



# REBUILD FLORIDA SUBRECIPIENT HOUSING REPAIR & REPLACEMENT PROGRAM

## GUIDELINES

This document provides the housing guidelines for implementation of the Hurricane Sally Housing Repair and Replacement Program administered by the State of Florida Department of Commerce. This Program is funded by the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant—Disaster Recovery (CDBG-DR) allocation as described in the *Supplemental Appropriations for Disaster Relief Act, 2022* (Public Law 117-43).

**VERSION 1.1**

**April 4, 2024**

## VERSION HISTORY

Version Number	Date	Summary of Changes
1.0	2/27/2023	Original Document
1.1	04/04/2024	<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. Associated branding (including logos, fonts, and colors) has been updated throughout the document.</p>

## **VERSION POLICY**

Version history is tracked in the Version History Table with notes regarding version changes. Dates of each publication are also tracked in this table.

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 Sally Community Development Block Grant - Disaster Recovery Program 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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## 1.0 Definitions

**100-year floodplain** – The geographical area, defined by the Federal Emergency Management Agency, subject to inundation from a flood with a 1 percent or greater chance of being equaled or exceeded in any given year.

**ACM** – Asbestos-Containing Materials.

**Action Plan** – Community Development Block Grant-Disaster Recovery Action Plan for Disaster Recovery provides the high-level strategy to carry out strategic and high-impact activities to minimize or eliminate risks and reduce losses from future disasters. The Action Plan also describes the opportunity to improve state and local planning protocols and procedures.

**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 (24 CFR 570.201).

**AFFH** – Affirmatively Furthering Fair Housing.

**AGI** – Adjusted Gross Income.

**ALF** – Assisted Living Facility

**Allocation Announcement Notice (AAN)** – Publication announcing the Community Development Block Grant-Disaster Recovery allocations for specific disasters and including waivers and alternative requirements specific to the Appropriations Act that allocated the funding.

**Allowable Costs** – Costs deemed allowable under the Community Development Block Grant-Disaster Recovery rules and regulations and 2 CFR 200 Subpart E.

**Americans with Disabilities Act (ADA)** – Effective July 20, 1990, a federal law which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of TDD/telephone relay services.

**Applicant** – Any entity that submits a response to the request for applications for potential funding through the Community Development Block Grant-Disaster Recovery program.

**Application Intake** – The initial step a property owner must take to seek benefits under the program. The application will result in the prioritization of an applicant if basic eligibility requirements are met.

**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.

**Area Median Income (AMI)** – The median household income for an area adjusted for household size as published and annually updated by the U.S Department of Housing and Urban Development. Once household income is determined, it is compared to the U.S Department of Housing and Urban Development's income limit for that household size.

**Base Flood Elevation (BFE)** – Base Flood Elevation, as determined by the Federal Emergency Management Agency, is the relationship between the Base Flood Elevation and a structure's elevation. It is used to determine flood insurance premiums. The Federal Register sets the minimum elevation requirements for properties that will be assisted with CDBG-DR funding, and which require elevation. FloridaCommerce of Urban and Housing Development has determined that structures designed principally for residential use and located in the 100-year floodplain that receive assistance for new construction, repair of substantial damage, or substantial improvement must be elevated with the lowest floor, including the basement, at least two feet above the Base Flood Elevation.

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

**Business Concern** – A business entity formed in accordance with state law, and which is licensed under state, county, or municipal law to engage 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.

**Canceled Loans** – Occurs when the 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.

**CFR** – Code of Federal Regulations.

**Change Order** – Work that is added to, or deleted from, the original contract activities that were to be performed. The order changes the original contract amount and/or the completion due date. The change order must be approved by FloridaCommerce of Commerce's Office of Long-Term Resiliency, homeowner, subgrantee, contractor, subcontractor, and project architect and/or engineer, as appropriate, prior to implementation.

**CMS** – Constituent Management Services.

**Common Area Under Roof** – The total area under the common roof is primarily interior, conditioned/climate-controlled spaces, and for single-story homes, equal to the footprint of the house. The term is also synonymous with the eligible area. In addition, exterior spaces, or accessory structures such as detached porches and garages are not considered in the eligible area, and accessory structures that may be attached to the side of a home but not under the common roof are not considered eligible.

**Community Development Block Grant (CDBG)** – Supports community development activities to build stronger and more resilient communities. To support community development, activities are identified through an ongoing process. Activities may address needs such as infrastructure, economic development projects, public facilities installation, community centers, housing rehabilitation, public services, clearance/acquisition, microenterprise assistance, code enforcement, homeowner assistance, etc.

**Community Development Block Grant-Disaster Recovery (CDBG-DR)** – The Community Development Block Grant Disaster Recovery Program, administered by the U.S. Department of Housing and Urban Development, as authorized under Title I of the Housing and Community Development Act of 1974, as amended. These funds are provided as a last resort to help cities, counties, and states to recover from Presidentially declared disasters.

**Concern(s)** – An issue identified in FloridaCommerce of Commerce's monitoring report, or an environmental review memo sent to the subgrantee and/or subrecipient that, if not addressed or corrected, may result in a finding.

**Consolidated Notice** – The U.S. Department of Housing and Urban Development's Community Development Block Grant-Disaster Recovery Consolidated Notice, Appendix B of Federal Register Vol. 87, No. 23. The Consolidated Notice governs all Office of Long-Term Resiliency Community Development Block Grant-Disaster Recovery grants beginning with 2020 disasters (Hurricane Sally) and includes amended requirements from previous Federal Register Notices and Community Planning and Development Notices that have regulated Community Development Block Grant-Disaster Recovery funds in the past. The Consolidated Notice includes waivers and alternative requirements, relevant regulatory requirements, the grant award process, criteria for action plan approval, and eligible disaster recovery activities.

**Contractor** – 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.



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**Corrective Action** – Steps required to be taken to resolve findings and/or concerns identified in FloridaCommerce of Commerce’s Office of Long-Term Resiliency monitoring report.

**Cost Reimbursement** – Payment made to the subgrantee and/or subrecipient after a request for funds has been submitted along with proper supporting documentation and has been approved by FloridaCommerce of Commerce. In Community Development Block Grant-Disaster Recovery grant agreements, the subgrantees and/or subrecipients are required to pay in advance for all completed work that is associated with the deliverables set forth in the subrecipient agreement and is reimbursed based on the invoice and supporting documentation submitted to FloridaCommerce.

**CPD** – Community Planning and Development.

**Damage Assessment** – The initial opportunity for a program inspection of the structure damaged by Hurricane Sally in which all damage repaired at the time, and damage still to be repaired are officially documented in an estimating software that allows monthly market pricing and local sales taxes to be applied to program eligible materials and labor in a consistent report format. The damage assessment reports will contain a detailed sketch of the structure along with exterior and interior photos.

**Damage Repair Valuation (DRV)** – The Damage Repair Valuation will represent the Xactimate-determined value of the repairs completed by the homeowner, or those caused to be repaired by the homeowner, prior to the program application submittal for the Housing Repair and Replacement program. (Xactimate is a residential estimating software that is used to standardize estimates for construction costs.) The completion of the repairs will be verified by a program inspection during the initial site inspection process. The value of these repairs may be used in the duplication of benefits analysis and evaluation process.

**Decent, Safe, and Sanitary (DSS)** –A dwelling which meets local housing and occupancy codes. Any of the standards outlined in 49 CFR 24.2(a)(8) which are not met by the local code shall apply unless waived for good cause by the Federal Agency funding the project.

**Declined Loans** – 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 the loan documents to receive the loan proceeds.

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

**Demolition** – Clearance and proper disposal of substantially-damaged or dilapidated buildings.

**Direct Cost** – Any project cost or project delivery cost that is identified specifically with completing an activity or product such as materials and labor. Costs identified specifically with a contract are direct costs of that contract. Administrative expenses are not generally considered direct costs.

**Disability** – Federal nondiscrimination laws define a person with a disability to include any (1) individual with a physical or mental impairment that substantially limits one or more major life activities; (2) individual with a record of such impairment; or (3) individual who is regarded as having such an impairment consistent with federal law under The Social Security Act, as amended, 42 U.S.C. §423(d), The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12102(1) -(3), and in accordance with the U.S. Department of Housing and Urban Development regulations at 24 CFR 5.403 and 891.505.

**Disaster Recovery Grant Reporting (DRGR) System** – The U.S Department of Housing and Urban Development’s web-based reporting and grants management system.

**DOAH** – Florida Division of Administrative Hearings.

**Duplication of Benefits (DOB)** – When a person, household, business, government, or other entity receives financial assistance from multiple sources for the same purpose within the same time period, and the total assistance received for that purpose is more than the total need for assistance.

**Duplication of Benefits (DOB) Gap** –The total amount of excludable and non-excludable benefits received less the dollar amount of excludable benefits from the Duplication of Benefits analysis.

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Duplication of Benefits Gap amount, along with all future non-excludable benefits received by Recipient(s), shall be provided to the Department of Commerce and deposited in a Duplication of Benefits Gap Funding Account prior to the execution of the Homeowner Grant Agreement.

**Duplication of Benefits (DOB) Gap Funding Account** – Duplication of Benefits Gap Funding Account is an account controlled by the Department of Commerce in which all non-excludable benefits received by Recipient(s) prior to and/or after the execution of the grant agreement are deposited. Funds in the DOB Gap Funding Account, if any, will be disbursed to Contractor for completion of the Statement of Work before any CDBG-DR Grant Award funds will be disbursed.

**Elevation** – All structures, defined at 44 CFR 59.1, designed principally for residential use, and located in the 1 percent annual (or 100-year) floodplain that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined at 24 CFR 55.2(b) (10). Structures must be elevated with the lowest floor, including the basement, at least two feet above the 1 percent annual floodplain elevation. Elevation will be conducted by means of pier and beam construction, as per Florida building code. Fill dirt to achieve proper elevation height will not be eligible.

**Environmental Review** – All qualified projects must undergo an environmental review process. This process ensures that the activities comply with the National Environmental Policy Act and other applicable state and federal laws. For the U.S. Department of Housing and Urban Development purposes, applicable requirements are found at 24 CFR 58.

**Environmental Review Record (ERR)** – A written record of the review process undertaken to evaluate potential environmental impacts associated with a project to be conducted with the U.S. Department of Housing and Urban Development funds, including all associated documentation necessary to document the process and the outcome of the review process.

**EPA** – Environmental Protection Agency.

**Estimated Cost to Repair (ECR)** – An ECR is used to verify Hurricane Sally damage to the property, determine the estimated scope of work to complete the repairs to the property and bring the property up to program standards.

**Family** – A household composed of two or more related persons. The term “family” also includes one or more eligible persons living with another person or persons who are determined to be important to their care or well-being.

**FBC** – Florida Building Code.

**Federal Register (FR)** – 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.

**FEIN** – Federal Employer Identification Number.

**FEMA** – Federal Emergency Management Agency.

**FEMA-Designated High-Risk Area** – Areas designated by the Federal Emergency Management Agency as vulnerable to significant wind and/or storm surge damage and areas located in 100-year flood zones. Properties located in these areas will be identified during the environmental review process.

**FEMP** – Federal Emergency Management Program.

**Finding(s)** – A specific issue of noncompliance with federal or state regulatory requirements, including the Community Development Block Grant subrecipient/subgrant agreement provisions, that is identified in a monitoring report produced by the Department of Commerce or in an environmental review memo sent to the subrecipient/subgrantee.

**Florida Department of Commerce (FloridaCommerce)** – Administrator of the Community Development Block Grant-Disaster Recovery and Community Development Block Grant-Mitigation programs funded by the U.S. Department of Housing and Urban Development. FloridaCommerce is the

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governor-designated state authority responsible for administering all long-term disaster recovery funds awarded to Florida from the U.S. Department of Housing and Urban Development. As used in this document, "FloridaCommerce" refers to the Florida Department of Commerce.

**Flood Hazard Area** – Areas designated by FEMA as having a risk of flooding.

**Flood Insurance** – The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Areas be covered by flood insurance under the National Flood Insurance Program (NFIP). In order to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in their community.

**Floodplain** – The Federal Emergency Management Agency designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

**Floodway** – A "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Communities must regulate development in these floodways to ensure that there are no increases in upstream flood elevations. For streams and other watercourses where The Federal Emergency Management Agency has provided Base Flood Elevations, but no floodway has been designated, the community must review floodplain development on a case-by-case basis to ensure that increases in water surface elevations do not occur or identify the need to adopt a floodway if adequate information is available.

**GC** – General Contractor(s).

**Grantee** – As used in this document, the grantee is the State of Florida Department of Commerce's Office of Long-Term Resiliency as recipient of Community Development Block Grant-Disaster Recovery funds from the U.S. Department of Housing and Urban Development.

**Green Building Standards** – All rehabilitation that meets the definition of substantial improvement, reconstruction, or new construction must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) ENERGY STAR® (Certified Homes or Multifamily High-Rise), (2) EPA Indoor Air Plus (ENERGY STAR® a prerequisite), (3) LEED (New Construction, Homes, Midrise, Existing Buildings Operations, and Maintenance, or Neighborhood Development), or (4) ICC-700 National Green Building Standard.

**HA** – Housing Assistance.

**HCDA** – Housing and Community Development Act of 1974, as amended.

**HOA** – Homeowner's Association

**Household** – A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single-family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the Low- to Moderate-Income compliance test is based on the total household income.

**Housing Quality Standards (HQS)** – The HQS established certain minimum standards for buildings. This includes new single-family homes and multifamily housing as outlined in 24 CFR 982.401. The Housing Repair and Replacement Program uses these standards as a guideline to identify basic living quality deficiencies that should be addressed during the construction process when there is other identifiable Sally-related storm damage. The Housing Repair and Replacement Program does not conduct a certified HQS inspection.

**HRRP** – Housing Repair and Replacement Program.

**HUD** – United States Department of Housing and Urban Development.

**IA** – FEMA Individual Assistance

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**Increased Cost of Compliance (ICC)** – Structures damaged by floods may be required to meet certain building requirements, such as elevation or demolition, 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 includes Increased Cost of Compliance coverage for all new and renewed Standard Flood Insurance Policies. Increased Cost of Compliance is a potential source of a Duplication of Benefit, as a supplement to an existing National Flood Insurance Program policy. Policyholders are only eligible to receive Increased Cost of Compliance payment if a Substantial Damage Letter has been issued by the local floodplain manager.

**Income** – Annual income as reported under the United States Census long-form for the most recent available decennial U.S. Census. This definition includes:

- Wages, salaries, tips, commissions, etc.;
- Self-employment income from own nonfarm business, including proprietorships and partnerships;
- Farm self-employment income;
- Interest, dividends, net rental income, or income from estates or trusts;
- Social Security or railroad retirement;
- Supplemental Security Income, Aid to Families with Dependent Children, or other public assistance or public welfare programs;
- Retirement, survivor, or disability pensions; and
- Any other sources of income received regularly, including Veterans' (VA) payments, unemployment compensation, and alimony.

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

**IRC** – International Residential Codes.

**LBP** – Lead-Based Paint.

**Lead PRE** – The Environmental Protection Agency's Lead Pre-Renovation Education Rule.

**LEP** – Limited English Proficiency.

**Low-to-Moderate Income (LMI) Household** – A household whose annual income does not exceed 80 percent of the median income for the area as most recently determined by HUD.

- LMI 30 refers to those individuals/families making less than 30 percent of the Area Median Income.
- LMI 50 refers to those individuals/families making less than 50 percent of the Area Median Income.
- LMI 80 refers to those individuals/families making less than 80 percent of the Area Median Income.
- Above LMI 80 refers to those individuals/families making more than 80 percent of the Area Median Income.

**Low-to-Moderate Income (LMI) National Objective** – Activities that benefit households whose total annual gross income does not exceed 80 percent of Area Median Income, adjusted for family size. Pursuant to federal statute, the grantee is required to expend 70 percent of Community Development Block Grant-Disaster Recovery funds to meet the Low-to-Moderate-Income National Objective.

**Low-to-Moderate Income (LMI) Resident/Person/Individual** – A person whose annual income does not exceed 80 percent of the median income for the area as most recently determined by the U.S. Department of Housing and Urban Development.

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**Mobile/Manufactured Housing Unit (MHU)** – A structure, transportable in one or more sections, which, in the traveling mode, is eight body-feet or more in width, or 40 body-feet or more in length, or when erected on site, is at least 320 square feet, is built on a permanent chassis, and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. Sometimes referred to as mobile homes. A Manufactured Housing Unit is built to the specifications required in the Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 70 § 5401 et seq. Manufactured Housing Unit display a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis.

**Modular Housing** – A home built in sections in a factory to meet federal, state, or local building codes. Once assembled, the modular unit becomes permanently fixed to one site. The program will treat modular homes as traditional, site, or stick-built construction.

**Most Impacted and Distressed (MID) Areas** – Areas of most impact as determined by the U.S. Department of Housing and Urban Development or the state using the best available data sources to calculate the amount of disaster damage.

**Multifamily** – Residential structures containing five or more units or multifamily residential structures located on adjacent lots. Multifamily structures are not eligible under these Guidelines.

**National Flood Insurance Program (NFIP)** –

- NFIP Zone A refers to those applicants within the 100-year flood zone.
- NFIP Zone V refers to those applicants within the 100-year flood zone with velocity (coastal storm surge risk).
- NFIP Zone X refers to those applicants outside of the 100-year flood zone.

**Necessary Costs** – Community Development Block Grant-Disaster Recovery funding will fill a necessary gap to address an unmet need that cannot be filled by another funding source. This is demonstrated by conducting a duplication of benefits analysis calculation for each activity.

**Not Suitable for Rehabilitation** – The Department of Commerce defines “not suitable for rehabilitation” as one of the two following definitions:

- Residential properties that have experienced repetitive losses under the Federal Emergency Management Agency’s National Flood Insurance Program.
- Dwellings that are considered substandard and do not meet the recovery program’s housing repair standards and/or federal, state, and local code requirements will not be deemed suitable for rehabilitation, as determined by the program and consistent with program guidelines. A structure is not suitable for rehabilitation if the cost of repair is unreasonable based upon program standards.

**Offer** – A response to a solicitation that, if accepted, would bind the offer. Responses to an Invitation to Bid are offers called “bids” or “sealed bids”.

**Office of Long-Term Resiliency (OLTR)** – The Florida Department of Commerce’s office dedicated to the administration of Community Development Block Grant-Disaster Recovery and Community Development Block Grant-Mitigation funded programs and activities.

**OIG** – Office of Inspector General.

**Owner-Occupant** – For the purposes of the Subrecipient HRRP, the owner (title-holder) and resident of a property who uses the property as their primary residence, meaning dwelling in the property for more than half of the calendar year.

**Private Loans** – A loan that is not provided by, or guaranteed by, a governmental entity. Private loans require the Community Development Block Grant-Disaster Recovery applicant (the borrower) to repay

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the full amount of the loan (principal and interest) under typical commercial lending terms, i.e., the loan is not forgivable.

**Program Income** – Gross income received by the subgrantee and/or subrecipient directly generated from the use of Community Development Block Grant-Disaster Recovery funds. Revenue that is received by a state, Unit of General Local Government, or subrecipient as defined at 24 CFR 570.500.

**Project Cost** – Direct costs of undertaking a Community Development Block Grant-Disaster Recovery project and which can be tied to a final cost objective and eligible activity. The project costs can count towards meeting the overall Low-to-Moderate Income benefit requirements.

**Project Delivery Cost** – Costs used specifically to meet the requirements to complete a particular project, especially as it applies to meeting Community Development Block Grant requirements.

**Project/Program/Activity** – The housing, infrastructure, economic development, or planning endeavor undertaken by FloridaCommerce, the subgrantee and/or subrecipient using Community Development Block Grant-Disaster Recovery funds.

**Property Casualty Insurance** – Insurance that covers structural repairs to a home as a result of wind, fire, hail, wind-driven rain, tornado, hurricane, or natural disaster, other than flood.

**Public Housing Authority (PHA)** – A state, county, municipality or other governmental entity or public body or agency or instrumentality of these entities that is authorized to engage or assist in the development or operation of low-income housing under the United States Housing Act of 1937 in accordance with 24 CFR §5.100.

**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. (24 CFR 570.201)

**Reasonable Costs** – Costs that do not exceed what a prudent person would incur under similar circumstances, as demonstrated by the market price for comparable goods and services. For contracted work, the Responsible Entity should conduct an independent cost estimate to establish cost reasonableness as outlined in 2 CFR 200.

**Reconstruction** – The demolition, removal, and disposal of an existing housing unit and the replacement of that unit on the same lot, and in the same footprint, with a new unit that complies with the International Residential Codes, as required by the Florida Code. The number of units on the lot may not increase and the total square footage of the original, principal residence structure to be reconstructed may not be substantially exceeded; however, the number of rooms in a unit may be increased or decreased.

**Rehabilitation** – Repair or restoration of housing units in the disaster-impacted areas to applicable construction codes and standards.

**Replacement** – Demolition, removal, and replacement of a damaged Mobile Housing Unit with a new unit in substantially the same footprint or at a new location, if the original damaged unit was on leased land and the Mobile Housing Unit owner must relocate to a new property. Relocation of a new Mobile Housing Unit will require additional environmental review. This occurs after the project environmental review is completed and approved by the Department of Commerce.

**Request for Funds (RFF)** – A subgrantee and/or subrecipient's request for funds from Department of Commerce.

**Request for Proposals (RFP)** – A solicitation, often made through a bidding process, by an agency to communicate its requirements for goods or services to prospective contractors.

**Request for Quote (RFQ)** – 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 the state term contract from that vendor.

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**Request for Release of Funds (RROF)** – A subgrantee and/or subrecipient request for a release of funds. This request is executed through the U.S. Department of Housing and Urban Development Form 7015.15.

**Response** – Any application received for Community Development Block Grant-Disaster Recovery funding.

**Responsible Entity (RE)** – The entity responsible for certain components of the Community Development Block Grant-Disaster Recovery administration process including environmental reviews, monitoring, and administration. The Responsible Entity can be the Department of Commerce or a Unit of General Local Government, also known as a subrecipient, as specified by FloridaCommerce.

**SBA** – The United States Small Business Administration, a federal agency.

**Sealed bid** – A method of contracting that encompasses a competitive bid process, the public opening of bids, and making the bid award.

**Second Homes** – A home that is not the primary residence of the owner, a tenant, or any occupant at the time of the storm or at the time of application for assistance and therefore is not eligible for repair assistance or housing incentives. FloridaCommerce of Urban Housing and Development has established an alternative requirement for second homes that may allow assistance in limited circumstances, coordinated with FloridaCommerce of Urban and Housing Development. Additionally, seasonal, short-term and vacation rental properties are not eligible for assistance.

**Section 3** –Section 3 of the Housing and Urban Development Act of 1968, as amended, and the implementing regulations at 24 CFR 135 and 24 CFR 75, as applicable, relating to employment and other economic opportunities for low and very low-income persons.

**Section 3 Business or Business Concern** – As related to Section 3 of the of the Housing and Urban Development 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
- 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 a Section 3 Covered Project such as maintenance contracts, re-painting, routine maintenance, HVAC servicing, and professional services (architectural, engineering, legal, accounting, marketing, etc.).

**Section 3 Covered Project** – The construction, reconstruction, conversion, or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction such as roads, sewers and community centers, and buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

**Section 3 Workers** – A worker whose income for the previous or annualized calendar year is below 80 percent of the area median income for the area in which the worker resides, is employed by a Section 3 business concern, or the worker is a YouthBuild participant.

**Service Area** – The total geographic area to be directly or indirectly served by a subgrant project that addresses the Low-to-Moderate Income National Objective, in which at least 51 percent of the residents are low-to-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.

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**Shortfall Amount:** The difference between the Grant Award and the actual (higher) cost to complete the construction activities in the Statement of Work identified by the Department of Commerce.

**Solicitation** – Any request to submit offers or quotations to the local government. Solicitations under sealed bid procedures are called “Invitations to Bid”. Solicitations under negotiated procedures are called “Requests for Proposals.” Solicitations under simplified acquisition procedures may require submission of either a quotation or an offer.

**Special Flood Hazard Area (SFHA)** – Areas where the National Flood Insurance Program’s (NFIP’s) floodplain management regulations must be enforced and the mandatory purchase of flood insurance applies.

**Statement of Work** – An agreement that outlines repair deliverables identified in the Estimated Cost to Repair that the contractor selected by subrecipient must complete.

**Stick-built home** – A home that has been built on-site using traditional construction materials and methods.

**Subcontract** – 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** – 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 Housing and Urban Development 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.

**Subrecipient** – A competitively-selected recipient, usually a local government, that is provided Community Development Block Grant-Disaster Recovery funds from the Department of Commerce to agreed-upon eligible disaster recovery activities documented in a Subrecipient Agreement.

**Subrecipient Agreement** – An agreement between the Department of Commerce and the subrecipient for the subrecipient to undertake activities using Community Development Block Grant-Disaster Recovery funds.

**Subrecipient Enterprise Resource Application (SERA)** – FloridaCommerce of Commerce’s web-based reporting and grants management system. This system is used by Community Development Block Grant-Disaster Recovery vendors, subgrantees, and subrecipients to submit invoices and supporting documentation in order to be reimbursed for goods and services. The transactions in this system are linked to the state’s Florida Accounting Information Resource system as well as the U.S. Department of Housing and Urban Development’s Disaster Recovery Grant Reporting system.

**Subrogation** – A legal doctrine that allows one entity to take on the rights of another. In the context of Disaster Recovery grants, a subrecipient must enter into a subrogation agreement in which the funding agency (FloridaCommerce of Commerce) obtains the right to collect any additional disaster recovery payments the entity obtains for the same purpose after the entity has received disaster recovery benefits.

**Subsidized Loans** – Loans, including forgivable loans, other than private loans. Both Small Business Administration and Federal Emergency Management Agency provide subsidized loans for disaster recovery.

**Substantial Completion** – The completion of the Estimated Cost of Repair and/or the program-issued plans/specifications awarded to the contractor as documented by a passed Final Progress inspection.

**Substantial Damage** – Based on the flood provisions of the Florida Building Code, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The determination is only made by the local jurisdiction. The program will abide by these determinations.



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**Substantial Improvement** – As defined in 24 CFR 55.2(b)(10)(i)(A) and as applicable to the Housing Repair and Replacement Program, substantial improvement means any repair, reconstruction, modernization, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement determinations are only made by the local jurisdiction. The program will abide by these determinations.

**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 Public Housing Authority (PHA) that is providing the assistance; or
  - A YouthBuild participant.

**UGLG** – Unit of General Local Government.

**Uniform Relocation Assistance and Real Property Acquisition Act (URA) of 1970, as amended** –

A federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects pursuant to 49 CFR Part 24 and applicable waivers provided in the U.S. Department of Housing and Urban Development's Community Development Block Grant-Disaster Recovery Consolidated Notice, Appendix B of Federal Register Vol. 87, No. 23.

**Unresponsive** – Failure to answer or return three consecutive phone calls and/or failure to respond to written requests within program timeframes.

**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.

**Very Low-Income (VU) Household/Family** – A household whose annual income does not exceed 30 percent of the median income for the area as most recently determined by HUD.

**Very Low-Income (VU) Person or Individual** – A person whose annual income does not exceed 30 percent of the median income for the area as most recently determined by HUD.

**Waiver** – A revision to the standard Community Development Block Grant-Disaster Recovery regulations, requirements, and activities, granted by the U.S. Department of Housing and Urban Development.

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

**Zero Award** – Is determined when the estimated cost to repair the disaster-related structural damage sustained to an applicant's home is less than the amount of benefits previously received or previously approved from other sources.

## 2.0 Introduction

The Florida Department of Commerce’s (“FloridaCommerce’s”) Office of Long-Term Resiliency (OLTR) is the agency responsible for the administration of Community Development Block Grant - Disaster Recovery (CDBG-DR) programs funded by the U.S. Department of Housing and Urban Development (HUD). FloridaCommerce has been allocated a total of \$187,383,000 in CDBG-DR funds to address unmet disaster recovery needs related to damage from Hurricane Sally. Of this funding, FloridaCommerce allocated an initial amount of \$45,000,000 to unmet housing recovery needs through the Subrecipient Housing Repair and Replacement Program (HRRP).

The initial allocation to the Subrecipient HRRP was determined based upon data obtained during the development of the State of Florida Action Plan for Disaster Recovery (the “Action Plan”), which indicated significant unmet needs related to homeowner repair, reconstruction, and replacement. However, the actual number of properties that may be served through this program will depend on several variables that are unknown at the outset, including market conditions, such as cost of materials and labor; the number of repairs versus replacements; the number of replacements that are funded during prioritization phasing; and unforeseen circumstances such as additional disasters.

FloridaCommerce has established two objectives for the Subrecipient HRRP. First, recognizing that the \$45 million allocation for housing repair may not meet all needs, FloridaCommerce will prioritize assistance for at-risk and vulnerable populations. At-risk and vulnerable populations to be prioritized are households with one or more of the following characteristics:

1. Households with members over the age of 62;
2. Households with children under the age of 18 (especially those with incomes below 30 percent of the area median);
3. Households with special needs or special accommodation requirements (disabled);
4. Households with members experiencing homelessness or at-risk of homelessness; and/or
5. Other vulnerable populations including household with members with alcohol or other drug addictions, persons with HIV/AIDS and their families, and public housing residents, as identified in 24 CFR 91.315(e).

Second, in an effort to increase resilience and protect human life, and in addition to following Florida building codes, FloridaCommerce is requiring construction methods that emphasize quality, durability, energy efficiency, sustainability, and mold resistance.

This document is intended to provide subrecipients with the guidance and tools necessary to successfully implement and execute compliant CDBG-DR–funded projects. These guidelines will be updated as needed, to incorporate changes based on information obtained from attending CDBG-DR program-related training workshops, seminars, webinars and from other resources, including changes in federal and state laws, rules, regulations, and program policies and procedures. Updated information about FloridaCommerce’s disaster recovery efforts will be posted on FloridaCommerce’s CDBG-DR program website: [FloridaJobs.org/CDBG-DR](https://FloridaJobs.org/CDBG-DR).

## 3.0 Program Overview

The Subrecipient HRRP is a centralized housing repair or replacement program that will prioritize serving Low- and Moderate-Income (LMI) families impacted by Hurricane Sally in the five designated Most-Impacted and Distressed (MID) counties, as approved by HUD and the state. These are Bay, Escambia, Okaloosa, Santa Rosa, and Walton Counties.

For the Hurricane Sally Subrecipient HRRP, OLTR administers the federal funding allocation and oversees local implementation of disaster-recovery projects by Units of General Local Government (UGLGs), also referred to as subrecipients, once they are under contract with OLTR. Each UGLG proposed project is competitively scored and ranked for funding. Once an UGLG is determined potentially eligible, OLTR may schedule a subrecipient pre-award site visit to assess potential subrecipient capacity and plans for project implementation. After review of grant application materials and a successful pre-award site visit, UGLGs may receive a final notice of award that identifies the projects funded and the award amount(s).

### 3.1 Purpose of the Program

The Subrecipient HRRP is designed to address remaining housing unmet needs in the Hurricane Sally (September 2020) disaster-impacted areas in Northwest Florida and reduce vulnerability by repairing and replacing homes based on guidance provided in the Hurricane Sally Allocation Announcement Notice (AAN) within Federal Register Vol. 87, No. 23, February 3, 2022, and Appendix B of FR Vol. 87, No. 23 (the “Consolidated Notice”). This program will primarily benefit LMI households.

#### 3.1.1 National Objective and Eligible Activities

Eligible activities for the Subrecipient HRRP may include site clearance, rehabilitation, and reconstruction of buildings (including housing) as described in Section 105(a)(4) of the Housing and Community Development Act of 1974 (HCDA). Additionally, the state is incorporating waivers and alternative requirements described in the Consolidated Notice.

The primary national objective approved for the Subrecipient HRRP is benefit to LMI households. The Consolidated Notice requires that 70 percent of program funds meet the LMI National Objective, and that 80 percent of all funds be expended in the HUD-designated MID communities (Escambia and Santa Rosa Counties). Eligible activities under this program are as follow:

- Temporary Relocation;
- Demolition/Clearance;
- Single-Family Housing Rehabilitation/Repair;
- Multi-Family Housing Rehabilitation/Repair;
- Housing Construction;
- Public Housing;
- Emergency Community Shelters (Public Facilities);
- Homeless Shelters;
- Repair and Replacement of Manufactured Housing Units;
- Hazard Mitigation;
- Elevation;
- Planning Activities Related to Housing; and
- Other Activities Associated with the Recovery of Housing Stock Impacted.

### 3.1.2 Housing Program Administration and Implementation

FloridaCommerce will enter into a grant agreement with each awarded subrecipient. FloridaCommerce will oversee and monitor all subrecipient CDBG-DR programs for compliance, pursuant to the grant agreement between FloridaCommerce and HUD.

FloridaCommerce will provide subrecipients mandatory technical assistance related to program design, program implementation, program execution, and federal rules and requirements. Table 1 below illustrates the roles and responsibilities for the Hurricane Sally Subrecipient HRRP relative to specific tasks.

**Table 1: Roles and Responsibilities for Program Tasks**

<b>Task</b>	<b>Responsible Entity</b>
Subrecipient Applications	FloridaCommerce
Homeowner Applications	Subrecipient
Development of Subrecipient’s Program Policies and Procedures	Subrecipient
Subrecipient Policy and Procedure Technical Assistance	FloridaCommerce
Subrecipient Policy and Procedure Approval/Finalization	FloridaCommerce
Communication to Homeowner of Rights and Responsibilities	Subrecipient
Damage Assessment Production	Subrecipient
Environmental Review Production	Subrecipient
Environmental Review Approval	FloridaCommerce
Initial DOB/VOB Review	Subrecipient
Verify DOB/VOB Review	FloridaCommerce
Ineligible Homeowner Notification	Subrecipient
Initial Homeowner Appeals	Subrecipient
Secondary Homeowner Appeals	FloridaCommerce
Benefit Determination Letter Issuance	Subrecipient
Award Calculation	Subrecipient
Award Notification Letter Issuance	Subrecipient
Generation of Homeowner Grant Agreement Closing Package	Subrecipient
Completion and Closeout of Homeowner Grant Agreements	Subrecipient
Construction Bid Package Development, Issuance, and Bid Selection	Subrecipient
Issuance of Notice to Proceed	Subrecipient
Construction Progress Inspections	Subrecipient
Construction Final Inspections	Subrecipient
Construction Payment Request Review	Subrecipient
Construction Payment	Subrecipient
Initial Subrecipient Program Closeout Review	Subrecipient
Oversight and Monitoring of Subrecipient Processes, Implementation, and Closeout	FloridaCommerce

## 3.2 Subrecipient Applications

HRRP awards will be made through an open application cycle. Per HUD requirements, a minimum of 80 percent of the funding must be spent in HUD-identified MIDs. The remaining 20 percent of funding may be expended on projects in eligible state-identified MIDs.

### 3.2.1 Scoring Criteria

Once an application is determined to have satisfied the CDBG-DR Threshold Compliance Criteria, FloridaCommerce will score the application based on its Scoring Criteria, described below. The maximum attainable score is 200. Scoring will focus on the following eight categories:

- Management Capacity
- Readiness to Proceed and Viable Production Plan
- Proposes Cost Reasonable Budget
- Storm Resilience
- Vulnerable Populations
- Overall LMI Benefit
- Overall Housing Eligible Activities

The following chart further defines each category and lists the maximum point allocation for each criteria. In the event of scoring ties between applicants, projects that have a higher LMI benefit and/or are located within HUD- designated MID areas will be considered first.

**Table 2: Scoring Criteria**

	SCORING CRITERIA	MAX. POINTS
1	<b>Management Capacity:</b> Jurisdictions program manager and/or developer presents depth of program or project, case, and compliance management capacity to deliver services on-time and on-budget. Citizen Complaint Policy is in place.	35
2	<b>Readiness to Proceed and Viable Production Plan:</b> Applicant must show evidence of how proposed program or project will mobilize and operate in a timely manner	25
3	<b>Proposes Cost Reasonable Budget:</b> Proposal budgets reflect cost reasonableness and affirmative efforts to leverage CDBG-DR funds with additional funding to address unmet needs. Budget narrative reflects research, quotes, and/or contracted pricing.	25
4	<b>Storm Resilience:</b> In addition to addressing unmet needs, program, or project proposals need to show how they make investments that improve resilience to future storm-related damage.	15
5	<b>Overall LMI benefit (Percent LMI benefit of the activity):</b> Higher LMI benefit of the activity will receive a higher score. For example, a project with 100 percent LMI benefit would be scored higher than a project with 70 percent LMI benefit.	50
6	<b>Overall Housing Eligible Activities:</b> Programs and projects with housing related eligible activities will receive a higher score.	30
7	<b>Vulnerable Populations:</b> FloridaCommerce will utilize the applicant’s required Affirmatively Furthering Fair Housing (AFFH) assessment when calculating this	20

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scoring criteria. Applications which address the following vulnerable populations will receive higher scores.

The transitional housing, permanent supportive housing, and permanent housing needs of individuals and families that are homeless or at-risk of homelessness;

The prevention of low-income individuals and families with children under 18 (especially those with incomes below 30 percent of the area median) from becoming homeless;

The special needs of persons who are not homeless but require supportive housing (e.g., elderly (62 or older), persons with disabilities, persons with alcohol or other drug addiction, persons with HIV/AIDS and their families, and public housing residents, as identified in 24 CFR 91.315(e)).

**TOTAL MAXIMUM SCORE:**

**200**

### **3.3 Subrecipient Program Requirements**

Subrecipients must identify the national objective of the proposed activity and the percentage of LMI persons that will benefit from the activity. FloridaCommerce will determine the eligibility of an activity and whether a national objective is obtained as part of the application review process.

All awarded Subrecipient HRRP programs must, at minimum, adhere to the following standards:

1. All housing activities for the Subrecipient HRRP will meet the HUD national objective(s) and eligible activity requirements as set forth in the HCDA and applicable Federal Register notice(s).
  - A. At least 70 percent of budgeted funds will benefit LMI populations as defined in the HCDA.
  - B. Activities carried out under the program must be eligible per Section 104 (b)(3) of the HCDA.
2. Subrecipients must process homeowner applicants applying for disaster assistance by priorities based on the prioritization criteria outlined in Section 3.4.1 of these guidelines. The LMI demographic groups will be funded at a minimum level of 70 percent of total available funds (excluding planning and administration funds).
3. LMI demographic groups are:
  - A. Very Low Income: 0 – 30 percent of the Area Median Income (AMI)
  - B. Low Income: 31 – 50 percent of the AMI
  - C. Moderate Income: 51 – 80 percent of the AMI
4. The homeowner must meet certain eligibility standards to qualify for assistance. Eligibility standards are discussed in 5.0 Eligibility Requirements.
5. The property must pass a federally-required environmental review conducted by the subrecipient. No construction may be undertaken until the environmental review is completed and approved by FloridaCommerce. Note that review may result in a home being deemed ineligible for the program if there are extraordinary environmental site conditions that are determined to be not feasible for rehabilitation or demolition and reconstruction. Extraordinary site conditions may include, but are not limited to, properties with environmental concerns, properties where local building codes prohibit program scopes of work, or properties located in a floodway.
6. To receive program assistance, it must be demonstrated that there is unrepaired damage to structures as a direct result of Hurricane Sally. Damage details are noted in 5.1 Hurricane Sally Damage.
7. The subrecipient must conduct a damage assessment inspection on both the interior and exterior of the structure to observe and record damage, as well as develop the Damage Repair Valuation

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(DRV). The damage assessment must be completed in sufficient detail to develop cost estimates. This requires an inspector to have full access to the property for the documentation process.

8. Subrecipients must ensure that project costs are reasonable and typical in the current marketplace for projects of similar scope and must exclude any Duplication of Benefits (DOB).
9. The project must comply with all applicable federal, state, and local requirements.

### **3.3.1 HUD Income Limits**

HUD publishes income limits annually in or around April. At program launch, the Subrecipient HRRP used the 2022 HUD income limits by county to verify applicant household income. The program will update the income tables for the program each year when the new income tables are published by HUD.<sup>1</sup>

### **3.3.2 Ineligible Activities**

Ineligible activities identified in the Consolidated Notice, include the use of CDBG-DR for any activity that is not authorized under Section 105(a) of the HCDA and is therefore ineligible to be assisted with CDBG-DR funds, unless explicitly allowed by waiver or alternative requirement in the Consolidated Notice. Additionally, the uses described below are explicitly prohibited.

**Prohibition on compensation.** Grantees shall not use CDBG-DR funds to provide compensation to beneficiaries for losses stemming from disaster related impacts. Grantees may, however, reimburse disaster-impacted beneficiaries based on the pre-application costs incurred by the beneficiary to complete an eligible activity. Reimbursement of beneficiaries for eligible activity costs are subject to the requirements established in section III.F.5. of the Consolidated Notice.

**Prohibition on forced mortgage payoff.** A forced mortgage payoff occurs when homeowners with an outstanding mortgage balance are required, under the terms of their loan agreement, to repay the balance of the mortgage loan before using assistance to rehabilitate or reconstruct their homes. CDBG-DR funds, however, shall not be used for a forced mortgage payoff. The ineligibility of a forced mortgage payoff with CDBG-DR funds does not affect HUD's longstanding guidance that when other non-CDBG disaster assistance is taken by lenders for a forced mortgage payoff, those funds are not considered to be available to the homeowner and do not constitute a duplication of benefits for the purpose of housing rehabilitation or reconstruction.

## **3.4 Homeowner Applications**

Subrecipients must develop an application process for homeowner applicants. This process must be compliant with all requirements outlined in this guidelines document.

Homeowners must, in a timely manner, submit a completed application to the subrecipient for review and approval. All supporting documentation must be included in the application submitted for consideration. Eligibility to participate in the program will be determined by the subrecipient and verified by FloridaCommerce.

Should an applicant request to withdraw, and program funds have already been invested into the damaged property, the applicant will be responsible for the repayment of all program funds through a recapture process developed by the subrecipient in compliance with FloridaCommerce's Recapture Policy, located on the OLTR webpage.

Should the subrecipient expend funds on an applicant project that becomes non-compliant and cannot be remedied, the applicant may owe the funding expended on the project back to the subrecipient.

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<sup>1</sup> HUD Annual Income limits are available online at <https://www.huduser.gov/portal/datasets/il.html>.

Subrecipients should develop policies and procedures on the recapture of funds in these instances of noncompliance.

### 3.4.1 Applicant Prioritization

At a minimum, 70 percent of the overall Subrecipient HRRP program funds must meet the LMI National Objective as directed in the Consolidated Notice. Subrecipients should prioritize LMI households with one or more of the following characteristics, designated by the program as vulnerability factors. Such applicants will receive top scores in the Vulnerable Populations section of the Scoring Criteria.

- Households with seniors age 62 and older,
- Households with children under the age of 18, and
- Households with special needs or special accommodation requirements (for disabled person/s).

Additional vulnerabilities that should be considered include:

- Households with persons with alcohol or other drug addictions,
- Households with HIV/AIDS and their families, and
- Public housing households.

Subrecipients may, if able, provide mobile intake services for home-bound individuals to ensure all households have an equal opportunity and support to complete an application.

### 3.4.2 Program Education

Subrecipients should provide program education to all homeowners to explain the details of the Subrecipient HRRP, the application process, qualification and prioritization criteria, impacts of accepting an award, requirements for compliance after completion of activities, and long-term obligations incurred as a result of this funding.

## 3.5 Type of Assistance Offered

Repair may be offered to homeowners based on the extent of damage to their homes. Replacement of Mobile Housing Units (MHUs) will be limited to situations in which local zoning/building permits, or federal requirements, such as environmental regulations, will allow for the replacement of the original, hurricane-damaged structure with a like structure. If the MHU is located within an area where the replacement of the MHU is not allowable due to local codes and/or zoning restrictions, the application may be eligible for a stick-built reconstructed home.

As it may be necessary for homeowners to remove themselves and their belongings from their homes during the period of repair, the subrecipient will provide temporary housing assistance on a case-by-case basis when sufficient need can be demonstrated by the homeowner. Subrecipients must develop policies for the provision of temporary housing assistance. These policies must comply with the provisions outlined in the Consolidated Notice and must include policies that outline the process for the determination of sufficient need for temporary housing assistance.

As homeowner occupants participating in the Subrecipient HRRP are doing so voluntarily, FloridaCommerce has deemed that it is best practice for the cost for temporary housing of persons and belongings to be borne by the homeowner-occupant unless hardship is proven, in which case the subrecipient may offer assistance. Subrecipients must develop policies for determining circumstances of hardship and providing temporary housing assistance to homeowner-occupants. Please see 4.1 Uniform Relocation Assistance for information regarding temporary housing assistance for tenants.

Standard appliances that are not functioning at the time of inspection such as refrigerators, stoves and/or ovens may be replaced. Luxury items, including but not limited to, granite (or other high-end) countertops,



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high-end appliances, stone flooring, garage door openers, security systems, swimming pools, fences and television satellite dishes are not eligible for Subrecipient HRRP funding.

Additional allowable improvement parameters include:

- Cost-effective energy measures and improvements that meet local zoning and code, Decent Safe and Sanitary (DSS), or required Housing Quality Standards (HQS), especially those improvements which add enhanced resilience, such as elevation of major electrical components and roof strapping;
- Lead-based paint testing, mitigation, or stabilization, as needed. If a home is going to be replaced or reconstructed, lead-based paint testing will not apply. The replacement/reconstruction of the property will automatically result in the removal of any potential previous hazard;
- Asbestos testing, mitigation, or encapsulation, as needed;
- Mold testing and remediation, as needed;
- Section 106 of the National Historic Preservation Act of 1966 (Public Law 89-665), as amended in 2000, requires Architectural History compliance imposed by the Compliance and Review Section of the Bureau of Historic Preservation, as needed;
- Accessibility features for documented special needs. Section 504 of the Rehabilitation Act of 1973, as amended, provides for equal opportunity to enter facilities and participate in programs and activities. Subrecipient HRRP activities must evaluate the current state of accessibility and activities to persons with disabilities. Repaired homes inhabited by special needs persons or individuals aged 62 or older, may be analyzed as to the special physical needs of such persons. Improvements such as widened doorways, ramps, level entry and doorways, and grab bars in bath areas may be installed, if appropriate. Hearing and sight-impaired adaptations should also be considered. All special needs requirements must be documented prior to approval;
- Standard appliances limited to refrigerator, stove and/or oven if they are not in working order at time of inspection. Replacement appliances will be of standard, not luxury quality, but they will be ENERGY STAR® rated, if available;
- Ventilation and energy efficiency items such as ceiling fans, window screens, and screen doors if missing or not functional at the time of inspection;
- Elevation height requirements are governed by 87 FR 6303, February 2, 2022, which requires elevation of the bottom of the first finished floor to be at least two feet above the base flood elevation;
- All electrical components must be inspected including service, meter, wiring, and fixtures even if no electrical work is being specified. Unsafe components must be replaced. All exposed wiring, switches, and light bulbs in living areas must be encased;
- All homes must be equipped with smoke and carbon monoxide detectors installed in conformity with code requirements; and
- Additional related costs such as green building and mitigation requirements, insurance, accessibility modifications, repair or replacement of water, sewer, and utility connection needs may be included.

### **3.5.1 Mobile Home Unit Assistance Considerations**

When replacement of an MHU or modular home is indicated, subrecipients should consider developing standard floor plan options to be offered to eligible applicants. If a replacement home is provided, the subrecipient must ensure that the original MHU or modular home has been demolished and removed from the site prior to the replacement of that structure. Subrecipients should determine the size of the replacement unit using information related to the damaged structure's bedroom/bathroom configuration as well as household composition.

## 3.6 Structure Types

### 3.6.1 Eligible Structures

Structure types potentially eligible for the Subrecipient HRRP include:

1. Single-family stick-built and modular dwelling units;
2. Attached structures under the common roof of damaged single structures and/or permanently affixed structures not under the common roof;
3. MHUs, which may only be replaced with another MHU where land-use restrictions do not prohibit the replacement of the MHU;
4. Condominiums, townhomes, duplexes, and other owner-occupied units that share a common wall
5. Multi-Family stick-built dwelling units;
6. Public housing;
7. Emergency Community Shelters (public facility);
8. Homeless Shelter;
9. Subrecipients may consider structures that are used for both residential and commercial purposes for eligibility on a case-by-case basis; however, if the structure is approved, repairs should be limited to the residential portion.
10. Applicants who own a home on property with multiple unattached homes on the same lot (tax parcel) will be required to apply separately for each structure. Subrecipients must coordinate with the local code compliance authority to determine that each of the units is legally allowable on the property. Only those units that were constructed under a permit issued by the local code compliance authority will be considered for assistance. In addition, a survey of the property will be required, and the property may need to be sub-divided. The cost of the survey and responsibility for subdivision of the property, if required, will be at the homeowner's expense. Prior to replacing or repairing a structure, all code and property restrictions, if applicable, must be resolved.

Properties with delinquent mortgages or real property taxes are ineligible *unless* the owner shows they are on a payment plan or cured the delinquency, in which case the subrecipient can proceed with eligibility review.

### 3.6.2 Ineligible Structures

Structures ineligible for assistance through the Subrecipient HRRP include:

1. Garages, sheds, and outbuildings that are not attached to the main dwelling unit are not eligible for repair but may be eligible for demolition only if deemed a safety hazard. Improvements must be permanently attached to the main housing structure. Subrecipients may make exceptions to this ineligibility determination, on a case-by-case basis, where local or association requirements mandate one of the prohibited structures;
2. Recreational vehicles and camper trailers used as a residence;
3. Houseboats used as a residence;
4. Second homes;
5. Seasonal, short-term, and vacation rental properties;
6. Housing units located where federal assistance is not permitted by federal regulation, including floodways, or within runway clear zones of either a civilian or military airport;
7. Properties with delinquent mortgages, delinquent real property taxes, or properties that are subject to bankruptcy proceedings or in foreclosure *unless* the owner shows they are on a payment plan or cured the delinquency; and

8. Properties located on sites with extraordinary site conditions that are determined, by FloridaCommerce, to be not feasible for demolition and reconstruction. Extraordinary site conditions may include, but are not limited to, properties with environmental concerns, properties where local building codes prohibit program scopes of work, or properties located in a floodway.

## 3.7 Exacerbated Damages

To the extent that damages resulting from Hurricane Sally are exacerbated by circumstances beyond the applicant's control before the repair or reconstruction of the hurricane-damaged structure is completed, as per the Consolidated Notice, the Subrecipient HRRP may fund the further repairs or reconstruction of the damaged home caused by the exacerbated circumstances.

Because recovery from disasters is a long-term process and applicant damages are calculated once during the process, a subsequent change in an applicant's circumstances can affect the amount of unmet needs to an applicant's property. Examples of circumstances beyond the applicant's control include, but are not limited to a subsequent disaster, vandalism, or fire.

For example, if an applicant's home was damaged by Hurricane Sally and a subsequent flood or other unforeseen event exacerbates the original Hurricane Sally damage before repairs to damages caused by the hurricanes could be completed, the subrecipient may complete the rehabilitation, replacement, or reconstruction and address the unmet repair need as it currently exists.

However, the subrecipient may not provide assistance for activities that: (1) address a need arising solely from an event other than Hurricane Sally; or (2) address a need that has been met in full. For example, if a home did not suffer damages from Hurricane Sally, but later suffers damages from a subsequent event, subrecipients may not provide assistance using Subrecipient HRRP funds.

As stated in the Subrecipient HRRP eligibility criteria, all applicants must have sustained damage from Hurricane Sally to receive assistance. If exacerbated damages make it impossible to determine damages from Hurricane Sally through a damage inspection, subrecipients may use third-party documentation or datasets, such as the Federal Emergency Management Agency (FEMA) award letter, to document storm damages.

## 4.0 General Program Requirements

### 4.1 Uniform Relocation Assistance

Activities carried out through the Hurricane Sally Subrecipient HRRP may trigger requirements of the Uniform Relocation and Real Property Acquisition Act (URA). The URA establishes HUD's policy that efforts must be taken to minimize displacement of persons, families, businesses, and nonprofit organizations due to CDBG-DR funded activities. The URA also establishes that relocation assistance will be provided to displaced persons based on the requirements in 49 CFR Part 24.

Temporary Housing Assistance is based on individual tenant needs and their participation in the Subrecipient HRRP. This form of assistance for tenants is expected to be rare, but when required, it will be provided consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, 42 U.S.C. 4601 et seq., the regulations at 49 CFR Part 24, 70 CFR Part 589, HUD guidance and associated waivers in the AAN for Hurricane Sally, and the Consolidated Notice.

If an owner-occupied structure rehabilitated or reconstructed using CDBG-DR funds also has rental tenant(s) and a portion of the structure is also currently occupied by rental tenant(s), the displacement of such tenants will result in the application of the URA and all associated requirements, restrictions, and/or waivers outlined in the governing Federal Register Notice(s), federal guidance and the URA itself. Once the owner-occupied structure is rehabilitated or reconstructed, the tenant(s) will have the opportunity to move back into the previously occupied portion of the owner-occupied structure that was rehabilitated or reconstructed using CDBG-DR funds.

#### 4.1.1 Optional Relocation Assistance

Subrecipients may provide temporary on-site storage, based on cost reasonableness and feasibility, for homeowners who must remove personal belongings from his or her home during the construction period. This cost should be, where applicable, included in the scope of work. If temporary storage is necessary, the assigned construction contractor will arrange for the onsite storage container to be delivered and removed. If the applicant chooses to store his/her belongings in a program-provided temporary storage container, the applicant accepts all responsibility for the items placed in the container. Neither the subrecipient nor FloridaCommerce will be responsible for any damages or deterioration of items in temporary storage containers.

The Subrecipient HRRP may provide temporary relocation assistance to homeowners enrolled in the Subrecipient HRRP who may have to vacate their home due to construction activities when vacating the property by his or her own means is impossible or creates an undue hardship. Temporary relocation assistance may be considered on a case-by-case basis. The factors that subrecipients may consider in determining availability of relocation assistance will include homeowner or household member age, disability status, income level (low, very low, and moderate-income brackets), and other resources available to the homeowner.

Demonstrable hardships may include job loss, failure of a business, divorce, severe medical illness, injury, death of a family member or spouse, unexpected and extraordinary medical bills, disability, substantial income reduction, unusual and excessive amount of debt due to a natural disaster, etc. None of the examples above, individually or taken together, automatically establish a demonstrable hardship, nor is the listing above exhaustive as there may be other factors relevant to the issue of demonstrable hardship in certain cases.

If an applicant believes that they are in the state of demonstrable hardship and that the demonstrable hardship causes them to not comply with program policies, then they may present their evidence of a demonstrable hardship to the applicable UGLG or subrecipient administering the Subrecipient HRRP program in their respective area and request temporary housing assistance. The subrecipient will

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evaluate temporary housing requests on a case-by-case basis after a review of all the circumstances/evidence.

Subrecipients should note that the cost of optional relocation assistance may greatly reduce the availability of funds for carrying out housing rehabilitation and replacement construction activities. If the subrecipient chooses to offer temporary relocation assistance to homeowner applicants displaced by Subrecipient HRRP activities, the subrecipient should develop policies and controls for ensuring the cost reasonableness of homeowner temporary relocation assistance, and the timeliness of repair to the damaged structure displacing the applicant. In addition, contracts between the subrecipient and their contractor(s) should include language on financial consequences, to be enforced by the subrecipient, to ensure timely completion of construction activities. If this optional temporary relocation is provided by the subrecipient, the budget for temporary relocation assistance for homeowner-applicants, in addition to relocation assistance required by the URA, should be included in the initial program budget submitted with the application for funding.

Subrecipients should note that temporary relocation assistance for tenants in affected properties is regulated by the URA.

### **4.1.2 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, and
- 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 60 days 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 Commerce  
Disaster Recovery Programs  
107 East Madison Street, MSC 420  
The Caldwell Building  
Tallahassee, Florida 32399

OLTR's Uniform Relocation Assistance Guide and Residential Anti-Displacement and Relocation Assistance Plan can be found on the OLTR webpage at [www.FloridaJobs.or/CDBG-DR](http://www.FloridaJobs.or/CDBG-DR).

Applicants who disagree with a displaced-person determination or the amount of relocation assistance received from a subrecipient- managed program can file a written appeal with the subrecipient. If the appeal is not resolved with the subrecipient, the appealing individual may submit a written request to FloridaCommerce to review the determination. If the appeal is not resolved with the state, the appealing individual may submit a written request for HUD to review the determination. If full relief is not granted,

the individual must be advised by the subrecipient or FloridaCommerce, as appropriate, of his or her right to seek judicial review.

## 4.2 Construction Standards

Subrecipients participating in the Subrecipient HRRP will implement construction methods that emphasize high quality, durability, energy efficiency, sustainability, and mold resistance, as required in 87 FR 6372. Subrecipients should ensure that all rehabilitation, reconstruction, and new construction is designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigation against the impact of future disasters. Subrecipients will implement and monitor construction results to ensure the safety of residents and the quality of homes assisted through the program. All housing units repaired or replaced must comply with program standards. These include the following minimum standards:

- Construction standards will be based on the Florida Building Code (FBC) and must meet or exceed applicable requirements.
- Construction will comply with the Florida Green Building Standard for all new construction of residential buildings and for all replacement of substantially damaged residential buildings (i.e., where repair costs exceed 50 percent of replacement cost as determined by the local jurisdiction).
- For repair projects, FloridaCommerce and its subrecipients will follow the HUD Green Building Retrofit Checklist to the extent feasible and applicable to the repair work undertaken. This will include the use of mold-resistant products when replacing surfaces such as drywall. When older or obsolete products are replaced as part of the repair work, repair is required to use ENERGY STAR®-labeled, Water Sense-labeled, or Federal Energy Management Program (FEMP)-designated products and appliances, or other equivalent, when feasible. The HUD Green Building Retrofit Checklist is available at: <https://www.hudexchange.info/resource/3684/guidance-on-the-cpd-green-building-checklist/>.
- Housing units assisted with CDBG-DR funds must meet all applicable local and state codes, repair standards, ordinances, and zoning ordinances at the time of project completion. All deficiencies identified in the final inspection must be corrected before final payment is released.

### 4.2.1 Contractor Subrecipient Scoring Methodology

Subrecipients should establish a scoring methodology to be used for the performance evaluation of General Contractors (GC) contracted to Repair or Replace MHUs or stick built homes through the Subrecipient HRRP. This scoring methodology should include reviewing the GC on:

- Construction Timeliness,
- Construction Quality, and
- Customer Service.

## 4.3 Accessibility Standards

Physically disabled homeowners or homeowners with a disabled household member may be entitled to additional construction considerations such as roll-in showers, lowered countertops, pedestal sinks, bathroom grab bars, widened doorways, accessible toilets, or other accessibility features that will assist with the individual's functional needs. The subrecipient must assess eligibility for these features on a case-by-case basis during the application intake period. Homeowners will be asked whether they have any accessibility needs, those needs will be documented and validated by the subrecipient, and if feasible, subrecipients must incorporate applicable accommodations into the scope of work following the development of the Estimated Cost to Repair (ECR).

## 4.4 Allocation and Housing Assistance Caps

The amount of funding allocated to the Subrecipient HRRP may be increased or decreased by FloridaCommerce based on the demand for the program; the potential reallocation would be completed by amending the Action Plan and obtaining approval of the amendment from HUD. Funds allocated to a subrecipient through the Subrecipient HRRP may be recaptured, in accordance with the procedures outlined in the OLTR Recapture policy, on a case-by-case basis, if project delivery is deemed unsatisfactory or non-compliant.

Each subrecipient awardee will be subject to the grant minimum and maximum amounts and to the extent of funds available. The \$750,000 minimum applies to subrecipients and projects. A county may submit a smaller project to FloridaCommerce for consideration as a special request but is encouraged to couple the project with a similar project (for beneficiary population and activity type) to ensure efficient use of grant funds. In the state-identified MID Areas receiving up to 20 percent of the funding, the minimum and maximum cumulatively apply to one county so that FloridaCommerce may ensure that the funding is distributed throughout the impacted area.

Individual projects may fail to move to completion for a variety of reasons, including but not limited to, property owner withdrawal from the program and owner refusal of benefit. Should a property undergo an environmental review and hazard testing, but fail to make it through construction, these costs (as well as any other project delivery costs expended) will remain project delivery costs.

## 4.5 Feasibility of Repair Analysis

As a recipient of federal funds, FloridaCommerce and its subrecipients are charged with ensuring that the costs of activities are reasonable and necessary. Therefore, subrecipient must ensure that each property assessed under the Subrecipient HRRP is analyzed for feasibility of repair consistent with an overall program goal to improve the housing stock of the impacted areas.

Following initial applicant eligibility activities, the subrecipient will conduct a damage assessment and a site visit to the home to:

- Determine if the property has any unrepaired storm damage remaining, and
- Prepare the preliminary ECR.

If during the site visit it is determined that the home does not have any unrepaired storm damage, the applicant is ineligible to participate in the program.

### 4.5.1 Stick Built, On-Site Built Homes

Subrecipients will provide homeowners the option to select a reconstructed or replacement house if the property's repair and/or elevation cost estimate meets or exceeds 75 percent of a comparable reconstruction or replacement house, as determined by the subrecipient and FloridaCommerce. Properties with repair and/or elevation cost estimates that meet or exceed a comparable reconstruction or replacement house will be limited to reconstruction or replacement as a more cost reasonable option. Situations in which replacement, reconstruction, and/or elevation will be required include, but are not limited to:

- Homes that have already been demolished;
- Homes that are condemned (red tagged) by the local jurisdiction;
- Homes that are structurally unsafe or that have other conditions in which the interior inspection deems it unsafe or impossible to repair;
- If a local jurisdiction has issued a substantial damage determination for a home located inside the 100-year floodplain, the home will be reconstructed and elevated;

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- If an MHU is located within a floodplain, is required to be elevated more than three feet, and the applicant is the owner of the property, the MHU may be replaced by a stick-built home;
- If the damaged MHU is located within an area whereby local codes/laws/zoning requirements will not allow for a replacement with a new MHU, the application may be eligible for a stick-built reconstructed home;
- If the local jurisdiction has issued a substantial improvement determination for a home located inside the 100-year floodplain, the home must be elevated; and
- Slab-on-grade homes that require elevation will be reconstructed and elevated. Repair will not be an option.

### **4.6 Homeowner Responsiveness**

During the application process, a homeowner is required to respond in a timely fashion to program requests for information/materials to complete the eligibility process. Subrecipients should develop policies and procedures on homeowner responsiveness and repercussions associated with non-responsive applicants.

### **4.7 Homeowner Responsibilities**

Subrecipients must develop policies and procedures for responsibilities of homeowners prior to and post award. These policies must be compliant with the requirements set forth by FloridaCommerce as well as all applicable local and federal regulations.

### **4.8 Complaints/Appeals/Conflict of Interest**

Subrecipients must develop policies and procedures for appeals and complaints which must be afforded to homeowners. Complaints may be lodged regarding any and all concerns that homeowners may have with the procedures followed and services provided by the Subrecipient HRRP.

The subrecipient shall establish appeal procedures to afford applicants an opportunity to dispute subrecipient decisions.

#### **4.8.1 Appeals**

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, and state and local guidelines as they are interpreted by the subrecipient. Subrecipient must develop policies that guides the process for an applicant or contractor requesting an appeal of decisions made by the subrecipient.

Applicants have a right to participate in the process; the subrecipients should include an appeals process to provide applicants with a mechanism for requesting further review on program decisions and to submit an appeal. At the time the applicant is notified of their eligibility in their award letter, the subrecipient will include information on the appeals process to provide the applicant the option to appeal should they believe that a mistake has been made regarding their file.

Applicants should direct all appeals to the applicable the applicable subrecipient. If a subrecipient doesn't resolve an appeal to the satisfaction of an applicant, the applicant may contact FloridaCommerce to be addressed by OLTR's Constituent Management Services (CMS) staff. If the applicant is dissatisfied with the final decision, the applicant has the ability to appeal with the Florida Division of Administrative Hearings (DOAH) or the request can be forwarded to HUD for resolution.

For information regarding specific appeals processes and requirements see the applicable disaster specific policy manuals.



## 4.8.2 Fair Housing Complaints

FloridaCommerce certifies that the Subrecipient HRRP will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–3619), and implementing regulations, and that it will affirmatively further fair housing practices.

Persons alleging a violation of fair housing laws will be referred to FloridaCommerce’s local contact and process to file a complaint. The subrecipient and 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.

FloridaCommerce contact for Fair Housing Complaints is: [FairHousing@Commerce.fl.gov](mailto:FairHousing@Commerce.fl.gov).

## 4.8.3 Conflict of Interest

State officials and employees, Department employees, subrecipients, and consultants who exercise functions with respect to CDBG-DR activities or who are in a position to participate in a decision-making process or acquire inside information with regard to such activities, are prohibited during their tenure from receiving any benefit from the activity, either for themselves or for those with whom they have family or business ties.

For purposes of this section, “family” is defined to include parents (including mother-in-law and father-in-law), grandparents, siblings (including sister-in-law and brother-in-law), and children of an official covered under the CDBG conflict of interest regulations at 24 CFR Sec. 570.489(h).

An exception to the conflict of interest provision may be granted should it be determined that FloridaCommerce has adequately and publicly addressed all of the concerns generated by the potential conflict of interest and that an exception would serve to further the purposes of Title I of the HCDA and the effective and efficient administration of the program. No party will enter into a conflict of interest until a request for an exception has been granted.

## 4.9 Anti-Fraud, Waste, and Abuse

FloridaCommerce’s 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@Commerce.fl.gov](mailto:cdbg-dr_antifraudwasteabuse@Commerce.fl.gov).

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 (OIG) at [OIG@Commerce.fl.gov](mailto:OIG@Commerce.fl.gov). 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](mailto: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 the Consolidated Notice.*

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

## 4.10 Files, Records, and Reports

In accordance with 24 CFR 570.490, FloridaCommerce and its subrecipients are required to maintain all program and project-related documentation such as financial records, supporting documentation, and statistical records. Records must be retained for a period of not less than five years after the grant closeout with FloridaCommerce or three years after Department grant close-out with HUD, whichever is longer.

At a minimum, the following types of records are required to be maintained:

- Records providing full description of each activity;
- Records verifying that activity meets national objectives;
- Records related to demonstrating eligibility of activities;
- Records required to document activity related to real property;
- Records documenting compliance with the fair housing and equal opportunity requirements;
- Financial records and reports required by FloridaCommerce;
- Performance reports required by FloridaCommerce; and
- Records supporting any specific requirements of the grant.

## 4.11 State and Federal Audits

Audit activities are a routine component of CDBG-DR activities and can be conducted by state and/or federal agencies for financial, operational, or programmatic purposes.

The State of Florida has an Auditor General (AG) that acts as independent external auditor. The AG conducts audits of accounts and records of state agencies to determine whether financial resources are properly accounted for; public officials comply with applicable laws, rules, regulations, and other legal requirements; proper and effective internal controls are in place over entity operations; and assets are properly safeguarded. The state has the right to audit, and all aspects of the Subrecipient HRRP are subject to review and audit.

Additionally, FloridaCommerce's OIG has two separate functional areas—one area that conducts audits to add value and to improve an agency's operations and the other that investigates fraud, waste, and abuse claims and hotline complaints, which can also occur in CDBG-DR programs.

On the federal level, HUD's OIG conducts preliminary research (via a survey) and/or audits of disaster recovery programs, which is typically done once programs are underway and funds have been expended by a grantee. Through HUD OIG's audits and evaluative and investigative efforts, the OIG works to ascertain that disaster assistance funds have been expended as Congress intended.

## 4.12 Procurement Requirements

FloridaCommerce and its subrecipients will abide by the procurement process mandated by federal and state government codes as they are applicable to the program. 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 procurement process includes the decision to purchase as well as the process to complete the purchase. The federal government has established a set of procurement rules in 2 CFR Part 200.317-327 that apply to CDBG-funded projects. These rules are in place to ensure that federal dollars are spent fairly and encourage open competition for the best level of service and price. If a conflict between federal and local procurement regulations should occur, the more stringent regulation will be followed. Subrecipients may

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follow their own procurement policies that are, at minimum, compliant with all state and federal procurement requirements.

The subrecipient must establish compliant standards for construction. Construction contractors will be qualified through an Invitation to Bid (ITB) process. To ensure full and open competition, through this process, FloridaCommerce and its subrecipients will follow 24 CFR 570.489(g), at a minimum, and all state procurement laws. Contractors will comply with Section 3 of the Housing and Urban Development Act of 1968 (the “HUD Act of 1968”) (12. U.S.C. 1701u) and implementing regulations at 24 CFR part 135. Contractors selected by the subrecipient will ensure, to the greatest extent feasible, that employment and other economic opportunities are directed to low and very low-income persons, particularly local residents and businesses that meet the qualifications of the project. Contractors will make every effort to recruit, target, and direct opportunities to Section 3 residents and businesses and will notify Section 3 residents about training opportunities. The subrecipient will provide Contractors with helpful resources to maximize these efforts including, but not limited to, a Section 3 Business Registry and examples of training and employment opportunities. Contractor procurement procedures will be monitored by FloridaCommerce and the subrecipient.

## 5.0 Eligibility Requirements

The following are threshold requirements, which must be met for a homeowner to be eligible for assistance. Eligibility does not ensure assistance, since a prioritization strategy will be required (consistent with program requirements) and it is expected that there will be more eligible homeowners than can be served with available funds. Threshold requirements are those that will either allow a homeowner to continue to move forward in the program or result in disqualification. The threshold criteria for the Rebuild Florida Subrecipient HRRP are described in more detail here:

1. Unrepaired September 2020 storm damage from Hurricane Sally (DR-4564);
2. Location of damaged property within HUD- or state-identified MID areas.
3. At least one person on the application with an ownership interest in-part or in-whole on the property must be able to demonstrate U.S. Citizenship or Lawful Permanent Residency;
4. Proof of ownership at the time the disaster damage occurred and have maintained ownership;
5. Property location is environmentally feasible for demolition and reconstruction;
6. Property taxes are current. (Properties with delinquent mortgages or real property taxes are ineligible unless the owner shows they are on a payment plan or cured the delinquency, in which case the subrecipient can proceed with eligibility review);
7. Property is a residential structure, including owner-occupied home or rental home;
8. Property is not a second home or seasonal rental; and
9. Household is income eligible.

### 5.1 Hurricane Sally Damage

The home must have been damaged by or has damage as a result of Hurricane Sally and must have unrepaired damage as of the date of application. Homeowners need not have registered for FEMA individual assistance to be eligible for the Subrecipient HRRP.

If a homeowner did not apply for FEMA assistance, the subrecipient must verify by inspection that the home was damaged using a damage verification process as developed by the subrecipient in compliance with state and federal regulations. Damage to the home not caused by Hurricane Sally may be addressed only as necessary to meet construction standards in compliance with state and federal regulations.

Proof of Damage options:

1. FEMA, Small Business Administration (SBA), or insurance award letters constitute proof that the home was damaged by Hurricane Sally.
2. In the event that the above documentation is not available, an inspection report (complete with photos of the damage and a written assessment of the damage) from a damage assessment conducted by the subrecipient that certifies that the damage occurred as a result of Hurricane Sally will be acceptable.
3. In the event that FEMA, SBA, or insurance award letters are not available, and an inspection report is inconclusive as to the cause of the damage, the applicant may provide alternative evidence, such as neighborhood-level media reports, inundation maps, or documentation of damage by disaster response/relief organizations. These may be accepted on a case-by-case basis.
4. If a homeowner was denied assistance by FEMA, assistance through the CDBG-DR program may still be available as long as damage can be tied back to Hurricane Sally. Denial of assistance by FEMA may not be used as the sole basis for the denial of CDBG-DR assistance.

## 5.2 Location

As directed in the Consolidated Notice and the AAN, a minimum of 80 percent of the program allocation must be spent in the HUD MID areas of Escambia County and Santa Rosa County. FloridaCommerce plans to spend up to 20 percent of the remaining funds in the state-identified MIDs (Bay, Okaloosa, and Walton Counties).

For MHUs, the damaged MHU must have been located in one of these areas at the time of the storm.

## 5.3 Proof of U.S. Citizenship or Lawful Permanent Resident

The program will comply with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (“PRWORA”) in determining eligibility for assistance. U.S. Citizens or Lawful Permanent Residents are eligible to receive benefits under this program. At least one person on the application with an ownership interest in-part or in-whole on the property, must be able to demonstrate U.S. Citizenship or Lawful Permanent Resident to ensure program eligibility.

The documentation needed to verify U.S. Citizenship or Lawful Permanent Resident may include, but is not limited to, the following:

- If the applicant, who also appears on ownership documentation, has a valid REAL ID compliant Driver’s License or REAL ID compliant Identification Card, the program will consider this validation complete.
  - Note that due to Florida Department of Highway Safety and Motor Vehicles title transfer requirements, this is the only form of identification allowable for the replacement of MHUs.
- In the event a REAL ID compliant Driver’s License or Identification Card is not available, applicants that have confirmed assistance using FEMA IA or SBA data for property assistance will be considered verified using this method since both FEMA and SBA validate legal residency as part of their application process.
- Applicants without a REAL ID compliant Driver’s License, REAL ID compliant Identification Card, FEMA IA, or SBA assistance, must submit one of the following:
  - Resident Alien Card;
  - U.S. Birth Certificate (verified against government-issued photo ID); or
  - U.S. Passport or Certificate of Naturalization.

## 5.4 Proof of Ownership, Occupancy, and Primary Residence

Proof of ownership, occupancy, and primary residence verification processes and requirements differ for owner-occupied and rental structures.

Applicants in default or foreclosure on the property may not proceed. Applicants with outstanding liens and judgments must clear the liens and judgments to participate in the program. Applicants will have 6 months from the date of application to clear such liens and judgments.

### 5.4.1 Homeowner-Occupied Housing

The homeowner(s) must have owned and occupied the property as their primary residence as of September 16, 2020—the beginning date of Hurricane Sally—and must currently own the property. The subrecipient must verify primary residency and occupancy at the time of the storm by verifying the homeowner(s)’ homestead exemption which is documented in the property tax records obtained from county property appraiser where the residence is located. Homeowner(s) in default or foreclosure on the property may not proceed.

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In the absence of a homestead exemption, the following hierarchy will be used to establish occupancy (all occupancy documentation must be from the time of the storm, in the homeowner's name, and reference the damaged address). Homeowner(s) will provide the subrecipient with an affidavit of principal residency plus one of the following:

- Copy of water, electric, gas, credit card, or cable bill. The bill must be in the homeowner's name, confirm that service was provided at the time of the storm, and indicate usage at the time of the event;
- Copy of FEMA letter showing payment received for home repairs or contents or insurance document showing content coverage in the homeowner's name;
- Letter from electric, gas, cable, or other utility service provider. The letter must confirm that service was provided at the time of the storm and must be in the homeowner's name; and
- Other qualified documents may be presented to the subrecipient for consideration of proof of occupancy or primary residency, but the acceptance of other documents is not guaranteed.

Properties that served as a second home at the time of the disaster are not eligible for assistance. To verify that the property isn't a second home, the subrecipient may utilize the disaster year property tax record to determine if there was a homestead exemption applied to the property.

### **5.4.1.1 Special Circumstances Related to Occupancy of Owner-Occupied Structures**

Any one of the following exceptions would apply as special circumstances related to occupancy:

- Active-duty military personnel, who own a storm-damaged home in an eligible county or ZIP code but are currently assigned to duty away from their home or they were assigned to duty away from their home at the time of the storm, are eligible to apply.
- Homeowner(s) incapacitated due to illness who own a storm-damaged home in an eligible county or ZIP code and are currently incapacitated or were incapacitated at the time of the storm are eligible to apply. If the homeowner is currently incapacitated, an authorized legal representative must apply for the benefit of the incapacitated homeowner.
- Homeowner(s) with Sally-damaged property in an eligible county or ZIP code who were incarcerated at the time of the storm but are no longer incarcerated are eligible to apply for the program. If the homeowner is incarcerated at the time of application, someone with a Power of Attorney may apply on his or her behalf.
- Homeowner(s) who were in a nursing home, assisted living facility (ALFs), adult family-care home, adult group home, or other long-term care facility (collectively a nursing home), at the time of the storm but are no longer in a nursing home, are eligible to apply for the program. If the homeowner is in a nursing home at the time of application and unable to apply, then someone with a Power of Attorney may apply on his or her behalf.

### **5.4.1.2 Special Circumstances Related to Type of Ownership – Owner-Occupied**

The following exceptions may apply as special circumstances related to ownership of the damaged property.

#### **Reverse Mortgages**

Homeowners with a reverse mortgage at the time of Hurricane Sally are eligible to apply.

#### **Purchase Contracts**

Evidence of purchase contracts must prove that a homeowner was purchasing a home on a contract by:

- The homeowner presenting the notarized contract dated and executed prior to the storm for review by the subrecipient; and
- The homeowner presenting the notarized and executed contract that was filed prior to the storm in the conveyance records of the county.

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Proof that a contract has been completed and title conveyed to the purchaser is provided by:

- Evidence of recordation of the title in the name of the homeowner in the conveyance records of the county; and
- Evidence that property was transferred by a warranty deed.

### Act of Donation

An Act of Donation is a form of property transfer without exchange or payment. An Act of Donation must have been made prior to the storm and be:

- In writing,
- Witnessed,
- Notarized, and
- Recorded in the public record.

### Trust

Property held in trust for the benefit of natural persons can be eligible for Subrecipient HRRP assistance as long as at least one of the occupants at the time of the storm was a current beneficiary of the Trust. The trustee's powers must include the ability to affect the damaged property. If the trustee's powers do not include the ability to affect the damaged property, the beneficiaries with an interest in the damaged property must sign the closing documents along with the Trustee.

The following is required to confirm eligibility:

- The homeowner must provide a copy of the trust document; and
- The trust document or an abstract or extract of the trust must be recorded in the conveyance records of the county in which the damaged property is located. This recordation in the conveyance records of the county in which the damaged property is located may be recorded post-storm if necessary.

The applicable agreements must be executed by trustee(s) unless the trust distributes the property to a beneficiary, in which event the beneficiary receiving the property must execute the applicable agreement and occupy the residence after assistance. If the property was not serving as the primary residence for the current beneficiaries or trustee, the homeowner(s) is not eligible for assistance.

### Life Estate

Applicants in a life estate situation may apply for the program. An applicant who has a valid life estate over the damaged property is potentially eligible for program assistance provided he or she also occupied the damaged property as his or her primary residence on the date of Hurricane Sally (i.e., September 16, 2020). Any such applicant must provide evidence of the claimed life estate by way of an executed deed, trust, will or other documentary evidence that conclusively establishes the existence of the claimed life estate that was filed prior to the storm in the conveyance records of the county. The program will review the applicant-provided evidence of the life estate to determine if the documentation is sufficient for program eligibility purposes. The remainderman will not be required to execute the grant agreement provided there is an occupant with life estate.

## 5.4.2 Rental Housing

The applicant must be the rental property owner, have owned the property as of September 16, 2020—the beginning date of Hurricane Sally—and must currently own the property. Ownership will be verified through tax records, title searches, or applicant provision of a warranty deed. The program may consider other proof documentation on a case-by-case basis.

### **5.4.2.1 Special Circumstances Related to Type of Ownership**

The below-described exceptions may apply as special circumstances related to ownership of the damaged rental property.

#### **Purchase Contracts**

Evidence of purchase contracts must prove that a rental property owner was purchasing the property on a contract by:

- Presenting the notarized contract dated and executed prior to the storm for review by HRRP; and
- Presenting the notarized and executed contract that was filed prior to the storm in the conveyance records of the county.

Proof that a contract has been completed and title conveyed to the purchaser is provided by:

- Evidence of recordation of the title in the name of the property owner in the conveyance records of the county; and
- Evidence that property was transferred by a warranty deed.

#### **Act of Donation**

An Act of Donation is a form of property transfer without exchange or payment. An Act of Donation must have been made prior to the storm and be:

1. In writing
2. Witnessed
3. Notarized, and
4. Recorded in the public record.

#### **Trust**

Property held in trust for the benefit of natural persons can be eligible for Subrecipient HRRP assistance as long as the property owner at the time of the storm was a current beneficiary of the Trust. The trustee's powers must include the ability to affect the damaged property. If the trustee's powers do not include the ability to affect the damaged property, the beneficiaries with an interest in the damaged property must sign the closing documents along with the Trustee.

The following is required to confirm eligibility:

1. The property owner must provide a copy of the trust document; and
2. The trust document or an abstract or extract of the trust must be recorded in the conveyance records of the county in which the damaged property is located. This recordation in the conveyance records of the county in which the damaged property is located may be recorded post-storm if necessary.

The applicable agreements must be executed by trustee(s) unless the trust distributes the property to a beneficiary, in which event the beneficiary receiving the property must execute the applicable agreement.

### **5.4.2.2 Use of Property**

Applicant must prove that the property is currently used as a rental property and that it will continue to be used for long-term rental, not vacation or seasonal rental purposes. Alternatively, the applicant must certify that the property will be used for long-term rental once it has been repaired, replaced, or reconstructed. A loan agreement, deed restriction, covenant, or similar enforcement vehicle will be required and will be placed on the property because of an applicant obtaining assistance from the Subrecipient HRRP. The subrecipient will monitor the marketing of the rental unit for compliance with applicable federal Fair Housing standards. Rent rolls will be evaluated each year for the term of the applicable affordability period, after construction has been completed, to verify that the property has been rented to LMI individuals/households and that rent rates are in compliance with program requirements.



## 5.5 Title Assistance

Subrecipients may choose to offer applicants, on a case-by-case basis, assistance with resolving title issues related to Heirs Property. This may include funding for legal services. Subrecipients who choose to provide applicants with title assistance must include title assistance in the budget submitted with their application.

Title assistance may be provided to eligible Subrecipient HRRP homeowners who:

- Have household incomes at or below 120 percent AMI; and
- Would be eligible for Subrecipient HRRP services if not for the Heirs Property title issues.

## 5.6 Death of Eligible Owner Occupant

If the deceased owner of the damaged address passed away after September 16, 2020, the deceased owner must meet the eligibility requirements up to the time of their death (i.e., homeownership at time of storm, primary residence, taxes). All additional income requirements will be attributed to the heir who is currently occupying the home (the applicant). Income determination will be based on the heir at the time the program benefits are being conferred.

If the legal owner of the damaged address passed away before the storm, the heir occupying the property must meet all eligibility requirements except for ownership at the time of the storm and will be processed for assistance in the same manner as all other homeowners. However, the heir will have to demonstrate a legal claim to ownership of the property as an heir.

If the homeowner passes away during construction, the heir will be responsible for the program agreements.

## 5.7 Property Taxes

All homeowners must be current on their property taxes, or current on a locally approved payment plan through the local taxing authority, except for MHUs located on non-owned land (i.e., leased lots). The subrecipient will have the homeowner provide documentation from the local Property Appraiser's Office or may obtain such information electronically from a local tax collector's office.

Owners of MHUs on non-owned land will be required to provide a copy of a lease agreement or letter from mobile home park/landowner stating they lease the land in order to prove they have the right to place the MHU on the property.

## 5.8 Ineligible Applications

The following types of homeowner applicants are ineligible for assistance under this program:

- Property owners who lost ownership of their property due to foreclosure are ineligible for assistance.
- Corporations, 501(c)3 non-profit organizations, or other non-governmental organizations.
- Persons found to be non-compliant with FEMA regulations or who failed to comply with the requirements of the National Flood Insurance Reform Act. Noncompliance in this context means a person or persons who failed to obtain and maintain flood insurance after receiving federal funding for a previous disaster.
- Homeowners who do not meet any of the other eligibility criteria.

## 5.9 Certification Requirements to Receive Assistance

All homeowner(s) must agree to the following to receive assistance:

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1. Allow program inspectors to access the interior and exterior of the home to evaluate damage. Failure to allow access to any portion of the home may result in the ineligibility of the property.
2. Sign a release—developed by the subrecipient—so that information provided by the homeowner(s) can be shared with state and federal agencies and certain third parties in order to verify information given to the program. The applicant is required to sign the release (unless one of the eligible owner-occupants has provided Power of Attorney to represent them, then the eligible owner-occupant does not need to sign the release).
3. Agree to verification of their ownership status, the amount of disaster-related damage to the home, and types of assistance received as a result of Hurricane Sally.
4. Maintain flood insurance on the property in perpetuity if it is located in the 100-year floodplain.
5. Swear to the accuracy and completeness of all information provided to the program under penalty of law.
6. Agree to stop all on-going construction activities at the time of application.
7. Acknowledge that any DOB will be subject to recapture.
8. Maintain ownership of the property until construction is completed.
9. Agree to sign required programmatic documents to receive assistance.

### **5.10 Income Eligibility Requirement**

All homeowners must meet income eligibility criteria in order to be eligible for assistance. In order to meet this eligibility requirement, homeowners must be LMI with a total household annual gross income that does not exceed the 80 percent AMI, adjusted for family size, as published annually by HUD.

Homeowners whose household income is between 80.01 percent and 120 percent of AMI may be served when the subrecipient has projected that it will be able to sufficiently meet or exceed HUD's requirement to expend at least 70 percent of the disaster recovery funds on LMI populations. The subrecipient will not assist anyone whose household income exceeds 120 percent AMI.

Subrecipients must perform an income calculation which includes the annual adjusted gross income (AGI) of all adult household members, including earnings and in-kind sources like Social Security and pensions. The subrecipient will use HUD's published income limits for each county or metropolitan statistical area to determine eligibility. Household income will be based on the household's annual income data per the most recent IRS 1040 adjusted gross income definition, as verified by receiving a copy of the household members' most recent tax form(s).

The subrecipient will use the processes for calculating income as defined by HUD, and as described in the following paragraphs. The subrecipient certifies income at the point at which sufficient documentation is provided and remains valid for one year.

Recertification of income will not be required when a homeowner has executed his/her grant agreement within one year of the income certification date. Income must be recalculated by the subrecipient and recertified if the grant agreement has not been executed within one year of the date of the original income certification.

The subrecipient may collect and analyze appropriate income documentation for household members through third-party verification or source documentation when necessary. This process may include obtaining copies of the most recent tax form(s).

Homeowners will need to certify whether or not their income has changed since their most recent tax return information. If there has been a change in the homeowner's household income, the program may allow or require the homeowner to provide additional information such as pay stubs or other proof of income to verify the change. Documentation sufficient in this circumstance includes the last three months of paycheck stubs or signed statement from the employer stating the wage and frequency of payment,

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most recent Social Security and pension income statements, and any other income source documentation.

## 6.0 Duplication of Benefits (DOB)

### 6.1 Overview

Eligible homeowners may have previously received assistance from other sources for the repair of their storm-damaged property. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, 42 U.S.C. §5121 et seq., prohibits any person, business concern, or other entity from receiving federal funds for any part of such loss as to which he/she has received financial assistance under any other program, from private insurance, charitable assistance, or any other source. When possible, the subrecipient will electronically verify disaster recovery assistance received through federally and locally maintained datasets, such as FEMA IA and SBA disaster home loan datasets.

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

1. FEMA IA for Structure,
2. FEMA National Flood Insurance Program (NFIP),
3. Private Insurance,
4. Increased Cost of Compliance (ICC),
5. Small Business Administration (SBA),
6. Any other funding source available to the homeowner for the same purpose as a CDBG-DR grant that may duplicate assistance.

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

Any additional funds paid to homeowner awardees for the same purpose as the Subrecipient HRRP housing assistance award after the subrecipient has completed the repair, rehabilitation, or replacement of the homeowner's housing units must be returned to the applicable subrecipient.

*Warning: Any person who 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.*

### 6.2 Subrecipient DOB Calculation

DOB is a component of the Stafford Act, which governs disaster recovery. Essentially, DOB prohibits recipients of federal disaster funds from being paid twice for the same activity (i.e., for repairs). Disaster recovery subrecipients who have already received funds from other sources for disaster repairs may not also receive CDBG-DR funds for the same repairs.

Subrecipients are responsible for calculating and reporting their own DOB, which will be verified by FloridaCommerce. For expanded DOB policies, please refer to the OLTR CDBG-DR Policy Manual on the OLTR webpage.

Information on DOB calculation will be provided during a Technical Assistance session between the subrecipient and FloridaCommerce.

### 6.3 Homeowner Applicant DOB Calculation

Subrecipients are responsible for calculating and verifying all DOBs for applicants. FloridaCommerce will complete oversight and monitoring of subrecipient DOB calculations throughout the course of the grant agreement.

### **6.3.1 FEMA Individual Assistance (IA)**

FEMA IA assistance may have been provided to applicants for home repairs. In the cases where applicants have received assistance for home repairs, such amount will be considered a DOB by the program. FEMA IA will be determined and verified by the subrecipient through FEMA provided datasets or through applicant provided information originating at FEMA such as a FEMA Award letter. If evidence is provided that the FEMA Award included assistance for items not related to structure repair, then the amounts not related to structural repair will not be counted as a DOB.

FEMA IA will be determined and verified by subrecipient through the FEMA database. If the subrecipient is unable to verify the FEMA IA amount through the FEMA database, the subrecipient will use the payment amount provided by the homeowner at the time of application.

If a homeowner is able to provide documentation demonstrating that the FEMA IA amount provided by the FEMA database includes non-structural related amounts, the subrecipient will use the documentation provided by the homeowner to adjust the FEMA IA payout amount. The documentation provided by the homeowner will be included in the homeowner file.

### **6.3.2 FEMA National Flood Insurance Program (NFIP) Insurance**

Any payments for loss to the dwellings during Hurricane Sally under NFIP insurance policies may be deducted from the amount the homeowner is eligible to receive. Payments for contents or other expenses are not deducted from the homeowner's award, as these are not duplicative of payments for structural loss. The subrecipient will verify payments by reviewing FEMA claim information or by providing a request for verification to FEMA. If a homeowner 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 subrecipient will use the documentation provided by the homeowner to adjust the insurance payout within the DOB calculation. The documentation provided by the homeowner must come from the insurance company which issued the payments and will be included in the homeowner file.

### **6.3.3 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 NFIP includes ICC coverage for all new and renewed Standard Flood Insurance Policies. ICC is a DOB if a structure owner requests reimbursement or additional assistance for elevation, demolition, floodproofing, or relocation—one of the four options available under ICC—and has already received an ICC benefit under the NFIP. The subrecipient will determine DOB regarding ICC funds for elevation and/or demolition activities. If the subrecipient is unable to determine the amount/or purpose of the ICC proceeds using documentation provided by the homeowner, the subrecipient will seek additional information from other reliable sources including other government programs, including direct information from NFIP.

### **6.3.4 Private Insurance**

All property, flood, or casualty insurance settlement amounts for loss to dwellings are deducted from the applicant's funding assistance award. Private insurance payments for contents or other expenses are not deducted from the applicant's funding assistance award. All private insurance settlement amounts for loss to dwellings are considered a DOB and may reduce the amount of disaster assistance. Insurance proceeds are often broken into different categories that may cover the contents or the structure of the home. Only those proceeds for repair, replacement, or mitigation of the structure will be included in the DOB calculation. Insurance proceeds paid for contents will be excluded from the DOB calculation.

Insurance proceeds are determined and verified by the subrecipient by contacting the insurance company and verifying proceeds. If the subrecipient is unable to verify the private insurance proceeds through the

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insurance company, the subrecipient will use the claims payout provided by the homeowner. If a homeowner is able to provide documentation demonstrating that the insurance proceeds amount provided by the insurance company includes items not covered in the home evaluation or not paid to cover structural loss, the subrecipient will use the documentation to adjust the private insurance payout in the DOB calculation. In addition, if an applicant claims no insurance on their application, but has a current mortgage, the subrecipient will request private insurance documentation from the applicant.

Mold remediation is not included in the home evaluation for structural loss during insurance claims adjusting procedures. Therefore, insurance payments to cover mold remediation are not deducted from a homeowner's funding assistance award. The homeowner must provide documentation from the insurance company that issued the payments or an order from an administrative proceeding or court of competent jurisdiction.

### **6.3.5 The Small Business Administration (SBA)**

Federal regulations deem approved SBA loans for repair and reconstruction to be a DOB for federally funded repair programs. If an applicant has executed a loan with SBA to cover the cost of repairs or reconstruction, the total amount of the approved loan is considered a DOB unless the applicant has declined the loan or requested a reduction after SBA initial approval of the loan. As described in 84 FR 28836, "The amount of a subsidized loan that is declined or canceled is not a DOB." Therefore, FloridaCommerce and its subrecipients are adopting the policies described in sections 6.3.5.1 through 6.3.5.3 with respect to declined and canceled SBA loans.

#### **6.3.5.1 Declined SBA Loans**

Declined loans are loan amounts offered by a lender but turned down by the applicant, meaning the applicant never signed loan documents to receive loan disbursements. The subrecipient will attempt to verify declined loan amounts using third-party data from SBA. Declined loans must be documented through the SBA data feed in conjunction with written communication from the lender (SBA).

#### **6.3.5.2 Canceled SBA 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 the 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 canceled 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 DOB. Canceled subsidized loan amounts are not considered a DOB but are subject to further requirements below. Applicants may not take actions to reinstate the canceled loan or draw any additional undisbursed loan amounts.

- Canceled 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).
- Canceled loans that had a portion of the loan drawn, but the remainder canceled 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 DOB.

#### **6.3.5.3 Accepted but Undisbursed SBA Loan Amounts**

This situation is similar to canceled 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; applicants may not request subsequent draws from the undisbursed portion of the loan.

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- 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 DOB.

A written agreement will be required between the applicant and the subrecipient for canceled and accepted but undisbursed SBA loans. An applicant must agree, in writing, that he or she will not take any actions to reinstate a canceled SBA loan or pursue future draws from any undisbursed funds from an SBA loan.

### **6.3.6 Exceptions to Duplication of Benefits**

Not all assistance received by an applicant is considered a DOB for housing rehabilitation or reconstruction. Therefore, there are types of assistance received by an applicant that will not constitute a DOB for housing repair or reconstruction. The Subrecipient HRRP will allow for reductions of DOB totals if the applicant can prove that the use or control of the funds meet certain criteria. In accordance with 84 FR 28836, the Subrecipient HRRP “must exclude amounts that are: one

(1) Provided for a different purpose; or two

(2) provided for the same purpose (eligible activity), but for a different, allowable use (cost).”<sup>2</sup> Further, section IV.B of 84 FR 28836 describes other instances where funds are not be included in the DOB not available to the appliance.

#### **6.3.6.1 Allowable Cost of Repairs**

Homeowners who used benefits received from insurance, SBA, and FEMA or other sources to make repairs to their Hurricane Sally-damaged property and can document these expenditures may be able to deduct verifiable amounts of these expenditures from the DOB assessment. This means that the original DOB amount assessed by the subrecipient can be reduced by the amount the homeowner spent on verifiable eligible repairs.

The homeowner will be required to document repairs made to the home through a process developed by the subrecipient and approved by FloridaCommerce.

#### **6.3.6.2 Contractor Fraud**

If a homeowner was a victim of contractor fraud, the amount paid to the contractor is not to be counted as a DOB provided the homeowner filed a police report and made every effort to recover the funds prior to the date of the application.

#### **6.3.6.3 Forced Mortgage Payoff**

If a homeowner’s mortgage company placed a forced payment on insurance proceeds, the insurance amount may not count as a DOB. In such cases, the amount used for this purpose and verified by the subrecipient can be excluded from the DOB calculation if it’s supported by appropriate documentation. Such documentation should be in the form of a letter on mortgage company letterhead and signed by an authorized mortgage company representative stating the homeowner was required to use disaster assistance funds for mortgage pay down. The subrecipient will attempt to verify this information with the homeowner’s mortgage company. Voluntary mortgage payoff, using insurance proceeds, is a DOB that will be counted in a homeowner’s award calculation.

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<sup>2</sup> <https://www.govinfo.GOV/content/pkg/FR-2019-06-20/pdf/2019-13147.pdf>

#### **6.3.6.4 Legal Fees**

Legal fees that were paid in successfully obtaining insurance proceeds will be credited to the homeowner and will be excluded as part of their DOB. Homeowners will need to provide evidence of payment and a judgment or settlement document demonstrating the homeowner's success in the legal action. All other legal fees that a homeowner may have paid out of any disaster assistance proceeds will be included as part of their DOB.

#### **6.3.6.5 Tax Filings**

Personal income tax filings related to losses to the home do not affect funding assistance awards and are not considered DOB. Homeowners should consult their personal tax consultant to seek guidance regarding any tax-related matters.

#### **6.3.7 Calculating the Amount of DOB Offset**

Documentation provided and reported by the applicant for eligible home repair related to Hurricane Sally will be totaled and considered for credit to the homeowner. In accordance with 84 FR 28836, the subrecipient may exclude for DOB purposes "assistance that was: (1) provided for a different purpose; (2) provided for the same purpose (eligible activity), but for a different, allowable use (cost); (3) not available to the applicant; (4) a private loan not guaranteed by SBA; or (5) any other asset or line of credit available to the applicant." Applicants must provide documentation to support an eligible offset to DOB. Acceptable documentation to support a DOB offset may include, but are not limited to:

1. Self-certification statement that details home repair expenses and labor;
2. Police reports and all other documentation of attempts to recover funds, filed prior to application, that verifies contractor fraud;
3. Invoices confirming legal fees associated with successful insurance proceed collection;
4. Letter from the homeowner's mortgage company or bank confirming a forced mortgage payoff or pay down; and
5. Receipts for home repair, if applicable.

The subrecipient will evaluate the repairs documented and determine the value of the storm-related repairs performed by conducting a DRV, or equivalent process. Self-certified statements of homeowners must be reviewed in detail by the subrecipient to determine:

1. Whether the repairs could be reasonably determined as occurring after the hurricane.
2. A reasonable value of the cost of repairs to the home (including possible labor, not including self-performed labor as elaborated previously).

The value of eligible repairs, as determined by subrecipient, will be compared to the total amount of benefits received.

#### **6.3.8 DOB Gap Funding**

During the Subrecipient HRRP, DOB will be analyzed to determine if any DOB Gaps exists. During the eligibility review of a homeowner's file, prior to the execution of the homeowner grant agreement, the subrecipient will conduct a DOB analysis to determine if a DOB Gap exists. A DOB Gap is the total amount of excludable and non-excludable benefits received minus the dollar amount of excluded benefits (excludable benefits). If the amount of non-excludable benefits is greater than \$0.00, a DOB Gap exists.

Subrecipients must develop processes for recapture of DOB Gap amounts, which must be approved by FloridaCommerce. This process must comply with the following minimum requirements:

- DOB Gap amounts must be recaptured prior to the execution of the homeowner grant agreement.



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- Alternatively, if the applicant qualifies for a reconstruction or replacement award, the DOB Gap may be satisfied through a scope reduction which reduces the dollar value of the benefit provided to the applicant through the subrecipient.
- Subrecipients must notify the applicant in writing if a DOB Gap is discovered.
  - Subrecipients must provide applicants with 30 days from the date of notification of DOB Gap to satisfy the DOB gap by providing funds in the amount of the DOB gap, accepting a scope reduction, or both.
  - If an applicant fails to satisfy the DOB gap within the 30-day timeframe allotted, the applicant's case may be closed.
- Construction will not start on the damaged property until the DOB Gap is resolved.
- Homeowners may not utilize DOB Gap Funding for construction activities such as upgrades, additions, or other unnecessary activities.

### **6.3.9 Subrogation**

Subrogation is a legal doctrine that allows one person to take on the rights of another. In the context of disaster recovery grants, a homeowner must enter into a subrogation agreement where the subrecipient obtains the right to collect any additional benefits, including but not limited to, disaster recovery or insurance payouts, the homeowner receives for Hurricane Sally damage after the homeowner has entered into a homeowner grant agreement with the subrecipient.

When an applicant receives benefits from federal disaster assistance sources, non-profits, or their insurance after the award determination is made, these funds may be owed by the applicant to the subrecipient. All duplicative benefits or funding received must be remitted to or accounted for by the subrecipient, regardless of when it is received by the homeowner. If homeowners receive additional benefits or funding for the same purpose as the Subrecipient HRRP award (permanent repair to storm-damaged home) even after the homeowner grant agreement is executed or construction is completed, the homeowner is required to report the additional funding to the subrecipient.

By accepting the award, homeowners agree that they will report any duplicative benefits or funds to the subrecipient whenever received. Upon receipt of a report that additional benefits or funds have been received, the subrecipient will recalculate the homeowner's award and provide instructions on whether the homeowner's award will be reduced by such amount, or whether the homeowner must remit such amounts to the subrecipient as reimbursement (when additional assistance—benefits or funds—received after program disbursements). Each homeowner will execute and be bound by a subrogation agreement. Subrecipients must ensure that applicants are made aware of established subrogation policies.

## 7.0 Inspections and Environmental Reviews

### 7.1 Overview

All federal regulations regarding procurement, labor standards, environmental reviews including lead-based paint requirements apply to this program. Application may require additional review as issues are resolved which may extend the review process timeframe.

The subrecipient performs an on-site inspection of damage upon completion of all third-party verification required by the Subrecipient HRRP as well as an environmental review. Environmental reviews are required to be performed on each homeowner's property to be eligible for the program. Homeowners are notified in writing at the application submission stage to cease any work in progress on a damaged residence until the environmental review is complete. This notice is provided in the acknowledgment section of the online application. Homeowners who do not cease work may be ineligible for the program. The inspector must have full access to the property to note any work that has been started and/or completed.

### 7.2 Initial Inspection and Damage Verification

As stated in the AAN, all CDBG-DR funded property improvements must be for unmet housing needs resulting from Hurricane Sally, a qualifying disaster. Non-hurricane damage may only be addressed on structures that also have hurricane-related damage. Structures built before 1978 must be inspected for lead-based paint (LBP) hazards. Where such hazards are detected, the homeowner(s) will be notified, and appropriate steps will be taken to mitigate dangers from LBP.

Subrecipient will conduct site visits to observe and record the presence of unrepaired storm damage resulting from Hurricane Sally, determine the extent of the damage, and determine the estimated cost of rehabilitation. The homeowner will need to be present for these site visits. The inspector will be required to inspect the exterior and interior of the home to observe and record damage. The inspector will note any environmental concerns on the site or nearby that could affect the evaluation.

No destructive testing is performed during the site visit and ECR process. This means that hidden damage is not accounted for during this process. For example, termite damage behind a wall would not be discoverable during the estimation process if the wall covering is intact.

### 7.3 Eligible and Ineligible Items

Items damaged by Hurricane Sally, such as air conditioners, heating systems, and water heaters are eligible to be replaced under the Subrecipient HRRP. Appliances and housing components that are not integral to the structure of the home and are not essential to basic health and safety, such as detached garages and carports, are not eligible to be replaced under the Subrecipient HRRP. However, in some cases where zoning or Homeowner's Association (HOA) guidelines require carports and/or garages, detached garages and carports may be considered by the subrecipient. Luxury items and items with a quality grade above basic standards, such as granite countertops, are not eligible to be replaced in a like-for-like manner.

### 7.4 Environmental Review

The subrecipient will conduct a broad Environmental Review at the programmatic level Tier I. This will include coordination with federal, state, and local agencies where applicable. Additionally, all homeowner applicants must pass a federally required site-specific Tier II environmental review which contains a statutory checklist of 15 required review items; some of which may be deemed to be categorically-excluded because of not being applicable to the project such as Sole Source Aquifers. The categories addressed in Tier I/Tier II include: (1) Historic Preservation, including State Historic Preservation Office

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and Tribal Reviews and National Historic Landmark; (2) Floodplain Management and Flood Insurance; (3) Wetlands; (4) Coastal Zone Management Act; (5) Sole Source Aquifers; (6) Endangered Species Act; (7) Wild & Scenic Rivers Act; (8) Air Quality; (9) Farmland Protection Policy Act; (10) Environmental Justice; (11) Noise Abatement and Control; (12) Siting of HUD-Assisted Projects Near Hazardous Operations; (13) Toxic Chemicals and Gases, Hazardous Materials, Contamination, and Radioactive Substances; (14) Airport Clear Zones and Accident Potential Zones; (15) Coastal Barrier Resources Act/Coastal Barrier Improvement Act. This Environmental Review will be performed at the subrecipient's expense. A site-specific review includes a review of HUD-defined environmental review topics.

Issues identified through the environmental review process must be addressed by the subrecipient, and in some cases mitigation measures may be implemented before or during the construction process. The subrecipient may pay for mitigation of issues identified during the environmental review such as identification of LBP, if it is deemed an eligible activity. Subrecipients must provide homeowners with all federally required notifications.

The Environmental Review is a separate and distinct review from any other review. Other previously performed (or homeowner-provided) environmental reviews will not satisfy the subrecipient's requirements but can be taken into consideration in the review process. If an environmental condition identified on a homeowner's property cannot be cleared, the property may be ineligible for assistance.

During the Environmental Review, the subrecipient may determine that due to extraordinary environmental conditions, the site is not feasible for rehabilitation, demolition, or reconstruction. In these cases, the property may be ineligible for assistance.

### **7.5 Elevation Requirements**

Subrecipients must evaluate homeowner files in detail to determine elevation requirements. Subrecipients who determine that homes located in a floodplain are eligible for assistance through the Subrecipient HRRP must consider the following.

The factors that go into a determination of whether elevation will be required include the location of the structure inside a floodplain, determination of substantial damage/substantial improvement, and the benefit for which the applicant will qualify based on his or her structure type. The subrecipient will not engage in elevation activities as a standalone measure that is not connected to the repair of Hurricane Sally damage.

Substantially damaged homes, as determined by the local jurisdiction, will require elevation to the two feet above the Base Flood Elevation (BFE) requirement or the local requirement, whichever is higher. Homes that will be substantially improved by the Subrecipient HRRP, as determined by the local jurisdiction's evaluation of project scope during the permitting process, will require elevation to the two feet above the BFE requirement or local requirement, whichever is higher.

### **7.6 Elevation Certificates**

The subrecipient will follow HUD guidance to ensure all structures, as defined in 44 CFR 59.1, designed principally for residential use, and located in the 1 percent annual (or 100-year) floodplain, that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined at 24 CFR 55.2(b) (10), will be elevated with the lowest floor, including the basement, at least two feet above the BFE. The subrecipient will order elevation certificates for construction projects as necessary to comply with HUD's guidance.

## 8.0 Award Determination

In addition to costs associated with the repair of the structure, awards may include expenses for additional related costs such as green building and mitigation requirements, elevation, insurance, accessibility modifications for the disabled, repair or replacement of water, sewer, and utility connection needs. Cost-effective energy measures and improvements that meet local zoning and code, required HQS, especially those improvements which add enhanced resilience, such as elevation of major electrical components, roof strapping, and other items, are also eligible. Environmental review and determined required remediation for items such as lead-based paint abatement, asbestos abatement, or other remediation components will also be eligible.

Elevations may be included for homeowners who meet requirements determined by the subrecipient, including substantially damaged properties as per locally approved floodplain requirements. Elevation will be required for properties served by the subrecipient that are substantially damaged in the floodplain and may be evaluated on case-by-case basis when required by local ordinance. The subrecipient will follow HUD guidance to ensure all structures, as defined in 44 CFR 59.1, designed principally for residential use, and located in the 1 percent annual (or 100-year) floodplain, that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined at 24 CFR 55.2(b) (10), will be elevated with the lowest floor at least two feet above the 1 percent annual floodplain elevation.

The subrecipient will follow these steps to calculate a homeowner's award:

1. Identify eligible repair costs.
2. Identify all DOB.
3. Deduct assistance determined to be duplicative (DOB).
4. Apply maximum award cap of \$350,000.
5. Identify pre-storm market value from the applicant's county records or other applicable source.
6. Compare determined award value to pre-storm market value to determine if the benefit will be reconstruction, replacement, or rehabilitation.

**Eligible Repair Costs/Need:** The subrecipient will determine an eligible repair estimate using information from the inspection. The repair estimate will be valued based on economy/standard grade materials and industry-standard labor costs.

**Calculating Potential DOB:** The subrecipient will account for the full DOB at the time of the repair award calculation. The subrecipient will complete the DOB analysis during the eligibility review of a homeowner's file, and prior to the execution of the homeowner grant agreement.

The subrecipient must account for all DOB funding prior to the homeowner receiving an award. Homeowners with a DOB Gap must repay all duplicative funds in accordance with the subrecipient's established DOB recapture processes.

### 8.1 Zero Award

An applicant can meet the requirements for program eligibility, but not qualify for an award. This is known as a zero award. A zero-award file is identified as a file where an applicant's total DOB exceeds the total eligible award amount (remaining Hurricane Sally damage) for a repair, reconstruction, or replacement benefit.

## Appendix A: Affirmative Marketing Plan

FloridaCommerce and subrecipients are committed to affirmatively furthering fair housing through established affirmative marketing policies. Affirmative marketing efforts for the disaster funding will include the following:

1. This Affirmative Marketing Plan, based on the HUD regulations, outlines the policies and procedures for housing activities. Procedures are established to affirmatively market units financed through the program. The procedures cover dissemination of information, technical assistance to homeowners, project management, reporting requirements, and project review.
2. FloridaCommerce's goal is to ensure that eligible persons from protected classes under federal fair housing and nondiscrimination laws, and persons from historically distressed and underserved communities are provided with the opportunity to apply for assistance to rehabilitate their property that sustained damage due to Hurricane Sally and its aftereffects. To ensure that protected classes, vulnerable populations, and other historically distressed and underserved communities have reasonable access to recovery efforts, subrecipients will be asked to prioritize these persons in addition to at-risk and vulnerable populations with the greatest need.
3. In accordance with the affirmative marketing policies and procedures, program participants will be informed about available opportunities and supporting requirements through counselors, printed and electronic materials, publications, direct contact, workshops/seminars, and the placement of flyers/posters in public facilities.
4. Subrecipients will conduct marketing through widely available media outlets, and efforts will be taken to affirmatively market the Rebuild Florida CDBG-DR program as follows:
  - A. Advertise with media outlets that provide unique access for persons who are considered members of a protected class under the Fair Housing Act.
  - B. Reach out to public or non-profit organizations and hold and attend community meetings.
  - C. Other forms of outreach tailored to reaching the eligible population, including door-to-door outreach if necessary.
5. Applications and forms will be offered in English and other languages prevalent in the region. In addition, every effort will be made to assist Limited English Proficient (LEP) homeowners in the application process.
6. Measures will be taken to make the program accessible to persons who are considered members of a protected class under the Fair Housing Act by holding informational meetings in buildings that are compliant with the Americans with Disabilities Act (ADA), providing sign language assistance and special assistance for those who are visually-impaired when requested (with three days' notice).
7. Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained, and made available to the public upon request.