20,996,603
LMI Designation Allocation Minimum	\$20,996,603
Applicant Minimum & Maximum	\$350,000, except in Monroe County which has a maximum assistance of \$650,000
Application Type	Citizen
Applicant Eligibility	Eligible Applicants who have been awarded through the CDBG-DR Hurricane Irma HRRP
Geographic Eligibility	HUD and State designated MIDs

National Objectives Fulfilled	LMI
Hazard Risks Addressed	Flooding, Severe Storms, Tropical Cyclones, Coastal Erosion, Wildfires
Lifelines Protected	Safety and Security, Food, Water and Shelter

3.3.1.1 National Objective

Low- and moderate-income benefit or Urgent Need

3.3.1.2 Responsible Entity for Administering

The Florida Department of Economic Opportunity (FloridaCommerce).

3.3.1.3 Program Requirements

To qualify for assistance through the HOP, a project must meet one or more of the following criteria:

- **Resilient Home Construction Standards (RHCS):** Typical housing mitigation programs may include buyouts (potentially accompanied by additional housing or homeownership assistance for relocated families); elevation (which may be accompanied by rehabilitation, reconstruction, or new construction activities to support resilient housing); flood proofing; and wind, water, fire, earthquake retrofitting or “hardening” of single- and multi-family units to withstand future disasters. In compliance with HUD goals, as expressed in Federal Register Notice Vol. 83, No. 28, February 9, 2018, the program has established RHCS to enhance property resistance to future wind-borne disasters. This standard includes resiliency and mitigation measures that are intended to provide enhanced construction materials for specific housing components including roofing, windows, and doors. The RHCS will be applied to all homes that have verified remaining unmet needs due to Hurricane Irma which will be repaired by the program.
- **Green Building Standard for Replacement and New Construction of Residential Housing:** As outlined in FR Vol. 83 No. 28, grantees must meet the following Green Building Standards for:
 - All new construction of residential buildings and
 - All replacement of substantially damaged residential buildings. Replacement of residential buildings may include reconstruction (i.e., demolishing and rebuilding a housing unit on the same lot in substantially the same manner) and may include changes to structural elements such as flooring systems, columns, or load-bearing interior or exterior walls.

Green Building Standards: For purposes of program implementation, the Green Building Standard means that the grantee will require that all construction covered by RHCS, as described above and detailed in FR Vol. 83, No. 28, will meet an industry-recognized standard that has achieved certification under at least one of the following programs: (i) ENERGY STAR (Certified Homes and Multifamily High-Rise), (ii) Enterprise Green Communities, (iii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development), (iv) ICC-700 National Green Building Standard, (v) EPA Indoor AirPlus (ENERGY STAR a prerequisite) or (vi) any other equivalent comprehensive green building program acceptable to HUD. Grantees must identify, in each project file, which Green Building Standard will be used on any building.

- **Elevation Standards for New Construction, Repair of Substantial Damage, or Substantial Improvement:** The following elevation standards apply to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA’s data source identified in 24 CFR 55.2(b)(1). To mitigate risks identified in a grantee’s Mitigation Needs Assessment, all structures, defined at 44 CFR 59.1, designed principally for residential use and located in the 100-year (or 1 percent annual chance) floodplain that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined at 24 CFR 55.2(b)(10), must be elevated with the lowest floor, including the basement, at least two feet above the base flood elevation. Alternatively,

grantees may choose to adopt the design flood elevation standards of ASCE-24 if it results in an elevation higher than two feet above base flood elevation.

- Mixed-use structures with no dwelling units and no residents below two feet above base flood elevation must be elevated or floodproofed, in accordance with FEMA flood proofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above base flood elevation.
- All Critical Actions, as defined at 24 CFR 55.2(b)(3), within the 500-year (0.2 percent annual chance) floodplain must be elevated or food proofed (in accordance with the FEMA standards) to the higher of the 500-year floodplain elevation or three feet above the 100-year floodplain elevation. If the 500-year floodplain is unavailable, and the Critical Action is in the 100-year floodplain, then the structure must be elevated or floodproofed at least three feet above the 100-year floodplain elevation. Critical Actions are defined as an “activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property.” For example, Critical Actions include hospitals, nursing homes, police stations, fire stations and principal utility lines.

Grantees are reminded that the use of recovery funds, including elevation of structures, must comply with all applicable federal accessibility standards.

Applicable state, local, and tribal codes and standards for floodplain management that exceed these requirements, including elevation, setbacks, and cumulative substantial damage requirements, must be followed.

3.3.1.4 Application Process

On March 3, 2023, Irma HRRP completed an analysis of projects who had completed construction and met one or more of the criteria outlined in the Program Requirements:

1. The project featured Resilient Home Construction Standard scope.
2. The project was a Single-Family Reconstruction meeting Green Building Standard requirements.
3. The project required Elevation above base flood elevation.

The Irma HRRP will complete a QA/QC of this projects and upload a memo to each project indicating which of these three criteria each project meets to substantiate eligibility for obligation of funds under the HOP.

Additional projects may be added to the HOP program using the above criteria and procedures once construction has been completed.

Projects identified for assistance under the HOP are still governed by Irma HRRP’s standard operating procedures, as well as the Office of Long-Term Resiliency Hurricane Irma Action Plan, Policy Manual, and Housing Repair and Replacement Program Guidelines.

3.3.1.5 Total Program Budget Breakdown

The Housing Oversubscription Program was launched with a budget of \$41,993,205.84

There is a max award of \$350,000 per applicant, except in Monroe County which will have a maximum assistance amount of \$650,000.

3.4 Mitigation Planning Activities

3.4.1 General Planning Support Program

The GPS program is designed to provide funding opportunities to units of general local government (UGLG), educational institutions, state agencies, non-profits and non-governmental agencies for the purposes of developing and updating state, regional and local plans. FloridaCommerce recognizes that planning is an important aspect of mitigation and that not all UGLGs have access to full-time planning

staff. The GPS program provides rarely accessible funds to create regional plans that will enable the state of Florida to withstand future disasters.

3.4.1.1 National Objective

The national objective for this program is to benefit Low- and moderate-income or Urgent Need communities.

3.4.1.2 Responsible Entity for Administering

The Florida Department of Economic Opportunity (FloridaCommerce) and subrecipients.

3.4.1.3 Program Requirements

1. Funds must be used solely for necessary expenses related to mitigation activities in the MID areas for which the President declared a major disaster in 2015, 2016 or 2017 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.
2. At least 50% of funds must be spent in HUD-identified MID areas. The remaining 50% may be spent on state-identified MID areas that were declared disaster areas and were eligible for both individual and public FEMA assistance.
3. Funds may not be used to supplant existing funding sources or programming.
4. Entities applying for funding through the CDBG-MIT program must submit an application that meets the criteria outlined in the General Planning Support Program guidelines found on the Mitigation webpage.
5. All CDBG-MIT projects must comply with all applicable federal, state and local requirements.
6. Any plan that involves housing needs must conduct an Affirmatively Furthering Fair Housing (AFFH) review of the plan to ensure equality.
7. Upon completion of the grant, subrecipients must submit proof of the completed work product that the application stated would be the end result of the grant funds.

3.4.1.4 Types of Assistance Offered

Eligible activities are limited to projects that improve state and local mitigation planning mechanisms, however, a wide variety of plans are eligible to apply for funding.

Examples of eligible plans include, but are not limited to:

- Regional mitigation plans;
- Modernization and resiliency planning;
- Comprehensive, capital improvement, and community development plans;
- Floodplain and wetland management plans;
- Land use and urban environment plans;
- Historic preservation plans;
- Small area, housing and neighborhood plans;
- Integration of mitigation plans with other planning initiatives; and
- An inventory development of properties with known or suspected environmental contamination.

In addition to mitigation plans, the GPS program allows for a range of mitigation activities, including:

- Assessment of Fair Housing;
- Upgrading mapping, data and other capabilities to better understand evolving disaster risks;
- Planning and public service activities necessary to reduce flood insurance premiums in the National Flood Insurance Program's voluntary Community Rating System incentive program;

- Education and outreach campaigns designed to alert communities and prospective beneficiaries to opportunities to further mitigate identified risks through insurance, best practices, and other strategies;
- Development and implementation of modern and resilient building codes in order to mitigate against current and future hazards; and
- Enhancement and update of real property registration and land information systems.

3.4.1.5 Application Process

Applicants were strongly encouraged to use the online application. However, a fillable PDF application was made available on the General Infrastructure Program page on the Mitigation website and could be emailed to CDBG-MIT@FloridaCommerce.myflorida.com or mailed to:

Florida Department of Economic Opportunity
Attention: Office of Long-Term Resiliency
Mitigation Team
107 East Madison Street
Caldwell Building, MSC 400
Tallahassee, FL 32399

The GPS application window opened on May 15, 2020 and closed on July 31, 2020. Applicants were required to describe the plan being proposed and address how and why it needed to be created, updated or integrated to mitigate risks attributable to threats identified in the State of Florida Action Plan Risk-Based Mitigation Needs Assessment. Plans were also required to include a proposed budget with a detailed description of anticipated costs by category, including support services and program management and administration. Responses were evaluated to ensure proposed projects met the minimum criteria as outlined in the application materials.

Application Scoring Process:

Applications that met minimum threshold requirements were scored and evaluated to determine the mitigation value and cost effectiveness of the proposed project.

FloridaCommerce utilized a two-phased review process when scoring applications. The first phase is the threshold checklist. This includes a signed and completed application that was submitted on time by an eligible applicant such as a unit of general local government (UGLG) that benefits HUD and/or State MID identified areas. Project proposals that do not meet the Mandatory Threshold Compliance Criteria did not move on to Phase 2.

Phase 2 awarded applicants a score based on specific scoring categories and cost effectiveness. Only the application itself (including requested attachments) was scored. Any documents submitted with the application that were not requested were not scored. Under the Phase 2 process, there were 100 maximum points available broken out into the following categories: Project Description, Community Value, Capacity Plan, Implementation Plan, Budget and Leveraged Dollars. If eligible responses exceeded available funding, applicants were funded in rank order based on evaluation scores.

Additional Information on the General Planning Support Program Application Scoring Process is located on the General Planning Support Program page of the Mitigation website.

3.4.1.6 Total Program Budget Breakdown

The General Planning Support Program has a total budget of \$20,000,000.

There is a max award of \$10,000,000 per applicant.

There is a minimum award of \$20,000 per applicant.

3.4.1.7 Program Resources

Further information about the General Planning Support Program and its activities is available in the program specific guidelines available at:

http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/general-planning-support-program/gps-program-guidelines/general-planning-support-guidelines-with-appendices.pdf?sfvrsn=78fc46b0_6

Appendices

In addition to the Office of Long-Term Resiliency Mitigation Policy Manual, OLTR program activities maintain program-specific documents to aid in the administration and implementation of CDBG-MIT funded activities. These additional documents provide policies, procedures, and guidelines that are more specific to program activities than the Mitigation Action Plan for Disaster Recovery and the Policy Manual. These documents may include the following:

Program Guidelines

Program Guidelines serve to provide guidelines for the requirements for CDBG-DR funded activities carried out by the grantee, FloridaCommerce.

Appendix 1. General Infrastructure Program

Additional information and program resources for the Mitigation General Infrastructure Program is located on the FloridaCommerce website at www.floridajobs.org under Home > Community Planning, Development and Services > Community Development Block Grants > Office of Long-Term Resiliency > Mitigation Program > Rebuild Florida Mitigation General Infrastructure Program

(http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/mitigation-general-infrastructure-program/gip-guidelines_6-12-20.pdf?sfvrsn=e1746b0_6)

Program Guidelines

The CDBG-MIT Rebuild Florida General Infrastructure Program Guidelines are available on the FloridaCommerce website Mitigation General Infrastructure Program page, or can be accessed directly at:

Round I

http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/mitigation-general-infrastructure-program/gip-guidelines_8-9-21.pdf?sfvrsn=e1746b0_10

Round II

http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/mitigation-general-infrastructure-program/gip-guidelines_round-2.pdf?sfvrsn=42fd4eb0_14

These guidelines are also available in both Spanish and Haitian Creole on the Mitigation General Infrastructure Program page.

Additional Program Resources

- [Application Instructions and Checklist](#)
- [Implementation Plan Template](#)
- [Project Budget Template](#)
- [Sample Completed Materials](#)
- [Rebuild Florida Mitigation General Infrastructure Program Frequently Asked Questions\(Round I\)\(Round II\)](#)

Appendix 2. Critical Facility Hardening Program

Additional information and program resources for the Mitigation Critical Facility Hardening Program is located on the FloridaCommerce website at www.floridajobs.org under Home > Community Planning, Development and Services > Community Development Block Grants > Office of Long-Term Resiliency > Mitigation Program > Rebuild Florida Critical Facility Hardening Program (<http://www.floridajobs.org/rebuildflorida/mitigation/rebuild-florida-critical-facility-hardening-program>)

Program Guidelines

The CDBG-MIT Rebuild Florida Critical Facility Hardening Program Guidelines are available on the FloridaCommerce website Mitigation Critical Facility Hardening Program page, or can be accessed directly at:

http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/critical-facility-hardening-program/cfhp-guidelines/english-cfhp-guidelines.pdf?sfvrsn=9c7647b0_10

These guidelines are also available in both Spanish and Haitian Creole on the Mitigation Critical Facility Hardening Program page.

Additional Program Resources

- [Sample Completed Materials](#)
- [Rebuild Florida Mitigation Critical Facility Hardening Program Frequently Asked Questions](#)

Appendix 3. General Planning Support Program

Additional information and program resources for the Mitigation General Planning Support Program is located on the FloridaCommerce website at www.floridajobs.org under Home > Community Planning, Development and Services > Community Development Block Grants > Office of Long-Term Resiliency > Mitigation Program > Rebuild Florida General Planning Support Program (<http://www.floridajobs.org/rebuildflorida/mitigation/rebuild-florida-general-planning-support-program>)

Program Guidelines

The CDBG-MIT Rebuild Florida General Planning Support Program Guidelines are available on the FloridaCommerce website Mitigation General Planning Support Program page, or can be accessed directly at:

http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/general-planning-support-program/gps-program-guidelines/general-planning-support-guidelines-with-appendices.pdf?sfvrsn=78fc46b0_10

These guidelines are also available in both Spanish and Haitian Creole on the Mitigation General Planning Support Program page.

Additional Program Resources

- Application Materials including:
 - [Application Instructions and Checklist](#)
 - [Implementation Plan Template](#)
 - [Project Budget Template](#)
- [Online Application](#)
- [Sample Completed Materials](#)
- [Rebuild Florida Mitigation General Planning Support Program Frequently Asked Questions](#)