

Local Infrastructure Recovery and Resiliency Program

COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER
RECOVERY

Policy

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Version Log

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PROGRAM OVERVIEW

Introduction

The U.S. Department of Housing and Urban Development (HUD) allocated South Dakota \$15,375,000 in Community Development Block Grant-Disaster Recovery (CDBG-DR) funding to support long-term recovery efforts following the 2024 severe storms, straight-line winds, and flooding ([DR-4807](#)) experienced from June 16 to July 8, 2024 throughout South Dakota.

The Local Infrastructure Recovery and Resiliency Program will utilize a portion of the allocated CDBG-DR funds to support the HUD designated most impacted and distressed (HUD MID) areas recover from DR-4807.

The purpose of this policy manual is to provide the overall objectives and process by which the South Dakota Governor's Office of Economic Development (GOED) will award CDBG-DR funds for the Local Infrastructure Recovery and Resiliency program.

Program Description

The Local Infrastructure Recovery and Resiliency Program will fund critical infrastructure and public facilities projects that benefit the public in the HUD MID areas. The projects will restore disaster-damaged infrastructure/public facilities or strengthen long-term community resiliency through mitigation-focused improvements.

Administration

GOED will serve as the lead agency for the allocation of funds to eligible subrecipients.

Funding Amounts

\$14,106,250 in CDBG-DR funds will be available for the Local Infrastructure Recovery and Resiliency Program.

GRANT REQUIREMENTS

National Objectives

Low to moderate income area benefit (LMA) — An area benefit activity is one that benefits all residents in a particular area, where at least 51 percent of the residents are LMI persons. If applicable, GOED may use the Universal Notice waiver at III.D.6.e, which waives 24 CFR 570.208(a)(1) and 24 CFR 570.200(a)(3) and permits GOED to proportionally count funds expended on a large infrastructure project when LMI percentage of the population is below 51% of the project service area.

Urgent Need (UN) — the UN national objective will only be used when an LMA national objective cannot be achieved through the project, but the project has demonstrable

recovery or mitigation public infrastructure benefits within the HUD-identified MID ZIP codes.

Disaster Tie-back or Mitigation

Funded projects must either:

- Have a connection to the disaster or “tie-back” to DR-4807 and address a specific unmet recovery need for which the CDBG-DR funds were appropriated, or
- Address mitigation needs identified in the Mitigation Needs Assessment that will reduce, or mitigate, future disaster losses in communities.

Applicants to the program must state whether proposed projects address a direct or indirect impact from the disaster or respond to disaster-related future risks. For projects that only respond to future disaster risks, GOED will fund those activities out of the \$2,005,000 Mitigation Set-Aside that makes up a portion of the \$15,375,000 CDBG-DR grant received.

Mitigation Set-Aside

Projects funded with mitigation set-aside funds do not require a “tie-back” to the specific qualified disaster. Instead, the project must:

- Meet the definition of mitigation activities - activities 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
- Address the current and future risks as identified in the mitigation needs assessment in the Action Plan
- Be an eligible activity as listed in this policy
- Meet a national objective
- Align with existing hazard mitigation plans submitted to the Federal Emergency Management Agency (FEMA) or other state, local, or tribal hazard mitigation or long-term recovery plans.

Mitigation Measures

All projects, regardless of whether they tie-back to the disaster or are mitigation based, must incorporate mitigation measures. Projects must demonstrate they have incorporated mitigation measures as a construction standard that will withstand existing and future natural hazards expected to occur over the life of the project.

GOED will work with successful subrecipients to identify resilience performance metrics that will be tracked with the project and reported to GOED.

Eligible Areas

Eligible activities will be restricted to projects located within the HUD-designated MID ZIP codes (57038, 57049) within Union County.

Eligible Applicants

Eligible subrecipients will be units of general local government and school districts.

Eligible Activities

Infrastructure projects may range from road and bridge repairs, stormwater system upgrades, and repairs to water and wastewater systems—including lift stations—to the hardening of critical public facilities, utility infrastructure, and other vital systems that support community function and safety. Eligible public facilities can include those facilities used to provide services to the community, such as parks and community centers.

Additionally, activities required for the delivery of the infrastructure, such as site planning, developing the scope of the project, cost analysis, engineering, and environmental review are eligible expenses under this program.

Housing and Community Development Act of 1974 (HCDA) Eligible Activities	
Section 105(a)(1)	Acquisition of real property (including air rights, water rights, and other interests therein) which is A. blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; B. appropriate for rehabilitation or conservation activities; C. appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; D. to be used for the provision of public works, facilities, and improvements eligible for assistance under this title; or E. to be used for other public purposes
Section 105(a)(2)	Acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements.
Section 105(a)(4)	Clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned properties, and including the renovation of closed school buildings).

Housing and Community Development Act of 1974 (HCDA) Eligible Activities	
Section 105(a)(9)	Payment of the non-Federal share required in connection with a federal grant-in-aid program undertaken as part of activities assisted under this title.
Section 105(a)(14)	Provision of assistance including loans (both interim and long-term) and grants for activities which are carried out by public or private nonprofit entities, including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning;

Ineligible Costs

The following activities as identified in 24 CFR 570.207 are not eligible costs for the program:

- General government expenses: Expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance.
- Political activities: CDBG-DR funds cannot fund the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration.
- Purchase of equipment: The purchase of equipment with CDBG-DR funds is generally ineligible.
- Construction equipment: The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing or depreciation is eligible. The purchase of construction equipment for use as part of a solid waste disposal facility is eligible.
- Furnishings and personal property. The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible.
- Operating and maintenance: Any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible.

Beneficiaries

Each project will need to identify beneficiaries of the project including the number of beneficiaries and the demographic make-up of the people who will benefit from the project. This information is used by GOED for aggregated reporting purposes. This information on number of people assisted is available from U.S. Census Bureau at

<https://www.census.gov/acs/www/data/data-tables-and-tools/data-profiles/>. In those instances where the target population does not correspond to the population of a county, city, or town, much of the requested information must be extrapolated from these U.S. Census reports. This is done by applying the percentages for county populations to the target population to derive numbers under each category.

Maximum Award

The maximum award for each project is \$6 million.

Flood Control Structures

The Universal Notice (90 FR 1754) details requirements for flood control structures (i.e., dams and levees). CDBG-DR can't be used 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. Subrecipients that use CDBG-DR funds for levees and dams 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's PL 84-99 Rehabilitation Program (Levee Rehabilitation and Inspection Program); (3) ensure the structure is accredited under the FEMA National Flood Insurance Program (NFIP); (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 subrecipient has conducted a risk assessment before funding the flood control structure and documentation that the investment includes risk reduction measures.

APPLICATION PROCESS

Eligible applicants are invited to submit applications during the application window. Responses will be evaluated to ensure that the proposed projects meet the minimum criteria outlined in this Policy Manual. After review, consensus scores for each application will be forwarded onto GOED leadership for award. GOED will identify awardees and notify selected and non-selected applicants in writing. Selected awardees will then enter into a grant agreement with GOED that will formalize conditions of the grant.

Announcement of Funding Availability

GOED will announce funding availability by directly notifying eligible applicants via email. The announcement will also be posted on the GOED website and social media platforms.

GOED will host an application workshop to provide an overview of the program goals and objectives, the application and scoring process, and required documentation, and to offer a forum for questions.

Applicants will have an opportunity to attend a one-on-one meeting with GOED staff to discuss their project and the application requirements prior to submittal.

Throughout the entire application cycle, technical assistance also is available by sending inquiries to Stephanie Deyo at stephanie.deyo@state.sd.us. GOED will respond to all inquiries in a timely manner.

Public Hearing Requirements

Applicants are required to solicit public feedback on the projects for which they are applying for funding by holding a public hearing. The notice of the public hearing should be published or posted for review no less than 7 days prior to the hearing. If awarded, applicants will be required to host an additional public hearing before closing out the project.

Public hearings can be held in conjunction with other public meetings. The meeting notice should be posted in a newspaper of general circulation. The public hearing must include discussion of the following:

- The amount of CDBG-DR funds requested;
- The range of activities that may be undertaken with the CDBG-DR funds;
- The estimated amount of the CDBG-DR funds proposed to be used for activities that will meet the national objective of benefit to low and moderate income persons; and
- The proposed CDBG-DR activities likely to result in displacement and the unit of general local government's anti-displacement and relocation plans required under § 570.488.

Applicants will be required to provide proof the public hearing was held including:

- A copy of the public hearing notice and publishers affidavit
- Meeting minutes, including comments and responses

If funded, subrecipients will be required to hold a 2nd public hearing midway through the project. GOED will check to make sure this has occurred at the time of monitoring. The 2nd public hearing will have the same notification requirements as the first public hearing but will not need to cover the same topics. Instead, the subrecipient will discuss project progress and hear any comments on the project from the public.

Application

Applicants will apply for the program by completing the application provided by the GOED. Additionally, GOED will offer information and guidance on the application process and requirements. Applicants are allowed to submit multiple applications during the application window and must submit separate applications for each individual project.

Applicants have until the deadline to submit all required application materials. Only completed applications, including all required supporting documentation, will be considered for funding. Applications will only be accepted during the published application window.

All applicants will submit the following additional documents with the application:

- Authorizing Resolution appointing a Project Authorized Official
- Anti-Lobbying Certification
- Drug Free Workplace Policy
- Signed Applicant/Recipient Disclosure Report/Update
- Residential Anti-displacement and Relocation Assistance Plan (RARAP)
- Equal Employment Opportunity Policy
- Federal Funding Accountability and Transparency Act (FFATA) Certification
- CDBG-DR Regulatory Assurances Form
- Environmental Certifying Officer form
- Capital budgets as verification that the project has not already been funded

City and County applicants will submit the following additional documents with the application:

- Resolution Assuring Fair Housing
- Code of Conduct Policy
- Excessive Force Policy

For more information about these requirements please reference the CDBG Grant Administration Handbook, Chapter 1 General Requirements

Eligibility Criteria

Each application must address the following eligibility criteria. More information about eligibility criteria and additional documentation needed as part of the application is included within the application guidance materials. The applications will be scored based on the criteria listed below. A more detailed scoring rubric describing maximum scores and criteria is included within the application requirements.

Project Description

Applications must include descriptions of the proposed project. Applicants must also identify a need for the project and the eventual goal and outcome of the project on the community. The applicant should also discuss project readiness and how quickly the project can be started after award. Applications must also define the service area that will benefit from the proposed project.

Project Location

Demonstration that the project is located in one of the HUD-identified MID ZIP codes

Tie-back or Mitigation

Demonstration that the project is in response to the disaster or is a project to mitigate future disasters impacts.

Mitigation Measures

Demonstration that the project will be designed to incorporate construction standards able to withstand existing and future natural hazards expected to occur over the life of the project.

National Objective

Demonstration that the project will meet either the LMA or UN national objective.

Alignment with other projects and long-term planning efforts

Discuss how the project is aligned with other planned federal, state, or local capital improvements and infrastructure development efforts and how the project will achieve objectives outlined in regionally or locally established plans and policies that are designed to reduce future risk to the jurisdiction.

Eligibility

Demonstration that the project is an eligible infrastructure/public facilities activity.

Design for the Future

Demonstration that the designs and plans demonstrate that future hazards will be mitigated.

Capacity

The applicant demonstrates the capacity to manage the grant funding.

Budget

Submissions must include a proposed project budget with a detailed description of anticipated costs by category, including support services, program management, and administration. Explanations of how funding request amounts were determined must be included. The budget also will show the anticipated sources of funding. Applicants should develop a feasible budget that includes CDBG-DR funds, local funds, and any committed sources. The commitments of the funding sources should be documented and included with the application.

Cost-Effectiveness

The program places a high priority on funding projects that are cost-effective. Project applications will be scored based, in part, on cost-effectiveness demonstrated through a benefit-cost analysis outlined in the application guidance. All cost-effectiveness analyses will be reviewed by GOED or its designee.

Future Housing Development

Demonstration that the project supports future development of rental housing in the area.

Timeline

Applicants must include a project timeline for completion with milestones. All projects funded under the Local Infrastructure Recovery and Resiliency Program must be completed within three (3) years of grant award unless another timeframe is negotiated with GOED and incorporated into the grant agreement.

Operations and Maintenance

Applicants will be required to demonstrate how the projects will be operated and maintained beyond the life of the CDBG-DR grant, including incorporating technologies to prevent early failures of the project. This should include the identification of a responsible entity for operating and maintaining the project and a description of dedicated funding sources. Operations and maintenance expenses are not eligible for CDBG-DR funding.

Threshold and Scoring Criteria

GOED will perform a basic threshold criteria review of all project applications to ensure they meet the basic requirements before moving to full scoring. Every project application must meet the following threshold criteria to be considered eligible:

- Projects must be considered as CDBG-DR Eligible Activities under Title I of the Housing and Community Development Act (HCDA) of 1974, as amended;
- Located within an eligible HUD designated MID area;
- Benefits an LMI area or addresses an urgent need (meets a national objective);
- Is an eligible activity under the State of South Dakota CDBG-DR Action Plan; and
- Addresses an unmet need tied to damage caused by DR-4807 (unless considered an eligible mitigation activity funded by the CDBG-DR mitigation set-aside).

Once a project is determined to satisfy the Threshold Criteria, GOED will score applications based on the following criteria, with a maximum score of 130:

Criteria	Description	Maximum Points
Community-Wide Impact	Projects that benefit all or most of North Sioux City residents will receive the highest points.	20

Project Timeline and Readiness	Points will be awarded based on how quickly the project can begin and be completed. Projects with completed design, secured permits, or other pre-construction milestones in place will score higher.	20
Cost Effectiveness	Measures the reasonableness of the project budget relative to the outcomes. Projects with leveraged funds, lower cost per beneficiary, or efficient use of CDBG-DR dollars will score higher.	20
LMI Benefit	Projects that serve LMI areas will receive the maximum points. Urgent need projects will not receive any points.	15
Management Capacity	Evaluates the applicant's demonstrated ability to manage federally funded infrastructure projects. Includes staff expertise, past performance, and systems in place for compliance and oversight.	15
Resiliency and Mitigation	Projects that incorporate design features to reduce future risk and hazard impacts will receive higher scores.	15
Operations and Maintenance	Evaluates the plan and capacity to maintain the project long-term. Higher points awarded for projects with committed funding and clear responsibility for ongoing maintenance.	10
Supports Housing	Points awarded to projects that directly support existing or planned housing development, especially for LMI residents or households impacted by the disaster. To be in line with HUD requirements, higher points will be given to those projects that benefit rental housing.	15
Total		130

REVIEW AND SELECTION PROCESS

Application Review

Applications will be reviewed by GOED. Ultimately, the average of the scores will become the official composite score for each application. Only the application itself (including the requested attachments) will be scored. Any documents submitted with the application that were not requested will not be scored. Each element of the scoring criteria has a value associated with it.

All scores and justification will be documented and provided to the applicants upon request to ensure transparency in the award process. A detailed description of the scoring rubric and point scale is provided in the application guidance materials.

Clarifications

During the application review process, applicants are required to respond in a timely manner to any GOED requests for information/materials to complete the evaluation process. Any request for additional information will include a definitive due date for return of the requested information. If the applicant needs an extension, clarification, or assistance, the applicant may make its request within the allotted response timeframe. If an applicant fails to provide the requested information/materials or fails to ask for an extension or assistance, the application will be scored accordingly and there will be no additional opportunity to submit the requested materials.

Scoring, Ranking, and Selection

GOED will rank applications based on the composite score generated by the review panel. The State will use the scores, in part, to rank projects, but reserves the right to allocate funds to projects that meet the State's ultimate program objectives. Program requirements, such as the Low/Mod area benefit are prioritized through scoring criteria and will factor into final funding determinations. In the event that demand exceeds the amount of funds available, those projects with the greatest need and effectiveness will be recommended for funding.

Appeals

All appeal requests related to program activities are processed and reviewed by GOED. Initial review of the appeal will be conducted by a panel made up of GOED staff. This staff is independent from the group that originally made the decision being appealed. Each appeal will be reviewed against program policies and requirements. The panel will make a recommendation to GOED Leadership which will approve the final selection.

Appeal requests to GOED must be postmarked within 10 calendar days of the date of service on the original correspondence communicating the decision to be appealed. Appeals must be submitted in writing to: Governor's Office of Economic Development, Attention: CDBG-DR, 711 East Wells Avenue, Pierre, SD 57501.

The applicant's written request should contain the following information:

- Applicant's name
- Applicant's mailing address
- Applicant's telephone number
- Email address (if available)
- The reason(s) the decision or action is being appealed

- Documentation that supports the request to overturn the decision

The applicant shall be notified of the final determination in writing via certified mail.

GRANT AWARD

Notice of Award

Once award amounts are determined, GOED will send a Notification of Award to successful applicants, which is a preliminary offer to enter into a grant agreement. Execution of a grant is contingent upon both parties' agreement regarding the terms and conditions. Awards will be considered final upon receipt of a signed grant agreement between GOED and the applicant.

Prior to an award a duplication of benefits review will take place as well as a determination of cost reasonableness and verification that the CDBG-DR award will not supplant funding for the project from other sources.

Duplication of Benefits Review

Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act prohibits any person, business, or other entity from receiving duplicative financial assistance for the same disaster recovery purpose from multiple sources of federal and other support (42 United States Code [U.S.C.] 5155(a) and (c)). Duplication occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular disaster recovery purpose. The amount of the duplication is the amount of assistance provided in excess of need.

Per CDBG-DR regulations, the program's subrecipients are required to disclose all other benefits (e.g., cash, in-kind, grants, loans) received, or which will be received for the proposed project to ensure that federal funds do not duplicate funds received from other sources.

Applicants will be required to list and provide documentation regarding other sources of funding they have received. Typical sources of duplication of benefits (DOB) include, but are not limited to, the following:

- Federal Emergency Management Agency (FEMA) Public Assistance
- FEMA Hazard Mitigation Grant Program
- FEMA National Flood Insurance Program
- FEMA Increased Cost of Compliance Benefits
- U.S. Army Corps of Engineers
- Commercial insurance
- State funding
- subsidized loans

- Capital budgets

GOED will review the information provided and complete a DOB analysis as part of the application review process. Any duplicative assistance will be deducted from the CDBG-DR award amount. Another DOB review will be performed at grant closeout.

The Duplication of Benefits Policy can be found in the CDBG Administrator Handbook, CDBG-DR addendum.

Supplanting of Funds

Another form of duplication of benefits is using CDBG-DR funds to supplant funds already budgeted for a project. These include City, County, FEMA, State, and U.S. Army Corps of Engineers (USACE) funding. GOED will verify that CDBG-DR funds will not be used for activities reimbursable by, or for which funds are made available by, FEMA or USACE. GOED will require applicants to certify that the CDBG-DR funds will not supplant other available funding that has been budgeted or in the case of FEMA and USACE made available to the applicant.

Cost Reasonableness Evaluation

Projects funded must be considered necessary and reasonable. Costs are considered reasonable if, in their nature and amount, they do not exceed that which would be incurred by a prudent person in the conduct of competitive business. Analytical techniques and procedures may be used to ensure that final costs are fair and reasonable, such as a cost analysis detailing the individual cost elements of projects to certify elements such as necessity, pricing, and consistency.

GRANT AGREEMENT

Grant Agreement Terms and Conditions

A written grant agreement will be provided to the subrecipient before any disbursement of CDBG-DR funds. At a minimum, the agreement will include a statement of work, schedule of activities and milestones, budget, record and reporting requirements, recapture of funds guidance, and so forth. Prior to the execution of the grant agreement, recipients will have a period of time to review the terms and conditions for their project(s).

Funding will be provided as a grant to subrecipients on a cost reimbursement basis according to the terms identified in the grant agreement. Subrecipients must verify all costs before submitting invoices to GOED for reimbursement and provide all required reporting and supporting documentation requested by GOED.

Timely Expenditures and Project Completion

To ensure that projects are completed within the required CDBG-DR grant timeline, GOED will impose a period of performance for projects which will be identified in the grant agreement. Applicants will be required to submit a project schedule that details specific milestones and spending timelines. On a quarterly basis, GOED will require applicants to provide a status report on whether the project is on schedule and identify any risks, if applicable.

The period of performance will commence upon execution of a grant agreement between GOED and the subrecipient. GOED also may approve extensions to the period of performance, contingent upon the overall grant timeline and HUD approval, provided the subrecipient demonstrates that good cause exists. Should a project's timeline exceed the overall grant expenditure deadline, extension of the period of performance will be subject to HUD approval. HUD may extend the period of performance administratively if good cause for such an extension exists at that time, as requested by GOED, and approved by HUD.

The Timely Expenditure policy can be found in the CDBG Administrator Handbook CDBG-DR addendum

Grant Agreement Modifications and Extensions

Subrecipients may request a grant amendment to extend the period of performance, for scope changes, or for budget changes that affect the CDBG-DR grant award. GOED will review the submission and determine whether a grant amendment is warranted.

Subrecipients must submit the request for a grant amendment as soon as the need is identified. Requests can be submitted at any time, but no later than 90 days prior to the termination date of the grant agreement.

Subrecipients should follow the guidance found in Chapter 4: Financial Management in the CDBG Grant Administration Handbook.

PAYMENT AND REPORTING

Quarterly Performance Reporting

In order to meet the HUD requirement for submitting the Disaster Recovery Grant Reporting System (DRGR) Quarterly Performance Report, GOED will require subrecipients to provide quarterly progress update reports. This performance report shall be submitted to GOED at a due date and in a format specified in the subrecipient grant agreement.

These reports will provide:

1. General Information – a comprehensive narrative on project progress, meeting milestones, and progress on performance metrics.

2. Financial Information - current expenditure of federal funds and any other funds being utilized

Other Reports

There are a series of other reports that are required including labor standards reporting and financial reporting. For other reporting, subrecipients should follow the guidance found in the CDBG Grant Administration Handbook, Chapter 7, Reporting and Recordkeeping.

Request for Payments

Subrecipients will be responsible for billing GOED for invoiced costs. Before the submission of costs to GOED, subrecipients must verify that vendor invoices are accurate and complete, the activities and costs were incurred during the period of performance, and all required support documentation is included in the payment package.

GOED will develop a comprehensive review structure to monitor draw requests and reconcile any issues that may arise as a result. The quality assurance/quality control process will involve the following:

- Documentation reviews and data collection during the draw review process
- Program expenditure and draw request review for eligibility based on applicable laws, CDBG-DR requirements, and CDBG regulations
- Follow-ups regarding identified compliance issues, initiation of corrective actions, and implementation of program controls, as necessary

Subrecipients should follow the guidance found in Chapter 4: Financial Management in the CDBG Grant Administration Handbook.

Pre-Award Expenses

Project expenses incurred before the effective date of the grant agreement are eligible for reimbursement on a case-by-case basis. Eligibility for reimbursement is contingent upon the costs being otherwise eligible expenses of this program that are in compliance with all applicable requirements (including procurement and environmental review requirements) and with the statutory and regulatory requirements in effect at the time that the costs are charged.

IMPLEMENTATION

General Requirements

General requirements are listed in the CDBG Grant Administration Handbook, Chapter 1 General Requirements.

Procurement Requirements

All procurements funded, in whole or in part, with CDBG-DR funds must comply with the requirements in 2 CFR 200.318-327. These requirements are detailed in Chapter 3 Procurement in the CDBG Grant Administration Handbook. Subrecipients are required to comply with the requirements of 2 CFR 200.318 – 326.

CDBG-DR funds are not required to follow the Build America, Buy America Act (BABA). It requires that all iron, steel, manufactured products, and construction materials used for federally funded infrastructure projects are produced in the United States, unless otherwise exempt or subject to an approved waiver. Therefore, subrecipients should disregard the sections relating to BABA in the CDBG Grant Administration Handbook.

Section 3

Section 3 provides that economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low-income persons and contracting opportunities should be directed to Section 3 businesses that employ these individuals, are involved in housing rehabilitation or housing construction, or other public construction with federal housing and community development funding in excess of \$200,000. Infrastructure is considered “other public construction” and thus triggers Section 3. Subrecipients will be required to follow the GOED Section 3 requirements to further the goals of the Section 3 regulations.

Under CDBG-DR, GOED is required to report Section 3 labor hour requirements for the number of total labor hours, number of Section 3 labor hours, and the number of targeted Section 3 labor hours for all applicable construction activities. HUD staff will review the data reported to analyze GOED’s progress toward meeting Section 3 requirements and to inform on-site and remote monitoring engagements.

Subrecipients should follow the guidance found in the Section 3 area of Chapter 3: procurement in the CDBG Grant Administration Handbook.

Labor Standards

Contractors must comply with Davis-Bacon Act, the Contract Work Hours and Safety Standards Act (CWHSSA) and the Copeland Anti-Kickback Act (the Copeland Act) commonly referred to as the Davis-Bacon and Related Acts (DBRA).

Subrecipients are required to follow the requirements listed in Chapter 5 of the CDBG Grant Administration Handbook.

Environmental Review and Historic Preservation

All subrecipients must complete environmental and historic preservation compliance reviews before committing funds or beginning recovery activities. CDBG-DR appropriation acts prohibit HUD from waiving these requirements.

City and County CDBG-DR subrecipients of the program are considered responsible entities and must complete an environmental review and obtain authorization to use grant funds from GOED for all project activities prior to obligating any project funds. For all other subrecipients, GOED will be the Responsibility Entity and will work with you to complete the required Environmental Review requirements.

The HUD rules and regulations that govern the environmental review process can be found at 24 CFR Part 58. The provisions of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality regulations in 40 CFR Parts 1500 through 1508, as well as myriad other State and federal laws and regulations (some of which are enforced by State agencies), also may apply, depending upon the type of project and the level of review required. The subrecipient and the environmental certifying officer are responsible for referring to and complying with all federal, State, and local environmental rules and regulations.

These laws and authorities are referenced in the HUD and NEPA regulations and are listed in the CDBG Grant Administration Handbook in Chapter 2: Environmental Review.

Uniform Relocation Assistance and Real Property Acquisition

The Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended (the URA), and its implementing regulations at 49 CFR 42 establish minimum standards for federally funded programs and projects requiring the acquisition of real property or displacing persons from their homes or businesses. The URA applies broadly to all planned or intended federally funded projects, funded in part or in whole, where acquisition, rehabilitation, or demolition occurs during any phase.

GOED must consider all acquisition of property, including easements, along with the potential impacts on the tenants.¹ If an identified project results in tenants leaving their homes involuntarily (being displaced), the tenants may be eligible for tenant relocation assistance under the URA. These requirements apply to the relocation of any *displaced person* as defined at 49 CFR § 24.2(a)(9).² Displaced persons, under this definition, must be fully informed of their rights and entitlement to relocation assistance and payments

¹ U.S. Department of Housing and Urban Development. [Tenant Assistance, Relocation and Real Property Acquisition Handbook](#) (1378.0).

² Federal Register. Title 49: Transportation. 24.2: Definitions and Acronyms. [eCFR :: 49 CFR 24.2 -- Definitions and acronyms](#).

provided by the URA and its implementing regulations. For more information, refer to 49 CFR 24, Subpart C. If relocation is anticipated, reach out to GOED immediately for assistance.

Subrecipients must budget and plan if relocation occurs. The budget should include discovering the needs of displaced persons such as site visits, interviews, and orientations as well as housing market conditions, acquisition costs, relocation payments and other costs.

Subrecipients should follow the guidance provided in the CDBG Grant Administration Handbook in Chapter 6, Acquisition and Relocation.

Minimize Displacement

GOED will subrecipients to minimize displacement associated with funded activities. Subrecipients will be required to submit a Residential Anti-displacement and Relocation Assistance Plan (RARAP) with their applications. The type of infrastructure activities planned should not result in displacement. However, if displacement does occur subrecipients will follow their RARAP by assisting displaced entities and persons and ensure the accessibility needs of displaced persons with disabilities.

Financial Management

The subrecipient is responsible for administering the program grant award and requires a sound financial management system. The key principles of financial management are common to all types of organizations and include sound financial management systems, internal controls, allowability of costs, use and tracking of program income, and audits.

The CDBG regulations, which also are applicable to CDBG-DR funding, require subrecipients who are governmental entities or public agencies to adhere to certain administrative and financial management requirements. In addition to the CDBG regulations at 24 CFR 570.489, which contain the basic program administrative requirements, the Federal Register Notice contains the specific waivers and alternative requirements for the use of the disaster recovery funds. Additionally, 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which was adopted by HUD at 2 CFR 2400 and clarified applicability at 24 CFR 570.502, also applies. The financial management requirements are described in greater detail within CDBG Grant Administration Handbook in Chapter 4, Financial Management.

Internal Controls

Internal controls refer to the combination of policies, procedures, defined job responsibilities, personnel, and records that allow an organization (or an agency) to maintain adequate oversight and control of its cash, property, and other assets.

The soundness of any subrecipient's financial management structure is determined by its system of internal controls. Specifically, internal controls refer to the following:

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and regulations

With a sound internal control system, a subrecipient can ensure that:

- Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations, and policies.
- Resources are protected against waste, mismanagement, or loss.
- Information on the source, amount, and use of funds is reliable, secured, and up-to-date, and this information is disclosed in the appropriate reports and records.

As part of an effective internal control system, one person should be designated as the primary person at the subrecipient organization responsible for the financial management of a CDBG-DR project. This person should be familiar with their organization's accounting system and how the accounting of CDBG-DR funds is integrated into the subrecipient's existing system. Refer to 2 CFR 200.303 for more information.

Program Income

GOED does not anticipate the generation of any program income. However, any program income received must be used prior to requesting funding through the program or returned to GOED, subject to the applicable terms and conditions within the grant agreement and managed by GOED.

More information can be found about program income in the CDBG Grant Administration Handbook in Chapter 4, Financial Management.

Conflict of Interest

No persons who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part who exercise or have exercised any functions or responsibilities with respect to CDBG-DR activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-DR-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-DR-assisted activity, or with respect to the proceeds of the CDBG-DR-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for 1 year thereafter.

For more information about these requirements please reference the CDBG Grant Administration Handbook, Chapter 1 General Requirements.

Equal Opportunity

Through the use of CDBG-DR funding, no person should be excluded, denied benefits, or subjected to discrimination on the basis of their race, color, national origin, sex, disability, or age. GOED and its subrecipients may not discriminate in any of the following areas: deciding who will be admitted or have access to any CDBG-DR-funded program or activity; providing opportunities in or treating any person with regard to such a program or activity; or making employment decisions in the administration of or in connection with such a program or activity.

GOED and the subrecipients must administer and fund programs that are in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–3619), and implementing regulations, and will affirmatively further fair housing.

More information about audit requirements can be found in the CDBG Grant Administration Handbook in Chapter 1, General Requirements.

Prevention of Fraud, Waste, and Abuse

This program will be monitored periodically by GOED to ensure compliance with all federal and State requirements. A subrecipient must agree to return all unexpended funds and improper payments to GOED in the event of fraud, waste, or mismanagement and/or substantial noncompliance with the guidelines. Complaints regarding fraud, waste, or abuse of funds will be forwarded to the HUD Office of the Inspector General Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov).

The Prevention of Fraud, Waste, and Abuse Policy can be found in the CDBG Administrator Handbook CDBG-DR addendum.

Recordkeeping

It is important that the subrecipient fully document compliance with all applicable regulations. This is accomplished through maintaining comprehensive records and submitting all necessary reports.

The filing system should be easy to use and should provide a historic account of activities for examination and review by HUD, GOED, auditors, and local staff. These entities must have access to any pertinent books, records, accounts, documents, papers, and other property that is relevant to the grant. Certain records must be available to the public as well. However, subrecipients must keep files that contain personal information, such as social security numbers, in a secure place.

Records must be retained according to 24 CFR 570.490(d) for the greater of three years from closeout of the grant to the state.

For guidelines on recordkeeping please reference Chapter 7, Reporting and Recordkeeping in the CDBG Grant Administration Handbook.

MONITORING AND CLOSEOUT

Program Monitoring

All subrecipients must implement strategies to closely monitor operations in order to increase efficiency, be compliant with applicable rules and regulations, and improve the overall quality of services and the use of funds. For more details on monitoring requirements and procedures, refer to the CDBG Grant Administration Handbook in Chapter 8, Closeout Monitoring.

Audit Requirements

All audits must be conducted in accordance with 2 CFR Part 200 and must be performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) (see 2 CFR 200.514(a)). According to GAGAS, a financial audit should determine whether:

- Financial information is presented in accordance with the established or stated criteria.
- The entity has adhered to specific financial compliance requirements.
- The entity's internal control structure over financial reporting and/or safeguarding assets is suitably designed and implemented to achieve control objectives.

In conducting an audit, the subrecipient **must** supply the following information to the auditor at the beginning of each audit:

- A copy of the grant information sheet received with the grant agreement
- A copy of the grant agreement
- A copy of all draw requests processed during the fiscal year
- A copy of the monitoring letter if one was issued during or affecting the fiscal year being audited
- A copy of the community's most recent budget, which includes the CDBG-DR funds for the fiscal year
- The location of CDBG-DR project records and the name and phone number for a contact person.

More information about audit requirements can be found in the CDBG Grant Administration Handbook in Chapter 4, Financial Management.

Recapture of Funds

The review of program expenditures may identify a situation that would require the recapture of grant funds. Under the circumstances listed below, applicants may be required to repay all or a portion of the assistance received. The reasons for grant recapture include, but are not limited to, the following scenarios:

- 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. (Withdrawal from the program must be in writing or via email.)
- The project is not completed due to non-cooperation by the applicant.
- The applicant did not comply with the approved scope of work in a manner that made the project eligible.
- The applicant failed to report the receipt of any additional funds received after a DOB analysis was conducted.

All applicants who have been identified for the recapture of program funding will not be able to close out of the program until all funds have been repaid to the program.

Closeout

The Project Completion Report and back-up documentation must be completed, the national objective must be met, there cannot be any outstanding compliance review findings on the project, and all required audits must be approved.

The project will be ready for closeout when the following conditions are met:

- All eligible activities are completed in accordance with the scope of work agreed upon within the signed grant agreement, as modified and as certified by an engineer.
- All funds are expended in full or the remaining funds are intended to be returned to HUD.
- All reporting requirements are completed.
- Any special conditions of the program are met.
- All audit and monitoring issues are resolved.
- Mitigation measure metrics are all reported
- A final duplication of benefits check has been performed.
- All closeout forms are submitted
- The 2nd public hearing has been held (this should occur midway through the project).

More information about audit requirements can be found in the CDBG Grant Administration Handbook in Chapter 8, Monitoring and Closeout.

Subrogation

Subrecipients must agree to subrogate (commit to GOED) any future payments that they may receive after the award amount is determined from sources that represent a potential DOB. The subrogation agreement requires the applicant to notify GOED if additional funds are received. The subrecipient will provide GOED with a description of the funding received. GOED will verify the complete a DOB analysis to determine whether the funds received are duplicative. If the funds received are deemed duplicative, the applicant is required to return the funds to GOED.