



# Office of Long-Term Resiliency CDBG-DR Policy Manual

*For disasters regulated by the "Consolidated Notice" [Federal Register Vol. 87, No. 23, Appendix B](#), as amended.*

**Version 1.1**

**March 24, 2023**

# Version History

Version Number	Change Date	Summary of Changes
1.0	11/14/2022	Original version Policy Manual published to OLTR website
1.1	3/24/2023	Updated Definitions and Acronyms section Made updates to 2.3 Compliance Monitoring Plan, CDBG-DR Programs.

## Version Policy

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

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

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

## Policy Change Control

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

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## Purpose

This Office of Long-Term Resiliency (OLTR) Community Development Block Grant-Disaster Recovery (CDBG-DR) Policy Manual (“Manual”) for the Department of Economic Opportunity (the “Department”), OLTR is intended to assist OLTR management, program staff, and subrecipients in developing, implementing, and administering the CDBG-DR funded program. This Manual provides overarching program guidance regarding the general requirements that apply to OLTR’s regulatory processes, and administrative and financial responsibilities. This Manual provides guidance for the administration and implementation of CDBG-DR funded programs regulated by the Federal Register Vol. 87, No.23 February 3, 2022 (the “Consolidated Notice”); both direct and subrecipient administered. It is the responsibility of the OLTR disaster recovery staff to ensure that subgrantees and subrecipients comply with all provisions of this Manual, state and federal rules and regulations, and the grant award agreement. Subgrantees and subrecipients must also carry out proper and efficient grant administrative practices. To ensure consistent application of the procedures outlined in this Manual, it is the intent of OLTR to provide a clear and concise understanding of the responsibilities associated with each CDBG-DR program. It is anticipated that circumstances will arise that will require deviations from the processes outlined in this Manual; in those instances, the reason for the deviations need to be clearly documented and included in the subgrantee’s or subrecipient’s file. In some cases, these circumstances will require amending this Manual to include new or revised policies or procedures to accommodate these situations.

This manual governs the following disasters:

1. Hurricane Sally—2020 Disaster

In addition to this Manual, each storm listed above has a separate Policy Manual detailing specific program policies. Subgrantees and subrecipients should operate in accordance with the Disaster-Specific Policy Manual in order to ensure compliance with the regulations governing their specific disaster. Please see Appendix 2 Disaster-Specific Policy Manuals for more information.

If there are any questions, subgrantees and subrecipients should contact the Department’s OLTR at:

Florida Department of Economic Opportunity

Disaster Recovery Programs

107 East Madison Street, MSC 420

The Caldwell Building

Tallahassee, Florida 32399

(850)-717-8474

[CDBG-DR@DEO.MyFlorida.com](mailto:CDBG-DR@DEO.MyFlorida.com)

## Definitions and Acronyms

**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.

**500-year flood plain** – The geographical area, defined by the Federal Emergency Management Agency, subject to inundation from a flood with a 0.2 percent chance of being inundated by a flooding event in any given year.

**Action Plan** – The 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).

**Allocable Costs** – Costs assigned to a Community Development Block Grant-Disaster Recovery eligible activity with a methodology for clear determination of where to attribute costs.

**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.

**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. The Department 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.

**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.

**Buyout** – The acquisition of a property located in a floodway, floodplain, or other Disaster Risk Reduction Area with the intention of reducing risk from future hazards.

**Cancelled 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.

**CDBG-MIT** –Community Development Block Grant-Mitigation

**CENST** – Categorically Excluded Not Subject to 24 CFR 58.5

**CEST** – Categorically Excluded Subject to 24 CFR 58.5

**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 the Department of Economic Opportunity’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

**CO** – Certifying Officer

**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 the Department of Economic Opportunity’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 2 CFR 200, Section 287.055, Florida Statutes, and Section 255.0525, Florida Statutes.

**Corrective Action** – Steps required to be taken to resolve findings and/or concerns identified in the Department of Economic Opportunity’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 the Department of Economic Opportunity. 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 the Department of Economic Opportunity.

**CPD** – Community Planning and Development

**CPP** – Citizen Participation Plan

**CWHSSA** – Contract Work Hours and Safety Standards Act

**Davis-Bacon and Related Acts (DBRA)** – Federal law requiring contractors and subcontractors performing on federally funded or assisted contracts for the construction, alteration, or repair of public buildings or public works to pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

**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.

**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 within 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.

**DR** – Disaster Recovery

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

**EA** – Environmental Assessment

**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.

**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.

**FDEM** – Florida Division of Emergency Management

**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.

**FEMA** – Federal Emergency Management Agency.

**FHFC** – Florida Housing Finance Corporation

**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 Economic Opportunity or in an environmental review memo sent to the subrecipient/subgrantee.

**Florida Accountability Tracking System (FACTS)** – An online tool managed by the Department of Financial Services that was developed to make the government contracting process in Florida more transparent through the creation of a centralized, statewide reporting system.

**Florida Accounting Information Resource (FLAIR) System** – The State of Florida’s official statewide accounting system managed by the Florida Department of Financial Services.

**Florida Department of Economic Opportunity (DEO)** – 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. DEO is the 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, “the Department” refers to the Florida Department of Economic Opportunity.

**FONSI** – Finding of No Significant Impact

**Grantee** – As used in this document, the grantee is the State of Florida Department of Economic Opportunity’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.

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

**HMGMP** – Hazard Mitigation Grant Match Program

**HMGP** – Hazard Mitigation Grant Program

**HOME** – Home Investment Partnership

**Household** – 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.

**HQS** – Housing Quality Standards

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

**HUD Act of 1968** – The Housing and Urban Development Act of 1968, as amended

**IA** – (Federal Emergency Management Agency) Individual Assistance

**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.

**Invitation to Bid (ITB)** – A written or electronically posted solicitation for competitive sealed bids.

**Invitation to Negotiate (ITN)** – A written or electronically posted solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services.

**LAP** – Language Access and Accessibility Plan

**Low Moderate Area Benefit (LMA)** – An eligible activity that benefits all residents in a particular area, where at least 51 percent of the residents are Low-to-Moderate Income Persons as determined by the most recently available decennial Census information, together with the Section 8 income limits that would have applied at the time the income information was collected by the Census Bureau, or a current survey of the residents of the service area.

**Low Moderate Housing (LMH)** – Eligible activities that are undertaken for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by LMI households. To be eligible, structures with one unit must be occupied by a Low-to-Moderate Income Household, with two units, at least one unit must be Low-to-Moderate Income occupied, and structures with three or more units must have at least 51 percent occupied by Low-to-Moderate Income Households.



**Low Moderate Housing Incentive (LMHI)** – Housing incentives tied to a voluntary buyout or other voluntary acquisitions of housing owned by eligible Low-to-Moderate Income Households and provided for the purpose of moving the eligible household outside the affected floodplain or to a lower-risk area, or improving residential structures that will be occupied by an LMI household.

**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 the Department of Urban and Housing Development.

- 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.

**Low Moderate Limited Clientele (LMC)** – An eligible activity in which 51 percent of the actual beneficiaries are Low-to-Moderate Income Persons.

**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.

**MOU** – Memorandum of Understanding

**Mitigation Activities** – Activities funded by the mitigation set-aside that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

**Mitigation Measures** – Measures that—per 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—must be incorporated into Community Development Block Grant-Disaster Recovery activities carried out by the grantee and its subrecipients as a construction standard to create communities that are more resilient, and to reduce the impacts of recurring natural disasters and the long-term impacts of climate change. When determining which mitigation measures to incorporate, the grantee should design and construct structures to withstand existing and future climate impacts expected to occur over the service life of the project.

**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.

**NEPA** – National Environmental Policy Act of 1969

**New Hires** – Full-time employees for permanent, temporary, or seasonal employment opportunities.

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**NOI** – Notice of Intent

**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 the General Counsel (OGC)** – The Florida Department of Economic Opportunity’s office designated to overseeing the Department of Economic Opportunity’s response to all public records requests, drafting and reviewing agency contracts, handling all litigation involving the Department of Economic Opportunity, and serving as the Department of Economic Opportunity’s chief ethics officer.

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

**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 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 the Department, the subgrantee and/or subrecipient using Community Development Block Grant-Disaster Recovery funds.

**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.

**Quarterly Performance Report (QPR)** – The Community Development Block Grant-Disaster Recovery Quarterly Performance Report that is required to be uploaded quarterly in the Disaster Recovery Grant Reporting system for the U.S. Department of Housing and Urban Development’s review of Florida’s disaster recovery programs.

**Racially or Ethnically Concentrated Areas of Poverty (RECAP)** – RECAPs must have a non-white population of 50 percent or more and a poverty rate that exceeds 40 percent, or is three or more times the average tract poverty rate for the metropolitan/micropolitan area, whichever threshold is lower.

**RARAP** – Residential Anti-displacement and Relocation Assistance Plan

**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, as described in 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 Part 200.



**Rebuild Florida** – A disaster recovery program created by the Florida Department of Economic Opportunity to help Florida’s long-term recovery efforts from disasters that have impacted the citizens of Florida.

**Release of Funds (ROF)** – The U.S. Department of Housing and Urban Development’s or Department of Economic Opportunity’s granting approval to use Community Development Block Grant-Disaster Recovery funding. This approval, or authority to use grant funds, is executed through the U.S. Department of Housing and Urban Development form 7015.16. The authority to use Community Development Block Grant-Disaster Recovery funds usually occurs after the project environmental review is completed and approved by the Department of Economic Opportunity.

**Request for Applications (RFA)** – The Department of Economic Opportunity notice requesting applications for funding as a subrecipient for the Community Development Block Grant-Disaster Recovery program.

**Request for Funds (RFF)** – A subgrantee and/or subrecipient’s request for funds from the Department of Economic Opportunity.

**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.

**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.

**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 Economic Opportunity or a Unit of General Local Government, also known as a subrecipient, as specified by the Department.

**SAM** –System for Award Management

**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.

**Section 3** –Section 3 of the Housing and Urban Development Act of 1968, as amended, and the implementing regulations at 24 CFR Part 135 and 24 CFR Part 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.

**SHIP** – State Housing Initiatives Partnership Program

**SHPO** – State Historic Preservation Officer

**Slums and Blight** – A blighted area or structure characterized by one or more of the conditions listed in Section 7056(b)(3) of the Community Development Block Grant regulations and as documented under the U.S. Department of Housing and Urban Development regulations specified in the Code of Federal Regulations, Title 24, part 570.483(c).

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

**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.

**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.

**Subgrantee** – A recipient that demonstrated its abilities to carry out competitive applications due to their expertise related to goals of the program.

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

**Subgrant Agreement** – An agreement between the Department of Economic Opportunity and the subgrantee for the subgrantee to undertake activities using Community Development Block Grant-Disaster Recovery funds.

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

**Subrecipient Enterprise Resource Application (SERA)** – The Department of Economic Opportunity’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 (the Department of Economic Opportunity) 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.

**Targeted Section 3 Worker** – A Section 3 Worker who is:

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

**UGLG** – Unit of General Local Government

**USACE** – U.S. Army Corps of Engineers

**URA** – Uniform Relocation Assistance and Real Property Acquisition Policies Act.

**VBS** – Vendor Bid System

**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 the Department of Housing and Urban Development.

**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 the Department of Housing and Urban Development.

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

**Waiver** – A revision to the standard CDBG-DR regulations, requirements, and activities, granted by HUD.

**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.

# Introduction

The U.S. Department of Housing and Urban Development (HUD) provides supplemental CDBG-DR funds appropriated by Congress to assist in the recovery of areas declared by the President of the United States as disaster areas. The public notice regarding supplemental appropriations is included in the Federal Register and specifies the disaster or the time period of the disaster declaration(s) for which funding is available, as well as any special provisions that will apply. CDBG-DR funds are generally based on unmet disaster recovery needs and made available to states and units of general local government, Indian tribes, and insular areas, unless otherwise specified in the supplemental appropriation legislation. HUD generally awards noncompetitive, nonrecurring CDBG-DR grants by a formula that considers the amount of damage received by the area and the amount of unmet need that remains after considering other federal disaster assistance programs.

Grant recipients receiving funding directly from HUD must prepare an Action Plan that outlines the overall plan for recovery, the proposed use of the funds, how the funds will be distributed, and how the grant will be administered.

CDBG-DR grants often supplement disaster programs of the Federal Emergency Management Agency (FEMA), the Small Business Administration (SBA) and the U.S. Army Corps of Engineers (USACE). In addition, Home Investment Partnership (HOME) funds can provide an important resource for providing affordable housing to disaster victims. The HOME program is administered by the Florida Housing Finance Corporation (FHFC).

All CDBG-DR funded activities must address an impact of the disaster for which funding was allocated. Accordingly, each activity must:

1. Address a direct or indirect impact from the disaster in a most impacted and distressed area;
2. Be a Community Development Block Grant (CDBG)-eligible activity (or be eligible under a waiver or alternative requirement); and
3. Meet a national objective.

Eligible activities must meet at least one of three program national objectives:

1. Benefit persons of low- to moderate-income,
2. Aid in the prevention or elimination of slum or blight, or
3. Meet other urgent community development needs because existing conditions pose a serious and immediate threat to the health and welfare of the community where other financial resources are not available. Unless otherwise restricted by statute or provided by waiver, the funds may be used for any activity eligible under Section 105(a) of the Housing and Community Development Act of 1974, as amended, that meets a national objective under Section 104(b) (3) of the Act, and the activities must be related to the covered disaster. Generally, at least 51 percent of the beneficiaries are to be persons of low- to moderate-income.

Typically, grantees (the Department), subgrantees, and subrecipients may use CDBG-DR funds for recovery efforts involving housing, economic development, infrastructure repair, and prevention of further damage to affected areas. Eligible activities must be specified in the Department's Action Plan and funded activities cannot duplicate funding available from other sources such as FEMA, SBA, insurance, or any other sources of public or private funding that is available to undertake the same activity. Examples of eligible activities include:

- Buying damaged properties in a flood plain and relocating residents to safer areas;
- Relocation payments for people and businesses displaced by the disaster;
- Debris removal not covered by FEMA;
- Rehabilitation of homes and buildings damaged by the disaster;

- Buying, constructing, or rehabilitating public facilities such as streets; neighborhood centers; and water, sewer, and drainage systems;
- Homeownership activities such as down payment assistance, interest rate subsidies and loan guarantees for disaster victims;
- Public services;
- Helping businesses retain or create jobs in disaster impacted areas; and
- Planning and administration costs.

Federal requirements state that the funds can be used only for disaster relief and long-term recovery in communities affected by the specified disaster(s) and directed to areas with the greatest unmet need. Funds cannot be used for a project or activity that was underway prior to the Presidential Disaster Declaration. All projects must be directly related to one or more of the disaster events defined in the Presidential Disaster Declaration. Activities that are reimbursable by FEMA, the National Flood Insurance Program (NFIP), private insurance, private or public donations, dedicated tax revenues, or available through the SBA cannot be reimbursed with these funds.

## Executive Summary

The Department recognizes its fiscal and regulatory responsibility to administer CDBG-DR funds consistent with all federal and state requirements. The Department's initial step toward securing CDBG-DR funding on behalf of the State of Florida is the successful creation and submission of a State of Florida CDBG-DR Action Plan (Action Plan).

This Manual is intended to identify applicable federal regulations that govern CDBG-DR funds, delineate state-level responsibilities for OLTR programs and staff members from subrecipient program and staff responsibilities, and provide storm- and program-specific policies and procedures—as referenced in the appendices. The Department will provide technical assistance for each subrecipient applying for disaster recovery assistance funding and will monitor those subrecipients who are successful in obtaining funding.

This Manual supports the Department's ability to help homeowners, owners of rental housing, subrecipients and communities achieve long-term recovery goals by providing compliance requirements that will keep the Department in good standing with HUD while delivering services to Floridians. This Manual is intended to provide for consistent and efficient application of procedures across CDBG-DR funded disaster recovery activities; regardless of where within the state and by whom these activities are conducted.

In order to ensure that CDBG-DR funds assist the most impacted areas, as stated in the applicable storm's Allocation Announcement Notice (AAN) and other applicable governing Federal Registers, at least 80 percent of a CDBG-DR allocation must be expended on disaster recovery in HUD-identified MID areas for eligible disaster-related activities; the remaining up to 20 percent of funds may be spent in state-identified MID communities. The applicable Action Plan's unmet needs assessment evaluates three core aspects of recovery – housing, infrastructure, and economic development – as the basis for the Rebuild Florida Program framework.

The Department anticipates that circumstances will arise where the application of the policies and procedures outlined in this Manual may lead to an unintended consequence and that some circumstances may not fit within the policy and procedure framework. In these cases, deviations may be justified and necessary. Any deviation from policies and procedures must be clearly documented and included in the specific file for the project requiring such deviation. Additional storm and program-specific policies are available in the applicable storm's Policy Manual, available on the corresponding storm page and referenced in Appendix 2 Disaster-Specific Policy Manuals.

# Part 1 Overarching Regulatory and CDBG-DR Specific Processes

## 1.1 Overview

CDBG-DR ultimately falls under the regulatory umbrella<sup>1</sup> of CDBG. The Federal Government uses CDBG-DR as a tool to provide aid in the wake of a disaster as a proven method of assisting communities that can be adapted to disaster recovery with relative ease. Unless there are specific waivers granted, all CDBG rules apply to the OLTR CDBG-DR programs.

The CDBG program has layers of regulations that, alongside administrative and pragmatic requirements, have serious implications for program processes and activities undertaken through CDBG-DR. Department staff charged with oversight of CDBG-DR directly implement these processes and provide guidance to subrecipients to ensure knowledge of and compliance with CDBG-DR regulations and processes.

### 1.1.1 Acceptance of HUD's Funding Allocation

1. HUD notifies the Governor's office of the funding allocation.
2. The Governor's office notifies the Department's Executive Director, the OLTR Director and Policy Unit.
3. The governing Federal Register notice is published.
4. The Department drafts and submits the Action Plan, Implementation Plan, and Financial Certifications.
5. HUD reviews and approves the Action Plan and Implementation Plan.
6. Once the Action Plan is approved, the Department's Bureau of Financial Management will create grant codes specifically for the CDBG-DR grant and enter them in the Florida Accounting Information Resource (FLAIR) system to capture all state pre-award expenditures allowable under the grant for reimbursement.
7. Once the financial certification has been approved, HUD provides the Department written notification of the grant award along with the CDBG-DR Grant Agreement to be signed.
8. The Policy Unit drafts a transmittal letter to HUD for the Department's Executive Director to sign. Along with the transmittal letter, the CDBG-DR Grant Agreement is routed through the OLTR Director, the Office of General Counsel (OGC), the Chief Operating Officer and then to the Executive Director.
9. The Department's Authorized Representative (Deputy CFO) reviews and signs the Grant Agreement form and transmittal letter and returns the signed grant agreement and letter to the Policy Unit. The Policy Unit then mails and emails these to HUD's Disaster Recovery and Special Issues Division (DRSI).
10. Once the OLTR Policy Unit receives the signed CDBG-DR Grant Agreement from HUD, a copy of the executed agreement is distributed to the Department's Bureau of Financial Management, OGC, OLTR Director, Bureau Chiefs, and other essential personnel. A hard copy and an electronic copy of the CDBG-DR Grant Agreement is maintained by the Policy Unit.
11. Once the executed grant agreement is received by the Bureau of Financial Management, HUD's Disaster Recovery Grant Reporting (DRGR) system will be used to develop a DRGR Action Plan for HUD's review and approval.
12. Once HUD approves the DRGR Action Plan, the CDBG-DR funds will be made available for the Department to draw down (within the number of days specified in the grant agreement).

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<sup>1</sup> [24 CFR 570](#)



### 1.1.1.1 Federal Funding Accountability and Transparency

As a recipient of a federal financial assistance award over \$25,000, the Department is subject to the requirements of Public Law 109-282, the Federal Funding Accountability and Transparency Act of 2006, as amended (FFATA). Public Law 109-282 requires disclosure of all entities and organizations receiving federal funds through a single publicly accessible website, [USASpending.gov](https://USASpending.gov). Pursuant to these requirements, information on the CDBG-DR allocations provided to the Department by HUD is available at:

- [Hurricane Sally USASpending Grant Summary](#)

### 1.1.2 Timely Distribution and Expenditure of Funds

The Disaster Relief Appropriations Act requires that the state or local government must expend the funds within six years of the executed agreement between HUD and the grantee unless an extension is granted. HUD may extend the period of performance administratively, if good cause for such an extension exists at the time, as requested by the grantee, and approved by HUD.

- Funds for Hurricane Sally must be expended by October 28, 2028

### 1.1.3 Action Plan

#### 1.1.3.1 Action Plan Substantial Amendment

1. The Action Plan substantial amendment is prepared by the policy unit in coordination with the applicable program area.
2. Once completed by the policy unit, the draft Action Plan substantial amendment is routed to the applicable bureau chief, the Departmental and OLTR finance units (if there is a financial impact), the OLTR Communications unit, and the OLTR director.
3. Once final approval is given by the OLTR Director, the draft substantial amendment is translated. Once translated, all versions (English and translated) are posted on the applicable storm page of the Department's website for a 30-day public comment period, as required.
4. After the 30-day public comment period ends, the Policy Unit drafts responses to any public comments received and incorporates the comments and responses into the final version of the substantial amendment. Once the draft is completed, it once again follows the previous route for final approval.
5. The approved final version of the substantial amendment is transmitted to the appropriate HUD office for review and approval. HUD has 60 days to review and approve the substantial amendment. Once the substantial amendment is approved by HUD, it becomes effective.
6. The substantial amendment is published on the website for the public to view and is incorporated into the corresponding storm's Consolidated Action Plan.

#### 1.1.3.2 Action Plan Non-Substantial Amendment

1. The Action Plan non-substantial amendment is prepared by the Policy Unit in coordination with the applicable program area.
2. The draft Action Plan non-substantial amendment is routed to the applicable program Bureau Chief, other applicable offices, the OLTR Communications Unit, and the OLTR Director.
3. Once the draft non-substantial amendment is approved by the Department's leadership, HUD is notified of the non-substantial amendment.
4. The amendment becomes effective five working days after HUD acknowledges receipt.
5. The amendment is then translated and published on the website for the public to view and is incorporated into the corresponding storm's Consolidated Action Plan.



## 1.2 Eligible Activities

CDBG-DR funds are provided for necessary expenses for activities authorized under title I of the HCDA related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation of risk associated with activities carried out for these purposes, in the HUD and State identified MID Areas resulting from a major disaster. All CDBG-DR funded activities must address an impact of the disaster for which funding was allocated. Accordingly, each activity must:

1. Address a direct or indirect impact from the disaster in a MID Area.
  - A. The Department and any subrecipients must maintain records that document how each funded activity addresses a direct or indirect impact from the applicable disaster. This may be done by linking activities to a disaster recovery need that is described in the impact and unmet needs assessment in the applicable Action Plan.
  - B. Section II.A.1. of the Consolidated Notice details the process of documenting a connection to a disaster.
2. Be a CDBG-eligible activity (or be eligible under a waiver or alternative requirement).
3. Meet a national objective.
  - A. The national objectives under the Consolidated Notice are benefit to LMI persons, Urgent Need, and the elimination of slum and blight. The Department's primary focus will be LMI benefit.

General requirements, as described in the Consolidated Notice, for housing, economic revitalization, and infrastructure are outlined below; for specific requirements related to these activities, please see the applicable disaster-specific policy manual as linked in Appendix 2, as well as program-specific policies and procedures as found on the applicable storm's disaster recovery webpage, accessible from [www.FloridaJobs.org/CDBG-DR](http://www.FloridaJobs.org/CDBG-DR).

### 1.2.1 Housing

The Department and its subrecipients may use CDBG-DR funds for activities including, but not limited to: new construction, reconstruction, and rehabilitation of single-family or multifamily housing; homeownership assistance; buyouts; and rental assistance.

#### 1.2.1.1 New housing construction waiver and alternative requirement.

42 U.S.C. 5305(a) and 24 CFR 570.207(b)(3) are waived to the extent necessary to permit new housing construction, subject to the following alternative requirement. When the Department or its subrecipient carries out a new housing construction activity, [24 CFR 570.202](#) shall apply and shall be read to extend to new construction in addition to rehabilitation assistance. Private individuals and entities must remain compliant with federal accessibility requirements as well as with the applicable site selection requirements of 24 C.F.R. 1.4(b)(3) and 8.4(b)(5).

#### 1.2.1.2 Construction standards for new construction, reconstruction, and rehabilitation.

The Department and its subrecipients must meet the Green and Resilient Building Standard for:

1. All new construction and reconstruction (i.e., demolishing a housing unit and rebuilding it on the same lot in substantially the same manner) of residential buildings, and
2. All rehabilitation activities of substantially damaged residential buildings, including changes to structural elements such as flooring systems, columns, or load-bearing interior or exterior walls.

The Green and Resilient Building Standard requires that all construction covered by the paragraph above and assisted with CDBG-DR funds must meet an industry-recognized standard that has achieved certification under:

1. Enterprise Green Communities;
2. LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development);
3. ICC-700 National Green Building Standard Green+ Resilience;
4. Living Building Challenge; or
5. Any other equivalent comprehensive green building program acceptable to HUD.

Additionally, all such covered construction must achieve a minimum energy efficiency standard, such as:

1. ENERGY STAR (Certified Homes or Multifamily High-Rise);
2. DOE Zero Energy Ready Home;
3. EarthCraft House, EarthCraft Multifamily;
4. Passive House Institute Passive Building or EnerPHit certification from the Passive House Institute US (PHIUS), International Passive House Association;
5. Greenpoint Rated New Home, Greenpoint Rated Existing Home (Whole House or Whole Building label);
6. Earth Advantage New Homes; or
7. Any other equivalent energy efficiency standard acceptable to HUD.

The Department or its subrecipient must identify, in each project file, which of these Green and Resilient Building Standards will be used for any building subject to the requirements outlined in the Consolidated Notice. The Department will specify in each Action Plan and/or Disaster Specific Policy Manual the Green Resilient Building Standards the Department has determined to implement. Any substantial rehabilitation, as defined by 24 CFR 5.100, reconstruction, or new construction of a building with more than four rental units must include installation of broadband infrastructure, except where the Department or its subrecipient documents that:

1. The location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible;
2. The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity, or in an undue financial burden; or
3. The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

### **1.2.1.3 Buyout activities.**

The term “buyouts” means the acquisition of properties located in a floodway, floodplain, or other Disaster Risk Reduction Area that is intended to reduce risk from future hazards. The Department or its subrecipients must establish an open space management plan or equivalent, if one has not already been established, before implementation. The plan must establish full transparency about the planned use of acquired properties post-buyout, or the process by which the planned use will be determined and enforced.

Buyout activities are subject to all requirements that generally apply to acquisition activities, including but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601, *et seq.*) and its implementing regulations at 49 CFR part 24, subpart B, unless waived or modified by alternative requirements.

A subrecipient that will buy out properties in a Disaster Risk Reduction Area must establish criteria in its policies and procedures to designate an area as a Disaster Risk Reduction Area for the buyout. The criteria must be consistent with the following requirements:

- The area has been impacted by the hazard that has been caused or exacerbated by the disaster for which the grantee received its CDBG-DR allocation;

- The hazard identified must be a predictable environmental threat to the safety and well-being of program beneficiaries, including members of protected classes, vulnerable populations, and underserved communities, as evidenced by the best available data (e.g., FEMA Repetitive Loss Data, EPA's Environmental Justice Screening and Mapping Tool, HHS's climate change related guidance and data, etc.) and science (such as engineering and structural solutions presented by FEMA, USACE, other federal agencies, etc.); and
- The area must be clearly delineated so that HUD and the public may easily determine which properties are located within the designated area.

**Buyout requirements:**

1. Property to be acquired or accepted must be located within a floodway, floodplain, or Disaster Risk Reduction Area.
2. Any property acquired or accepted must be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, floodplain and wetlands management practices, or other disaster-risk reduction practices.
3. No new structure will be erected on property acquired or accepted under the buyout program other than:
  - A. A public facility that is open on all sides and functionally related to a designated open space (e.g., a park, campground, or outdoor recreation area);
  - B. A restroom; or
  - C. A flood control structure, provided that:
    - i. The structure does not reduce valley storage, increase erosive velocities, or increase flood heights on the opposite bank, upstream, or downstream; and
    - ii. The local floodplain manager approves the structure, in writing, before commencement of construction of the structure.
4. After the purchase of a buyout property with CDBG-DR funds, the owner of the buyout property (including subsequent owners) is prohibited from making any applications to any Federal entity in perpetuity for additional disaster assistance for any purpose related to the property acquired through the CDBG-DR funded buyout, unless the assistance is for an allowed use as described in the Consolidated Notice. The entity acquiring the property may lease or sell it to adjacent property owners or other parties for compatible uses that comply with buyout requirements in return for a maintenance agreement.
5. A deed restriction or covenant on the property must require that the buyout property be dedicated and maintained for compatible uses that comply with buyout requirements in perpetuity.
6. The Department will choose from one of two valuation methods (pre-disaster value or post-disaster value) for a buyout program (or a single buyout activity). The Department will apply its valuation method for all buyouts carried out under the program. If the Department or its subrecipient determines the post-disaster value of a property is higher than the pre-disaster value, the Department may provide exceptions to its established valuation method on a case-by-case basis. The Department will describe the process for such exceptions and how it will analyze the circumstances to permit an exception in the applicable Voluntary Home Buyout Guidelines or Subrecipient Policies and Procedures as applicable. The Department and its subrecipients will adopt policies and procedures for determining and documenting the amount of assistance that is necessary and reasonable for a buyout.
7. All buyout activities must be classified using the "buyout" activity type in the Disaster Recovery and Grant Reporting (DRGR) system.
8. The Department or its subrecipients must consult with local and tribal governments within the areas in which buyouts will occur when implementing a buyout program or activity.

## **Safe Housing Incentives**

The limitation on eligible activities in section 42 U.S.C. 5305(a) has been waived and the following alternative requirement applies to establish safe housing incentives as an eligible activity. Under this alternative requirement, the Department may offer safe housing incentives in addition to the relocation assistance that is legally required, such as the URA, section 104(d) of the HCDA, or those described in the Consolidated Notice.

The Department and its subrecipients must document that the amount of assistance for the incentive was necessary and reasonable, how the incentive meets a national objective, and that the incentives are in accordance with the Department's approved Action Plan and published program guidelines.

Funds may not be provided to a beneficiary to compensate the beneficiary for an estimated or actual amount of loss from the declared disaster. Offering housing incentives to a homeowner as an incentive to sell a second home is prohibited.

## **1.2.2 Economic Revitalization**

The Department and its subrecipients may use CDBG-DR funds for CDBG-DR eligible activities related to economic revitalization. Accordingly, for CDBG-DR purposes, economic revitalization may include any CDBG-DR eligible activity that demonstrably restores and improves the local economy through job creation and retention or by expanding access to goods and services.

### **1.2.2.1 Prioritizing economic revitalization assistance alternative requirement**

When funding activities outlined in 24 CFR 570.203 and 570.204 and sections 105(a)(14), (15), and (17) of the HCDA, the Department and its subrecipients must prioritize assistance to disaster-impacted businesses that serve underserved communities and spur economic opportunity for underserved communities that were economically distressed before the disaster. The Department and its subrecipients must maintain supporting documentation to demonstrate how underserved communities have been prioritized during the implementation of economic revitalization activities.

### **1.2.2.2 National objective documentation for activities that support economic revitalization**

24 CFR 570.208(a)(4)(i)&(ii), 24 CFR 570.483(b)(4)(i)&(ii), 24 CFR 570.506(b)(5)&(6), and 24 CFR 1003.208(d) are waived to allow the grantees under the Consolidated Notice to identify the LMI jobs benefit by documenting, for each person employed, the name of the business, type of job, and the annual wages or salary of the job for each person employed.

## **1.2.3 Infrastructure**

All CDBG-DR assisted activities related to newly constructed infrastructure must be in support of infrastructure designed and constructed to withstand extreme weather events and the impacts of climate change. To satisfy this requirement, the Department and its subrecipients must identify and implement resilience performance metrics as described in the Consolidated Notice and outlined in 1.2.4 Resilience and Hazard Mitigation below.

An infrastructure activity includes any activity or group of activities (including acquisition of site or other improvements) that assists the development of the physical assets that are designed to provide or support services to the general public in the following sectors: surface transportation, aviation, ports, water resources projects, energy production and generation, electricity transmission, broadband, pipelines, stormwater and sewer infrastructure, drinking water infrastructure, schools, hospitals, housing shelters, and other sectors as may be determined by the Federal Permitting Improvement Steering Council.

The Department and its subrecipients are prohibited from using CDBG-DR funds to enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event, without obtaining pre-approval from

HUD and any federal agencies that HUD determines are necessary based on their involvement or potential involvement with the levee or dam. In order to use CDBG-DR funds for levees and dams, the Department and its subrecipients are required to:

1. Register and maintain entries regarding such structures with the USACE National Levee Database or National Inventory of Dams;
2. Ensure that the structure is admitted in the USACE PL 84-99 Program (Levee Rehabilitation and Inspection Program);
3. Ensure the structure is accredited under the FEMA National Flood Insurance Program;
4. Enter the exact location of the structure and the area served and protected by the structure into the DRGR system; and
5. Maintain file documentation demonstrating that the grantee or subgrantee has conducted a risk assessment before funding the flood control structure and that the investment includes risk reduction measures.

As provided by the HCDA, grant funds may be used to satisfy a match requirement, share, or contribution for any other federal program when used to carry out an eligible CDBG-DR activity. This includes programs or activities administered by FEMA or the USACE. By law, [codified in the HCDA as a note to section 105(a)] only \$250,000 or less of CDBG-DR funds may be used for the non-federal cost-share of any project funded by USACE. Appropriations acts prohibit the use of CDBG-DR funds for any activity reimbursable by, or for which funds are also made available by FEMA or USACE. For all match activities, the Department and its subrecipients must document that CDBG-DR funds have been used for the actual costs incurred for the assisted project and for costs that are eligible, meet a national objective, and meet other applicable CDBG requirements.

Infrastructure activities assisted with CDBG-DR funds must be elevated or floodproofed as described in the Consolidated Notice. See the applicable disaster-specific policy manual as linked in Appendix 2 and other applicable program policies and procedures for more information.

## 1.2.4 Resilience and Hazard Mitigation

The Department and its subrecipients are required to fully incorporate mitigation measures that will protect the public – including members of protected classes, vulnerable populations, and underserved communities – from the risks identified by the Department and its subrecipients, among other vulnerabilities.

The Department must ensure that the mitigation measures identified in the applicable Action Plan will align with existing hazard mitigation plans submitted to FEMA under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165), or other state, local, or tribal hazard mitigation plans.

The Department and its subrecipients must incorporate mitigation measures when carrying out activities to construct, reconstruct, or rehabilitate residential or non-residential structures with CDBG-DR funds as part of activities eligible under [42 U.S.C. 5305\(a\)](#) (including activities authorized by waiver and alternative requirement). To meet this alternative requirement, the Department and its subrecipients must demonstrate that they have incorporated mitigation measures into CDBG-DR activities as a construction standard to create communities that are more resilient to the impacts of recurring natural disasters and the impacts of climate change. When determining which mitigation measures to incorporate, the Department and its subrecipients will design and construct structures to withstand existing climate impacts and future climate impacts expected to occur over the service life of the project.

Before carrying out CDBG-DR funded activities to construct, reconstruct, or rehabilitate residential or non-residential structures, the Department and its subrecipient must establish resilience performance metrics for the activity, including:

1. An estimate of the projected risk to the completed activity from natural hazards, including those hazards that are influenced by climate change (e.g., high winds destroying newly built homes);
2. Identification of the mitigation measures that will address the projected risks (e.g., using building materials that are able to withstand high winds); and
3. An assessment of the benefit of the measures through verifiable data (e.g., 10 newly built homes will withstand high winds up to 100 mph).

## 1.3 Ineligible Activities

Ineligible activities identified in the Consolidated Notice include:

1. Any activity that is not authorized under Section 105(a) of the HCDA, unless explicitly allowed by waiver and alternative requirement;
2. Any activities identified in 24 CFR 570.207;
3. The use of CDBG-DR funds for forced mortgage payoff;
4. The use of CDBG-DR funds to provide compensation to beneficiaries for losses stemming from disaster-related impacts;
5. Construction of a dam/levee beyond original footprint without obtaining pre-approval from HUD;
6. Incentive payments to households that move to disaster-impacted floodplains;
7. Assistance to privately owned utilities;
8. Rehabilitation assistance or safe housing incentives for second homes.

Additional ineligible activities, waivers, or alternative requirements may be found in the applicable storm-specific AAN.

## 1.4 Duplication of Benefits (DOB)

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

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

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

Additionally, the Appropriations Act, regulations, and cost principles within uniform administrative requirements applicable to all CDBG-DR grantees require that costs are necessary and reasonable (24 CFR part 570 and Uniform



Requirements at 2 CFR part 200). “A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost” (2 CFR 200.404).

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

The Department coordinates with FEMA, NFIP, and SBA to establish a process whereby information can be obtained to determine if applicants, especially housing rehabilitation applicants seeking disaster recovery funding assistance, have applied for, or received funding from either of these two agencies. HUD has a data sharing agreement with FEMA to ensure its grantees have the most recent assistance data in confirming other federal assistance. To ensure the most recent assistance data is used to confirm other federal assistance, the Department currently has secured data sharing agreements with SBA and the NFIP for the following disasters:

- 2020 Disaster – Hurricane Sally

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

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

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

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

- FEMA Individual Assistance for Structure (IA),
- FEMA (NFIP),
- Private Insurance,
- Increased Cost of Compliance (ICC),
- SBA,
- 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 repairs 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(s). Documentation must be provided demonstrating the cost and type of repair conducted.

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.

For additional information on DOB, see the following Federal Register Notices: [76 FR 71060](#), [84 FR 28836](#), and [84 FR 28848](#) available on the HUD Exchange website.

**Table 1: HUD's Duplication of Benefits Guidance**

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

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

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

## 1.5 Environmental Review Record (ERR)

### 1.5.1 Overview

The National Environmental Policy Act of 1969, as amended (NEPA), established national policies, goals, and procedures for protecting, restoring, and enhancing environmental quality. NEPA requires the evaluation of environmental impacts of proposed federally funded projects and identification of mitigation measures to minimize or prevent adverse impacts. All state- or subrecipient-managed projects funded by HUD CDBG-DR funds will require an Environmental Review Record (ERR) to be completed by the Responsible Entity (RE) in compliance with NEPA; Council on Environmental Quality (CEQ); regulations 40 CFR Parts 1500–1508; 24 CFR Part 50, 51, 55, and 58; and all applicable state and local regulations.

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

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

The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites and to develop procedures to ensure compliance with regulations pertaining to these factors. The environmental review includes an evaluation of potential adverse effects and



mitigation related to: noise abatement and control; historic preservation; coastal zone management; the Clean Air Act; environmental justice; airport clear zones; floodplains; wetlands; sole-source aquifers; wild and scenic rivers; explosives and flammable operations; hazards, toxics, and radioactive materials; endangered species; and farmland protection.

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

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

## 1.5.2 Environmental Review Record and Responsible Entity

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

The grantee must designate a Certifying Officer as the responsible federal official to assume legal responsibility for certifying that the grantee or subrecipient followed all the requirements of section 102 of NEPA and the related provisions in 40 CFR parts 1500-1508, and 24 CFR part 58, including the related federal authorities listed in §58.5 and §58.6. The subrecipient's Certifying Officer assumes legal responsibility for certifying that the grantee or subrecipient has complied with the requirements that would apply to HUD under these laws and authorities, including consideration of the related criteria, standards, policies, and regulations of these laws and authorities.

The ERR must provide a comprehensive project description and evidence of the process from start to finish, including environmental review documents, public notices, and written determinations or environmental findings as required by 24 CFR Part 58.

The three basic steps of environmental reviews are the following:

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

## 1.5.3 Environmental Review Record Procedure

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

### 1.5.3.1 Step 1: Designate Responsible Entity

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

### 1.5.3.2 Step 2: Develop Project Description

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

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

### 1.5.3.3 Step 3: Determine Level of Review Required

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

- Exempt § 58.34
- Categorically Excluded Not Subject to 24 CFR 58.5 (CENST)
- Categorically Excluded Subject to 24 CFR 58.5 (CEST)
- Environmental Assessment 24 CFR 58.36 (EA)
- Environmental Impact Statement 24 CFR 58.37 (EIS)

Some types of projects may benefit from tiering the environmental review as provided by [24 CFR 58.15](#). Tiered reviews are most commonly applied to projects involving repair, replacement, reconstruction and/or buyout of a large number of single-family homes.

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

**Table 2: Examples of Typical Disaster Recovery Projects\***

Proposed Project	Level of Environmental Review
Workforce Training	Exempt
Repair of Commercial Building Facades	CEST
Repair of Single-Family Home	CEST, Tier I and Tier II
Voluntary Home Buyout	CEST or EA, Tier I and Tier II
Infrastructure – Drainage Improvement	Environmental Assessment
New Multi-Family Construction	Environmental Assessment

*\* This not an exhaustive list, project specific characteristics could result in the need for an elevated level of Environmental Review from what is indicated above.*

If the proposed activities qualify under multiple level of review classifications, the RE must follow the review steps listed under the most stringent classification.

### **Exempt Activities**

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

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

### **Categorically Excluded Not Subject to § 58.5 (CENST) Activities**

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

### **Categorical Excluded Subject to § 58.5 (CEST) Activities**

Proposed activities that qualify as Categorically Excluded Subject To 24 CFR 58.5 (CEST) are activities that are not expected to require an Environmental Assessment or Environmental Impact Statement except under extraordinary circumstances. These activities are associated with:

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

A complete list of CEST activities is available in [24 CFR 58.35\(a\)](#). If the proposed project consists only of qualifying Exempt, CENST and CEST activities, the RE will need to complete the HUD [CEST Form](#) or the similar form provided by the Department and provide supporting documentation demonstrating compliance with all the Compliance Factors listed on the form. HUD offers worksheets for each relevant law and authority to guide the review process.

The proposed project may benefit from a Tiered approach if activities are repetitive. A Notice of Intent to Request Release of Funds (NOI-RROF) is required.

### **Environmental Assessment (EA)**

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

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

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

### **Environmental Impact Statement (EIS)**

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

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

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

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

### **Tiered Approach**

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

### **Broad-Level (Tier I) Review**

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

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

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

### **Site-Specific (Tier II) Review**

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

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

#### **1.5.3.4 Step 4: Complete and Document the Environmental Review**

1. Agency Coordination (Consultation): Contact appropriate federal, state, and local agencies, and other known interested parties.
  - A. Provide a thorough project description/scope of work and invite participation in the consultation process.
  - B. Provide a minimum 30 days from the date of receipt for agency comments or concerns. Some agencies may require 45-60 days.
    - i. If a consulted party raises project concerns, requests further consultation, or requires further documentation and/or study, it is the RE's responsibility to address the issue and to obtain the necessary documentation, clearances and/or permits prior to certifying the review as complete and submitting the ERR to the Department.
  - C. Letters delivered by U.S. mail shall be sent by "Certified Mail, Return Receipt".
  - D. Letters sent via email shall request a delivery receipt. The RE may also choose to request a read receipt.
  - E. Only the RE may formally contact and consult with the State Historic Preservation Office (SHPO) and the Native American Indian Tribes. Letters sent to these agencies must be on the RE's official letterhead, signed by the RE's Certifying Officer (e.g., mayor), and sent from a member of the RE's staff's email or mailing address.
  - F. Maintain a complete record of all correspondence for inclusion in the ERR.

2. Complete the relevant HUD or Department form (based on the level of review). Provide a detailed project description (scope of work) and include all HUD and non-HUD funded portions of a project or activity and the associated amount of funding from each source.
3. Complete all requirements of Part 58 associated with the project or activity; (e.g., conduct the 8-Step Decision-Making Process under 24 CFR Part 55 for projects located in a floodplain and/or wetland). The use of HUD worksheets for each Compliance Factor is highly recommended to streamline documentation and ensure a thorough review.
4. All maps should be in color with the project location marked (e.g., FEMA FIRM or FIRMette for floodplain management compliance).
5. At the conclusion of the environmental review, the RE's Certifying Officer will sign the ERR, certifying the project is appropriate for the level of review completed (e.g. CEST or EA), that all review requirements have been met, and the outcomes of the environmental reviews (environmental determination or finding).
6. Provide the appropriate public notice based on the review conducted (NOI-RROF for CESTs or a Combined/Concurrent Notice of FONSI and NOI-RROF for EAs). Ensure the public, relevant agencies, and known interested parties are allowed the required period of time to comment/respond based on the type of notice. The first day of the public comment period is the day after the notice is published or posted and the comment period must end on a workday (non-holiday and non-weekend day).
  - A. For Tiered reviews, the public notice and public comment period follow completion of the Tier I review.
7. Address any comments received as a result of the public notice and maintain a complete record of all correspondence.
8. Once the public comment period is complete and any comments have been satisfactorily addressed, the RE's Certifying Officer signs the RROF (form 7015.15).
9. For subrecipients, the completed and signed ERR (including copies of all public notices and the any comments received) must then be submitted to the Department along with the signed RROF.
10. The Department is required to hold the RROF for 15 days to allow for objections to the release of funds. The objection period begins the date after the RROF is received and will be extended, if necessary, in order for the objection period to end on a workday.
11. The RE will be notified by the Department, as applicable, if additional information is needed as a result of the ERR review. If any deficiencies are noted during the Department's review, the subrecipient must provide the additional documentation requested and revise the ERR to include requested revisions.
12. Once the ERR has been cleared by the Department, the 15-day hold for objections is complete, and any public comments addressed, the Department will issue the Authority to Use Grant Funds (AUGF, form 7015.16) to the RE. No HUD or non-HUD funds may be committed to a project until the AUGF is received by the RE (except for administrative or similar activities adequately documented as Exempt or CENST, as described in this Manual).
13. For projects in which a site-specific Tier II environmental review is required, the Tier II ERR must be completed by the RE and submitted to the Department for review. An additional site-specific clearance must be received from the Department prior to expenditure of non-Exempt funds on the individual project site.
14. Projects for which the AUGF (7015.16) was previously issued but the scope of work has changed must comply with 24 CFR 58.47. Prior to the commitment of funds for new project activities, an updated ERR is to be submitted to the Department, and the new scope of work must receive Department clearance.



## 1.5.4 Public Notices

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

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

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

## 1.5.5 Procedures for Making Determination on Floodplain and Wetland Management

Projects located within a floodplain or a designated wetland are subject to Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands). HUD regulations describe measures for protecting floodplains and wetlands. The required 8-Step Decision-Making Process must be completed for these projects and is summarized below. For more information on the 8-Step Process, see [24 CFR 55.20](#).

1. **Step 1:** Determine whether the proposed action is located in a 100-year floodplain and/or wetland. This is determined by reviewing FEMA Floodplain Maps and Wetlands Maps available from sources such as the US Fish and Wildlife Service. If no maps are available, use the best available information. If the proposed action would not be conducted in a 100-year floodplain and/or wetland, then no further compliance with these Compliance Factors is required. Categorically Excluded projects that are subject to 24 CFR 58.5 (CEST) are NOT excluded from this process. CENST (Categorically Excluded, not subject to 58.5) ARE excluded from this requirement.
2. **Step 2:** Notify the public as early as possible if a proposed project includes an action in a floodplain and/or wetland and involve the affected and interested public in the decision-making process. This process begins with publication of the Early Public Review Notice.
  - A. The public notices required in this section may be combined with other project notices wherever appropriate. All notices must be published in an appropriate local printed news medium.
  - B. Notices must be published in the pertinent language if the affected public is largely non-English speaking.
  - C. Notices must be sent to federal, state, and local public agencies, organizations, and individuals known to be interested in the proposed action, including FEMA.
  - D. A minimum of 15 calendar days shall be allowed for comment on the Early Public Review Notice.

- E. A notice under this paragraph shall state: the name, proposed location, and description of the activity; the total Certifying Officer (CO), and phone number to contact for information. The notice shall indicate the hours of operation for the Unit of Local Government (UGLG's) at which a full description of the proposed action may be reviewed.
3. **Step 3:** Identify and evaluate practical alternatives to locating the proposed action within the floodplain and/or wetland.
  - A. The consideration of practical alternatives to the proposed site or method may include:
    - i. Locations outside the floodplain and/or wetlands;
    - ii. Alternative methods to serve the identical project objective; and
    - iii. A determination not to approve any action.
  - B. In reviewing practical alternatives, the RE shall consider feasible technological alternatives, hazard reduction methods, related mitigation costs, environmental impacts and the social and economic value of the various alternatives.
4. **Step 4:** Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain and/or wetland and the potential for future development of the floodplain or wetlands as a foreseeable result of the project.
5. **Step 5:** Where practical, design or modify the proposed action to minimize the potential adverse impacts within the floodplain and/or wetland and to restore and preserve floodplain and wetlands natural and beneficial values.
6. **Step 6:** Re-evaluate the proposed action to determine:
  - A. Whether it is still practical in light of its exposure to flood hazards in the floodplain, the extent to which it will aggravate the current hazards to other floodplains and/or wetlands, and its potential to disrupt floodplain and/or wetland values; and
  - B. Whether alternatives preliminarily rejected at Step 3 of this section are practical in light of the information gathered in Steps 4 and 5 of this section.
7. **Step 7:** Publish the Final Notice of Explanation.
  - A. If the re-evaluation results in a determination that there is no practicable alternative to locating the proposed project in the floodplain and/or wetland, the RE shall publish the Final Notice of Explanation that includes:
    - i. The reasons why the project must be located in the floodplain and/or wetland,
    - ii. A list of the alternatives considered, and
    - iii. All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values.
  - B. Notices must be sent to federal, state, and local public agencies, organizations, and individuals known to be interested in the proposed action, including FEMA.
  - C. In addition, a minimum of seven calendar days shall be provided for public comment before the approval of the proposed action.
8. **Step 8:** Upon completion of the decision-making process in Steps 1 through 7, the implementation of the proposed action will proceed. There is a continuing responsibility to ensure that the mitigation measures identified in Step 7 are executed.

### 1.5.6 Re-Evaluation of Previously Clear Projects (24 CFR 58.47)

Sometimes projects are revised, delayed, or otherwise changed in such a way that a re-evaluation of the environmental review is necessary. The purpose of the re-evaluation is to determine if the original findings are still valid. If the original findings are still valid, but the data and conditions upon which they were based have



changed, the RE must update their ERR to include this re-evaluation and its determination based on the changed circumstances. The re-evaluation is to be submitted to the state for clearance and should:

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

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

## 1.5.7 Lead-based Paint, Asbestos, and Mold Inspections

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

### 1.5.7.1 Lead-based Paint

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

The subparts of 24 CFR 35 that apply to the disaster recovery program are:

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

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

- Residential construction that was completed on or after January 1, 1978;
- A zero-bedroom dwelling unit, including a single room occupancy dwelling unit;
- Housing exclusively for the elderly (specifically retirement communities or similar types of housing reserved for households composed of one or more persons meeting the age requirements of [24 CFR](#)

[35.110 “Housing for the elderly”](#)) or for persons with disabilities, unless a child under the age of six resides or is expected to reside in the dwelling unit;

- Residential property in which all lead-based paint has been identified, removed, and clearance has been achieved in accordance with the requirements outlined in 24 CFR 115(5);
- An unoccupied dwelling unit or residential property pending demolition that will remain unoccupied until demolition;
- Property or a part of a property that will not be used for human residential habitation, except entryways, hallways, corridors, passageways, or stairwell serving both residential and nonresidential uses in a mixed-use property shall not be exempt;
- Any rehabilitation that does not disturb painted surfaces;
- Emergency actions immediately necessary to safeguard against imminent danger to human life, health, or safety, or to protect property from further damage (However, occupants must be protected from exposure to lead in dust and debris generated from the emergency actions to the extent practicable); or
- Property seized by a federal law enforcement agency, which the agency has owned for less than 270 days.

In addition:

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

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

24 CFR 35 Subparts B, J, K, and R are collectively referred to as the Lead Safe Housing Rule and require different approaches to addressing lead-based paint hazards in different housing rehabilitation projects based on the amount of funding assistance. The funding levels are (1) up to and including \$5,000 per unit, (2) more than \$5,000 up to and including \$25,000 per unit, and (3) more than \$25,000 per unit. The method for calculating these amounts can be found in [24 CFR 35.915](#), and the applicable evaluation and hazard reduction requirements are located in [24 CFR 35.930](#).

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

### **1.5.7.2 Asbestos**

The subrecipient is required to address asbestos in their environmental evaluation of a housing rehabilitation or demolition project and must include plans to address it in the environmental documentation submitted to the Department.

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

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

### **1.5.7.3 Mold**

Mold can be a significant problem in homes that receive water damage due to a qualifying storm event. HUD does not have specific regulations related to mold. Nonetheless, to ensure housing units are decent, safe, and sanitary, which is a HUD requirement, housing rehabilitation projects need to determine if mold is present. The United States Environmental Protection Agency has published two useful guides on mold and cleanup: “A Brief Guide to Mold, Moisture and Your Home” and “Mold Remediation in Schools and Commercial Buildings.”

Additional information can be found at: <http://archives.hud.gov/news/2004/pr04-087.cfm>. Chapter 468, Florida Statutes, addresses licensing and qualifications for individuals conducting mold assessments.

## **1.6 Elevation**

All structures, as defined in 44 CFR 59.1, designed principally for residential use, and located in the 100-year floodplain, that receive assistance for new construction, reconstruction, rehabilitation of substantial damage, or rehabilitation that results in substantial improvement, as defined at 24 CFR 55.2(b) (10), must be elevated with the lowest floor, including the basement, at least two feet above the one percent annual chance floodplain elevation (also known as base flood elevation or BFE).

Mixed-use structures with no dwelling units and no residents located below two feet above BFE must be elevated or floodproofed up to at least two feet above BFE.

Critical Actions, as defined at 24 CFR 55.2(b)(3), located in a 500-year floodplain must be elevated to either the 500-year floodplain elevation or three feet above BFE, whichever is higher.

The Department will, and will require its subrecipients to develop and implement resilient home construction standards, including design standards for all structures designed principally for residential use and located in the 100-year floodplain that receive assistance for new construction, reconstruction, and rehabilitation of substantial damage, or rehabilitation resulting in substantial improvement, as defined at 24 CFR 55.2(b)(10). In compliance with the Consolidated Notice, the Department will require elevation of these structures such that the lowest floor, including the basement, is at least two feet above the BFE which is the minimum height requirements set forth in the February 3, 2022, Federal Register Notice.

The Department will, and will require its subrecipients to comply with local building codes where higher elevation standards are required. Otherwise, the Department or its applicable subrecipient(s) may elevate up to three feet above the BFE for the subject property so that it qualifies for NFIP flood insurance premium discounts when it is cost reasonable for the Department or its subrecipient to do so, and when it does not create other conflicts.

Nationally, the average cost to elevate a home is between \$30,000 and \$100,000. The average cost to elevate a home is dependent upon several factors including, but not limited to the size of the home, the number of feet it must be elevated, type of foundation, and the location of the home. Based on preliminary research, the average cost to elevate a home in Florida ranges between \$35,000 and \$115,000. However, elevation costs may fall outside this range depending on the value of the home and the factors mentioned above. For housing rehabilitation or repairs, the cost to elevate a home should not exceed 49 percent of the home’s pre-storm value. Any home that has a total cost of repairs equal to or more than 50 percent the market value of the home is considered substantially damaged and will require the entire structure to be brought into code compliance, which would include the required elevation. Subrecipients will be required to develop policies for properties with repair and/or elevation cost estimates that meet or exceed estimated costs for reconstruction of or replacement with a comparable home.

## 1.7 National Flood Insurance Program (NFIP) Insurance Requirements/Flood Disaster Protection

The Department, its subrecipients, as applicable, and all eligible applicants, shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 USC 4012a.

Additionally, the Department, its subrecipients, as applicable, and all eligible applicants shall comply with Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a). This section includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements. More information about these requirements is available in the Federal Register notices governing the CDBG-DR award. For additional reference, see 24 CFR 55.2(b)(1).

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

## 1.8 Acquisition and Relocation

### 1.8.1 Overview

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

The state's Uniform Relocation Assistance Guide and Residential Anti Displacement and Relocation Assistance Plan (URA and RARAP Plan) is located on the OLTR page at [www.FloridaJobs.org/CDBG-DR](http://www.FloridaJobs.org/CDBG-DR). This plan, which will be amended as needed to reflect disaster-specific activities, will ensure subrecipients minimize displacement. The URA provides certain displaced persons with the right to benefits for moving expenses, housing counseling services, rental assistance payments, and/or housing replacement costs depending upon the nature of the circumstances requiring relocation.

It is the responsibility of the Department's Disaster Recovery Subrecipient Grant Manager to coordinate with the subrecipient to ensure that all activities undertaken meet the applicable URA requirements. The Department's OLTR will request URA training from HUD and will schedule this training as soon as possible after receiving the disaster recovery funding for distribution.

A useful guide to URA requirements and their applicability is HUD's "Tenant Assistance, Relocation and Real Property Acquisition Handbook (1378.0)", located at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/handbooks/cpd/13780](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/13780)

## 1.8.2 Minimizing Displacement

### 1.8.2.1 24 CFR 570.606 Requirements

24 CFR 570.606 establishes HUD's policy that efforts are to be taken to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of activities undertaken with CDBG funds. It also provides that relocation assistance will be provided to a displaced person based on the requirements in 49 CFR 24. In the discussion that follows, it is important to remember the grantee is the State of Florida's OLTR, and the subrecipient is the local government, or other eligible entity, that receives a subrecipient agreement from the state under the Disaster Recovery program.

Because the following conditions apply to all acquisitions completed in conjunction with the provision of replacement housing through Department's OLTR program activities, URA acquisition requirements found in 49 CFR 24 Subpart B and 24 CFR 570.606 do not apply to housing acquisitions completed by the Department and its subrecipients. Housing acquisitions completed by the Department meet the conditions which exempt projects from the requirements of 49 CFR 24 Subpart B.

- No specific site or property needs to be acquired.
- Property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.
- Neither the Department nor its subrecipients will acquire property if the negotiations fail to reach an amicable agreement, and the owner of such property is so informed in writing.
- The Department or its subrecipient will inform the owner in writing of what it believes to be the fair market value of the property.

All acquisitions completed under the Department is entirely voluntary. No property will be acquired through involuntary purchase or eminent domain or condemnation if negotiations for acquisition fail to result in an agreement. Owners of properties acquired by the Department or its subrecipients are not considered displaced persons, (see 49 CFR 24.2(a)(9)(ii)(E) or (H)), and as such, are not entitled to relocation assistance benefits under URA. However, tenants on such properties may be eligible for relocation assistance benefits.

Per 49 CFR 24.2 (26) tenant is defined as a person who has the temporary use and occupancy of real property owned by another.

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

1. That occurs after notice from the grantee or sub-grantee to move permanently from the property and the move will occur after the initial official submission to HUD or the grantee, as applicable, for a grant, loan, or loan guarantee funds under the CDBG-DR program.
2. That occurs after a notice by the property owner to move permanently from the property and the move will occur after the date of submission of a request for financial assistance by the property owner or person in control of the site and is later approved for the requested activity.
3. Before the dates established in 1 or 2, above, and the grantee determines that the displacement directly resulted from acquisition, rehabilitation, or demolition for the requested activity.
4. After the "initiation of negotiations," if the displaced person is a tenant-occupant and one of the following apply:

- A. The tenant has not been provided a reasonable opportunity to occupy a unit in the same building or complex at a monthly rent and estimated utility cost prior to the initiation of negotiations or 30 percent of the household's average monthly gross income; or
- B. The tenant is required to relocate temporarily but is not offered payment for all reasonable out-of-pocket expenses in connection with the move, including the cost of moving and any increased housing costs or other reasonable conditions and the tenant does not return to the building or complex; or
- C. The tenant is required to move to another unit in the building or complex but is not offered reimbursement for all reasonable out-of-pocket expenses related to the move.

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

A displaced person does not include:

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

Other provisions in 24 CFR 570.606 include:

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

### **1.8.2.2 URA Regulation, 49 CFR 24 Requirements Overview**

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

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

### **Subpart A: General Requirements**

In addition to the purpose above, this subpart includes:

1. Definitions and acronyms
2. Guidelines that prohibit a person from receiving URA payments if payments are received under federal, state, or local laws, or insurance that are determined to have the same purpose and effect as a URA payment.
3. Requirements that the state must provide assurances that it will comply with the URA if a project is undertaken with federal assistance that will result in acquisition of real property or displacement, is subject to monitoring by HUD, and must take measures to minimize fraud, waste, and mismanagement.
4. Requirements for information to be contained in notices and how those notices are to be written and delivered.
5. Guidelines for administration of jointly-funded projects when two or more federal agencies provide financial assistance to a non-federal agency.
6. Authority for a federal agency to waive regulations.
7. Lists of other federal laws and regulations with which the implementation of the URA must ensure its compliance.
8. Requirements for record keeping in sufficient detail to demonstrate compliance with the URA requirements, three-year retention, confidentiality of records, and submitting reports every three years or as the URA requires on real property acquisition and displacement activities. NOTE: The Department's CDBG-DR program requires records retention for six years.
9. Appeal procedures.

### **Subpart B: Real Property Acquisition Requirements**

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

### **Subpart C: General Relocation Requirements**

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

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



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

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

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

## 1.8.3 Applicable URA Waivers & Requirements

Activities and projects undertaken with CDBG–DR funds are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601 et seq.) (“URA”) and section 104(d) of the Housing and Community Development Act of 1974 (HCDA) (42 U.S.C. 5304(d)) (Section 104(d)). The implementing regulations for the URA are at 49 CFR 24. The regulations for section 104(d) are at 24 CFR 42, subpart C. For the purpose of promoting the availability of decent, safe, and sanitary housing, HUD is waiving the following URA and section 104(d) requirements with respect to the use of CDBG–DR funds regulated by the Consolidated Notice. All language referencing waivers is taken directly from the [Consolidated Notice](#).

### 1.8.3.1 Section 104(d) One-for-One Replacement

For disasters regulated by the Consolidated Notice, one-for-one replacement requirements at section 104(d)(2)(A)(i) and (ii) and 104(d)(3) of the HCDA and 24 CFR 42.375 are waived for owner-occupied lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. The section 104(d) one-for-one replacement housing requirements apply to occupied and vacant occupiable lower-income dwelling units demolished or converted in connection with a CDBG assisted activity.

This waiver exempts all disaster-damaged owner-occupied lower-income dwelling units that meet the Department’s definition of “not suitable for rehabilitation,” from the one-for-one replacement housing requirements of 24 CFR 42.375. The Department defines “not suitable for rehabilitation” in the applicable action plan and policies/procedures governing these activities as one of the two following definitions:

- Residential properties that have experienced repetitive losses under FEMA’s NFIP; or
- Dwellings that are considered substandard and do not meet the recovery program’s housing rehabilitation standards and/or federal, state, local code requirements shall 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 on program standards as specified in the applicable Rebuild Florida program Subrecipient Policies and Procedures.

Subrecipients are reminded that tenant-occupied and vacant occupiable lower-income dwelling units demolished or converted to a use other than lower-income housing in connection with a CDBG-DR assisted activity are generally subject to one-for-one replacement requirements at 24 CFR 42.375 and that these provisions are not waived.

HUD has waived the section 104(d) one-for-one replacement requirement for owner-occupied lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation because the one-for-one replacement requirements do not account for the large, sudden changes that a major disaster may cause to the local housing stock, population, or economy. Disaster-damaged housing structures that are not suitable for rehabilitation can pose a threat to public health and safety and to economic revitalization. The Consolidate Notice states that prior to the implementation of this waiver and alternative requirement, grantees must reassess post-disaster population and housing needs to determine the appropriate type and amount of lower-income dwelling units (both rental and owner-occupied units) to rehabilitate and/or reconstruct. Grantees should note that the demolition and/or disposition of public housing units continue to be subject to section 18 of the United States Housing Act of 1937, as amended, and 24 CFR part 970.

## **Section 104(d) Conversion of LMI Units, 24 CFR 42 Requirements**

The requirements of 24 CFR 42 are applicable to CDBG-DR funded programs or activities when lower income (i.e., LMI) housing units, whether occupied or vacant, are demolished or converted to a use other than LMI dwelling units. It is not anticipated that the Department's use of CDGB-DR funding will result in the conversion of LMI dwelling units to anything other than LMI dwelling units. In the event that LMI dwelling units not eligible for the one-for-one waiver, as described in 1.8.3.1 Section 104(d) One-for-One Replacement, are demolished, the state or subrecipient is responsible for replacing the dwelling units with equivalent units in the same neighborhood.

The requirements include:

1. The demolished or converted units must be replaced on a one-for-basis with comparable lower-income dwelling units.
  - A. The replacement units must be located in the subrecipient's jurisdiction and to the extent possible, within the same neighborhood.
  - B. The replacement units must be of sufficient number and size to house the number of occupants who could have occupied the units that are being demolished or converted. Replacement housing cannot be smaller than the units they are replacing (e.g., replacing two-bedroom units with one-bedroom units), unless it is demonstrated that the smaller units are consistent with the Unmet Needs Assessment in the Action Plan. Non-entitlement, a local government that does not have a consolidated plan must make available public information demonstrating that the replacement housing is consistent with the housing needs of lower-income households in its jurisdiction.
  - C. The units must be in standard condition. Replacement housing can be obtained from substandard units improved to standard condition provided:
    - i. No person was displaced from the unit, and
    - ii. The unit was vacant for three months before an agreement was executed with the property owner.
  - D. Units must initially be made available for occupancy at any time during the period beginning one year before the RE makes public the information required under [24 CFR 42.375\(d\)](#), and ending three years after the completion of the demolition or rehabilitation related to the conversion.
  - E. The units must remain lower-income dwelling units for at least 10 years from the date of initial occupancy. Replacement housing may include public housing or existing housing receiving Section 8 project-based assistance.
2. Before the subrecipient enters into a contract to provide funds to demolish or convert lower-income dwelling units, the subrecipient must make available to the state CDBG-DR program:
  - A. A description of the proposed assisted activity.
  - B. A map of the location and identification of the number of dwelling units by size (number of bedrooms) that will be demolished or converted.
  - C. A time schedule for the commencement and completion of the demolition or conversion.
  - D. A map of the location and the number of dwelling units by size (number of bedrooms) that will be provided as replacement units.
    - i. If the information is not available, include the general location on a map, identify the approximate number of dwelling units by size, and provide information as to when the specific location and number of units by size will be submitted and disclosed to the public.
  - E. The source of funding and the time schedule for providing the replacement units.
  - F. The basis for concluding the replacement units will be available to lower-income households for at least 10 years from the date of initial occupancy.

- G. Information demonstrating that any proposed smaller units used as replacement units are consistent with the Unmet Needs Assessment in the Action Plan. For non-entitlement, a local government that does not have a consolidated plan must make available public information demonstrating that the replacement housing is consistent with the housing needs of lower-income households in its jurisdiction.
3. Replacement housing is not required if the HUD field office determines, based on objective data, that there is an adequate supply of vacant lower-income units in standard condition and available on a non-discriminatory basis within the area. The subrecipient must submit the required information to the Department's OLTR program staff to support the conclusion that the replacement housing is not required. The submitted information must be made public and inform interested parties they have 30 days from the date of submission to provide the state opposing information. If the state agrees with the request, the state must provide its recommendation and supporting information to the field office. Similar requirements must be met if the state intends to demonstrate that replacement housing is not required.

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

### **1.8.3.2 Relocation Assistance**

The relocation assistance requirements at section 104(d)(2)(A)(iii) and (B) of the HCDA and 24 CFR 42.350, are waived to the extent that an eligible displaced person, as defined under 24 CFR 42.305 of the section 104(d) implementing regulations, may choose to receive either assistance under the URA and implementing regulations at 49 CFR part 24, or assistance under section 104(d) and implementing regulations at 24 CFR 42.350. This waiver does not impact a person's eligibility as a displaced person under section 104(d); it merely limits the amounts and types of relocation assistance that a section 104(d) eligible displaced person is eligible to receive. A section 104(d) eligible displaced person is eligible to receive the amounts and types of assistance for displaced persons under the URA, as may be modified by the waivers and alternative requirements in the Consolidated Notice for activities related to disaster recovery.

Without this waiver, disparities exist in relocation assistance associated with activities typically funded by HUD and FEMA (e.g., buyouts and relocation). Both FEMA and CDBG funds are subject to the requirements of the URA; however, CDBG funds are subject to section 104(d), while FEMA funds are not. This limited waiver of the section 104(d) relocation assistance requirements assures uniform and equitable treatment for individuals eligible to receive benefits under Section 104(d) by establishing that all forms of relocation assistance to those individuals must be in the amounts and for the types of assistance provided to displaced persons under URA requirements.

### **1.8.3.3 URA Replacement Housing Payments for Tenants**

The requirements of sections 204 and 205 of the URA (42 U.S.C. 4624 and 42 U.S.C. 4625), and 49 CFR 24.2(a)(6)(vii), 24.2(a)(6)(ix), and 24.402(b) are waived to the extent necessary to permit a grantee to meet all or a portion of a grantee's replacement housing payment obligation to a displaced tenant by offering rental housing through a rental housing program subsidy (to include, but not limited to, a housing choice voucher), provided that comparable replacement dwellings are made available to the tenant in accordance with 49 CFR 24.204(a) where the owner is willing to participate in the program and the period of authorized assistance is at least 42 months. This waiver and alternative requirement are subject to the following: if assistance is provided through a HUD program, it is subject to the applicable HUD program requirements, including the requirement that the tenant

must be eligible for the rental housing program. Failure to grant this waiver would impede disaster recovery whenever rental program subsidies are available but funds for cash replacement housing payments are limited and such payments are required by the URA to be based on a 42-month term.

#### **1.8.3.4 CDBG displacement, relocation, acquisition, and replacement housing program regulations - Optional relocation assistance.**

The regulations at 24 CFR 570.606(d) are waived to the extent that they require optional relocation policies to be established at the grantee level. Unlike with the regular CDBG program, states may carry out disaster recovery activities directly or through subrecipients, but 24 CFR 570.606(d) does not account for this distinction. This waiver makes clear that grantees receiving CDBG-DR funds may establish optional relocation policies or permit their subrecipients to establish separate optional relocation policies. The written policy must: be available to the public; describe the relocation assistance that the grantee, state recipient (i.e., a local government receiving a subgrant from the state through a method of distribution), or subrecipient (as applicable) has elected to provide; and provide for equal relocation assistance within each class of displaced persons according to 24 CFR 570.606(d).

This waiver is intended to provide states with maximum flexibility in developing optional relocation policies with CDBG-DR funds.

#### **1.8.3.5 URA voluntary acquisition—homebuyer primary residence purchase.**

Grantees may implement disaster recovery program activities that provide financial assistance to eligible homebuyers to purchase and occupy residential properties as their primary residence. Such purchases are generally considered voluntary acquisitions under the URA and subject to the URA regulatory requirements at 49 CFR 24.101(b)(2). For CDBG-DR, 49 CFR 24.101(b)(2) is waived to the extent that it applies to a homebuyer, who does not have the power of eminent domain, and uses CDBG-DR funds in connection with the voluntary purchase and occupancy of a home the homebuyer intends to make their primary residence. This waiver is necessary to reduce burdensome administrative requirements for homebuyers following a disaster. Tenants displaced by these voluntary acquisitions may be eligible for relocation assistance.

#### **1.8.3.6 Waiver of Section 414 of the Stafford Act.**

Section 414 of the Stafford Act (42 U.S.C. 5181) provides that “Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646) [42 U.S.C. 4601 et seq.] [“URA”] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by [the URA].” Accordingly, homeowner occupants and tenants displaced from their homes as a result of the identified disasters and who would have otherwise been displaced as a direct result of any acquisition, rehabilitation, or demolition of real property for a federally funded program or project may become eligible for a replacement housing payment notwithstanding their inability to meet occupancy requirements prescribed in the URA. Section 414 of the Stafford Act and its implementing regulation at 49 CFR 24.403(d)(1) are waived to the extent that they would apply to real property acquisition, rehabilitation, or demolition of real property for a CDBG-DR funded project commencing more than one year after the date of the latest applicable Presidentially Declared Disaster undertaken by the grantees, or subrecipients, provided that the project was not planned, approved, or otherwise underway before the disaster.

For purposes of this waiver, a CDBG-DR funded project shall be determined to have commenced on the earliest of: (1) the date of an approved Request for Release of Funds and certification, (2) the date of completion of the site-specific review when a program utilizes tiering, or (3) the date of sign-off by the approving official when a project converts to exempt under 24 CFR 58.34(a)(12).

The waiver will simplify the administration of the disaster recovery process and reduce the administrative burden associated with the implementation of Stafford Act Section 414 requirements for projects commencing more than

one year after the date of the Presidentially Declared Disaster considering most of such persons displaced by the disaster will have returned to their dwellings or found another place of permanent residence.

This waiver does not apply with respect to persons that meet the occupancy requirements to receive a replacement housing payment under the URA nor does it apply to persons displaced or relocated temporarily by other HUD-funded programs or projects. Such persons' eligibility for relocation assistance and payments under the URA is not impacted by this waiver.

## 1.9 System of Record

The Department's Subrecipient Enterprise Resource Application (SERA) has been enhanced to provide an integrated System of Record (SoR) to support the CDBG-DR programs and activities. The SoR provides both a user platform for the case management and administrative functions associated with the processing of housing recovery applications and a reporting environment for the purposes of management, oversight, and performance reporting of CDBG-DR programs and activities.

## 1.10 Labor Standards and the Davis-Bacon Act

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

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

Non-compliance with Labor Standards and DBA requirements may result in restitution payments, fines/liquidated damages, or loss of government funded contracts.

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

### 1.10.1 Construction Categories

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

### 1.10.2 Wage Decisions

After determining the proper labor categories, the local government should request a wage decision by submitting a Wage Decision Request Form to the Department's Disaster Recovery Grant Manager. A copy of this form is



available on the Department's long-term resiliency [website](#). As wage decisions are subject to modification, the wage decision request should not be submitted earlier than 45 days prior to advertisement of the project.

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

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

The Bidding Information and Contractor Eligibility form advises the Department of the bid date for review of wage decision validity. A contract should not be awarded prior to the Department's verification that the contractor is eligible to participate in a federally funded contract. After contract execution and issuance of a Notice to Proceed (NTP), the local government should submit a copy of the notice and the minutes from the meeting at which the contract was awarded. A copy of the Bidding Information and Contractor Eligibility form is included on the Department's long-term resiliency [website](#).

### 1.10.3 Monitoring Construction Activities and Labor Standards

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

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

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

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

If a contractor or subcontractor is required to pay a cumulative total of more than \$100 in back wages during the contract period, the local government must submit an enforcement report to OLTR. Any corrective actions by a contractor must be documented in the project files. For back wages exceeding \$10, there must be a copy of the front of the wage restitution check and a signed acknowledgment from the worker stating the amount of the check and confirmation that it was received. If there are overtime violations, the local government must assess

the contractor liquidated damages of \$10 per day/per worker for those who should have received overtime. Restitution is also required. The contractor may request waiver of liquidated damages through the Department.

The Department will monitor compliance with labor standards until the project is complete. [A Labor Standards Monitoring Checklist](#) is available on the Department's OLTR website on the [Subrecipient Resources](#) page. During monitoring visits, special attention will be given to the following:

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

Typical findings from past monitoring activities include the following:

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

## 1.10.4 Restitution

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

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



## 1.10.5 Semi-Annual Reports

Every six months, the Department's CDBG-DR program must report to HUD on all covered contracts awarded and on all compliance actions taken. The Semi-Annual Report form (HUD-4710) and instructions for the form (HUD-4710i) are available on HUD's website at <https://www.hudexchange.info/resources/documents/HUD-Form-4710-Semi-Annual-Labor-Standards-Enforcement-Report.pdf>.

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

- Making Davis-Bacon Work: A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects (<http://portal.hud.gov/hudportal/documents/huddoc?id=4812-LRguide.pdf>)
- Making Davis-Bacon Work: A Practical Guide for States, Indian Tribes and Local Governments (<https://www.hudexchange.info/resources/documents/Making-Davis-Bacon-Work-Guide-States-Indian-Tribes-Local-Agencies.pdf>)
- Basically CDBG for States (<https://www.hudexchange.info/resource/269/basically-cdbg-for-states/>)
- Community Development Block Grant Toolkit on Crosscutting Issues, Module 3: Federal labor Standards ([http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_15953.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_15953.pdf))

## 1.10.6 The Wage Request Process

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

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

## 1.11 Civil Rights

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

By signing the assurances in the CDBG-DR application and the sub-grant award agreement, the subrecipient agrees to:

- Comply with civil rights laws and conduct the CDBG-DR program in a non-discriminatory manner.
- Take affirmative action, where discrimination has been found in the past, to overcome its effects.

- Ensure equal opportunity in employment and contracting opportunities connected with the CDBG-DR program.
- Maximize choice within the community's total housing supply; lessen racial, ethnic, and economic concentrations of housing; and administer the CDBG-DR program in a manner that affirmatively furthers fair housing.
- Develop/maintain records of efforts undertaken to ensure fair housing and conduct four quarterly activities each year to further fair housing.
- Facilitate desegregation and racially inclusive patterns of occupancy and use of public facilities.

The Civil Rights Checklist is used to monitor the subrecipient for compliance with the civil rights issues discussed in this section. A [Civil Rights Checklist](#) is available on the Department's long-term resiliency website on the [Subrecipient Resources](#) page.

### 1.11.1 Civil Rights Requirements: Laws, Statutes, and Executive Orders

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

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

- **Chapter 760, Florida Statutes:** This state law prohibits discrimination based on race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status. It also secures the state against domestic strife and unrest to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the state.

### 1.11.2 Fair Housing

The first step in developing a fair housing program is to determine the needs of the community. This can be done by preparing the HUD required Analysis of Impediments to Fair Housing Choice. The State of Florida has prepared an Analysis of Impediments to Fair Housing Choice that is currently in effect. The analysis identified potential impediments to fair housing choice and includes actions to be undertaken to help overcome these impediments. The potential impediments include, but are not limited to:

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

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

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

Recipients of CDBG-DR grants will be required to undertake at least four fair housing activities each year (one activity per quarter) to affirmatively further fair housing within the community during the time the subrecipient

agreement is open. The subrecipient will need to carefully document these activities as documentation will be required to demonstrate these activities were undertaken during monitoring visits.

The State of Florida Analysis of Impediments to Fair Housing Choice can be found at [https://floridajobs.org/docs/default-source/2015-community-development/community-revitalization/cdbg/annual-action-plan/conplan2024aap2020.pdf?sfvrsn=a32c4ab0\\_2](https://floridajobs.org/docs/default-source/2015-community-development/community-revitalization/cdbg/annual-action-plan/conplan2024aap2020.pdf?sfvrsn=a32c4ab0_2) **Error! Hyperlink reference not valid..** This 5-year Consolidated Plan is current through 2024 and contains useful data.

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

### 1.11.3 Equal Employment Opportunity

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

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

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

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

- Preparing accurate job descriptions for basing all employment selection and testing criteria.
- Establishing a network of contacts, including workforce boards, newspapers, and radio and television stations; notifying them of all CDBG-related position openings; and requesting assistance in the recruitment process.
- Distributing recruitment literature to women and minority organizations, and organizations that assist the disabled and older workers, and when appropriate, translating the materials into other languages.
- Identifying minority, women, and disabled staff to assist with applicant interviews, and providing them with training in proper interviewing techniques.
- Encouraging employees to refer qualified minority and women candidates for job openings, training, promotions, and transfers.
- Evaluating local recruitment, hiring, and other personnel policies and materials to ensure that they do not contain or perpetuate discriminatory intent, practices, or procedures.
- Reviewing job turnover to determine vacancy patterns and to plan appropriate recruiting efforts.
- Establishing entry-level professional positions to provide career opportunities for employees, particularly for minorities and women.

- Working with the private sector to fill job openings that result from economic development activities and establishing procedures that facilitate nondiscrimination and increased opportunities for women, minorities, disabled, and lower-income residents.
- Taking affirmative action to overcome the effect of past discrimination.
- Advertising as an equal opportunity employer in bid solicitations.
- Soliciting bids from minority, women, and locally owned businesses.
- Maintaining a list of locally owned businesses that were awarded contracts.
- Informing contractors of equal opportunity requirements at the pre-construction conference or through other means of notification.
- Monitoring contractor compliance at work sites.

## 1.12 Section 3

### 1.12.1 Section 3 Compliance

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

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

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

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

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

Contracts awarded on or after November 30, 2020, are subject to the Section 3 requirements in 24 CFR 75. Contracts subject to 24 CFR 75 are also responsible for meeting the compliance requirements of 24 CFR 135, unless superseded by 24 CFR 75.

## 1.12.2 Section 3 Thresholds

Under the HCDA, recipients of HUD funds are required to comply with Section 3 on a per-project basis for all projects of at least \$200,000, rather than per contracted program activity. For individual projects under \$200,000, Section 3 is encouraged but not required. Section 3 requirements apply for projects involving housing construction, demolition, rehabilitation, or other public construction activities (e.g., roads, sewer, water, community centers) if the completion of these projects creates the need for new employment, contracting or training opportunities.

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

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

The Department and its covered contractors, subcontractors, professional service providers, consultants, or subrecipients will in good faith comply with the requirements of Section 3 for new employment, training, or contracting opportunities resulting from the expenditure of HUD funding. Additionally, the Department's existing Procurement Policy contains an effort to promote contracts to Minority and Women Business Enterprises.

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

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

## 1.12.3 Section 3: Good Faith Effort

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

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



Any construction contractor, professional services provider, vendor, or supplier must certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligation under 24 CFR Part 75.

### 1.12.4 What is a Section 3 Worker?

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

- The worker's 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 (Use the worker's annual gross income based on AMI for a single-person household.); or
- The worker is employed by a Section 3 business concern; or
- The worker is a YouthBuild participant.

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

Section 3 Workers certified under 24 CFR 135 for work on contracts funded by CDBG-DR funds regulated by Federal Register Notices published prior to the Consolidated Notice (FR Vol. 87, No. 23, as amended) must be re-certified under 24 CFR 75.

Per 24 CFR 75, there are requirements regarding total project hours that must be worked by Targeted Section 3 Workers.

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

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

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

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

### 1.12.5 What is a Section 3 Business Concern?

What determines a Section 3 Business Concern is dependent upon the date of contract award. All contracts funded using CDBG-DR funds regulated by the Consolidated Notice, as amended, are subject to the Section 3 Business Concern definition in 24 CFR 75 where a Section 3 Business Concern is a business concern meeting at least one of the following criteria, documented within the last six-month period:

- At least 51 percent or more owned and controlled by low-or very low-income persons,



- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 Workers, or
- A business at least 51 percent owned and controlled by current public housing residents or residents who live in Section 8-assisted housing.

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

### 1.12.6 Section 3 Goals

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

All contracts funded by CDBG-DR funds regulated by the Consolidated Notice (FR Vol. 87, No. 23, as amended) are subject to 24 CFR 75. For these contracts, OLTR will comply with the minimum numerical goal that 25 percent of the total project hours be done by Section 3 Workers, with five percent or more of the total hours of a project performed by Targeted Section 3 Workers.

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

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

### 1.12.7 Section 3 Workers Recruitment, Training, Employment

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

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

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

### 1.12.8 Section 3: Developers and Contractors Obligations

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

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

### 1.12.9 Section 3 Reporting

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

In accordance with 24 CFR part 75, annual Section 3 reports are required to be submitted by the Department to HUD through the DRGR and are due by July 1<sup>st</sup> of each year. The report measures OLTR's effort in meeting the minimum numerical goals.

### 1.12.10 Section 3: Roles and Responsibilities

#### **The Department's Section 3 Coordinator will be responsible for ensuring compliance by:**

- Identifying programs, projects and activities which may trigger Section 3 compliance for OLTR as the recipient of HUD funds;
- Ensuring all Section 3 clauses are in each program's Contractor Agreements;
- Assisting in training the OLTR Programs to ensure they understand their responsibility concerning Section 3;
- Monitoring each program to assure they are assisting contractors where necessary;
- Collecting required reports from programs; and
- Reporting all annual OLTR program accomplishments regarding employment and other economic opportunities provided to low and very low-income persons under Section 3 to the Bureau Chief of Finance and Administration.

#### **Program Staff responsibilities include:**

- Notifying Section 3 Workers about training and employment opportunities and Section 3 businesses about contracting opportunities;
- Inserting Section 3 clauses into all bid documents (monitor if they are awarding funds to a subrecipient to carry out the Section 3 covered project);
- Inserting Section 3 clauses into contracts for Section 3 covered activities (monitor if they are awarding funds to a subrecipient to carry out the Section 3 covered project);
- Informing contractors and subrecipients of the necessary language to be included in agreements with all lower tiered contracts for Section 3 covered projects;
- Annually updating Section 3 compliance documents with the HUD Section 8 income limit;
- Serving as point of contact for information regarding Section 3 compliance, reporting, business certification process and all other related matters;
- Refraining from entering into contracts with contractors that fail to comply with Section 3;
- Obtaining information necessary for the OLTR Section 3 Coordinator to submit the required HUD 60002 Form to HUD;
- Attending scheduled pre-bid, pre-construction, bid opening, and construction meetings for all Section 3 covered projects that are implemented directly, and be available to attend, when feasible, upon subrecipient request;
- Promoting outreach to recruit Section 3 Workers through local community action agencies;
- Endorsing outreach to recruit residents receiving public housing assistance;
- Advocating outreach to recruit Section 3 business concerns;
- Coordinating outreach with Public Housing Agencies, Chambers of Commerce, community organizations, SBA, and other local stakeholders;
- Encouraging training and employment of Section 3 Workers;
- Documenting actions taken to comply with Section 3 requirements, results of actions taken, and impediments, if any.

**Subrecipient responsibilities include:**

- Notifying Section 3 Workers about training and employment opportunities and Section 3 businesses about contracting opportunities;
- Inserting Section 3 clauses into all bid documents (monitor if they are awarding funds to a subrecipient to carry out the Section 3 covered project);
- Inserting Section 3 contract clauses into contracts for Section 3 covered activities (monitor if they are awarding funds to a subrecipient to carry out the Section 3 covered project);
- Informing contractors of the necessary language to be included in their agreements with all lower tiered contracts for Section 3 covered projects;
- Serving as point of contact for contractor information regarding Section 3 compliance, reporting, business certification processes, and all other related matters;
- Refraining from entering into contracts with contractors that fail to comply with Section 3;
- Obtaining information necessary for the OLTR Section 3 Coordinator to collect HUD form 60002;
- Attending scheduled pre-bid, pre-construction, bid opening, and construction meetings for all Section 3 covered projects;
- Promoting outreach to recruit Section 3 Workers through local community action agencies;
- Endorsing outreach to recruit residents in receipt of public housing assistance;
- Advocating outreach to recruit Section 3 business concerns;
- Coordinating outreach with Public Housing Agencies, Chambers of Commerce, community organizations, SBA, and other local stakeholders;
- Encouraging training and employment of Section 3 Workers;
- Documenting actions taken to comply with Section 3 requirements, results of actions taken, and impediments, if any.

**Contractors' responsibility for Section 3:**

Contractors must make their best effort to comply with Section 3 requirements by awarding contracts to business concerns that provide economic opportunities to Section 3 Workers where feasible. Contractors must also document compliance efforts and submit timely reports to UGLG/subrecipient/the Department, as appropriate.

### 1.12.11 Records Keeping

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

- Employment in each local government operating unit which performs CDBG-DR funded projects.
- The local government's affirmative actions to further fair housing.
- For direct benefit activities, records relating to persons who have participated in any CDBG-DR funded program.
- For area-wide activities, information on the area and the services provided and the race and ethnic character of the service area.
- Race, ethnic character, age, handicapped status, gender of heads of households, and number of elderly people benefiting from the project.
- Race and ethnic character of households and handicapped status of persons displaced as a result of CDBG-DR activities.
- Actions undertaken to meet Section 3 requirements and the written Section 3 Plan.

- Information on the racial/ethnic character of each business that receives a contract or subcontract of \$10,000 or more paid with CDBG-DR funds, including identification of women-owned businesses.
- The affirmative actions the local government administering a CDBG-DR funded program has taken to overcome the effects of historical discrimination.

## 1.13 Constituent Management Services

### 1.13.1 Constituent Complaints and Inquiries Procedures

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

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

Every complaint and inquiry will be included in a tracking system. CMS staff will maintain electronic files that include:

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

The state will provide a written response to all complaints/inquiries within 15 working days of receipt of the complaint/inquiry. The state will make every effort to provide a resolution to complaints/inquiries within the 15-working day period. If a resolution cannot be reached within the 15-working day period, the complainant will receive a status update on the issue(s) and, if possible, a timeframe for when a resolution can be reached. The CMS Lead will monitor response times to ensure compliance and will adjust timeframes for additional responses as needed.

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

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

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

1. Directly to the Department:
  - A. Via the Department's website by visiting the Rebuild Florida Program website to complete an online complaint form at: <http://FloridaJobs.org/RebuildFlorida/rebuild-florida-homeowner-complaint-form>
  - B. Via U.S. mail to:

Attention: Constituent Services Management

Florida Department of Economic Opportunity

Disaster Recovery Programs

107 East Madison Street, MSC 420

The Caldwell Building

Tallahassee, Florida 32399

- C. Via email to: [CMS@DEO.MyFlorida.com](mailto:CMS@DEO.MyFlorida.com)
  - D. Contacting CMS staff directly.
2. Directly to a program-level representative, if applicable:
    - A. Via calling the Rebuild Florida customer service center to receive assistance from a call center agent.
    - B. In-person at a Rebuild Florida Center to receive assistance from a Rebuild Florida Specialist.

## 1.13.2 Appeals

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

### 1.13.2.1 Citizen Appeals Process

Throughout the process, decisions will be made on an application and/or project to be delivered. The decisions are made based on statutes, codes of federal regulation, local administrative code, and state and local guidelines as they are interpreted by the program. This policy guides the process for an applicant or contractor requesting an appeal of decisions made by the program.

Applicants have a right to participate in the process; the Department or its 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 Department or its 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 Department or the applicable UGLG or program administrator. If a subrecipient doesn't resolve an appeal to the satisfaction of an applicant, the applicant may contact the Department to be addressed by OLTR's 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).

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

- Hurricane Sally Policy Manual

### 1.13.2.2 Notice of Administrative Appeals Rights

Any person whose substantial interests are affected by the Department's determination has the opportunity for an administrative hearing pursuant to section 120.569, Florida Statutes. For the required contents of a petition challenging agency action, refer to 28-106.104(2), 28-106.20(2), and 28-106.301, [Florida Administrative Code](#) (F.A.C).

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

Agency Clerk Department of Economic Opportunity

Office of the General Counsel

107 East Madison Street, MSC 110

The Caldwell Building

Tallahassee, Florida 32399-4128

Fax: (850) 921-3230

Email: [Agency.Clerk@DEO.MyFlorida.com](mailto:Agency.Clerk@DEO.MyFlorida.com)

### **1.13.2.3 DEO URA Appeals**

Applicants may appeal any case in which he or she believes that the Department 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 the Department's decision regarding his or her claim and must be directed to the Department in writing to the following postal address:

ATTN: URA APPEALS

Florida Department of Economic Opportunity

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 [here](#).

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 the Department 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 the Department, as appropriate, of his or her right to seek judicial review.

### 1.13.3 Fair Housing Complaints

The Department is committed to affirmatively furthering fair housing by ensuring 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 damages due to the applicable disaster and/or its aftereffects.

Persons alleging a violation of fair housing laws will be referred to the Department's local contact and process to file a complaint. The Department will retain a log and record of all fair housing inquiries, allegations, complaints, and referrals.

In addition, the Department will report suspected non-compliance to HUD. The Department contact for Fair Housing Complaints is: [FairHousing@DEO.MyFlorida.com](mailto:FairHousing@DEO.MyFlorida.com).

The Florida Disaster Recovery Program operates in accordance with The Fair Housing Amendments Act of 1988. Anyone who feels that he or she has been discriminated against may file a complaint of housing discrimination: 1-800-669-9777 (Toll Free) or [www.HUD.gov/fairhousing](http://www.HUD.gov/fairhousing).

### 1.13.4 Anti-Fraud, Waste, and Abuse (AFWA)

Rebuild Florida constituents, employees and contractors may report suspected fraud, waste, or abuse by contacting CMS 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@DEO.MyFlorida.com](mailto:CDBG-DR_AntiFraudWasteAbuse@DEO.MyFlorida.com).

All suspected cases of fraud will be taken seriously, and complaints will be reported to OLTR's Compliance and Reporting Manager and the Department's Office of the Inspector General at [OIG@DEO.MyFlorida.com](mailto:OIG@DEO.MyFlorida.com). If the Department'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 HUD Office of the Inspector General (OIG) Fraud Hotline (phone: 1-800-347-3735 or email: [hotline@hudoig.gov](mailto:hotline@hudoig.gov)) and the Department's HUD Community Planning and Development (CPD) Representative. *OLTR must provide a timely response within 15 working days of the receipt of a complaint, as stated in 84 FR 169.*

**OLTR's comprehensive Anti-Fraud Waste and Abuse Policy can be found [here](#).**

### 1.13.5 Public Records Request

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

A Public Records Request may be verbal or take any form (e.g., email, written correspondence, in-person). The Public Records Act does not require that requests be in writing, comply with a certain form or have any specific content. A public records request may come from a member of the media, the general public, an employee, or any other individual. The Department cannot mandate receipt of the name of the requestor or purpose of the request in order to fulfill the Public Records Request.

A Public Record is defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means



of transmission, made or received pursuant to law or ordinance, or in connection with the transaction of official business by any agency.

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

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

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

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

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

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

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

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

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

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

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

### 1.13.5.1 Public Records Request Procedure

#### Intake and Processing

1. When a Department employee receives a Public Records Request:
  - A. All employees who receive a Public Records Request will immediately forward the request to the Public Records Coordinator ([PRRequest@DEO.MyFlorida.com](mailto:PRRequest@DEO.MyFlorida.com)) for acknowledgement and tracking.
  - B. Employees should then immediately notify their supervisor and Division Liaison regarding the request.
  - C. Any employee receiving a Public Records Request will immediately coordinate with a supervisor and the Division's Public Records Liaison regarding questions pertaining to the request such as: (i) what is and what is not a responsive record; and (ii) where to find all responsive records.
  - D. Employees will diligently and expeditiously work with their Division Liaison to gather all responsive records to provide to the Public Records Coordinator. Collaboration with the Public Records Coordinator is expected throughout the process.
  - E. The Public Records Coordinator will remain, at all times, the point of contact between the requestor and the Department.
2. When a Division Liaison receives a Public Records Request:
  - A. Division Liaisons will immediately forward the request to the Public Records Coordinator ([PRRequest@DEO.MyFlorida.com](mailto:PRRequest@DEO.MyFlorida.com)) for acknowledgement and tracking.
  - B. Division Liaisons will then work with staff in their Division to expeditiously gather all responsive records to provide to the Public Records Coordinator.
  - C. The Public Records Coordinator will remain, at all times, the point of contact between the requestor and the Department.
3. When the Public Records Coordinator receives a Public Records Request:
  - A. The Public Records Coordinator will communicate with the requestor to acknowledge receipt of the public record request by email, letter, or facsimile, as appropriate.
  - B. The Public Records Coordinator will then work with Division Liaisons to gather all responsive records to complete the request.
  - C. If the request is from a member of the media, the Public Records Coordinator will immediately forward the request to the Office of Communications and External Affairs ([media@DEO.MyFlorida.com](mailto:media@DEO.MyFlorida.com)). The Office of Communications and External Affairs will acknowledge all media Public Records Requests. The Public Records Coordinator will be informed of all responses to media that include public records.
4. Estimates
  - A. The Public Records Coordinator will communicate in writing with the requestor to provide the actual cost and an estimate of the special service charge, if applicable.
  - B. Payment of the estimated costs is required prior to processing the records for production.
5. Review and Redaction
  - A. Once the requested materials have been gathered by the Division, the Division will redact confidential and exempt information (as outlined in 1.13.5 Public Records Request) before releasing the records to the Public Records Coordinator for transmittal.
  - B. The Division will specify and provide all citations for any redactions.
  - C. The Liaison and/or Division employee will consult with OGC as necessary regarding redactions.

- D. Each Division is responsible for redacting records with redaction tape or electronically and, if necessary, must be prepared to assume the cost of paper copies used in the redaction process. No redactions will be done with a marker.

### **Production of Records to Requestor**

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

### **Public Record Requests for Email Correspondence**

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

## **1.13.6 Citizen Participation Plan**

Florida values citizen and stakeholder engagement. Florida has developed a Citizen Participation Plan (CPP) in compliance with Federal Register Vol. 87, No. 23, the “Consolidated Notice,” 24 CFR 91.115 and applicable HUD requirements to set forth the policies and procedures applicable to citizen participation. This plan is intended to maximize the opportunity for citizen involvement in the planning and development of the Rebuild Florida recovery program.

In order to facilitate citizen involvement, Florida has identified targeted actions to encourage citizen participation and allow equal access to information about the Rebuild Florida Program. Florida intends to focus its outreach efforts to facilitate participation from individuals of low and moderate income, those living in slums and blighted areas, those living in areas identified for recovery through Rebuild Florida, non-English speaking persons and other disadvantaged populations. Florida publishes its action plans in English and other language(s) identified by the Department’s language analysis of Limited English Proficiency (LEP) in impacted areas.

The Department’s CPP for each disaster is available on the applicable storm’s section of the OLTR website at <http://www.FloridaJobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative>.

## **1.13.7 Public Outreach and Communication**

The public outreach strategy used to market the Rebuild Florida Program is complex and multifaceted. It is outlined in detail within a separate Outreach and Communications Plan and requires all external communications to be sent to the Department for approval prior to usage. The activities to be undertaken include paid print and digital media advertising, door-to-door canvassing operations, outbound call campaigns, mobile outreach events

utilizing communications-equipped buses and community engagement outreach events hosted through partner organizations and agencies.

To access a storm-specific Rebuild Florida Outreach and Communications Plan, please refer to the applicable disaster's Citizen Participation Plan.

- [Hurricane Sally Citizen Participation Plan](#)

## 1.13.8 Management of the Website

### 1.13.8.1 Introduction and Purpose

The Department manages a set of disaster recovery webpages and a set of webpages devoted to Rebuild Florida programs that serve as the primary repository of information for the State of Florida's disaster recovery and mitigation actions and resources. See <http://www.FloridaJobs.org/CDBG-DR> and <http://www.FloridaJobs.org/RebuildFlorida/>. The website contains links to all Action Plans, Action Plan Amendments, quarterly performance reports (QPRs), the CPP, procurement policies, procurement notices and/or advertisements, executed contracts, activity/program information for activities described in the Action Plan and other information relevant to CDBG-DR program funds.

### 1.13.8.2 Action Plan

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

#### Initial Action Plan

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

#### Amendments

Substantial amendments to the initial Action Plan (i.e., those that result in a change in program benefit or eligibility criteria, the allocation or re-allocation of more than \$1 million, or the addition or deletion of an activity) will be posted to the Department's website and made available for the public's review in accordance with federal regulations. Once the public comment period has expired, the amendment is submitted to HUD for review and approval.

All substantial amendments will be posted in English, Spanish, and other language(s) identified by the Department's language analysis of LEP Floridians in areas impacted by the applicable disaster. The Department will ensure that all citizens have equal access to information about the programs, including persons with disabilities (vision and hearing impaired) and LEP. The Department's website features embedded technology to provide accessibility to the visually impaired and includes an Interpretive Translation Notice informing citizens in 15 different languages that translation services are available upon request.

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

All amendments (substantial and non-substantial) will be numbered sequentially and incorporated into the respective Consolidated Action Plan.

### **Consolidated Action Plans**

The Department will maintain Consolidated Action Plans that serve as a single point of reference with regards to its plans for utilizing a given CDBG-DR appropriation. CDBG-DR Consolidated Action Plans will incorporate all amendments to a given action plan and will be made available to the public via the Department’s website.

### **Public Comments**

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

Florida Department of Economic Opportunity  
Disaster Recovery Programs  
107 East Madison Street, MSC 420  
The Caldwell Building  
Tallahassee, Florida 32399  
[CDBG-DR@DEO.MyFlorida.com](mailto:CDBG-DR@DEO.MyFlorida.com)

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

### **Link to Public Notices**

Links to HUD’s webpage containing all of the applicable Public Laws, Federal Register Notices, and other related materials will be included in the Action Plan section of the CDBG-DR websites.

### **1.13.8.3 Reporting**

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

### **1.13.8.4 Grants Management**

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

### **Policy Manual**

The Department’s OLTR CDBG-DR Policy Manual and the applicable disaster-specific policy manual for each disaster, sets forth the policies and procedures by which the Department manages its recovery and mitigation funding – with respect to ensuring compliance with applicable local, state, and federal rules and regulations. These manuals will be updated on an as needed basis and the Department will ensure that the latest version of the manual(s) are available on its website.

### **Internal Controls**

In addition to the topics covered in the Department’s Policy Manual(s), the Department will post to its website additional documents that address the various internal controls put in place to ensure the appropriate use and management of the CDBG-DR funds, including:

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

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

### **Contracts**

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

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

### **Points of Contact**

An organizational chart depicting OLTR leadership and the personnel responsible for managing the CDBG-DR funding is posted to the Department’s website.

#### **1.13.8.5 Accessibility of Information**

The Department strives to implement an all-inclusive recovery and mitigation strategy that recognizes the diversity of the citizens of the State of Florida. To that end, the Department will translate all vital program documents into Spanish and other applicable language(s) identified by the Department’s LEP analysis, and make available staff members or outside vendors that are able to communicate effectively with non-English speakers.

In addition, the Department’s CDBG-DR websites will utilize features allowing for automatic translation into the language of the reader’s choice.

#### **1.13.8.6 Website Maintenance Procedures**

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

Attention: Communications Specialist

Florida Department of Economic Opportunity

Disaster Recovery Programs

107 East Madison Street, MSC 420

The Caldwell Building

Tallahassee, Florida 32399

[CDBG-DR@DEO.MyFlorida.com](mailto:CDBG-DR@DEO.MyFlorida.com)

The Department also maintains a separate website created specifically for the Rebuild Florida programs ([www.RebuildFlorida.gov](http://www.RebuildFlorida.gov)).

## 1.14 Reporting, Records Management and Retention

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

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

### 1.14.1 Personally Identifiable Information

OLTR shall safeguard the confidentiality of all personally identifiable information (PII) reviewed during any monitoring event. PII is defined under 2 CFR 200.79 and 2 CFR 200.82. PII includes without limitation, names, credit card numbers, social security numbers, biometric data, bank account numbers, passport numbers, computer passwords, and any other health, financial, or employment information.

OLTR shall not appropriate for its own use nor disclose any PII except to those persons directly concerned with the PII and only to the extent necessary to comply with federal regulations.

OLTR may not store PII on computers, mobile devices, cellular telephones, and/or personal digital assistants, servers, and/or storage devices, including removable media, unless required for the performance of grant management and administration activities.

### 1.14.2 File Security

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

### 1.14.3 Record Retention

Records are maintained to document compliance with program requirements and federal, state, and local regulations and to facilitate an audit review by HUD. Records are maintained in accordance with 24 CFR 570.90, which states they must be maintained for a period of five years following the closeout of HUD's grant agreement with the State. Proper records management ensures that:

1. The State complies with all requirements concerning records and records management practices under federal and state regulations;
2. The State has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements and community expectations;



3. These records are managed efficiently and can be easily accessed and used for as long as they are required; and
4. These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner based on HUD Handbook 2225.6, Records Disposition Schedules, and HUD Handbook 2228.2.

### 1.14.4 Housing Program Applicant Files

The Program must maintain electronic files for each applicant funded through Rebuild Florida. Each file must contain at a minimum the following information:

- Verification of Program eligibility;
- Determination that the National Objective has been met (can be LMI or Urgent Need in some cases and should be noted in each file);
- Repair/construction related items;
- Award calculation and supporting documentation;
- DOB calculations;
- Grant recapture documents;
- Environmental clearance;
- Grant agreement documents;
- Monitoring QA/QC;
- Appeals, if applicable;
- Correspondence and notes;
- Supporting documentation and forms; and
- Procurement Information for Construction Contract.

### 1.14.5 Reporting Requirements for Housing Programs

The Program will maintain accurate files and records on each homeowner and will retain all pertinent documentation for the grant between HUD and the Department. Compliance will be maintained in accordance with the reporting requirements as outlined in the DEO policies and procedures. This includes all information and reports as required under the Department contract with HUD and demographic data and other information on homeowner households and awardees. The reporting requirements will include, but are not limited to the following:

- For each program activity requiring a direct application by an individual or non-institutional entity:
  - Homeowner household's income;
  - Household's income as a percentage of area median income as defined by HUD;
  - The race and ethnicity of the head of household;
  - The household's familial status; and
  - The presence or non-presence of a household member with a disability.
- For each activity providing housing or housing assistance that is not directly linked to a specific beneficiary:
  - The cost of the housing unit to the homeowner and to the occupant;
  - The maximum qualifying household income as a percentage of area median income as defined by HUD;
  - Restrictions regarding the age or familial status of occupants;

- The presence or absence of designs or services that make the housing unit accessible to an individual with a disability; and
- The number of fully accessible units available to individuals with disabilities.

All official records on programs and individual activities are maintained for a five-year period, beyond the date of grant closeout.

## 1.15 Compliance Monitoring

A separate document titled Compliance Monitoring Plan (CMP) provides a series of systematic procedures and activities that will ensure compliance with CDBG-DR requirements. The CMP provides an overall summary of grant activities throughout the life cycle of the grants that ensure programs are compliant with state and federal requirements and meet programmatic objectives. The plan outlines the duties and responsibilities of the Department for disaster recovery programs as they relate to:

- Reporting (financial, monthly direct, and monthly subrecipient);
- State and federal audits;
- Cross-cutting requirements;
- Monitoring;
- Technical assistance and training; and
- Records management and retention.

### 1.15.1 DEO Monitoring for Civil Rights Requirements

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

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

### 1.15.2 Quality Assurance/Quality Control (QA/QC) Procedures

Quality Assurance/Quality Control (QA/QC) review is an independent and objective activity intended to add value and improve OLTR's CDBG-DR operations while reducing risks of HUD and program nonconformance. To achieve these objectives, OLTR will:

- Exercise impartial, unbiased professional care when completing QA/QC reviews;
- Exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information, findings, and conclusions about the processes and data being examined; and

- Ensure a balanced assessment of each file review by not being unduly influenced by its own interests or by others in forming judgments.

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

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

### **1.15.2.1 Housing Repair and Replacement Program (HRRP) QA/QC Plan**

The following QA/QC Plan applies to housing repair and replacement activities directly implemented by the Department.

#### **Strategy**

Desk reviews will be performed on all portions of selected Homeowner Grant Agreements. These desk reviews will utilize standardized checklists and will be conducted in a progression that moves along a contract's life cycle for critical core components as outlined below.

#### **Phase I: Applicant Eligibility and Benefit Determination Checklist**

Phase I of the QA/QC review will ensure that applicants qualify for program assistance, have received all required program notifications, and confirm that DOB procedures were properly implemented prior to the signing of a Grant Agreement with the program. Areas of review will include:

- Distribution and documented receipt of OLTR/HUD Required CDBG-DR Notifications,
- Intake and Applications for Assistance,
- Applicant Eligibility Determinations,
- DOB Analysis,
- URA Applicability and Notifications,
- National Objective Determination, and
- Prioritization for Assistance.

#### **Phase II: Pre-Construction**

Phase II of the review process will ensure that all pre-construction requirements are met prior to the issuance of an NTP for construction work on an applicant's home. Areas to be reviewed for program compliance and necessary and reasonable costs are:

- Tier II Environmental Review Record/Clearance,
- Damage Assessment,
- Scope of Work,

- Grant Award Calculation and Agreement,
- Subrogation Agreement,
- Property Covenant,
- Temporary Relocation Assistance, and
- Vendor Selection.

### **Phase III: Construction**

Phase III ensures that the construction phase is being implemented in accordance with the requirements of the program and the construction contract. QA/QC areas to be reviewed for the construction phase include:

- Contract Compliance to include on-sit inspection,
- Lead-Based Paint Mitigation,
- Progress Inspection, and
- Change Order Verification.

### **Phase IV: Post-Construction**

When construction is complete, a QA/QC review will be conducted to ensure that all paperwork and documentation related to the rehabilitation or reconstruction of the applicant's home is uploaded to their file prior to making a final payment to the contractor. Areas to be reviewed are:

- Contractor Eligibility and Licensure,
- Project Bundling Process,
- Construction Contract and Change Orders,
- Interim Property Inspections,
- Environmental Remediation and Notifications,
- Compliance with URA,
- Reassessment of DOB, and
- Cost Reconciliation.

### **Phase V: Closeout**

Prior to close out of the applicant's file, a final QA/QC review will take place upon expiration of the one-year warranty period. Areas to be reviewed are:

- Final Acceptance of Work and Payment (including reconciliation of all project costs),
- Repair Warranty Notifications and Completion of Work, and
- Compliance Status of the Applicant.

### **Phase VI: Appeals and Ineligible Applications**

In addition to the previous phases that follow the lifecycle of the program, additional testing will be performed related to the appeal process and applicant disqualifications. A sample of applications from each will be reviewed to verify that the applications were processed in accordance with established procedures and that the determination made regarding the application's status is appropriately documented and supported.

### **Sampling**

At this time, it is anticipated that 10 percent of all applicant files will be reviewed for compliance with federal, state, and local regulations and program policies. When a level of confidence in program outcomes has been

achieved, OLTR may elect to adjust the sample size. The use of effective QA/QC sampling procedures will be necessary to increase the coverage, focus, and efficiency of QA/QC reviews.

If the program elects to employ a sampling methodology, the QA/QC Team Lead must follow best practices when selecting samples for QA/QC review and should confirm that each sample is statistically significant to the overall population or the sub-population being assessed. In advance of selecting the statistically significant samples, the QA/QC Team Lead must define the population or sub-population to ensure that the sample is selected from the appropriate data set and can adequately represent the QA/QC sample.

With a statistically significant sample, the QA/QC Team Lead can project the results of the sample to the population or sub-population with a method of projection consistent with that used to select the sample. The projection of the sample may involve estimating probable errors or deviations in the population. Consideration should also be given as to whether the use of sampling has provided a reasonable basis for conclusions about the population tested.

The QA/QC Team Lead also may utilize various sampling methodologies to ensure that the integrity of the sample selection remains intact and offers confidence in the results or findings. For this reason, it is important that the QA/QC Plan utilizes industry accepted guidance and standards on sampling along with the specific design of the QA/QC function to confirm the appropriate sampling technique is used.

Techniques for QA/QC sampling that may be deployed in subsequent reviews are varied. Sampling techniques that may be used on OLTR QA/QC reviews may include, but are not limited to, the following:

- **Random Sampling:** Selection is not governed by predetermined considerations; every unit in the population has equal opportunity of being selected.
- **Monetary Unit Sampling:** Used to identify monetary random values. For example, in using this approach, the QA/QC Team can select every 10,000th dollar of scope of work to review and extrapolate findings and/or exceptions across the population.
- **Attribute Sampling:** Used to determine the characteristics of a population being evaluated.
- **Variable Sampling:** Designed to predict the value of a given variable for a population.
- **Discovery Sampling:** Used where evidence of a single error or instance would call for intensive investigation.
- **Stratification Sampling:** The process of segregating a population into homogenous subpopulations explicitly defined so that each sampling unit can belong to only one subpopulation depending on the criteria used for stratification.

Using a variety of techniques, the QA/QC Team Lead can analyze possible sample errors to validate that errors exist and determine the nature and cause of the errors. When errors are assessed, additional testing may be required.

### **Findings/Reporting/Issue Resolution Process**

Before a QA/QC finding is presented to the appropriate program leadership, all initial review findings should be validated by a secondary QA/QC review conducted by the QA/QC Team Lead. Exception findings should be classified according to their impact on the outcome of an application as follows:

- **Observations/Concerns:** Findings that do not impact the outcome of the application's eligibility, grant award amount, or program/HUD compliance.
- **Findings/Material Exceptions:** Findings that are likely to result in a HUD finding, program sanctions, and/or monitoring findings that require repayment of federal funds.

The QA/QC Team Lead will maintain a complete and accurate record of both Observations/Concerns and Findings/Material Exceptions. All exceptions (Observations/Concerns and Findings/Material Exceptions) will be

reported to the appropriate program managers and bureau chiefs so corrective measures can be taken, and if necessary, new process controls can be implemented to prevent future exceptions.

The QA/QC Team Lead will maintain a record of all applications reviewed, which will be the basis for reporting to the appropriate program managers and bureau chiefs. The QA/QC Team Lead will prepare exception reports detailing the applications reviewed, exceptions identified, and the type of review(s) conducted.

The communication of the QA/QC Observations/Concerns and Findings/Material Exceptions to program vendors and contractors will be the responsibility of the appropriate CDBG-DR staff. The forum, frequency, and detail of discussions for QA/QC findings will be at the discretion of the Bureau Chief of Finance and Administration and the Deputy Director of OLTR.

All Findings/Material Exceptions and Observations/Concerns that are systemic in nature will require the responsible vendor(s) to provide a corrective action plan.

An executive QA/QC quarterly report will identify the number of files reviewed, the number of follow-up reviews, a summary of exceptions, the exceptions corrected, and additional controls implemented to mitigate risk. The report also will provide a comparison of the reporting quarter's findings and performance to historical quarters for stakeholders to assess program improvement over time.

### **Roles and Responsibilities**

**QA/QC Team Lead** - Individuals responsible for organizing, conducting, and reporting QA/QC results. The QA/QC Team Lead may request that an individual with unique or specific expertise participate as a QA/QC team member.

**QA/QC Reviewer** - Appropriately trained individual not having direct responsibilities in the areas being assessed.

### **Training**

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

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

### **Conflicts of Interest**

Any conflicts of interest encountered during QA/QC reviews will be reported to the Bureau Chief of Finance and Administration and the reviewer will be recused from performing any reviews that may constitute a conflict of interest.

## **1.15.3 Risk Assessment/Monitoring Procedure**

OLTR will conduct a risk assessment on all programs in order to identify those entities and programs that are most susceptible to fraud, abuse, or mismanagement. The risk assessment provides critical information to effectively target resources toward entities and programs that pose the greatest risk to the integrity of OLTR's CDBG-DR funding, including identification of the programs to be monitored on-site and remotely, the program areas to be covered, and the depth of the review. This assessment will allow the state to minimize potential risk as it administers its CDBG-DR allocation. The Department's Disaster Recovery [Subrecipient Resource page](#) contains the Compliance Monitoring Plan which lists the risk assessment criteria.

## **1.16 Grant Closeout**

After all the activities are completed and all the subrecipient agreements are closed, OLTR can closeout the grant with HUD. The Grant Accounting Office completes and signs Standard Form 424 (Federal Financial Report) and

completes HUD Form 40153 (State CDBG-Closeout Checklist). Form 40153 is signed by the Department's Executive Director or authorized designee. These forms, as well as all attachments, are mailed to:

Director, Office of Block Grant Assistance

U.S. Department of Housing and Urban Development

451 7th Street S.W.

Washington, DC 20410

or as specified by HUD



## Part 2 Regulatory and CDBG-DR Specific Processes for Subrecipient and Subgrantee Managed Disaster Programs

### 2.1 Duplication of Benefits (DOB)

#### 2.1.1 DOB Procedures for Subrecipients/ Subgrantees

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

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

Subrecipients will be responsible for obtaining documentation from applicants to determine if they received insurance benefits or other resources and how those funds (if any) were used to ensure there are no DOB issues. Best practice related to DOB analysis is for grantees or subrecipients to coordinate with FEMA, NFIP, and SBA via a Memorandum of Understanding (MOU) to establish a process to obtain data related to the assistance these agencies have provided.

Subrecipients are required to maintain original completed forms and supporting documentation in contract and/or beneficiary files, and a copy of the completed forms and supporting documentation is to be submitted to the Department Grant Manager assigned to the subgrant agreement. Subrecipients must also address the requirement of these forms within their local CDBG-DR program policies and procedures.

OLTR staff will review subrecipient files during monitoring visits. If a duplicative benefit is discovered after the disaster recovery award is provided, the subrecipient will be required to recapture the amount of duplicative benefits provided and return the duplicative amount to the Department. The Department will withhold payment on any project or suspend activities if a duplicative benefit issue is not resolved. The Department will not complete the subgrant closeout process until all identified DOB issues are resolved.

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

#### 2.1.2 DOB Process

As part of the application review process, the applicant must complete and submit

1. The FEMA Declaration and Release Authorization form,
2. The Florida Eligibility Release form,
3. Florida Duplication of Benefits Calculation form,

4. The Duplication of Benefits Exception Acknowledgement form, if applicable,
5. The Florida Insurance Affidavit form, with original signatures, and
6. A Florida Subrogation Agreement form, with original signatures.

These forms will be published on the Department website: [www.FloridaJobs.org/CDBG-DR](http://www.FloridaJobs.org/CDBG-DR).

1. The subrecipient will submit a copy of the forms completed in Step 1 to the Department office in Tallahassee.
  - A. If required documents are not submitted or are incomplete, a request to proceed with the activity will not be processed until the required documentation is received and approved.
  - B. The subrecipient will be responsible for determining if the applicant received any financial assistance from the applicant's insurance company or from any other source and include documentation in the applicant's file.
2. Department staff will use the submitted information from Step 1 to review FEMA and SBA databases or request information through the Freedom of Information Act to determine if the applicant has received any financial assistance from either of these two agencies.
  - A. Department staff will provide a certification of the results of the review to the subrecipient for the applicant's file.
  - B. To contact the FEMA office concerning requests:
    - i. Call 202-646-3323, or
    - ii. Contact the agency electronically at [fema-foia@dhs.gov](mailto:fema-foia@dhs.gov).
  - C. To contact the SBA office concerning requests:
    - i. Call 202-401-8203, or
    - ii. Contact the agency by email at [foia@sba.gov](mailto:foia@sba.gov).
3. Upon receipt of the certified letter from the Department, the subrecipient will make the final selection of beneficiaries that are eligible to receive CDBG-DR funding.
4. The Duplication of Benefits Exception Acknowledgement form can be used if the applicant has received funding assistance for the repair of a storm damaged home, business, facility, or infrastructure but did not use the funds for making repairs.
  - A. Example: An applicant's cost to fully repair a home is \$90,000 based on actual bids or program limits, and the applicant received \$10,000 from FEMA for housing repairs but did not spend the funding on housing repairs. The FEMA assistance must be considered a housing benefit received by the applicant, so the net award is \$80,000. In HUD parlance, this is a non-duplicative benefit. The applicant will then have to fund the \$10,000 difference themselves.
5. Subrecipients are required to maintain DOB forms and supporting documentation in the subgrant and/or beneficiary files.
  - A. These files will be reviewed by the Department during monitoring visits.
  - B. The Department will issue a finding if the subrecipient's beneficiary files do not include the required documentation or the appropriate analyses were not conducted to prevent a duplicative benefit from occurring.
6. If a duplicative benefit is discovered after the disaster recovery award is provided, the subrecipient will be required to recapture the amount of the duplicative award.
  - A. The amount of duplicative benefits identified must be refunded.
    - i. If the subrecipient's agreement with the Department is still active, the refund amount must be returned to the subrecipient's disaster recovery program.

- ii. If the subrecipient agreement with the Department is closed, the refund amount must be returned to:

Cashier

Florida Department of Economic Opportunity

Disaster Recovery Programs

107 East Madison Street, MSC 420

The Caldwell Building

Tallahassee, Florida 32399

Subrecipients are required to maintain all corresponding financial transactions related to the refund(s) in the subrecipient agreement and/or beneficiary files. Subrecipients must submit one copy of the completed documents and supporting documentation to the Department Grant Manager assigned to the agreement.

The Department will withhold payment on any project or suspend activities if a DOB issue is not resolved in a timely manner. The Department will not complete the subrecipient agreement closeout process until all identified DOB issues are resolved.

The Department will have more in-depth DOB/Verification of Benefits (VOB) processes for each program. Each program will have its own DOB/VOB process outlined in its guidelines referenced in the appendices.

## 2.2 Environmental Review Record Subrecipient/Subgrantee Responsibilities

The RE for subrecipient projects may be the Department or the subrecipient. If the subrecipient is designated the RE, they will be responsible for completion of the ERR and submittal to the Department for review and acceptance by the Department's Certifying Officer. The primary responsibilities of subgrantees/subrecipients related to completion of the environmental review record process are:

- Designate an appropriate official to act as the Certifying Officer, serving as the responsible federal official to assume legal responsibility for certifying the grantee or subrecipient followed all environmental review requirements.
- Designate an Environmental Officer with the capacity and expertise to conduct the ERR process.
- Coordinate with the Department as needed to secure guidance and technical assistance during the environmental review process.
- Assure that no project funds (whether HUD funds or non-HUD funds) are expended or committed until the relevant environmental review requirements have been satisfied.
- Ensure that proper environmental review process is completed, including consultation with relevant agencies and interested parties, documentation of environmental compliance, certification of the environmental findings, and fulfillment of public notice and comment periods, as required.
- Conduct a re-evaluation of the ERR findings as required by 24 CFR 58.47 when there are modifications to proposed project activities.
- Ensure project-specific conditions and mitigation requirements identified during the environmental review process are implemented in accordance with the ERR.

## 2.3 Compliance Monitoring Plan, CDBG-DR Programs

### 2.3.1 Introduction

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

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

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

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

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

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

### 2.3.2 Types of Monitoring

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

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

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

### 2.3.3 Risk Analysis

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

- The amount of funding an entity has received or been awarded as a factor in determining level of risk.

- Entities who have allocations totaling above \$5 million as being high risk.
- Entities who have not expended initial funding within an appropriate timeframe and have allocations in between \$2 and \$4 million.

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

### 2.3.4 Monitoring

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

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

### 2.3.5 Strike Team Support

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

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

## 2.3.6 Monitoring Process

### 2.3.6.1 Programmatic Monitoring

Programmatic monitoring can be triggered with any of the following:

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

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

### 2.3.6.2 Planning

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

Furthermore, for subrecipient monitoring engagements, all subrecipients implementing projects under the monitored programs may undergo a risk assessment as outlined within 2.3.3 Risk Analysis. This assessment will review key risk criteria as identified in the Risk Matrix located in the CMP, but will include additional risk factors such as a review of past OLTR monitoring and federal Single Audit findings for evidence of outstanding sanctions or non-compliance. These risk assessments will be similar in scope to program risk assessments but will be conducted solely on applicable subrecipients during the planning phase of monitoring engagements. The assessment results will support OLTR's Compliance Team by providing additional information needed to determine the monitoring review scope.

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

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

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

### 2.3.6.3 Fieldwork

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

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

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

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

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

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

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

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

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

Although the monitoring review may conclude once OLTR has conducted the exit conference, the monitored entity may be given the opportunity to provide documents to resolve preliminary findings and concerns notated in the exit conference prior to the issuance of the official Monitoring Report. The provision of such documents could result in a monitoring review conclusion which may impact the final monitoring results. In most cases, this additional review will further clarify monitoring conclusions raised during the exit conference and will not result



in any substantial changes in the preliminary monitoring results or review scope. Regardless of the level of changes to the preliminary monitoring results, if any additional items are identified after fieldwork is complete that affect the final report, the program/project staff or subrecipient should be made aware prior to the issuance of the report.

#### **2.3.6.4 Reporting**

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

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

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

#### **2.3.6.5 Response**

The program/project staff or subrecipient will have 30 days to respond to all findings in the written Monitoring Report, unless an alternate timeline was specified in the report. The management response should include a plan and timeline for completing any required corrective actions, or proposals for alternate actions to remedy the situation. For example, the plan and timeline would outline an avenue for program/project staff or a subrecipient to request an extension of time—usually an additional 30 days—to complete corrective actions or to allow justifications for alternative correction actions. If issues are identified for corrective action and/or the responses to the Monitoring Report are deemed insufficient or incomplete, follow-up actions will be scheduled to track and record the progress of the resolution, including the submission of follow-up letters and issuance of incomplete corrective action determinations. These follow-up actions should usually take no longer than 60-90 days from the issuance of the initial Monitoring Report, but the timing and frequency of the follow-up communication will be determined at OLTR's discretion and should be based on the severity of the deficiency. All follow-up actions and determinations on incomplete actions or responses will be documented.

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

### **2.3.7 Fiscal Monitoring**

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

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

### 2.3.8 Technical Assistance

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

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

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

### 2.3.9 Remedies for Non-Compliance

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

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

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

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

For audit reviews, the Bureau of Financial Monitoring and Accountability (FMA) develops monitoring tools and conducts department-wide subrecipient financial monitoring of the Department's grant awards and agreements. Audit monitoring and review procedures, including processes related to the tracking and logging of applicable

subrecipient audits, delinquent audit notifications, OLTR recordkeeping policy for subrecipient audits, and OLTR involvement in subrecipient resolution of audit findings, are located within the DEO Audit Requirements section of the Financial and Grant Management Policy Manual.

## 2.4 Subrecipient Financial Management

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

### 2.4.1 Overview

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

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

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

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

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

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

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

## 2.4.2 Internal Controls

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

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

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

## 2.4.3 Subrogation Agreement

### 2.4.3.1 Subrogation Agreement

Subrogation is a legal doctrine that allows one person to take on the rights of another. In the context of disaster recovery grants, an applicant must enter into a subrogation agreement at the time of or prior to executing a grant agreement in which the funding agency (the Department) obtains the right to collect any additional disaster recovery or insurance payouts the applicant receives for storm damages after the applicant has entered into a grant agreement for program benefits.

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

#### **The CDBG-DR Subrogation Agreement will read as follows:**

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

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA or the SBA or any other source, and whether or not such amounts are a DOB, shall be referred to herein as "Proceeds,"

and any Proceeds that are a DOB shall be referred to herein as “DOB Proceeds.” Upon receiving any Proceeds, Subrecipient agrees to immediately notify DEO who will determine in its sole discretion if such additional amounts constitute a DOB. If some or all of the Proceeds are determined to be a DOB, the portion that is a DOB shall be paid to DEO, to be retained and/or disbursed as provided in this Agreement. The amount of DOB determined to be paid to DEO shall not exceed the amount received from the CDBG-DR Program.

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

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

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

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

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

1. If the Subrecipient has received full payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be retained by DEO.
2. If the Subrecipient has received no payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be used by DEO to reduce payments of the Grant Proceeds to the Subrecipient, and all Subsequent DOB Proceeds shall be returned to the Subrecipient.
3. If the Subrecipient has received a portion of the Grant Proceeds, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (A) Subsequent DOB Proceeds shall first be used to reduce the remaining payments of the Grant Proceeds, and Subsequent DOB Proceeds in such amount shall be returned to the Subrecipient; and (B) any remaining Subsequent DOB Proceeds shall be retained by DEO.
4. If DEO makes the determination that the Subrecipient does not qualify to participate in the CDBG-DR Program or the Subrecipient determines not to participate in the CDBG-DR Program, the Subsequent DOB Proceeds shall be returned to the Subrecipient, and this Agreement shall terminate.

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

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

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

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

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

## 2.4.4 Recapture

An applicant may be required to repay all, or a portion of the funds received. Reasons for recapture include but are not limited to the following:

- An applicant is determined to have provided false or misleading information to the program;
- An applicant withdraws from the program prior to completion of the project;
- An applicant voluntarily or involuntarily relinquishes ownership of the property prior to the successful completion of a final program inspection.
- An applicant does not complete construction; and / or
- An applicant does not report the receipt of additional insurance, SBA, FEMA, non-profit assistance and/or any other DOB received after calculation of the award.

## 2.4.5 Request for Funds (RFF)

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

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

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

The local government must use a separate NON-INTEREST-BEARING bank account for CDBG-DR funds. Any interest paid on the account must be remitted to OLTR by the local government for return to the U.S. Treasury.

### 2.4.5.1 Request for Funds Process

The purpose of the cash draw process is to ensure cash availability as expenditures are recorded for the federal grants assigned to the programs for which the Department has direct oversight. Funds are not invested with the State Treasury, and no interest is earned by the Department.

1. Local government and Department vendors upload supporting documentation and submit the payment request in the SERA system.



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

## 2.5 Subrecipient Financial Systems

### 2.5.1 Financial Records

In the simplest terms, CDBG-DR financial transactions involve receiving cash (such as contract funds from the Department's CDBG-DR Program or program income) and spending cash for eligible activities. Every CDBG-DR financial transaction must be recorded in the accounting records of the Department and, if applicable, the subrecipient, as soon as possible. To do this, there must be appropriate source documents, files, and accounting records. Finance and accounting for the program is governed by the State of Florida Finance and Accounting operating procedures and is managed by the Department's Division of Finance and Accounting.

#### 2.5.1.1 Source Documents

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

- **Purchase Orders** may be prepared in the same format as other purchase orders, except that appropriate CDBG-DR program classification data should be coded on the document. Purchase orders should be approved by the subrecipient's program office. After approval, one copy should be retained by the program administrative office to verify receipt of goods, and the remaining copies forwarded to the Department's finance officer.
- **Contracts** should be filed in the CDBG-DR program administrative office. Each contract must identify the activity, program, or project to be charged. If multiple contracts are issued for each project, or if non-contractual charges are recorded against a project, a separate record must be maintained for each



contract to provide readily available information on contract balances. There should be a separate obligation for each contract relating to the same activity to prevent overpayment of any contract. In addition, a Cash Control Register should be maintained to provide summary information for all CDBG-DR contracts.

- **Vendor Invoices** to be paid with CDBG-DR funds should be referred to the program administrative office, compared to the purchase order, checked for appropriateness and accuracy, approved, and coded as necessary. Approved vendor invoices and appropriate supporting documents may then be forwarded to the finance officer for payment.
- **Time Distribution Sheets** completed by all employees paid from CDBG-DR funds should be included. Employees must complete time sheets that indicate the number of hours worked on CDBG-DR projects, other grant projects, local government activities, and job duties. Time sheets are then referred to the finance department so that charges to the correct programs and projects can be computed and properly charged. Payroll expenses can only be paid from CDBG-DR funds based on time and attendance records.
- **CDBG-DR Financial Files** which demonstrate the program's financial soundness and regulatory compliance must be included. In order to maintain an orderly record of CDBG-DR transactions that will withstand the scrutiny of an audit, there must be a logical system for maintaining financial files. Two broad categories of files are recommended: process files and permanent files.
- **Space and Utilities:** Space costs must be supported by documentation such as rental or lease agreements. Utility costs will be supported by bills from the utility companies. For subrecipients, both types of expenses will be supported by canceled checks. If the cost of space or utilities is split between the CDBG-DR program and other sources, there must be a reasonable method in place to allocate the charges fairly among the sources.
- **Supplies** documentation would include purchase orders or requisition forms initiated by an authorized representative of the subrecipient, an invoice from the vendor (which has been signed-off by the subrecipient to indicate the goods were received), the canceled check from the vendor demonstrating payment was made, and information regarding where the supplies are being stored and for what cost objective(s) they are being used.

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

### **2.5.1.2 Process Files**

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

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

Time sheets showing the amount of time each employee spends on CDBG-DR activities must be kept on file. This file is maintained in addition to the local government's official personnel records.

### **2.5.1.3 Permanent Files**

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

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

### **2.5.1.4 CDBG-DR Accounting Records**

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

- **Cash Receipts Journal.** All receipts of cash that are deposited into the CDBG-DR account are recorded in the cash receipts journal. Receipts may include contract payments to the subrecipient from the CDBG-DR programs, receipts from the disposition of land, program income, and any other cash received. The general procedure for using this journal is to record every CDBG-DR receipt by date in the order that it was received, indicate the source of the funds received, an account or activity line item to be credited, a receipt number, and date. A notation regarding final disposition for all funds received must also be included in the journal.
- **Cash Disbursements Journal.** All encumbrances and expenditures for program costs are entered into the cash disbursements journal. Encumbrance is a term used in government accounting that defines a reservation of funds against an appropriation for a future expenditure. An encumbrance is not necessarily an obligation; it is a commitment of funds. While encumbrances are not normally recorded in a disbursements journal, the practice is recommended for the CDBG-DR program to conform to the accrual basis required for reporting information to the CDBG-DR program. When goods or services are received by the local government, an obligation has been incurred. If the local government uses a warrant or other schedule for bills payable, it need not maintain a separate cash disbursements journal, but must maintain copies of individual warrants.
- **Property Register.** This is a listing of all property acquired in part or whole using CDBG-DR funds. It must be maintained to comply with state and federal standards relating to the acquisition, control, and disposition of real and personal property. Examples of property which would be recorded include both real property and office equipment.
- **Detailed Activity Ledger.** A subrecipient may have several ongoing projects (e.g., Smith Street sewer line installation and Jones Street repaving). To maintain accounting control, a detailed project ledger must be established for each project. All financial transactions relating to a particular project should be recorded in this ledger.

### **2.5.1.5 Cash Control Register**

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

- State of Florida funds received
- Requests for payment (drawdowns on grant reservation)
- Balance of CDBG-DR cash on hand

- Balance of CDBG-DR grant funds available by line item
- Collections, refunds, and miscellaneous receipts
- Disbursements

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

### **2.5.1.6 Accounting for Cash Receipts**

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

### **2.5.1.7 Accounting for Cash Disbursements**

The subrecipient should establish specific days on which it will disburse CDBG-DR funds. The frequency of these payment dates depends on transaction volumes and staff capacity. One payment date every one or two weeks may be sufficient. To allow time for orderly processing and requisitioning of CDBG-DR contract funds, cut-off dates for receipt of invoices to be paid the next pay date should be established. All cash disbursements must be supported by source documentation, such as invoices, time sheets, and payroll vouchers which fully explain the reason for the disbursement.

Contractor payments should be made only after determining that the contractor is performing in accordance with contract provisions and time schedules and that any problems identified by the subrecipient during compliance monitoring or inspections have been corrected.

### **2.5.1.8 Allowable Costs**

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

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

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

### 2.5.1.9 Reasonable Costs

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

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

### 2.5.1.10 Allocable Costs

Allocable costs are described in 2 CFR 200.405:

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

1. Is incurred specifically for the federal award;
2. Benefits both the federal award and other work of the non-federal entity and can be distributed in proportions that may be approximated using reasonable methods; and
3. Is necessary to the overall operation of the non-federal entity and is assignable in part to the federal award in accordance with the principles in this subpart [2 CFR 200, Subpart E, Cost Principles]”.

### 2.5.1.11 Program Income

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

- Proceeds from the sale or long-term lease of real property purchased or improved with CDBG-DR funds.
- Proceeds from the disposition of equipment purchased with CDBG-DR funds.
- Gross income from the use or rental of property acquired by the subrecipient or its subrecipient with CDBG-DR funds, less the costs incidental to the generation of such income.
- Gross income from the use or rental of property owned by the subrecipient or other entity that was constructed or improved with CDBG-DR funds, less any costs incidental to the generation of such income.
- Payments of principal and interest on loans made using CDBG-DR funds.
- Proceeds from the sale of loans made with CDBG-DR funds.
- Proceeds from the sale of obligations secured by loans made with CDBG-DR funds.
- Interest earned on program income, pending the disposition of such program income.

- Funds collected through special assessments made against nonresidential properties owned and occupied by households not of low and moderate income, where such assessments are used to recover all or part of the CDBG-DR portion of a public improvement.

Program income received by a subrecipient must be recorded in the subrecipient's financial records system and must be recorded in the same activity line item as generated the program income. Program income must be spent first on subsequent expenditures; remaining program income after closeout or generated after closeout is returned to OLTR.

## 2.5.2 Record Keeping

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

### 2.5.2.1 Common Deficiencies

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

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

## 2.6 Subrecipient/Subgrantee Closeout

### 2.6.1 Closeout Overview

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

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

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

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

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

## 2.6.2 Closeout Process

The subrecipient must submit a subrecipient agreement closeout report and required documentation to OLTR within 45 days of the termination of the grant agreement or within 45 days of the completion of all activities. Upon completion of activities contained in the subrecipient agreement, including any amendments, the subrecipient shall submit to OLTR a closeout report and documentation (closeout package) that includes the following:

1. The final statement of costs and copies of the final construction invoices;
2. Certification that all construction has been completed, inspected, and approved by all parties prior to the sub-grant end date and submission of the administrative closeout;
3. Photos of project activities, maps, and documentation of fair housing activities and resolution of citizen complaints and any outstanding monitoring issues;
4. Certification that all costs including those reflected on the closeout report have been paid;
5. Documentation of the expenditure of any leverage;
6. A report of final beneficiary data and final accomplishments;
7. A list of the properties receiving direct benefit; and
8. If applicable, certification that each housing unit assisted was within the local government's jurisdiction for housing rehabilitation.

In addition:

1. All funds drawn from the sub-grant award and not expended must be returned to the Department's OLTR prior to submission of the closeout report.
2. The closeout report must contain original signatures. Facsimile (FAX) and electronic submissions are not acceptable to meet submission requirements.
3. If a subgrantee or subrecipient fails to meet contractual requirements on time, the Department shall require that the subgrantee financially (not administratively) close out a sub-grant in accordance with federal requirements for the timely distribution of funds.
4. If an audit report is past due, the sub-grant cannot be administratively closed until the past-due audit is received. If an audit report is owed but not past due, the administrative closeout can proceed. Final closeout will not occur until all required audits are received.

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

1. Audit Findings – *there can be no open audit findings.*
2. CDBG-DR Funds on Hand – *cannot exceed \$5,000 and must be properly reflected in the closeout documents.*
3. Monitoring – *there can be no open findings.*



4. Program Income (were funds returned?) – *Unless otherwise authorized, all program income must be returned to the Department.*
5. Proper Disposition of Acquired Property.
6. Meeting all Special Requirements (*e.g., map and certification statement, documentation verifying mitigation measures identified in the ERR were completed*).
7. Final Engineering Certification – *Certification is required for all public infrastructure activities paid for with CDBG-DR funds. The Certification of Completion must be executed by a licensed professional engineer and must state that the activity meets design specifications as may have been modified by change orders.*

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

Upon receipt and acceptance of the subrecipient’s final audit required under 2 CFR Part 200, for a subrecipient that has already been administratively closed, OLTR will send the subrecipient a Notice of Final Closeout letter. In order to be accepted by OLTR, all audits must conform to the provisions of 2 CFR Part 200 and to the subrecipient requirements. If there are any audit findings related to the CDBG-DR subrecipient, these findings must be resolved before the subrecipient’s final closeout is completed.

### **2.6.2.1 Procedure: Final Closeout**

An important part of the final closeout procedure is reviewing the subrecipient’s audit. The subrecipient is responsible for mailing the audit to OLTR. Once the audit is received, OLTR staff will review the audit for findings and concerns related to the CDBG-DR program. If there are none, final grant closeout will proceed.

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

## **2.6.3 Timeliness and Tracking of Expenditures**

The Department requires subrecipients demonstrate that progress is being made to complete project activities and expend project funds in a timely fashion pursuant to Activity Work Plans. Completing and submitting Activity Work Plans is a requirement in the Sub-grant Agreement executed between the Department and the subrecipient. Subrecipients provide a detailed schedule for completion of activities and expenditure of grant funds. If the subrecipient does not comply with the Activity Work Plan schedule, a justification for the delay and a plan for timely accomplishment shall be submitted to the Department within 21 calendar days of discovery of the delay. Any project for which the subrecipient has not completed activities and expenditures listed in the Activity Work Plans may be rescinded unless the Department agrees that the subrecipient provided adequate justification for the delay. The Department will compare the Activity Work Plans submitted as part of the award agreement with the Monthly Progress Reports and Request for Funds, as an additional tool to monitor timeliness.

## **2.7 Financial Audit**

### **2.7.1 Overview**

The subgrantee and/or subrecipient is responsible for conducting a federal single or program specific audit in accordance with 2 CFR Part 200. A federal single audit is required if the subgrantee and/or subrecipient has expended \$750,000 or more in total federal assistance in the fiscal year. The total federal assistance includes all direct or indirect funds received from a federal agency, not just funding from the CDBG-DR program. For the purposes of the federal single audit, the fiscal year is from October 1 to September 30. A recipient that expends



less than \$750,000 in federal or state awards in a fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements or §215.97, Florida Statutes.

No later than November 29 of each year (60 calendar days after the close of the fiscal year), on an annual basis, the Subgrantee and/or subrecipient shall electronically submit a completed Audit Compliance Certification to [audit@DEO.MyFlorida.com](mailto:audit@DEO.MyFlorida.com). The subgrantees timely submittal of one completed Audit Compliance Certification for each applicable fiscal year will fulfill this requirement within all agreements (e.g., contracts, grants, memorandums of understanding, memorandums of agreement, economic incentive award agreements, etc.) between the Department and the subrecipient.

The forms referenced are available online at [www.FloridaJobs.org/CDBGRecipientInfo](http://www.FloridaJobs.org/CDBGRecipientInfo) or upon request from the Department's Grant Manager.

An annual federal single audit under 2 CFR 200 must be submitted electronically to the Department's Grant Manager by June 30 following the end of each fiscal year in which the subgrantee had an open CDBG-DR sub-grant for each subgrantee and/or subrecipient that expended \$750,000 or more in total federal assistance during the fiscal year.

Once the subgrantee/subrecipient submits the required federal single audit to the Department Grant Manager, an audit review is performed to determine if there are any findings related to the CDBG-DR or CDBG-MIT disaster recovery sub-grant awarded to the local government. If there are any audit findings, the Grant Manager coordinates with the local government to resolve the findings and issue a management decision letter outlining the corrective actions that need to be taken. The due date for the management decision letter is established by the Department's Office of Financial Monitoring and Accountability. For any audit findings that cannot be resolved in time to meet the management decision due date, the Grant Manager will coordinate with the OLTR Compliance Unit for advice on how to proceed.

## Part 3 Regulatory and CDBG-DR Specific Processes for State Managed Disaster Recovery Programs

### 3.1 Housing Repair and Replacement Program – Duplication of Benefits/Verification of Benefits (VOB) Policy

For any HRRP directly implemented by the Department, the following process will apply.

Any additional funds paid to homeowner awardees for the same purpose as the Rebuild Florida Program housing assistance award after the state has completed the repair, rehabilitation, or replacement of the homeowner's housing units must be returned to the Department as detailed in the subrogation agreement.

#### 3.1.1 FEMA Individual Assistance (FEMA IA)

FEMA Individual Assistance (IA) will be determined and verified by the program through a third-party verification system by the Case Manager. If the program is unable to verify the FEMA IA amount received as a result of the applicable disaster through the third-party verification system database, it will use the payment amount disclosed by the applicant at the time of application. If an applicant can provide documentation demonstrating that the FEMA IA amount provided by the third-party verification system database includes amounts not paid to cover structural loss, the program will use the documentation provided to adjust the FEMA IA payout amount. The documentation provided by the applicant must come from FEMA, as demonstrated by the FEMA IA Letter.

#### 3.1.2 FEMA National Flood Insurance Program (NFIP) Insurance

Any payments for loss to the dwellings during the applicable disaster under the National Flood Insurance Program (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. HRRP 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, HRRP 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. HRRP will also work directly with NFIP to verify an information provided by the applicant.

#### 3.1.3 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, flood proofing or relocation—one of the four options available under ICC—and has already received an ICC benefit under the NFIP. The program will seek information directly from NFIP to determine DOB regarding ICC funds for elevation and/or demolition activities. If needed, HRRP will support the datasets provided by NFIP by obtaining documentation provided by the homeowner.

### 3.1.4 Private Insurance

All property, flood, or casualty insurance settlement amounts for loss to dwellings are considered a DOB and 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. 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 initially determined by the program through the applicant-provided information. The documentation provided by the homeowner must come from the insurance company that issued the payments or an order from an administrative proceeding or court of competent jurisdiction.

Applicants must also provide written or verbal authorization for HRRP to contact third-party private insurance providers. Insurance proceeds will then be determined and verified by HRRP by contacting the insurance company and verifying proceeds. If HRRP is unable to verify the private insurance proceeds through the insurance company, HRRP 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, HRRP will use the documentation provided by the homeowner 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 HRRP will request private insurance documentation from the applicant.

Mold remediation may or may not be included in the CDBG-DR grant award, therefore insurance payments that are issued specifically for mold remediation may constitute a DOB. The documentation provided by the homeowner must come from the insurance company that issued the payments or an order from an administrative proceeding or court of competent jurisdiction.

### 3.1.5 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."

The HRRP is adopting the following policies with respect to declined and canceled SBA loans:

- **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 HRRP 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).
- **Canceled SBA Loans.** The application (borrower) has entered into 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. 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.
- **Accepted but Undisbursed 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. The undisbursed loan amount will not be considered a DOB; however, applicants may not request subsequent draws from the undisbursed portion of the loan.
  - 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.

Any other loan received by an applicant will count as a duplication unless the applicant can offset the funds received with eligible repair activities. All SBA assistance will be verified through the SBA database provided to the program to confirm the assistance received.

A written agreement will be required between the applicant and the HRRP 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.

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

### 3.1.6 Other Assistance

Assistance received for the same purpose as assistance through the HRRP, such as funding provided by a non-profit entity to assist applicants with rebuilding their home, must be reported by applicants on the application and must be accounted for and verified by HRRP. In addition, supporting documentation related to other duplicative funding sources must be provided with the application by the applicant and verified and applied as a DOB under HRRP.

### 3.1.7 Allowable Cost of Repairs

Homeowners who used benefits received from insurance, SBA, and FEMA or other sources to make repairs to their disaster-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 HRRP 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 within a Self-Certification of Repairs.

For self-certification, the following requirements apply:

1. The homeowner must provide a signed self-certified statement that documents, in detail, all labor and/or repairs made to the damaged property following the hurricane. (Self-performed labor or labor provided by friends, family, etc. on an informal (non-contractual or undocumented) basis cannot be valued monetarily and deducted from DOB.)

2. A program inspector must determine with reasonable assurance that the repairs were made after the date of the hurricane by conducting a Damage Repair Valuation (DRV), which will be used to inform the DOB and evaluation process. Xactimate will be utilized to determine the value of the repairs.

### 3.1.8 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.

### 3.1.9 Forced Mortgage Payoff

If a homeowner's mortgage company placed a force payment on insurance proceeds, the insurance amount may not count as a DOB. In such cases, the amount verified by HRRP that was used for this purpose can be excluded from the DOB calculation if it is supported by appropriate supporting documentation. Such documentation should be in the form of a letter that is 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. HRRP 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.

### 3.1.10 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 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.

### 3.1.11 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.

### 3.1.12 Calculating the Amount of DOB Offset

Documents provided and reported by the applicant for eligible home repair related to the applicable disaster will be totaled and considered for credit to the homeowner. The cost of interim housing (e.g., rent, hotel payments, RV purchase, motor home purchase, travel trailer purchase) while the damaged home was unlivable can be excluded from the DOB amount. Acceptable forms of documentation include:

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

The HRRP will evaluate the repairs documented in the Self-Certification of Repairs and determine the value of the storm-related repairs performed by conducting a DRV. Self-certified statements of homeowners must be reviewed in detail by HRRP 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 HRRP, will be compared to the total amount of DOB. If the DOB amount exceeds the documented amount of home repair expenses, then the difference between the two amounts will be deducted from the homeowner’s award. This is referred to as a DOB gap.

Homeowners with DOB gaps must fund the shortfall in order to complete construction. If a homeowner elects to fund a shortfall, the homeowner must secure the funding before the time of signing the Homeowner Grant Agreement. Repair expenses in excess of the prior benefits received will not be reimbursed by the program.

Homeowners with a DOB gap that have been deemed eligible for reconstruction will have the opportunity to take a scope reduction or fund the shortfall. A scope reduction will include selecting a smaller house plan or removal of non-HQS items from the Estimated Cost of Repair (ECR). The homeowner must elect a choice prior to the signing of the Homeowner Grant Agreement.

**Duplication of Benefits Analysis Example 1:**

Repair Assistance Received (FEMA, SBA, etc.)	\$10,000
CDBG-DR Award Amount	\$50,000
Eligible Deductions	\$5,000
Total Max Eligible Award (CDBG-DR Award minus Assistance Received, plus deductions)	\$45,000

**Duplication of Benefits Analysis Example 2:**

Repair Assistance Received (FEMA, SBA, etc.)	\$25,000
CDBG-DR Award Amount	\$60,000
Eligible Deductions	\$30,000
Total Max Eligible Award (CDBG-DR Award minus Assistance Received, plus deductions)	\$60,000

### 3.1.13 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 in which the funding agency (the Department) obtains the right to collect any additional disaster recovery or insurance payouts the homeowner receives for damages after the homeowner has entered into a grant agreement for HRRP benefits.

All duplicative funding received must be remitted to or accounted for by the program, regardless of when it is received by the homeowner. If homeowners receive additional funding for the same purpose as the HRRP award (permanent repair to storm damaged home) even after the HRRP award is executed or construction is completed, the homeowner is required to report the additional funding to the program.

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

### 3.1.14 Calculating Potential Duplication of Benefits

The full DOB will be accounted for at the time of the repair award calculation. The DOB check will be completed during the eligibility review of a homeowner's file, prior to the execution of the Grant Agreement and again prior to the processing of the final draw of funds.

All DOB funding must be accounted for prior to the homeowner receiving an award. Homeowners with a duplication must place all DOB funding in the program's DOB Gap Funding account.

**Table 3: Sample Award Table**

Program Information	
Household Income	Total Household Income Amount
Household Members	Number of Household Members
AMI Percentage	AMI Percentage Amount
Damaged Structure Type	Structure Type Identification
% Damage	Percent Damaged Amount
Benefit	Type of Benefit (Repair, Replace, or Reconstruct)
Construction Bid Amount	Amount of Construction Bid
Duplication of Benefits	
FEMA IA	\$0.00, or Amount Received
SBA	\$0.00, or Amount Received
Homeowners Insurance	\$0.00, or Amount Received
Flood Insurance	\$0.00, or Amount Received
ICC	\$0.00, or Amount Received
Non-profit/Other	\$0.00, or Amount Received
Total Disaster Recovery Assistance	\$0.00, or Total Amount Received
Allowable Eligible Activities	Amount of Allowable Eligible Activities (CRE)
Grant Amount	Total Grant Amount
DOB Gap Funding Required at Closing (Execution of Grant Agreement)	Amount of Gap Funds Required

### 3.1.15 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 in which an applicant's total DOB exceed the total eligible award amount (remaining Hurricane damage) for a repair, reconstruction, or replacement benefit.

### 3.1.16 DOB Gap Funding

If it is determined by the program that a DOB gap exists, the applicant may elect to:

- Provide additional funds to be deposited into a DOB Gap Funding Account; or



- Take a scope reduction (reconstructions only) to select a smaller, lower-priced home or elect to remove certain aspects or features in the home that do not impact program requirements for safety, security, code, resiliency, or housing quality standards. A pick list of items eligible for removal from the scope of work for reconstructions will be developed to offer to applicants. Given that rehabilitations will only bring the home back up to current code or program standards, the scope reduction option to cover DOB gaps cannot be offered on rehabilitation projects.

Homeowners may not utilize DOB Gap Funding for construction activities such as upgrades, additions, or other unnecessary activities.

Homeowner-provided funds that are deposited into the DOB Gap Funding Account for DOB will count toward the CDBG-DR cap limits. Assistance for each property is capped up to \$350,000. All DOB Gap Funding will be drawn down first, prior to the use of program funds.

There will be three checkpoints for DOB throughout the process: (1) during the eligibility review of a homeowner's file; (2) prior to the execution of the Grant Agreement; and (3) prior to the processing of the file closeout.

## 3.2 Departmental Financial and Grant Management

The OLTR Financial Management unit works in coordination with the Department's Division of Finance and Administration to ensure all CDBG-DR grant funding allocated to the State of Florida from the U.S. Department of Housing and Urban Development (HUD) is being used to implement and administer disaster recovery and resiliency programs. The CDBG-DR grant funding is required to be used for expenses related to disaster relief, long-term recovery, restoration of housing, infrastructure and economic development, and mitigation/resiliency against future natural disasters. All CDBG-DR program costs must be necessary, reasonable, allowable, and allocable as outlined in 2 CFR 200 Subpart E. The OLTR Financial and Grant Management Policy Manual, Section 5.0, details the Financial and Grant Management procedures that the Department has in place to manage the CDBG-DR grant program.

## 3.3 DEO Procurement Method and Requirements

### 3.3.1 Overview

The standards and guidelines for procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services have been established in the Purchasing Policy located in the Department's Administrative Policy Manual, Policy 4.02. The Department follows the procurement processes and standards of the State of Florida as prescribed in Chapter 287, Florida Statutes, Procurement of Personal Property and Services and Chapter 67-49, Florida Administrative Code, Procurement of Commodities or Contractual Services. The Department imposes the requirements of 2 C.F.R. 200.326 on its subgrantees and subrecipients.

The following regulations should be reviewed for more detailed information:

- 2 CFR 200, Subpart D (federal procurement regulations)
- 24 CFR 135 (Section 3 of the Housing and Urban Development Act to guide economic development to low- and very low-income local residents and the businesses that hire them)
- Compliance with Minority and Woman-Owned Business Enterprises reporting requirements
- Section 255.0525, Florida Statutes (advertising for competitive bids or proposals)
- Section 287.055, Florida Statutes (Consultants Competitive Negotiations Act)
- Section 287.133, Florida Statutes (public entity crimes)

The OLTR Contracts unit works closely with the Department's Procurement Office and facilitates the initiation of any OLTR procurement that is being sought to provide the implementation and administration of the CDBG-DR program.

## 3.3.2 Procurement Management Procedure

### 3.3.2.1 Procedures for Competitive Solicitations

1. The Department's Purchasing Office will hold a preliminary meeting with the contract manager/requestor to review the procurement checklist located on the Department's procurement intranet site and acquire a clear understanding of the solicitation methods and requirements provided in chapter 287, Florida Statutes.
2. Both the designated purchasing office staff member and the program area contract manager will sign the procurement checklist, and a copy of the signed checklist will be provided to the program area contract manager.
3. Both the designated purchasing office staff member and the program area contract manager will determine if the services to be provided meet the statutory definition of an "outsource" activity. The program area shall complete a business case for any outsourcing project that has an expected cost in excess of \$10 million within a single fiscal year. The business case shall be submitted pursuant to s. 216.023, F.S. Please contact the Department's Budget Office for further instructions. The business case shall be available as part of the solicitation but is not subject to challenge.
4. When implementing information technology (IT) projects, the program area is required to work with the Division of Information Technology and will use the Florida Information Technology Project Management and Oversight Standards set forth in 282.0051(3), F.S., and Chapter 74-1, F.A.C.
5. If applicable, the purchasing office will review and provide the PRIDE and RESPECT purchasing requirements along with a product and service list to the program area prior to deciding on another procurement method. If PRIDE and/or RESPECT product or service will not be utilized, the purchasing office will need to obtain justification from the program area.
6. The program area is required to complete and provide a copy of Conflict of Interest Certification to the purchasing office.
7. The procurement office will setup a physical folder for the solicitation and create a solicitation folder in SharePoint for all documentation related to the procurement. The program area is required to complete the solicitation template, SOW, and all other referenced documents as applicable.
8. If contractual services/items are mission critical to the Agency's maintenance of effort, the solicitation document shall include the emergency preparedness plan language.
9. The procurement office will ensure all IT project related procurements address the standards set forth in 282.0051(3), F.S., and Chapter 74-1, F.A.C., and include any Performance Bond Language in the SOW.
10. If a construction-related procurement is equal to or greater than \$100,000, then the solicitation includes a bid bond requirement and a requirement for the respondent to provide a letter of intent to provide a performance bond. Also, include the following statement: "Within five (5) days after notification of selection, Contractor shall be required to submit and maintain in effect throughout the life of the contract a performance bond in the amount of 100 percent of the contract price. The bond must be issued by a surety company licensed to do business in the State of Florida and must be payable to the Agency."
11. When the program area has completed the solicitation documents, the documents will be routed through purchasing office, Contracts and Grants Administration (CGA), and the Office of General Counsel (OGC) as applicable for preliminary review in SharePoint.

12. When the final documents are approved, the program area contract manager will route a hard copy of the solicitation document along with a completed procurement routing review form through the established procurement routing review process.
13. Program Area will need to identify the statutory authority on the procurement routing review form.
14. **If the solicitation is not an ITB**, specify the type of procurement that will provide the best value to the State. The program area must provide justification on the Procurement Routing Review Form.
15. **If RFP or ITN**, the program area contract manager will provide a list of recommended Evaluation/Negotiation Team Members on the routing review form.
16. The Procurement Routing Review Form must follow the Delegation of Authority; once final approval is obtained, the solicitation will be released and posted by the Procurement Office to the Vendor Bid System (VBS).
17. The Procurement Officer will print and file the final solicitation documents in the official procurement folder.
18. The Procurement Officer will print the VBS posting, post to bulletin board, and file one copy in the procurement folder.
19. The Procurement Officer will send an e-mail to the Office of Supplier Diversity (OSD) advising them of the solicitation and file a copy of the e-mail in the procurement folder.
20. The Procurement Officer will notify the program area by email that the solicitation has been posted to VBS.
21. The Procurement Officer will set-up the solicitation “Calendar of Events” in Outlook.
22. The Purchasing Office will facilitate the pre-response conference or site visit, if applicable.
23. Once the Technical Questions are received from prospective respondents, the Purchasing Office will upload the Technical Questions to SharePoint for the Program Area Contract Manager to respond.
24. Technical Answers will be uploaded to SharePoint by the Program Area Contract Manager for Purchasing and OGC review if applicable.
25. The Procurement Office will post Technical Questions and Answers on the VBS.
26. The Procurement Officer will notify the program area by email that the Technical Questions and Answers have been posted to VBS.
27. The Procurement Office will assist program area with any Addenda if needed and post any addenda on the VBS as well as the bulletin board.
28. **(RFP/ITN only)** The Procurement Officer will prepare the Evaluator Training PowerPoint presentation, as well as assist the program area in the development of the individual evaluator workbooks.

#### **RFP/ITN Only**

1. The Procurement Officer will print copies of the Solicitation Receiving Form and put them in the copy room to be used as responses come in.
2. The Public Response Opening will be held by Purchasing (sign-in sheet, evaluation summary sheet will be needed). Purchasing will only announce the names of the responding vendors at this time.
3. The Procurement Office will perform the Responsiveness and Responsibility Determination.
4. The Procurement Office will verify the vendor’s eligibility status on the Federal Department Excluded Parties List and print and place the results in procurement file.
5. For goods or services of \$1 million or more, the Procurement Officer will verify the Scrutinized Companies List, and print and place the results in procurement file.

6. If less than two responses are received, the Department may determine to negotiate on the best terms and conditions and Program Area Contract Manager must provide justification as to why re-soliciting would not be in the best interest of the Department.

### **RFP/ITN Procedures for Evaluations, Demonstrations and Negotiations**

1. The Procurement Office will facilitate the Evaluation/Negotiation Training for all evaluators and negotiators.
2. The Procurement Office will obtain the Conflict of Interest Questionnaires and Conflict of Interest Certifications from each Evaluation/Negotiation Team Member.
3. **(ITN only)** Purchasing Office will obtain the Confidentiality and Non-Disclosure Agreement from each Negotiation Team Member and (Subject Matter Experts) SME, if applicable.
4. Evaluations completed by Evaluation Team and all Evaluation Material will be returned to the Purchasing Office for the procurement file.
5. The Procurement Office will complete and verify the Evaluation Summary Score Sheet and place in the procurement file.
6. The Procurement Office will post the Vendor Shortlist to VBS, if applicable.
7. The Procurement Office will facilitate the negotiation meetings as applicable.
8. The Procurement Office will facilitate the Public Meeting for the Intent to Award with the Negotiation Team to determine 'Best Value' and Award Recommendation.
9. Once the Lead Negotiator has drafted the Recommendation of Award (RFP/ITN), the Procurement Office will route for approval by Agency Head or delegation of authority.
10. The Procurement Office will post the agency decision on the VBS.
11. Once the Agency decision has been posted, the 72-hour Protest Period will begin. If a Notice of Intent to Protest is received, the Procurement Officer will forward to Legal and place a copy in the procurement file.
12. The Procurement Officer will prepare a bid protest bond letter, have legal review, and then send it to the Respondent, if applicable. A Formal Protest and Bid Bond must be received within 10 days of receipt of the Notice of Intent to Protest.
13. The Protest will either be resolved by the Department's Legal Counsel, or it will go to Division of Administrative Hearings (DOAH). If resolved with Department Legal Counsel, the Procurement Officer will place Legal approval in procurement file and the completed procurement can proceed with contract development.
14. Procurement Office will ensure all documentation relating to the procurement is filed in the procurement file.

## **3.4 Department Contracts Procedures**

The OLTR Contracts unit works closely with the Department's Contracts and Grants Administration (CGA) Office to provide assistance to management and program contract managers regarding any type of contract or contract amendment. Once contracts or amendments have been finalized and approved by the OLTR management team, the OLTR Contracts team emails the contract to CGA for the beginning of the Department's review and approval process.

### **3.4.1 Preliminary Review Phase for Contracts**

1. OLTR Contracts Analyst will review the draft contract developed by the program area and email the agreement, executive summary, and routing review form to "contract number request" inbox for agreement number.

2. BFM/Bureau of Budget Management (BM) assigns an agreement number and verifies budget information on the routing review form.
3. BFM/BM emails the routing review form to OLTR Contract Analyst along with the agreement number.
4. OLTR Contract Analyst receives the routing review form, prepares the packet, and emails it to the Contracts and Grants' Department email inbox.
5. CGA uploads the draft contract packet to SharePoint folder and conducts a preliminary review.
6. CGA notifies the Office of General Counsel (OGC) that the contract is ready to review.
7. OGC reviews and edits the contract in SharePoint.
8. CGA reviews the contract and notifies the program area the contract packet is ready for review and finalization.
9. Program area reviews and finalizes the contract and notifies CGA when the contract is final and ready to route for pre-execution.

### 3.4.2 Pre-Execution Hard Copy Review Phase

1. CGA prepares packet/DocuSign envelope and sends the contract, routing review form and executive summary to BFM and Executive Management according to the established delegation authority threshold.
2. BFM and Executive Management reviews and approves the agreement packet and sends it to CGA
3. CGA notifies the program that the contract is ready to send to entity
4. Program area sends the package to entity for signature

### 3.4.3 Final Execution Phase

1. Program receives signed agreement from entity
2. Program area sends signed copy to the OLTR Contract team
3. OLTR Contract Team sends agreement packet, routing review form and executive summary (hard copy or e-copy) to CGA for execution
4. CGA reviews agreement and routes to OGC
5. OGC reviews, signs for legal sufficiency and notifies CGA
6. CGA sends agreement and obtains appropriate signatures according to delegation of authority for final signature
7. CGA sends executed copy to program area and OLTR Contract team.
8. Program sends final copy of contract to entity
9. Program sends FACTS forms to BFM, copies CGA and DFS Voucher Returns
10. Bureau of Financial Management updates FACTS

## 3.5 Department Management of Contracts and Grants

The contract management process begins when the agency has posted its Intent to award, and a contract has been executed. The executed contract or grant is transferred to the contract administrator or Grant Manager.

Responsibilities include:

- Creating and maintaining a contract file,
- Maintaining financial information on all contracts,
- Managing changes to the contract,
- Serving as a liaison between the Department and the subgrantee/subrecipient or vendor,

- Managing the receipt of commodities and contractual services,
- Conducting cost reconciliation for grants,
- Maintaining a contract management file pursuant to CFO Memo No. 06 (2011-2012),
- Providing written certification that services were performed and completed in accordance with terms and conditions of the contract before requesting payment.

The contract file must contain:

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

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

# Appendices

In addition to the OLTR Policy Manual, OLTR program activities maintain program-specific documents to aid in the administration and implementation of CDBG-DR funded recovery activities. These additional documents provide policies, procedures, and guidelines that are more specific to program activities than the applicable Action Plan for Disaster Recovery and this overarching OLTR Policy Manual. These documents may include the following:

## Disaster-Specific Policy Manuals

Each CDBG-DR funded program governed by the Consolidated Notice will have, in addition to this OLTR Policy Manual, a storm-specific Policy Manual with policies specific to the projects and activities being undertaken for recovery for that storm.

- Hurricane Sally Policy Manual

## Subrecipient Policies and Procedures

Subrecipient Policies and Procedures are created for the Department's subrecipient administered CDBG-DR programs. These Policies and Procedures serve to assist program staff, subgrantees and subrecipients in implementing and managing disaster recovery grants.

## Program Guidelines

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

## Program Design

Program Design documents are created to aid the Department's subgrantees in the creation of a CDBG-DR funded program compliant with State and Federal regulations.

## Program Guidebooks

Similar to guidelines, Program Guidebooks provide an outline for the requirements for CDBG-DR funded activities.



## Appendix 1. OLTR Overarching Policies

### Anti-Fraud, Waste, and Abuse Policy

The OLTR Anti-Fraud, Waste, and Abuse Policy (AFWA) policy establishes procedures and processes that will aid in the detection and prevention of fraud, waste, and abuse in the CDBG-DR and CDBG-MIT programs.

The AFWA policy is available in English, Spanish, and Haitian Creole on the OLTR website at <https://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative>.

### Compliance Monitoring Plan

The OLTR Compliance Monitoring Plan (CMP) aims to gauge the overall progress and effectiveness of program implementation; identify and resolve compliance issues that may compromise program integrity, funding, and service delivery; and identify areas that would benefit from technical assistance and/or training.

The CMP is available OLTR website at <https://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative>.

### Language Access Plan

The OLTR Language Access and Accessibility Plan (LAP) outlines how the Department plans to ensure that LEP individuals have meaningful access to its OLTR programs and services.

The LAP is available in English, Spanish, and Haitian Creole on the OLTR website at <https://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative>.

### Uniform Relocation Assistance Guide and Residential Anti-Displacement and Relocation Assistance Plan (URA and RARAP)

The OLTR Uniform Relocation Assistance Guide and Residential Anti-Displacement and Relocation Assistance Plan (URA and RARAP) describes how the Department plans to minimize displacement of persons or entities and assist persons or entities displaced as a result of implementing a project with CDBG-DR funds.

The URA and RARAP is available on the OLTR website at <https://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative>.

### Recapture Policy

The OLTR Recapture Policy sets forth the policies that will guide the Department's OLTR Recapture Program in its efforts to recapture funds that have been overpaid to applicants for any reason.

The Recapture Policy is available on the OLTR website at <https://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative>.

## Appendix 2. Disaster-Specific Policy Manuals

### Disaster-Specific Policy Manuals Governed by the Consolidated Notice

#### **Hurricane Sally Policy Manual**

The Hurricane Sally Policy Manual is located on the Department website at [www.floridajobs.org](http://www.floridajobs.org) under Home > Community Development > Community Development Block Grants > Office of Long-Term Resiliency > Hurricane Sally (<http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative/Hurricane-Sally>).

### Policy Manuals Governed by Previous Federal Register Notices

#### **Hurricanes Hermine and Matthew Subrecipient Policy Manual**

The Hermine and Matthew Subrecipient Policies and Procedures are located on the Department website at [www.floridajobs.org](http://www.floridajobs.org) under Home > Community Development > Community Development Block Grants > Office of Long-Term Resiliency > Hurricanes Hermine and Matthew (<http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative/hurricanes-hermine-and-matthew>).

#### **Hurricane Irma Policy Manual**

The Hurricane Irma Policy Manual is located on the Department website at [www.floridajobs.org](http://www.floridajobs.org) under Home > Community Development > Community Development Block Grants > Office of Long-Term Resiliency > Hurricane Irma (<http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative/hurricane-irma>).

#### **Hurricane Michael Policy Manual**

The Hurricane Michael Policy Manual is located on the Department website at [www.floridajobs.org](http://www.floridajobs.org) under Home > Community Development > Community Development Block Grants > Office of Long-Term Resiliency > Hurricane Michael (<http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative/hurricane-michael>).

#### **Mitigation Policy Manual**

The Mitigation Policy Manual is located on the Department's Mitigation website at [www.floridajobs.org/rebuildflorida/mitigation](http://www.floridajobs.org/rebuildflorida/mitigation)