



# Subrecipient Housing Repair and Replacement Program Subrecipient Policies and Procedures

Version 1.1  
April 4, 2024

## **VERSION HISTORY**

<b>Version Number</b>	<b>Change Date</b>	<b>Summary of Changes</b>
1.0	3/17/2023	Original Document
1.1	04/04/2024	<p>As of July 1, 2023, and per Florida HB 5, ch. 2023-173, L.O.F. the former Florida Department of Economic Opportunity has been renamed the Florida Department of Commerce, referred to as “FloridaCommerce.”</p> <p>To reflect this change, all references to the former Florida Department of Economic Opportunity (including “the Department” and “DEO”) have been updated to represent FloridaCommerce. Associated branding (including logos, fonts, and colors) has been updated throughout the document.</p>

## **VERSION POLICY**

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

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

## **POLICY CHANGE CONTROL**

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

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## 1.0 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 (AP)** – 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).

**Adjusted Gross Income (AGI)** – Gross income minus adjustments to income. Gross income includes your wages, dividends, capital gains, business income, retirement distributions as well as other income.

**AFFH** – Affirmatively Furthering Fair Housing.

**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 BFE 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



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damage, or substantial improvement must be elevated with the lowest floor, including the basement, at least two feet above the BFE.

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

**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.

**CENST** – Categorically Excluded Not Subject to § 58.5.

**CEST** – Categorically Excluded Subject to § 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 Commerce’s Office of Long-Term Resiliency, homeowner, subgrantee, contractor, subcontractor, and project architect and/or engineer, as appropriate, prior to implementation.

**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 Commerce’s monitoring report, or an environmental review memo sent to the subgrantee and/or subrecipient that, if not addressed or corrected, may result in a finding.

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

**Contractor** – An entity competitively selected to provide clearly-specified goods or services meeting the procurement requirements at 2 CFR 200, Section 287.055, Florida Statutes, and Section 255.0525, Florida Statutes.

**CP** – Citizen Participation

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

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**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 Commerce. In Community Development Block Grant-Disaster Recovery grant agreements, the subgrantees and/or subrecipients are required to pay in advance for all completed work that is associated with the deliverables set forth in the subrecipient agreement and is reimbursed based on the invoice and supporting documentation submitted to the Department of Commerce.

**CPD** – Community Planning and Development.

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

**DBA** – Davis-Bacon 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.

**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.

**DR** – Disaster Recovery

**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.

**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.

**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 Commerce and deposited in a Duplication of Benefits Gap Funding Account prior to the execution of the Homeowner Grant Agreement.

**Eligible Property** – A property that is located within designated areas or is located outside of the designated area and is substantially damaged and is a health and safety risk.

**Eligible receipt** – Proof of payment for items and services that are strictly for rebuilding, rehabilitating, or demolishing the disaster-affected structure.

**EA** – Environmental Assessment

**EIS** – Environmental Impact Statement

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**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.

**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

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

**Florida Department of Commerce (FloridaCommerce)** – Administrator of the Community Development Block Grant-Disaster Recovery and Community Development Block Grant-Mitigation programs funded by the U.S. Department of Housing and Urban Development. FLORIDACOMMERCE is the governor-designated state authority responsible for administering all long-term disaster recovery funds awarded to Florida from the U.S. Department of Housing and Urban Development. As used in this document, “FloridaCommerce” refers to the Florida Department of Commerce.

**FONSI** – Finding of No Significant Impact

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

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

**HA** – Housing Assistance

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

**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. For workforce training activities, the test of meeting low-to-moderate income requirements is based on the income of the household.

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

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

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

**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.

**Ineligible Receipts:** receipts for repairs that are completed on detached buildings such as garages or sheds, and personal items such as food, clothing, gasoline, tools, and equipment.

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

**LBP** – Lead Based Paint.

**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

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

**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 HUD.

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

**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.

**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.

**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

**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.”

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

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

**PNP** – Private Non-profit Organizations.

**PA** – (Federal Emergency Management Agency) Public Assistance

**Post- event fair market value** – the land and dwelling value for parcels, as determined by each subrecipient, after the disaster.

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

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

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

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

**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.

**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 defined 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 200.

**Rebuild Florida** – A disaster recovery program created by the Florida Department of Commerce 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 Commerce’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 Commerce.

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

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**Request for Qualifications (RFQ)** – A bidding solicitation where an entity request vendor to provide a cost quote to provide goods or services. RFQs are often used to procure the services of an engineering or architectural firm.

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

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

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

**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 135 and 24 CFR 75, as applicable, relating to employment and other economic opportunities for low and very low-income persons.

**Section 3 Business or Business Concern** – As related to Section 3 of the of the Housing and Urban Development Act of 1968, as amended:

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

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

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

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

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

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

**SHPO** – State Historic Preservation Officer

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**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 to Bid”. Solicitations under negotiated procedures are called “Requests for Proposals.” Solicitations under simplified acquisition procedures may require submission of either a quotation or an offer.

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

**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 Commerce to agreed-upon eligible disaster recovery activities documented in a Subrecipient Agreement.

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

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

**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;

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## ***Subrecipient Housing Repair and Replacement Program Subrecipient Policies and Procedures***

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

**UGLG** – Unit of General Local Government

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

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

**Urgent Need** – A recent need that poses a serious and immediate threat to the health or welfare of the community.

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

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

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

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

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



## **2.0 Preface**

The U.S. Department of Housing and Urban Development (HUD) provides supplemental Community Development Block Grant- Disaster Recovery (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 applicable disaster specific Allocation Announcement Notice (AAN) 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. Grant 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 disaster recovery grants by a formula that considers the amount of damage received in the area and the amount of unmet need that remains after considering other federal disaster assistance provided.

The Florida Department of Commerce's (FloridaCommerce) Rebuild Florida Subrecipient Housing Repair and Replacement Program (HRRP) will provide housing assistance to those affected by applicable Presidentially Declared Disasters that have been granted CDBG-DR funds. This may include single-family owner occupants, owners of rental properties, and Public Housing Authorities (PHAs).

## 3.0 Purpose

This This Office of Long-Term Resiliency (OLTR) Subrecipient HRRP Subrecipient Policies and Procedures Manual (the “Manual”) for the HRRP provides overarching program guidance to assist program staff, subrecipients, and subrecipient subcontractors in implementing and managing disaster recovery grants through the HRRPs regulated by Appendix B of Federal Register Vol. 87, No.23 February 3, 2022 (the “Consolidated Notice”).

This Manual identifies applicable federal regulations that govern CDBG-DR funds, delineates state-level responsibilities for FloridaCommerce OLTR staff members from its subrecipients’ responsibilities, and provides the administrative framework for subrecipient responsibilities for the specified disaster(s) HUD allocations. It provides subrecipient staff with implementation and management tools necessary to monitor their projects and deliver a compliant HUD program.

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

To ensure consistent application of the procedures outlined in this Manual, it is the intent of OLTR to provide clear and concise guidance regarding the general requirements that apply to subrecipients and contractors. It is the responsibility of FloridaCommerce’s disaster recovery staff to ensure that recipients of CDBG-DR funding comply with all provisions of this Manual, state and federal rules and regulations, and the grant award agreement. FloridaCommerce will provide technical assistance for each subrecipient applying for disaster recovery assistance funding and will monitor those subrecipients who are successful in obtaining funding.

Subgrantees and subrecipients must also carry out proper and efficient grant administrative practices. This Manual is intended to provide clear areas of responsibility to ensure consistent application of the procedures outlined herein. It is anticipated that circumstances will arise that will require deviations from the processes outlined in this document. In those instances, the reason for the deviations needs to be clearly documented and included in the subgrantees file. In some cases, these circumstances will require amending this document to include new or revised policies or procedures to accommodate these situations.

This Manual governs the following disasters:

1. Hurricane Sally—2020 Disaster

FloridaCommerce’s OLTR can be contacted at:

Florida Department of Commerce  
Office of Long-Term Resiliency  
107 East Madison Street  
Caldwell Building, MSC 420  
Tallahassee, FL 32399  
(850)-717-8404

## 4.0 Introduction

This Manual is intended to assist subrecipients in the administration of CDBG-DR funds. CDBG-DR follows many of the same rules and regulations as the entitlement and small cities CDBG. However, there are key differences, particularly in how funds are allocated among activities and communities and the categories in which funds may be spent.

Disaster Recovery grants often supplement disaster programs of the Federal Emergency Management Agency (FEMA), the Small Business Administration (SBA), the U.S. Army Corps of Engineers (USACE), and any other entities. 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.

HUD provides supplemental CDBG-DR funds as 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 and any applicable special provisions. Grant funds are generally based on unmet disaster recovery needs and made available to states and units of general local government, tribes, and insular areas, unless otherwise specified in the supplemental appropriation legislation. HUD generally awards noncompetitive, nonrecurring disaster recovery 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. Florida has received such an allocation for the recovery associated with a federally declared disaster.

Eligible activities in housing, infrastructure and economic development must meet at least one of three national program objectives, as described in the National Objectives and Eligible Activities sections of this document. Unless otherwise restricted by statute or provided by waiver, funds may be used for any activity eligible under Section 105(a) of the Housing and Community Development Act (HCDA) 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. For the Sally allocations, 70 percent of beneficiaries are to be LMI persons under the guidelines for the 80 percent allocation. For the 20 percent set-aside competitive allocation, all direct benefit activities must benefit 100 percent LMI, and indirect benefit activities must benefit at least 51 percent LMI.

Eligible activities must be specified in a grant recipient's Action Plan, and funded activities cannot duplicate funding available from other sources such as the FEMA, the SBA, insurance, or any other sources of public or private funding that are available to undertake the same activity.

For the HRRP disaster recovery program initiative, OLTR administers the federal funding allocation and oversees local implementation of disaster-recovery projects by UGLGs, also referred to as subrecipients, once they are under contract with OLTR. Each UGLG's proposed project is competitively ranked for funding. Upon notice of preliminary eligibility, OLTR will schedule a pre-award site visit to assess potential subrecipient capacity and plans for project implementation. After a successful pre-award site visit and review of grant application materials, UGLGs may receive a final notice of award that identifies the projects funded and the level at which each is funded.

FloridaCommerce has established two objectives for the HRRP. First, FloridaCommerce and its subrecipients will prioritize assistance for at-risk and vulnerable populations. Households with one or more of the below characteristics will be prioritized by subrecipient housing programs: (1) households with members over the age of 62, (2) households with members with disabilities, and/or (3) households with children under the age of 18. To ensure that protected classes, vulnerable populations, and other historically distressed and underserved communities have reasonable access to recovery efforts, subrecipients will be asked to prioritize these persons in addition to at-risk and vulnerable populations with the greatest need. Second, in an effort to increase resilience and protect human life, in addition to

***Subrecipient Housing Repair and Replacement Program Subrecipient Policies and Procedures***

following Florida building codes, FloridaCommerce is requiring construction methods that emphasize quality, durability, energy efficiency, sustainability, and mold resistance.

## 4.1 Hurricane Sally – 2020 Disaster

Hurricane Sally made landfall in Gulf Shores, Alabama, west of Pensacola, on September 16, 2020, as a Category 2 hurricane and brought hurricane-force winds along with torrential rains, a long duration storm surge, and significant freshwater flooding. Due to the storm’s asymmetrical structure, intensity, and slow movement, several communities in Northwest Florida suffered the brunt of the storm suffering damage to housing, businesses, and infrastructure. Due to the storm surge and rainfall, many roads and small bridges were washed out, while several other roads were made completely impassable. Thousands of structures were damaged in the HUD-identified Most-Impacted and Distressed (MID) areas—Escambia and Santa Rosa Counties—and approximately 50 structures were destroyed, while many other homes suffered roof and siding damage in the three state-identified MID areas, Okaloosa, Walton and Bay Counties.

In the wake of Hurricane Sally, Florida came together to recover and rebuild, but significant unmet needs remain. Recognizing this, Congress appropriated, and HUD allocated, an initial \$113,191,000 in funding which was published in Federal Register Vol. 87, No. 23 on February 3, 2022. Then HUD published AAN No. 22-049 to allocate an additional \$74,192,000 for a total of \$187,383,000 in funding to support long-term recovery efforts following Hurricane Sally through FloridaCommerce’s CDBG-DR Program. This funding is designed to address needs that remain after other assistance has been exhausted, including federal assistance as well as private insurance. FloridaCommerce is the entity responsible for administering the CDBG-DR funds allocated to the state.

FloridaCommerce recognizes its fiscal and regulatory responsibility to administer these funds consistent with all federal and state requirements. FloridaCommerce’s State of Florida Hurricane Sally Action Plan for Disaster Recovery (Action Plan) was approved by HUD on August 5, 2022. The Rebuild Florida HRRP for Hurricane Sally was launched on February 14, 2023.

In order to ensure that the funds assist the most-impacted areas, 80 percent must be expended on disaster recovery in HUD-identified "most impacted and distressed" (MID) areas for eligible disaster-related activities; these areas include Escambia and Santa Rosa County. The remaining 20 percent of funds may be spent in state-identified MID communities, which include Bay, Okaloosa, and Walton Counties.

**Table 1: Program Overview**

<b>Housing Repair and Replacement Program Overview</b>	
Applicable Appropriation Law	Public Law 117-43
Applicable Federal Register Notices	87 Fed. Reg. 23 (February 23, 2022)
Applicable Presidential Disaster Declaration	FEMA 4564-DR

	Eligible Counties	Initial Budget
HUD MID Areas	Escambia and Santa Rosa Counties	\$36,000,000
State MID Areas	Bay, Okaloosa, and Walton Counties	\$9,000,000

## 5.0 Overview of CDBG-DR

Before federal disaster recovery funds are made available to the State of Florida, the state must agree to accept CDBG-DR funds from HUD and prepare an Action Plan for HUD's approval. The Action Plan outlines how the funds will be used, describes the method of distribution to the recipient local governments, delineates the state's grant administration process, and defines when changes to the Action Plan are considered Substantial Amendments requiring public review and comment.

OLTR has the responsibility of notifying local governments of the amount of funding they can receive, preparing an application form that local governments can use to apply for funding, and preparing an application-review checklist. UGLGs have their own set of responsibilities in applying for, obtaining, and managing funding. These requirements are more fully laid out within this manual. UGLGs are encouraged to contact OLTR if further guidance is required.

HUD provides guidebooks for grantees and subrecipients under the CDBG-DR Program section on its website at <https://www.hudexchange.info/programs/cdbg-dr/toolkits/>.

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*FloridaCommerce's OLTR is responsible for developing a needs assessment and writing an Action Plan based on the requirements outlined in the Federal Register. A draft Action Plan must be made available for public comment. HUD will approve the final Action Plan and subsequently release funds to the state to select and monitor the approved projects.*

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## 6.0 National Objectives

The core purpose of CDBG-DR is for the state and its subrecipients to meet national objectives through eligible projects related to the impacts of relevant declared disasters.

### 6.1 Meeting a National Objective

All projects funded under CDBG-DR must meet the LMI National Objective:

Seventy percent of the overall funding benefit must meet the first national objective (i.e., it must be for the benefit of LMI persons.) For any project to count toward the 70 percent LMI National Objective goal, at least 51 percent of beneficiaries in a project area must be LMI individuals or households. For the State MIDs receiving 20 percent of the funding, 100 percent of funds must be used to benefit LMI persons or households for both direct- and indirect-benefit projects.

Subrecipients must identify the national objective of each proposed project and the percentage of LMI persons or households that will benefit from each project. OLTR will determine the eligibility of an activity and whether a national objective is met as a part of the application-review process. See 24 Code of Federal Regulations (CFR) 570.483 for more information about national objectives.

### 6.2 National Objective Documentation and Records

Under CDBG regulations, a project is not considered to have met a national objective until it has provided complete documentation that verifies the national objective has been met. Subrecipients must be aware of the national objective category and document compliance throughout the life of the project or program.

Subrecipients must maintain records showing that funded activities meet one of the national objectives. This information will also be useful in reporting performance measures information.

**LMI Housing Direct Benefit:** Documentation should include households' income verification (using the Adjusted Gross Income [AGI] definition of "household income,") including source documentation.

## 7.0 Federal Register Notices

Federal Register Notices explain the congressional legislative intent of funding allocations. Generally, Federal Register Notices cite the specific disaster event/s, the amount of funding available, the geographic location of the areas to be assisted, and broad parameters for implementation. All disasters 2020 and onward are governed by the Consolidated Notice. All disasters receiving CDBG-DR funds will also be subject to any conditions or additional guidance outlined in the applicable AAN. The following Federal Registers also contain applicable AANs:

- Hurricane Sally – 2020 Disaster: Federal Register Vol. 87, No. 23 - Docket No. FR-6303-N-01

Federal Register Notices are linked on each disaster's corresponding page on the OLTR website at [FloridaJobs.org/CDBG-DR](https://FloridaJobs.org/CDBG-DR).

## 7.1 Citizen Participation

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

- Copies of all notices of public hearings held and proof of publications relating to the CDBG-DR program;
- Lists of persons attending public hearings and minutes of the meetings;
- Evidence of publicized citizen complaint procedures;
- Copies of citizen inquiries and complaints and correspondence responding to the inquiries and complaints;
- A copy of the Citizen Participation Plan with an adopting resolution;
- Records documenting implementation of, and compliance with, the Citizen Participation Plan; and
- Citizen-complaint procedures.

## 7.2 Beneficiaries

All CDBG-DR activities, except for planning and administration, are required to provide a benefit to the community. If CDBG-DR funds are spent and then, at the time of closeout, there are no apparent beneficiaries, then the cost will be disallowed. Therefore, all activities must be completed and must provide the benefit as outlined in the contract documents. Benefits may be either direct (e.g., housing rehabilitation) or indirect (e.g., infrastructure, public facilities).

When subrecipients report beneficiaries, they must maintain files that demonstrate the source of beneficiary data. For example, if a subrecipient reports beneficiaries from the retention or addition of new jobs within the community due to the rehabilitation of a shopping center, OLTR staff should be able to readily determine the validity of that data through the subrecipient's record keeping. Similarly, for projects qualified based on census or surveys, the completed project must correspond with the parameters of the project approved in the application. It is generally acceptable to exceed the number of beneficiaries outlined in the application, but it is inadvisable to reduce the number of beneficiaries without prior approval from OLTR.

Seventy percent of the overall funding benefit must meet the first national objective, i.e., it must be for the benefit of LMI persons. For any project to count toward the 70-percent LMI national objective goal, at least 51 percent of beneficiaries on an area basis must be LMI individuals or households. CDBG-DR

## ***Subrecipient Housing Repair and Replacement Program Subrecipient Policies and Procedures***

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funds allocated through the 20-percent allocation to state MID areas must benefit 100 percent LMI beneficiaries. Indirect activities such as Hometown Revitalization must meet the 51-percent Low Moderate Limited Clientele (LMC) threshold, while direct benefit activities such as housing must meet the 100-percent threshold.

Subrecipients must identify the national objective of each proposed project and the percentage of LMI persons or households that will benefit from each project. OLTR will determine the eligibility of an activity and whether a national objective is met as a part of the application-review process. See 24 CFR 570.483 for more information about national objectives.



## 8.0 Subrecipient Applications

FloridaCommerce has designed this CDBG-DR program in compliance with the national objectives and will ensure that assistance is prioritized toward the most disadvantaged populations to address unmet housing needs. FloridaCommerce intends to spend a minimum of 70 percent of program funds on activities that benefit the LMI population. LMI status is determined by evaluating income as a percentage of the Area Median Income (AMI) in the region in which the applicant lives.

In addition, a minimum of 80 percent of funding will be spent in HUD-identified MID areas; while up to 20 percent of the remaining funding will be spent in state-identified MID areas.

### 8.1 Eligible Applicants

To be considered eligible, applicants must be located in an identified MID area for the applicable Presidentially Declared Disaster event. Applicants are deemed eligible to apply for funding based on the terms and conditions of the applicable AAN, Action Plan, and policies and procedures.

#### 8.1.1 Hurricane Sally – 2020 Disaster

For Hurricane Sally, eligible applicants in the following counties may apply for funding.

Eligible Counties and Zip Codes	
Bay	Santa Rosa*
Escambia*	Walton
Okaloosa	

\*HUD MID Counties

UGLGs, including affected municipalities within the aforementioned counties, are also eligible.

### 8.2 Storm Tie-Back

Before any activity can be funded in whole or in part with CDBG-DR funds, the activity must be determined eligible under Title I of the HCDA, as amended. Federal requirements state that funds may be used for 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 communities affected by the specified disaster. Requirements provide that funds be directed to areas with the greatest need. All CDBG-DR funded eligible activities must tie to storm damage as specified in and not prior to the Presidential Disaster Declaration, unless allowed by an alternative requirement (e.g., mitigation activities allowable by Federal Register or applicable AAN).

### 8.3 Program Requirements

To be eligible for consideration of funding, UGLGs must propose programs or projects that align with CDBG-DR and FloridaCommerce requirements and priorities as outlined in the applicable Action Plan, AAN, and the Consolidated Notice including but not limited to those set forth below:

- Projects must demonstrate tie-back to the specified disaster,
- Projects must not duplicate benefits;
- Projects must support LMI housing needs; and
- Projects must primarily serve LMI populations or demonstrate an urgent need in the community.

## 8.4 Eligible Activities

Eligible activities are outlined in each applicable Action Plan and listed below:

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

## 8.5 Ineligible Activities

Ineligible activities identified in the Consolidated Notice include:

- The use of CDBG-DR for forced mortgage payoff;
- The use of CDBG-DR funds to provide compensation to beneficiaries for losses stemming from disaster-related impacts;
- Construction of a dam/levee beyond original footprint without obtaining pre-approval from HUD;
- Incentive payments to households that move to disaster-impacted floodplains;
- Assistance to privately-owned utilities;
- Failure to prioritize assistance to businesses that meet the definition of a small business; or
- Assistance for second homes and funding of buildings for the general conduct of government activities identified in 24 CFR 570.207.

Any activity that is not authorized under Section 105(a) of the HCDA is ineligible to be assisted with CDBG-DR funds, unless explicitly allowed by waiver and alternative requirement in the Consolidated Notice.

## 8.6 Use of CDBG-DR as Match

CDBG-DR funds may be used to meet a matching, share, or contribution requirement 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, the maximum amount of CDBG-DR funds that may be contributed to a USACE project is \$250,000.

*Note: The Appropriations Act prohibits supplanting the use of CDBG-DR funds for any activity reimbursable by, or for which funds are also made available by, FEMA or USACE*

## 9.0 Site Visits

### 9.1 Pre-Award Applicant Site Visits

OLTR may visit applicants prior to an award of funds. The Pre-Award Site Visit is a fact-finding trip to evaluate application materials for accuracy and viability. OLTR staff will interview local government staff, design professionals, and consultants responsible for the application. During this visit, OLTR staff may also visit the proposed project site. OLTR may use the information gained from the Pre-Award Site Visit to determine if a project activity is eligible, meets a national objective, and is an allowable cost.

### 9.2 Initial Subrecipient Site Visits

Site visits are initial on-site visits from OLTR once an application is received, ranked, and funded. The purpose of the site visit is to determine the subrecipient's readiness to proceed and compliance with the grant agreement. OLTR will issue letters to each subrecipient outlining documentation that will be required during the site visit.

### 9.3 Application Documentation

During the Pre-Award Application Site Visit, OLTR will review documentation used to support the application. This will include items such as service-area maps and field visits, claims made in the application regarding the project's location and purpose, budgetary information, key staff, and other items. In most cases, this review will be similar to the review conducted during the Pre-Award Site Visit. However, between the Pre-Award Site Visit and execution of the Subrecipient Agreement, application documentation will probably be clarified and improved with additional information (better maps, engineering plans, service area refinements, tie-back to the storm, etc.).

### 9.4 Local Policies Review

During site visits, all required local policies will be reviewed for compliance with state and federal requirements.

### 9.5 Site Visit Report

Once OLTR has conducted a site visit, the subrecipient will receive a report containing a summary of the outcome. The report may indicate that FloridaCommerce requires additional documentation from the subrecipient, or the visit may be satisfactory without the need for further follow-up.

## 10.0 Subrecipient Agreement

Following application reviews, the Pre-Award Site Visit to verify the information in the application, and completion of the risk analysis, the subrecipient award process is initiated. During this process, contract numbers are provided by the Operations Unit and initial information regarding the subrecipient is entered into the Subrecipient Enterprise Resource Application (SERA) system, FloridaCommerce's grants management system. The Subrecipient Agreement is prepared, including scope of work and other attachments, but it is modified to meet the needs of the CDBG-DR program. This subrecipient agreement template is prepared within OLTR and then reviewed by OLTR's Budget, Grants, and General Counsel offices. Subrecipient agreements are sent unsigned, to the subrecipient for review and approval. The subrecipient then signs and returns the agreement to FloridaCommerce. A final review is completed, the contract is executed by FloridaCommerce, and the requisite information is entered into SERA and the Integrated Disbursement and Information System (IDIS).

### 10.1 Amendments

During the term of the Subrecipient Agreement, changes may need to be made to the Agreement. If the Agreement requires revisions, the Subrecipient Agreement Modification form is used; this form is available online or may be sent to the subrecipient by OLTR staff. This form is filled out by the subrecipient and submitted to the Grant Manager for review and approval by OLTR. Typical modifications include extending the Subrecipient Agreement, budget revisions, and scope of work revisions. These amendments, along with procedures for requesting and reviewing these amendments, are discussed below.

- **Extension of Timeline:** Must be requested when the subrecipient determines that all project work cannot be completed prior to the Subrecipient Agreement expiration date.
- **Budget Revisions:** Must be requested for:
  - A need to revise the number of proposed accomplishments or beneficiaries;
  - Transfer of excess administrative funds to an approved project activity;
  - Transfer of unobligated funds from a completed activity to another activity; and
  - Transfer of funds from one activity to another activity.
- **Scope of Work:** Must be requested when expanding or reducing the approved scope of work to be performed. For instance, if a project was approved to make façade improvements to eight business fronts, but the subrecipient has enough funds to add a ninth business an amendment must be submitted. Approval of project amendments is subject to the availability of funds remaining in the project's approved budget. In addition, all amendments must be reviewed by OLTR's Environmental Unit to determine if the amended scope of work requires an additional environmental review. Changing the scope of work usually involves a budget modification as well. Requests increasing the scope of work without an increase in the budget does not generally require an amendment.

#### 10.1.1 Procedures for Submitting and Acting on an Amendment Request

Requests for amendments must be submitted by the subrecipient no later than 45 days prior to the Subrecipient Agreement expiration date. All amendments must be submitted on the Modification to Subrecipient Agreement form (available upon request) along with a transmittal letter explaining the need and providing a justification for the proposed amendment. The transmittal letter must be signed by the subrecipient's chief elected official or authorized designee. If an authorized designee is used, OLTR must have documentation on file authorizing the designee to sign on behalf of the subrecipient.

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## ***Subrecipient Housing Repair and Replacement Program Subrecipient Policies and Procedures***

OLTR will provide written notification of approval or disapproval of the Subrecipient Agreement amendment request. All approved amendments will become a part of the original project award and will be subject to all applicable terms of the original Subrecipient Agreement.

*Note: If OLTR finds that a request for amendment is for an action that has already taken place, the amendment may not be approved.*

### **10.2 Subrogation Agreement**

All subrecipients will be required to sign a subrogation agreement which allows one entity to take on the rights of another. In the context of disaster recovery grants, FloridaCommerce must secure the right from the subrecipient 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 duplicative funding received by a subrecipient must be remitted, or accounted for, by the subrecipient regardless of when it was received by the applicant. If a subrecipient receives additional funding for the same purpose as the CDBG-DR-funded grant award, even after an award is executed, the applicant is required to report the additional funding to FloridaCommerce. By accepting the award, subrecipients agree that they will report any duplicative funds to FloridaCommerce as soon as the subrecipient is aware of the duplication. Upon receipt of a report that additional benefits have been received, FloridaCommerce will recalculate the subrecipient's award and provide direction as to whether such funds must be used in construction prior to expending any additional CDBG-DR funding, or whether the subrecipient must remit such amounts to FloridaCommerce as reimbursement. In the event a subrecipient uses CDBG-DR funds on HUD unallowable costs, the subrecipient would be subject to repayment of such funds to FloridaCommerce.

## 11.0 Technical Assistance

To assist subrecipients in complying with all CDBG-DR regulations, policies and procedures, and program guidelines, OLTR staff will provide subrecipients with mandatory technical assistance (TA) throughout the life cycle of the project. TA will include formal trainings (prepared materials and webinars, including subrecipient onboarding) and informal assistance (verbal or written advice, provided as needed, through in-person meetings, emails, or telephone calls). TA will be provided, as needed on program design, program implementation, program execution, federal rules and requirements, and DOB calculation. The nature and rigor of TA is continuously tailored to meet the subrecipient's unique needs.

## 12.0 SERA System

SERA is OLTR's web-based reporting and grants management system. SERA is designed to be the system of record for both the financial and the programmatic components of FloridaCommerce's CDBG-DR program. This system is the means by which subrecipients request cost reimbursement and reconcile online budgets. OLTR will provide each subrecipient with SERA training. A detailed guide to SERA is available, separate from this manual, from OLTR, upon request.

## 13.0 Financial Management

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

- Effective control over, and accountability for, all funds, property, and other assets;
- 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-supported project, including “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 administration and the Finance Officer. The subrecipient program’s administrative office is usually responsible for reviewing and approving all transactions involving CDBG-DR funds before the transactions are processed by the Finance Officer. The administrative office’s responsibilities include such things as the following:

- 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 usually responsible for maintaining 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:

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

Federal requirements that are applicable to financial management may be found in 2 CFR Part 200 and should be reviewed for more detailed information and for other additional information, including special circumstances.

### 13.1 Internal Controls

Internal controls consist of policies and procedures, job responsibilities, qualified personnel, and records management that are designed to safeguard assets such as cash and property. The subrecipient must establish a system of internal controls that meets the following minimum requirements:

- A single individual must not be allowed to exercise complete control over all phases of any significant transaction. For example, the same person cannot purchase materials, receive materials, authorize payment for the materials, 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.



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- Actual lines of responsibility must be clearly established, and a single person 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 records necessary to comply with Florida law and federal requirements. Where possible, accounting policies and procedures of the local government should mirror requirements of the Office of the Auditor General.

## **13.2 Financial System**

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 costs charged against CDBG-DR funds were incurred during the effective period of the subrecipient's agreement with the state, were actually 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 the following:

- **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 remaining copies must be forwarded to the 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** are required for all employees paid from CDBG-DR funds. 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** must demonstrate the program's financial soundness and regulatory compliance. 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* (see below).
- **Space and Utilities costs must be supported by documentation.** Space costs must be supported by documentation such as rental or lease agreements. Utility costs will be supported by bills from utility companies. 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, a reasonable method must be in place to allocate the charges fairly among the sources.

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- **Supplies** documentation includes purchase orders or requisition forms initiated by an authorized representative of the subrecipient, invoices from vendors that have been signed off by the subrecipient to indicate goods were received, canceled checks from vendors demonstrating payment was made, and information regarding where supplies are being stored and for what cost objective(s) they are being used.

Administrative funds are available to subrecipients within the confines of the application budget (up to 5 percent) if costs are related to CDBG-DR programs.

### 13.3 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 that have been issued but not yet filled by vendors should be filed sequentially by purchase-order number. When goods are delivered, invoice is received, and all appropriate approvals obtained, the purchase order 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 maintained 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 CDBG-DR program. 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.

### 13.4 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; and grant fund receipt documentation is filed together. Permanent files contain the documents necessary for undertaking an audit of the program. A single individual should be assigned responsibility for file maintenance.

### 13.5 CDBG 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 discussed below.

- **Cash Receipts Journal:** All receipts of cash that are deposited into the CDBG-DR account(s) are recorded in the cash receipts journal. Receipts may include contract payments to the subrecipient from the CDBG-DR program, 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 and indicate the source of the funds

received, account or activity line item to be credited, 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 to mean 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 entirely using CDBG-DR funds. It must be maintained to comply with state and federal standards relating to acquisition, control, and disposition of real and personal property. Examples of property that 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.

## 13.6 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; and
- Disbursements.

This register is important because it summarizes the status of CDBG-DR cash on hand. It 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 and disbursements and the detailed project ledger.

## 13.7 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.

## 13.8 Accounting for Cash Disbursements

The local government 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

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established. All cash disbursements must be supported by source documentation that fully explains the reason for the disbursement (e.g. invoices, time sheets, payroll vouchers).

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

### **13.9 Subrecipient Financial Management**

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

### **13.10 Allowable Costs**

The standards for determining 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 under the CDBG-DR program as follows:

- The expenditure is necessary, reasonable, and directly related to the grant.
- The cost conforms with any limitations or exclusions established in 2 CFR 200 Subpart E (Cost Principles) or the CDBG-DR award.
- The expenditure is consistent with policies and procedures that apply uniformly to both federally funded and other activities of the state or the subrecipient.
- 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.
- The cost is in accordance with generally accepted accounting principles, except for states, local governments, and tribes only, as otherwise provided for in 2 CFR 200.416 and 2 CFR 200.417 (Cost Allocation Plans and Indirect Cost Proposals), and 2 CFR 200.417 (Interagency Service).
- The cost is not used to meet cost-sharing or matching requirements of any federally-funded program. See 2 CFR 200.306(b) regarding cost sharing and matching.
- 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.

### **13.11 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 the following:

- 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;
- 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;

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- Market prices for comparable goods or services for the geographic area;
- Whether individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-federal entity, its employees, its students, or membership (where applicable), the public at large, and the federal government; and
- Whether the non-federal entity significantly deviates from its established practices and policies regarding incurrence of costs, which may unjustifiably increase the federal award's cost.

### **13.12 Allocable Costs**

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

This standard is met if the cost:

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

#### **13.12.1 Program Income**

Program income means gross income received by a state, an UGLG, or a subrecipient of an UGLG that was generated from use of CDBG-DR funds that exceeds \$35,000 received in a single year, per 24 CFR 570.489(e). Examples of program income include the following:

- Proceeds from the sale or long-term lease of real property purchased or improved with CDBG-DR funds;
- Proceeds from disposition of equipment purchased with CDBG-DR funds;
- Gross income from 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 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; and
- Funds collected through special assessments made against nonresidential properties owned and occupied by households not of low and moderate income when 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 that 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.

### **13.13 Common Deficiencies**

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

- 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; and
- Inadequate or untimely financial reports.

## 13.14 Contract Funding Process

Prior to transmission of contract funds, the subrecipient must complete and submit a SERA Access Authorization Form to OLTR. This form is used to inform OLTR of the names of persons permitted to sign Requests for Funds. Requests for Funds forms must be signed by one or more of the authorized individuals identified on the form. The Signature Authorization must identify the financial institution, its mailing address, telephone number, and the account number to which CDBG-DR funds should be transmitted.

There cannot be any erasures or corrections on the SERA Access Authorization Form. Three copies, each having original signatures, must be submitted to OLTR. Should it be necessary to change or update information on the Signature Authorization Form, the same instructions apply.

The subrecipient 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 subrecipient for return to the U.S. Treasury.

A subrecipient will be able to allocate up to five percent of the total awarded amount for administrative costs, but a subrecipient cannot expend or obligate more than \$5,000 for the administrative costs, prior to receiving a Release of Funds (ROF) from the CDBG-DR program. The release will clearly state that environmental conditions have been approved and funds have been released for expenditure. Furthermore, 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 contract award agreement for special conditions prior to obligating or requesting funds.

## 13.15 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. Records must be maintained for six years from the date of the receipt of the audit for the year in which the grant was closed out per 2 CFR 200.334.

## 14.0 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, gender, national origin, age, disability, and/or family status.

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

- Comply with civil rights laws and conduct the CDBG-DR program in a non-discriminatory manner;
- Take affirmative action when discrimination has been found in the past to overcome the effects of discrimination;
- 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 and maintain records of efforts undertaken to ensure fair housing and conduct four quarterly activities each year to further fair housing; and
- Facilitate desegregation and racially inclusive patterns of occupancy and use of public facilities.

The Civil Rights Checklist is used to monitor subrecipients for compliance with civil rights issues discussed in this section. The checklist can be located at: <https://www.ojp.gov/program/civil-rights>.

### 14.1 Fair Housing Requirements

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 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. These potential impediments include the following:

- 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; and
- Quality of services provided to areas with high concentrations of minority persons.

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

- 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;

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- Creating a local housing authority;
- Advertise the community as a “fair housing community”;
- Developing a public information and education program to promote fair housing and a fair housing assistance program for special needs populations such as minorities, single women, persons with disabilities, and large family households;
- Provide information concerning housing services and activities that can be disseminated through agencies and organizations that routinely provide services to protected groups;
- Meeting with community financial institutions to encourage broad lending practices;
- Working with developers and residents to ensure that new assisted housing is located outside areas of minority or low-income concentrations;
- Assisting local housing developers in developing outreach programs to attract minorities and woman-owned businesses;
- Working with real estate brokers to promote non-discriminatory practices in real estate transactions
- Include a “fair housing” logo on community stationary; and
- 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 because documentation will be required to demonstrate these activities were undertaken during monitoring visits.

## **14.2 Equal Employment Opportunity Requirements**

Local governments should strive to set a high community standard for providing equal employment opportunities. Suggested actions for futhering such opportunities at the local level include:

- Preparing accurate job descriptions for basing all employment-selection and testing criteria;
- Establishing a network of contacts, including workforce boards, newspapers, and radio and television stations, and notifying them of all CDBG-DR-related position openings and requesting assistance in the recruitment process;
- Distributing recruitment literature to women and minority organizations and organizations that assist persons with disabilities and older workers and where appropriate, translating materials into other languages;
- Identifying minority, women, and staff persons with disabilities to assist with applicant interviews and providing these staff persons 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 rates to determine vacancy patterns and 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, persons with disabilities, and lower-income residents;



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- 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; and
- Monitoring contractor compliance at work sites.

### **14.3 Reporting**

Following a grant award to a local government, OLTR is required to review recipient performance relating to civil rights requirements. The areas of the review include:

- 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, 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.

## 15.0 Section 3

For more detailed information on Section 3, see the OLTR CDBG-DR Policy Manual, located on FloridaCommerce's disaster recovery website at [www.FloridaJobs.org/CDBG-DR](http://www.FloridaJobs.org/CDBG-DR).

### 15.1 Section 3 Requirements

Section 3 of the Housing and Urban Development Act of 1968 requires recipients, to the maximum extent feasible, to ensure that area Section 3 residents and businesses receive priority for employment and contracts generated by CDBG-DR projects. Suggested actions include the following:

- Developing lists of minority-owned, women-owned, and local businesses in construction trades, business services, and professional services;
- Contacting minority-owned, women-owned, and contractor associations to obtain information on skill and resource capabilities;
- Establishing an action plan and goals for the use of minority-owned, women-owned, and eligible businesses, including opportunities for subcontracting in procurement and construction contracting-related activities;
- Establishing goals and taking steps to provide opportunities for minority equity investments in funded projects;
- Notifying minority-owned and women-owned firms of contract opportunities, including the date Request for Proposal (RFPs) or bid packages will be available or when Statements of Interest and Qualifications are due; and
- Requiring a Section 3 of the HUD Act of 1968 clause in all contracts.

### 15.2 Section 3 Documentation and Record Keeping

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

- Employment in each local government operating unit that 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-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, disability status, gender of heads of households, and number of elderly benefiting from the project;
- Race and ethnic character of households and disability stats 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 and/or ethnic character of each business that receives a contract or subcontract of \$10,000 more paid with CDBG-DR funds, including identification of women-owned businesses; and
- Actions the local government has taken to overcome the effects of prior discrimination in administering a CDBG-funded program.

## **16.0 Anti-Fraud, Waste and Abuse**

Rebuild Florida constituents, employees and contractors may report suspected fraud, waste, or abuse by contacting Constituent Management Services staff, submitting information via the Report Fraud, Waste or Abuse online form (<https://floridajobs.org/rebuildflorida/report>); all contact information fields are optional to allow for anonymity) or by sending an e-mail to [CDBG-DR\\_antifraudwasteabuse@Commerce.fl.gov](mailto:CDBG-DR_antifraudwasteabuse@Commerce.fl.gov).

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

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

OLTR's comprehensive Anti-Fraud Waste and Abuse Policy can be found at:

<https://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative/subrecipient-resources>.

## 17.0 Procurement of Professional Services and Contract Requirements

This section establishes standards and guidelines for procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services. These standards are provided to ensure that such goods and services are obtained efficiently and economically and in compliance with the provisions of applicable federal and state laws and executive orders.

This section provides an overview of the following federal and state requirements. These regulations should be reviewed for more detailed information:

- 2 CFR Part 200, Subpart D (federal procurement-regulations);
- 24 CFR Part 75 (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);
- 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 Negotiation Act); and
- Section 287.133, Florida Statutes (Public entity crimes).

These standards do not relieve the subrecipient of any contractual responsibilities under its contracts. The subrecipient is responsible, in accordance with good administrative practice and sound business judgment, for settlement of all contractual and administrative issues arising out of procurement for goods and services entered into in support of the subrecipient. These include, but are not limited to, sole source evaluations, protests, disputes, and claims.

In the event that a subrecipient only receives a single response for any procurements, the subrecipient will need to conduct a second solicitation and open the Invitation to Bid (ITB), RFP, or Request for Qualifications (RFQ) a second time to ensure maximum participation. This means that in the event of any single response procurements, subrecipients are expected to bid out twice following the same processes and requirements as the initial ITB, RFP, or RFQ.

The Procurement Desk Monitoring Checklist, the Construction Procurement Monitoring Checklist, the Planning and Design Specifications Checklist, the Property Acquisition Monitoring Checklist, and the Housing Rehabilitation Monitoring Checklist address procurement. Section 3 and minority- and women-owned business requirements are all resources used by OLTR to ensure compliance with federal requirements.

### 17.1 Procurement

Disaster Recovery grant managers are responsible for monitoring subrecipients to ensure procurement methods, contractual requirements, and other reporting requirements are met. Plans and specifications, procurement for professional services, and construction procurement will be monitored by the Disaster Recovery Grant Manager.

Subrecipients are required to adopt local procurement procedures that meet local, state, and tribal laws (as applicable) and conform to the minimum federal requirements outlined in 2 CFR 200.318 if CDBG-DR funds will be used to procure for goods or services. These procurement procedures must be submitted to OLTR program staff. The requirements in 2 CFR 200.318 that must be addressed in subrecipient procurement procedures are as follows:

- Written standards of conduct must be in place covering conflicts of interest that prohibit employees, officers, or agents from participating in selection, award, or administration of a contract if the individual has a real or apparent conflict of interest due to the individual or the

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individual's immediate family, partner, or an organization that employs, or is about to employ, any of the individuals that have a financial or other interest in or a tangible benefit from a firm considered for a contract. The policy should prohibit solicitation or acceptance of gratuities, favors, or anything of monetary value from contractors or parties to subcontractors. Disciplinary actions must be included for violations of these standards of conduct. An OLTR Conflicts of interest Policy is located on the OLTR subrecipient resources page and must be completed for each instance.

- In situations where a non-federal entity has a parent, affiliate, or subsidiary organization that is not a state or local government or tribe, procurement procedures must include written standards of conduct covering organizational conflicts of interest.
- Procedures must be in place to avoid acquisition of unnecessary duplicative items. Consideration should be given to requiring consolidation or division of procurements for more economical purchases, lease-versus-purchase alternatives, and value-engineering clauses.
- Contracts should be awarded only to responsible contractors able to successfully meet the terms and conditions in the contract. Consideration will be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Also applicable is 2 CFR 200.214, which restricts awards, subawards, and contracts with parties that are disbarred, suspended, or otherwise prohibited from participation in federal assistance programs or activities.
- Records should be maintained to detail the history of the procurement, including the rationale for the procurement method, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- Procedures should be developed to handle and resolve disputes relating to the subrecipient's procurement actions.

See 2 CFR 200.318.

## **17.2 Competition**

All procurement transactions must ensure fair and open competition as required by 2 CFR 200.319. Examples of practices that limit competition and are to be avoided include, but are not limited to:

- Establishing unreasonable requirements that would favor one firm over others;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants on retainer contracts;
- Organizational conflicts of interest;
- Requiring use of "brand name" products instead of allowing products that are as good and more economical; and
- Any arbitrary action in the procurement process.

Geographical preference requirements are not allowed unless mandated or encouraged by federal statutes. In contracting for architectural and engineering services, geographical location may be used as a selection criterion provided there are a sufficient number of qualified firms to compete for the contract.

Written procedures for procurement must ensure that solicitations include clear and accurate descriptions for the goods and services to be procured and ensure that all requirements that must be fulfilled and factors to be used in the evaluation process are identified.

Prequalified lists of persons, firms, or products must be current and include a sufficient number of sources to ensure open and free competition.

See 2 CFR 200.319.

## 17.3 Methods of Procurement

- **Micro-purchases:** This method encompasses procurement of supplies or services where the aggregate dollar amount does not exceed the micro-purchase threshold established in 2 CFR 200.320(a)(1), which at the initial publication of this manual is \$10,000.
- **Small purchases:** This method refers to procurement of services, supplies, or other property that does not exceed the Simplified Acquisition Threshold, currently set at \$250,000.
- **Sealed bid:** Bids that are solicited through formal advertising and a fixed price contract is awarded to the lowest, responsive, responsible bidder. This procurement method is the method of choice for construction contracts. Any and all bids can be rejected based on justified documentation.
- **Competitive proposals:** This method is used if the sealed bid process cannot be used. The fixed price or reimbursement contract is awarded to the firm whose proposal is the most advantageous to the program and includes consideration of price and other factors.
- **Noncompetitive proposals:** This method can be used when there is no other feasible procurement method available to select a vendor. This “single-source” or “sole-source” contract is permitted when the item is only available from a single vendor; public exigency or emergency will not allow a delay resulting from a competitive solicitation; or after solicitation from a number of sources, competition is determined inadequate.

Note: Any sole-source, single-source, or noncompetitive contract exceeding \$25,000 must be approved by OLTR staff. For contracts below \$25,000, the subrecipient must document the justification for the award and maintain it in the grant file for review during the next OLTR onsite monitoring visit.

Advertisement requirements for construction procurements are found in Section 255.0525, Florida Statutes.

See 2 CFR 200.320.

## 17.4 Methods of Procurement for Professional Services

Procurement of professional services must comply with Section 287.055, Florida Statutes, and federal procurement regulations (2 CFR 200.320). This federal regulation allows use of competitive proposal procedures for selection of architectural or engineering professional services based on qualifications, subject to negotiation of fair and reasonable compensation.

Procurement of professional services must also comply with Section 287.055, Florida Statutes, also known as the “Consultants’ Competitive Negotiation Act.” Procurement of grant administration services must be a separate process from any other procurement process for services and must comply with all program requirements if CDBG-DR reimbursement for these services will be requested.

## 17.5 Contracting with Small and Minority Businesses, Women Business Enterprises, and Labor Surplus Area Firms

Subrecipients must take affirmative actions to assure the use of minority businesses, women business enterprises, and labor surplus area firms when possible, as required by 2 CFR 200.321. Affirmative actions include:

- Placing small and minority businesses and women-business enterprises on solicitation lists;

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- Soliciting small and minority businesses and women-business enterprises when they are potential sources;
- When economically feasible, dividing requirements into smaller tasks or quantities to encourage participation;
- When possible, establishing delivery schedules that encourage participation;
- Using services and assistance of organizations such as the SBA and the Minority Business Development Agency of the U.S. Department of Commerce; and
- Requiring prime contractors to take affirmative steps, such as those described above, when subcontractors will be used.

See 2 CFR 200.321.

## **17.6 Debarment and Public Entity Crimes**

Section 287.133, Florida Statutes, defines “Public Entity” as the State of Florida, any of its departments or agencies, or any political subdivision. It defines “Public Entity Crime” as a violation of any state or federal law by a person with respect to, and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States. This includes, but is not limited to, any bid, proposal, reply, or contract for goods or services; any lease for real property; or any contract for the construction or repair of a public building or public work involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

The System for Award Management (SAM) is a federal search tool located at <https://sam.gov/content/home>. A Convicted Vendor List, maintained by the Florida Department of Management Services, includes names of persons or affiliates (including firms) convicted of a public entity crime. The Florida Department of Management Services also publishes a quarterly list of convicted vendors in the Florida Administrative Register.

All ITBs, RFPs, and contract documents for procurements exceeding the threshold for Category Two, (presently \$35,000) (Section 287.017, Florida Statutes), must contain a statement that says no person or affiliate on the Convicted Vendors List, for a period of up to 36 months after being placed on the list, may submit a bid on a contract or an RFP or be awarded or perform work as a contractor, supplier, subcontractor, or consultant.

## 18.0 Lead-based Paint, Asbestos, and Mold

Lead-based paint (LBP), asbestos, and mold are factors that affect the environmental review and contracting process. There are clear rules and regulations regarding LBP, whereas asbestos and mold are less codified. These 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. Key among them is the evaluation for the presence of LBP, which is discussed in this section. Also of importance is determining the presence of asbestos and mold and effectively removing these environmental and health issues.

### 18.1 Lead-Based Paint

The presence of LBP in housing units constructed prior to January 1, 1978, is a concern in any housing rehabilitation or demolition project and must be addressed in any activity receiving CDBG-DR funds. Housing units assisted with disaster recovery funding must comply with the federal regulations in 24 CFR Part 35 and be addressed as part of the environmental review of the project. Subrecipients are required to include an assessment of the presence of LBP in their environmental documentation submitted to FloridaCommerce. If LBP is present, its safe removal and disposal must be addressed.

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

- Subpart A—Disclosure of Known LBP and/or LBP 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 LBP Hazard Evaluation and Reduction Activities.

Exemptions to 24 CFR 35 Subparts B through R are described in 24 CFR 35.115 and include:

- Residential construction completed on or after January 1, 1978;
- Zero-bedroom dwelling units, including single-room-occupancy dwelling units;
- Housing exclusively for elderly or 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 LBP has been identified, removed, and clearance has been achieved in accordance with requirements outlined in 24 CFR 35.115(a)(5);
- Unoccupied dwelling units or residential properties pending demolition that will remain unoccupied until demolition;
- Property or a part of a property that will not be used for human residential habitation;
  - Entryways, hallways, corridors, passageways, or stairwells 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.
  - Occupants must be protected from exposure to lead in dust and debris generated from the emergency actions to the extent practical.
- Property seized by a federal law enforcement agency that the agency has owned for fewer than 270 days;
- Required evaluation or LBP hazard reduction or LBP abatement on an exterior painted surface is delayed due to weather conditions or unsuitable conventional construction activities;



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- If requested by the State Historic Preservation Office (SHPO), 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;
  - Interim controls and maintenance and reevaluation must be conducted as required in 24 CFR 35.115(a)(13).

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.

For more information, see 24 CFR 35.115.

Subparts B, J, K, and R are referred to as the Lead Safe Housing Rule and require different approaches to addressing LBP hazards in different housing rehabilitation projects based on the amount of funding assistance. The funding levels are up to and including \$5,000 per unit; more than \$5,000 up to and including \$25,000 per unit; and more than \$25,000 per unit. The method for calculating these threshold amounts can be found in 24 CFR 35.915, and applicable evaluation and hazard reduction requirements are located in 24 CFR 35.930.

Monitoring for LBP is included in the Housing Rehabilitation Monitoring Checklist.

## **18.2 Asbestos**

The subrecipient is required to address asbestos in its environmental evaluation of a housing rehabilitation or demolition project in the environmental documentation submitted to OLTR.

HUD does not have a specific regulation related to asbestos as it does for LBP. 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 before 1978. 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.

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.

## **18.3 Mold**

HUD does not have a specific regulation 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. Mold can be a significant problem in homes that receive water damage due to a qualifying storm event. The U.S. 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.

## 19.0 Environmental Review

The purpose of the environmental review is to analyze the effect the proposed project will have on the people and the natural environment within the project area. This process examines projects relative to the National Environmental Policy Act of 1969 (NEPA), which was established to ensure environmental protection for federally-funded projects. All CDBG-DR funds are subject to provisions of HUD regulations implementing NEPA.

This section covers environmental regulations that must be followed on all CDBG-DR-funded projects. The environmental review must be completed prior to submission of the Environmental Review Record (ERR) to FloridaCommerce. The type of project a Responsible Entity (RE) is completing will determine the level of review and the necessary documentation that will be required.

Three basic steps environmental reviews must follow to correctly complete the review process are as follows:

1. **Project Aggregation:** The RE should 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.
1. **Determine the Level of Review:** The RE must determine which level of environmental review is appropriate for each identified activity within the project scope.
2. **Documentation:** The RE must complete all documents necessary for the appropriate level of environmental review 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.

### 19.1 Project Aggregation

The RE is responsible for the environmental review. Typically, the RE designates a Grant Administrator to complete the environmental review process.

The Grant Administrator should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. Defining the project should include determining all integrally related activities designed to accomplish a specific objective. The project should be described fully and include all details, including all infrastructure being developed in conjunction with the project, regardless of whether additional portions of the project are funded with CDBG-DR funds.

Most projects funded under the CDBG-DR program entail more than one activity. For example, updates to a wastewater treatment plant would have both administration and construction-related activities. The administrative activities are considered exempt from funding, whereas the construction-related activities require an environmental review.

### 19.2 Determine the Level of Review

The RE must ensure the level of environmental review is appropriate for the project in order to correctly complete the necessary documentation. Determining the activity classification is the responsibility of the RE. To do this, the Grant Administrator must list all activities associated with the project and match the activities to the appropriate classification.

Each level of environmental review is defined by HUD. The five environmental classifications are:

- Exempt;
- Categorically Excluded Not Subject to 24 CFR 58.5 (CENST);
- Categorically Excluded Subject to 24 CFR 58.5 (CEST);
- Environmental Assessment (EA); and

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- Environmental Impact Statement (EIS).

The EIS is a comprehensive review for those projects that are larger in scope and will have a significant environmental impact.

Regardless of the number of activities associated with the project, it is only necessary to complete one environmental review due to project tiering. However, if activities have separate classifications, the RE must follow the review steps listed under the most stringent classification.

### **19.3 Exempt Activities**

An activity is exempt and will not require an environmental review when there are no effects on the physical environment. Project activities that fall under this classification include the following:

- Environmental and other studies, resource identification, and development of plans and strategies;
- Information and financial services;
- Administrative and management activities;
- Public services that will not have a physical impact or result in any physical changes, including services concerned with employment, crime prevention, childcare, health, drug abuse, education, counseling, energy conservation, and welfare or recreational needs;
- Inspections and testing of properties for hazards or defects;
- Purchase of insurance;
- Purchase of tools;
- Engineering or design costs;
- Technical assistance and training;
- Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deteriorations;
- Payment of principal and interest on loans made or obligations guaranteed by HUD; and
- Any of the categorical exclusions listed in 24 CFR 58.35(a) provided that there are no circumstances which require compliance with any other federal laws and authorities cited in 24 CFR 58.5.

If the proposed project only entails exempt activities, the RE will not have to publish a Notice of Intent/Request for Release of Funds (NOI/RROF).

For exempt activities, the RE is required to submit the following:

- Certificate of Exemption for HUD-funded projects;
- Documentation of compliance with 24 CFR Part 58.6 (a-d) Form; and
- RROF and Certification (7015.15) form (a state requirement to track funding).

### **19.4 Categorically Excluded Activities Not Subject to 24 CFR 58.5**

A project classified as CENST requires a limited environmental review. Activities that qualify under this classification include the following:

- (1) Tenant-based rental assistance;

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- (2) Supportive services, including healthcare and housing services; permanent housing placement; daycare; nutritional services; short-term payments for rent, mortgage, and utility costs; and assistance in gaining access to local, state, and federal government benefits and services;
- (3) Operating costs, including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs;
- (4) Economic development activities, including equipment purchase, inventory financing, interest subsidy, operating expenses, and similar costs not associated with construction or expansion of existing operations;
- (5) Activities to assist homebuyers to purchase existing dwelling units or dwelling unit construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in transfer of title;
- (6) Affordable housing pre-development costs, including legal, consulting, developer, and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities that do not have a physical impact;
- (7) Approval of supplemental assistance, including insurance or guarantees, to a project previously approved under this part, if the approval is made by the same RE that conducted the environmental review on the original project and the re-evaluation of the environmental findings is not required under 24 CFR 58.47;

If the proposed project is determined to be CENST, the RE will not have to publish a NOI/RROF.

For CENST activities, the RE is required to submit:

- Certificate of Categorically Excluded and Not Subject to 24 CFR 58.5;
- Documentation of Compliance with 24 CFR 58.6 (a-d) form; and
- RROF and Certification Form (this is a state requirement to track funding).

## **19.5 Categorically Excluded Activities Subject to 24 CFR 58.5**

A project that is considered CEST requires a limited environmental review. Activities that qualify under this classification include the following:

- (1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when facilities and improvements are in place and will be retained for the same use without change in size and capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, or repaving of streets).
- (2) Special projects directed to removal of material and architectural barriers that restrict mobility of and accessibility to elderly and handicapped persons.
- (3) Rehabilitation of buildings and improvements when the following conditions are met:
  - (i) In the case of a building for residential use (with one to four units):
    - (A) Density is not increased beyond four units and land use is not changed.
  - (ii) In the case of multifamily residential buildings:
    - (A) Unit density is not changed more than 20 percent;

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- (B) The project does not involve changes in land use from residential to non-residential; and
  - (C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
- (iii) In the case of non-residential structures, including commercial, industrial, and public buildings:
- (A) Facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
  - (B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- (4) The following:
- (i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings, one four-unit building, or any combination in between; or
  - (ii) An individual action on a project for 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
  - (iii) Paragraphs (4)(i) and (ii) immediately above do not apply to rehabilitation of a building for residential use (with one to four units). See paragraph (3)(i) above;
- (5) Acquisition (including leasing) or disposition of 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; and
- (6) Combinations of the above activities

## **19.6 Environmental Assessment Activities**

A project that cannot be classified as exempt or categorically excluded (either CENST or CEST) will require 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. Activities that require an EA include:

- Change in use;
- New construction;
- Major rehabilitation;
- A change in size or capacity by more than 20 percent; and
- New single-family housing in which five or more homes are located within 2,000 feet of one another.

If the proposed project entails an EA activity, the RE must prepare and maintain a written record of the environmental review undertaken for the project. This written record is called the ERR.

## **19.7 Environmental Review Process**

For CEST and EA activities, the RE is required to accomplish the following:

- Determine the appropriate level of review based on effects or activities of the project.

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- Contact appropriate federal, state, and local agencies.
  - Provide a minimum 30 days from the date of receipt for agency comments or concerns. Some agencies may require 45-60 days.
  - It is suggested letters mailed are sent by “Certified Mail, Return Receipt;”
  - Letters included in an email should request a delivery and read receipt.
  - Only the RE may formally contact and consult with the SHPO and Native American Indian Tribes. Letters sent to these agencies must be on the RE’s official letterhead and signed by the RE’s authorized signatory (e.g., the mayor).
    - If a response regarding a project raises concerns or requires further documentation and/or study, it is the RE’s responsibility to address the issue and to obtain necessary documentation, clearances, and/or permits prior to submitting the ERR to FloridaCommerce.
    - Example: SHPO may require a Cultural Resource Survey to be performed in an undisturbed area where construction is proposed. In this event, the RE must complete the survey and receive clearance from SHPO.
- 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).
- Include color maps of the project location; (e.g., Flood Insurance Rate Map [FIRM] or floodplain map).
- Provide a detailed scope of work. This should include all HUD and non-HUD-funded portions of a project or activity.
- At the conclusion of the environmental review, the RE will certify the project meets the appropriate level of review (e.g., CEST or EA). The signature of the RE must occur prior to publication or posting of the NOI/RROF or concurrent public notice.
- Provide the appropriate public notice based on the review conducted.
- The RROF (7015.15) form is signed by the RE.
- Submit the ERR.

## **19.8 Public Notices**

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

- Early Notice and Public; Review of a Proposed Activity in a 100-year Floodplain or Wetland
  - Public comment period: 15 days (publication required);
- Final Notice and Public Review Explanation of a Proposed Activity in a 100-year Floodplain or Wetland
  - Public comment period: seven days (publication required);
- NOI/RROF
  - Public comment period: seven days (published) 10 days (posted); and
- Concurrent Notice-Notice of Finding of No Significant Impact (FONSI) and NOI/RROF
  - 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 date of publication. Notices that are posted must be located in multiple locations (e.g., post office, community center, government offices) and must include a notarized statement verifying posting locations.

## 19.9 Environmental Impact Statement

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 environmental responses collected from applicable agencies.

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

## 19.10 Procedures for Making Determinations on Floodplain and Wetland Management

Projects located within a floodplain or within a designated wetland are subject to Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands) respectively. HUD regulations describe measures for protecting floodplains and wetlands. The required eight-step process is explained below:

1. Determine whether the proposed action is located in a 100-year floodplain and/or wetland. This is determined by reviewing wetland maps and FEMA floodplain maps. If no maps are available, use the best available information. If the proposed action would not be conducted in one of those locations, then no further compliance with this part is required. Categorically excluded (CENST and CEST) projects are not excluded from this process.
2. Notify the public at the earliest possible time of a proposal to consider an action in a floodplain and/or wetland and involve the affected and interested public in the decision-making process. This is accomplished by publishing the Early Public Review Notice.
  - A. 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. A minimum of 15 calendar days will be allowed for comment on the public notice.
  - C. A notice under this paragraph must state the name, proposed location, and description of the activity; the total number of acres of floodplain and/or wetlands involved; and the name of the chief elected official and phone number to contact for information. The notice should indicate hours and address of the UGLG's main office, where a full description of the proposed action may be reviewed.
3. Identify and evaluate practical alternatives to locating the proposed action within the floodplain and/or wetland.
  - A. 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 should consider feasible technological alternatives, hazard-reduction methods and related mitigation costs, and environmental impacts.
4. Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain and/or wetland.

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5. Where practical, design or modify the proposed action to minimize potential adverse impacts within the floodplain and/or wetland and to restore and preserve its natural and beneficial values.
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. Publish the Final Notice of Explanation.
  - A. If the re-evaluation results in a determination that there is no practical alternative to locating the proposed project in the floodplain and/or wetland, the RE shall publish the Final Notice of Explanation that includes:
    - i. The reasons why the project must be located in the floodplain and/or wetland;
    - ii. A list of the alternatives considered; and
    - iii. All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values.
  - B. In addition, a minimum of seven calendar days should be provided for public comment before the approval of the proposed action. This notice may be run concurrently with either the FONSI/RROF or the NOI/RROF.
8. Upon completion of the decision-making process in Steps 1 through 7, implementation of the proposed action may proceed. There is a continuing responsibility to ensure that mitigating measures identified in Step 7 are implemented.

See 24 CFR 55.20.

### **19.11 Re-evaluation of Previously Cleared Projects**

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

- A written statement on the RE's letterhead explaining why the re-evaluation must occur and how it was conducted;
- Reference to the original ERR and the issuance of funds (7015.16);
- Description of both old and new project activities;
- Maps delineating both old and new project areas;
- All correspondence with any contacted agencies;
- Cost of the project and funding source(s);
- Determination as to whether the original FONSI is still valid; and
- Indications on whether comments or concerns were received during the initial environmental review.

The written statement is to be 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 an EA or EIS.



## 20.0 Construction Bids and Contract-Administration Requirements

A critical responsibility of subrecipients is the bid and contracting process for construction. OLTR will assist subrecipients with these requirements. The primary responsibility for compliance with federal and state requirements is, however, the subrecipient's.

- **Advertisements:** Bids should be advertised to garner interest from a pool of qualified contractors, and the process must be fair and open. To that end, the subrecipient may advertise via the means that best suits its needs, generates an adequate pool of contractors, and is in accordance with local policy and federal and state procurement guidelines.
- **Required Bid Documents:** Bid documents must include the scope of work, a bid form, required federal conditions (standard language and wage decisions, if applicable), bidding instructions, and basic bid information (e.g., time, place, due date, etc.).
- **Scope and Cost Estimates:** The subrecipient will prepare scope and cost estimates prior to issuance of the bid. The scope is necessary to develop the bid documents, and cost estimates are a guide for evaluation of bids received. Cost estimates are the basis for the rejection of bids that are deemed to be non-responsive (e.g., too low).
- **Pre-construction Conference:** A preconstruction conference may be held to discuss the project and field questions. During the conference, all questions will be answered.
- **Bid Bond:** Bid bonds are required for bids in excess of \$150,000 or according to local policy.
- **Bid Submission and Bid Opening:** Sealed bids are submitted by a certain time and to a certain place and are opened in public: Vendors and the public may be present at bid openings.
- **Bid Tabulation and Award:** Bids are tabulated and awarded according to the procurement policy of the subrecipient and in accordance with federal and state guidelines. Awards are to go to the lowest bidder unless a valid reason is provided.
- **Payment and Performance Bond:** Payment and performance bonds are required for contracts in excess of the simplified purchase threshold of \$150,000, or local policy, whichever limit is lowest. In some cases, FloridaCommerce may approve alternative bonding, but this requires advance notification and planning. Not all vendors or subrecipients may be approved for alternative bonding.

### 20.1 Required Contract Clauses

Pursuant to 2 CFR 200.327, contracts must contain the applicable provisions described in Appendix II of 2 CFR Part 200. In addition, the following contract language must be included on all construction contracts by reference. Please note that the wage decision, if applicable, must be included into the contract document.

#### 20.1.1 Laws and Regulations

The CDBG-DR allocation to the State of Florida is governed by the following laws and regulations:

- The Housing and Community Development Act of 1974;
- Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155), as amended;
- Section 18 of the Small Business Act, as amended (15 U.S.C. 647);
- 44 CFR 206.191 Duplication of Benefits (DOB);
- DOB Federal Register, Vol. 76, No. 221, November 16, 2011 (76 FR 71060) Public Law 113-2;

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- Disaster Relief Appropriations Act, 2013 (at HR 152-34);
- HUD Federal Register Notice at 78 FR 14329 published March 5, 2013;
- HUD Federal Register Notice at 78 FR 23578 published April 19, 2013;
- HUD Federal Register Notice at 78 FR 76154 published December 16, 2013;
- The applicable laws of the State of Florida; and
- By laws and regulations promulgated by the State of Florida for the CDBG-DR program.

In addition to the citations noted, the CDBG-DR allocation is also subject to “cross-cutting” federal requirements referenced herein and contained in 2 CFR 200 Sub-part F.

### **20.1.2 Federal Changes**

The subrecipient shall at all times comply with all applicable federal regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in the contract between FloridaCommerce and the subrecipient, as such federal regulations, policies, procedures, and directives may be amended or promulgated from time to time during the term of the contract. The subrecipient’s failure to so comply shall constitute a material breach of contract.

### **20.1.3 Assignability**

The subrecipient will not assign or transfer any interest in the Subrecipient Agreement without prior written consent of FloridaCommerce, provided, however, that claims for money due or to become due to the subrecipient from FloridaCommerce under the Subrecipient Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to FloridaCommerce.

### **20.1.4 Access to Records**

The subrecipient agrees that the federal awarding agency, Inspectors General, the Comptroller General of the United States, the State of Florida, or any of their authorized representatives have the right of access to any documents, papers, or other subrecipient records that are pertinent to the federal award in order to make audits, examinations, excerpts, and transcripts. This right also includes timely and reasonable access to the subrecipient’s personnel for the purpose of interviews and discussion related to such documents.

Reference: 2 CFR 200.337

### **20.1.5 Record-retention Requirements**

The subrecipient agrees that financial records, supporting documents, statistical records, and all other subrecipient records pertinent to a federal award shall be retained for a period of six years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or the State of Florida in the case of a subrecipient. Federal awarding agencies and the State of Florida may not impose any other record retention requirements upon the subrecipient. The only exceptions are:

- If any litigation, claim, or audit is started before the expiration of the six-year period, records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action has been taken;
- When the subrecipient is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or the State of Florida to extend the retention period;

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- Records for real property and equipment acquired with federal funds must be retained for three years after final disposition; and
- When records are transferred to or maintained by the federal awarding agency or the State of Florida, the three-year retention requirement is not applicable to the subrecipient.

Reference: 2 CFR 200.334

### **20.1.6 Remedies for Noncompliance**

If a subrecipient fails to comply with federal statutes, regulations, or terms and conditions of a federal award, the federal awarding agency or the State of Florida may impose additional conditions, as described in 2 CFR 200.208 Specific Conditions. If the federal awarding agency or the State of Florida determines that noncompliance cannot be remedied by imposing additional conditions, the federal awarding agency or the State of Florida may take one or more of the following actions, as appropriate in the circumstances:

- Temporarily withhold cash payments pending correction of the deficiency by the subrecipient or more severe enforcement action by the federal awarding agency or State of Florida;
- Disallow (i.e., deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
- Wholly or partly suspend or terminate the federal award;
- Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and federal awarding agency regulations or, in the case of the State of Florida, recommend such a proceeding be initiated by a federal awarding agency;
- Withhold further federal awards for the project or program; and
- Take other remedies that may be legally available.

Reference: 2 CFR 200.339

### **20.1.7 Breaches and Dispute Resolution**

- **Disputes:** Disputes arising in the performance of the Subrecipient Agreement that are not resolved by agreement of the parties will be decided in writing by the FLORIDACOMMERCE Administrator's authorized representative or designee. This decision is final and conclusive unless, within 21 calendar days from the date of receipt of its copy, the subrecipient mails or otherwise furnishes a written appeal to the Administrator or the designee. In connection with any such appeal, the subrecipient shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Administrator or designee will be binding upon the subrecipient, and the subrecipient will abide by the decision.
- **Performance During Dispute:** Unless otherwise directed by FloridaCommerce, the subrecipient shall continue performance under the Subrecipient Agreement while matters in dispute are being resolved.
- **Claims for Damages:** Should either party to the Subrecipient Agreement suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents, or others for whose acts they are legally liable, a claim for such damages will be made in writing to such other party within a reasonable time after the first observance of such injury of damage.
- **Remedies:** Unless the Subrecipient Agreement provides otherwise, all claims, counterclaims, disputes, and other matters in question between FloridaCommerce and the subrecipient arising out of or relating to this agreement or its breach will be decided by the terms of the Subrecipient Agreement and venue for any actions arising out of the Subrecipient Agreement shall be in the Circuit Court of Leon County. The Parties explicitly waive any right to jury trial.

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- **Rights and Remedies:** Duties and obligations imposed by Subrecipient Agreement documents and rights and remedies available under the contracts shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or available by law. Failure to exercise any right or remedy in this Agreement or failure by FloridaCommerce to require strict performance does not affect, extend, or waive any other right or remedy available or affect the later exercise of the same right or remedy by FloridaCommerce for any other default by the subrecipient.

### **20.1.8 Termination**

The federal award may be terminated in whole or in part as follows:

- By the federal awarding agency or the State of Florida, if a subrecipient fails to comply with the terms and conditions of a Federal award;
- By the federal awarding agency or the State of Florida for cause;
- By the federal awarding agency or the State of Florida with the consent of the subrecipient, in which case the two parties must agree upon termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; and
- By the subrecipient upon sending to the federal awarding agency or the State of Florida written notification detailing the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if the federal awarding agency or the State of Florida determines in the case of partial termination that the reduced or modified portion of the federal award or sub-award will not accomplish the purposes for which the federal award was made, the federal awarding agency or the State of Florida may terminate the federal award in its entirety.

When a federal awarding agency terminates a federal award prior to the end of the period of performance due to the subrecipient's material failure to comply with the federal award terms and conditions, the federal awarding agency must report the termination to the integrity and performance system designated by the Office of Management and Budget accessible through SAM unless. The federal awarding agency is not to make the report of termination until:

- The subrecipient has either
  - Exhausted its opportunities to object to or challenge the decision (see 2 CFR 200.342 Opportunities to object, hearings, and appeals); or
  - Failed, within 30 calendar days after being notified of the termination, to inform the federal awarding agency that it intended to appeal the federal awarding agency's decision to terminate.
- If a federal awarding agency, after entering information into the designated integrity and performance system about a termination, subsequently learns that any of that information is erroneous, the federal awarding agency must correct the information in the system within three business days.
- If a federal awarding agency, after entering information into the designated integrity and performance system about a termination, subsequently obtains an update to that information that could be helpful to other federal awarding agencies, the federal awarding agency is strongly encouraged to amend the information in the system to incorporate the update in a timely manner.
- Federal awarding agencies shall not post any information that will be made publicly available in the non-public segment of designated integrity and performance system that is covered by a disclosure exemption under the Freedom of Information Act. If the subrecipient asserts within seven calendar days to the federal awarding agency that posted the information, that some of the information made publicly available is covered by a disclosure exemption under the Freedom of Information Act, the federal awarding agency that posted the information must remove the posting

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within seven calendar days of receiving the assertion. Prior to reposting the releasable information, the federal agency must resolve the issue in accordance with the agency's Freedom of Information Act procedures.

When a federal award is terminated or partially terminated, both the federal awarding agency or the State of Florida and the subrecipient remain responsible for compliance with requirements in 2 CFR 200.344 Closeout and 2 CFR 200.345 Post-Closeout Adjustments and Continuing Responsibilities.

References: 2 CFR 200.340; 78 FR 78608, Dec. 26, 2013, as amended at 80 FR 43309, July 22, 2015

### **20.1.9 Insurance Requirements**

The subrecipient assumes all risks, incident to or in connection with its purpose, to be conducted herein under and shall indemnify, defend, and hold the State of Florida harmless from damage or injuries of whatever nature or kind to persons or property arising directly or indirectly out of the subrecipient's operations and arising from acts or omissions of its employee and shall indemnify, defend, and hold harmless the State of Florida from any penalties for violation of any law, ordinance, or regulation affecting, or having application to, said operation or resulting from the carelessness, negligence, or improper conduct of Contractor or any of its agents or employees.

In this connection, the subrecipient shall carry Insurances in the following amounts: \*TBD

**\*Contact your FLORIDACOMMERCE representative if this section needs to be used. In most cases you will follow your local requirements.**

The State of Florida shall be furnished with a certificate of insurance that provides that such insurance shall not be changed or canceled without 10 days prior written notice to the State of Florida. Certificates of Insurance shall be delivered to the State of Florida prior to the commencement of the agreement. The policy shall include the State of Florida as either co-insured or additional insured.

The Subrecipient 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 Subrecipient shall comply with Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a), which 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.

### **20.1.10 Equal Opportunity**

The following equal employment opportunity requirements apply to the underlying contract:

- **Race, Color, Creed, National Origin, Sex:** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. Section 2000e, and Federal transit laws at 49 U.S.C. Section 5332, the subrecipient agrees to comply with applicable equal employment opportunity requirements of U.S. Department of Labor regulations, "Office of Federal Contract Compliance Programs, Equal

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Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 et seq.,(which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. Section 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the project. The subcontractor agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the subrecipient agrees to comply with any implementing requirements HUD may issue.

- **Age:** In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. Section 623 and federal transit law at 49 U.S.C. Section 5332, the subrecipient agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the subrecipient agrees to comply with any implementing requirements HUD may issue.
- **Disabilities:** In accordance with Section 102 of the Americans with Disabilities Act (ADA), as amended, 42 U.S.C. Section 12112, the subrecipient agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R Part 1630, pertaining to employment of persons with disabilities. In addition, the subrecipient agrees to comply with any implementing requirements HUD may issue.

References: Executive Order 11246 September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations 41 CFR Part 60.

### **20.1.11 Civil Rights**

- **Nondiscrimination:** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. Section 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. Section 6102, Section 202 of the ADA, 42 U.S.C. Section 12132, and federal transit law at 49 U.S.C. Section 5332, the subrecipient agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the subrecipient agrees to comply with applicable federal implementing regulations and other implementing requirements HUD may issue,
- The subrecipient agrees to comply with nondiscrimination policies in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. Applicable nondiscrimination provisions in Section 109 of the HCDA are still applicable.
- The subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the HCDA as amended, Section 504 of the Rehabilitation Act of 1973, the ADA, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

References: 29 U.S.C. Section 623, 42 U.S.C. Section 2000, 42 U.S.C. Section 6102, 42 U.S.C. Section 12112, 42 U.S.C. Section 12132, 49 U.S.C. Section 5332, 29 CFR Part 1630, 41 CFR Parts 60 et seq.

### **20.1.12 Conflict of Interest**

In the context of CDBG-DR funded projects, activities, and/or operations, a conflict of interest would arise when any person who is a public servant, employee, agent, consultant, officer, or elected official or appointed official of FloridaCommerce, or of any designated public agencies, or of subrecipients that are

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receiving funds under the CDBG-DR Program may obtain a financial or personal interest or benefit that is or could be reasonably incompatible with the public interest, either for themselves, or with those whom they have business, or an organization which employs or is about to employ any of the parties indicated herein, or a member of their family unit during their tenure or for two years after.

Reference: 2 CFR 200.112

### **20.1.13 Copyrights**

FloridaCommerce reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes, the copyright in any work developed under the contract and to any rights off copyright to which a subrecipient purchases ownership with grant support.

### **20.1.14 Lobbying**

Subrecipients who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on lobbying." Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an office or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant, or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier, up to the State of Florida Department of Capital Planning and Resiliency.

References: 31 U.S.C. 1352 as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65; 49 CFR Part 19, 49 CFR Part 20

### **20.1.15 Intellectual Property**

2 CFR 200.448 outlines payment of patents and royalties associated with intellectual property. While this is not a common occurrence in the CDBG-DR program, it is a required citation for contracts.

## **20.2 Subcontractor Documentation**

Any subcontractors not identified in bid documents should provide the data or necessary information to verify eligibility, sign required certifications, provide assurance to comply with Section 3 of the HUD Act of 1968, as amended, and handle other responsibilities outlined in the prime contract.

## **20.3 Notice to Proceed**

After execution of the contract documents and notification of the subrecipient(s) and subcontractor(s) responsibilities, a Notice to Proceed should be issued to each subrecipient. The notice should state the construction start date and scheduled completion date. Onsite work cannot proceed until the environmental review is completed and a notice of ROF is issued by OLTR.

## **20.4 Monitoring Contractor Progress**

The purpose of monitoring construction contracts is to ensure compliance with technical specifications and state and federal requirements, maintain adequate cost and budget controls, and process necessary contract changes to bring the construction project to completion on time.

## 20.4.1 Change Orders

The following activities must occur for change orders:

- Change orders must be prepared and recommended by the architect or engineer overseeing the project;
- Costs associated with change orders must be assessed for “cost reasonableness”;
- A supporting statement that describes why the proposed change is deemed necessary must accompany each change order;
- The fully-executed change order must contain the signatures of the architect or engineer, contractor, and subrecipient representative authorized to sign change orders; and
- A copy of the fully-executed change order must be maintained within the project file.

## 20.4.2 Inspecting and Accepting the Work and Final Payment

When construction work has been completed, the following steps must be taken:

- The contractor must certify completion of work to the subrecipient and submit a final request for payment.
- The subrecipient must then arrange for a final inspection by its Project Manager.
- The subrecipient and the subrecipient’s architect or engineer should attend the final inspection and prepare a written report of the inspection prior to the subrecipient’s issuance of a final certificate of payment.
- An engineer’s certification that the construction work is final, complete and in substantial conformance with approved plans and specifications and a certificate of occupancy for housing units and other buildings are required to be submitted before final payment.

Before making final payment (less retainage), the subrecipient must ensure:

- All weekly payrolls and statements of compliance have been received and checked and any discrepancies have been resolved.
- All discrepancies identified via onsite interviews have been resolved.
- All other required equal employment opportunity and labor standards provisions have been satisfied.
- All subrecipient agreement conditions, terms, reports, and other submission requirements have been received.
- All claims and disputes involving the contractor have been resolved.
- All files are complete.
- As-built information has been provided to the engineer.
- A Final Wage Compliance Report is drafted and placed in the Labor Standards Compliance file.

## 20.4.3 Inspections

When construction work has been completed; an inspection is required:

- The contractor must certify completion of work to the subrecipient and submit a final request for payment.
- The subrecipient must then arrange for a final inspection by its Project Manager.
- The subrecipient and the subrecipient’s architect or engineer should attend the final inspection and prepare a written report of the inspection prior to the subrecipient’s issuance of a final certificate of payment.



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- An engineer's certification that the construction work is final, complete, and in substantial conformance with the approved plans and specifications and a certificate of occupancy for housing units and other buildings are required to be submitted before final payment.

### **20.4.4 Record Keeping**

The subrecipient is responsible for keeping accurate construction records. The files should include complete invoicing backup, labor standards, Equal Employment Opportunity compliance, excluded parties' compliance, a current and executed contract with all executed change orders, notice to proceed, purchase orders, inspection reports, final inspections, warranties, and correspondence. Records must be maintained for a minimum of six years from the date of which the project was officially closed out.

## 21.0 Davis-Bacon Act Labor Standards

The Davis-Bacon Act (DBA) applies to all construction contracts greater than \$2,000 unless the program's authorizing legislation contains exceptions. It requires that all workers or mechanics working on projects covered by the act be paid minimum hourly wages and fringe benefits according to the wage decision(s) applicable to that contract. If any portion of a contract requires DBA, then all work performed under the contract is subject to DBA. In the CDBG-DR program, only rehabilitation of residential property containing fewer 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 Work 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 must be paid one-and-one-half times their normal hourly rate for any hours worked in excess of 40 hours weekly, based on a workweek 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.

### 21.1 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.

### 21.2 Wage Decisions

Subrecipients are required to determine which wage decision applies to their project. To find a wage decision, subrecipients should go to the U.S. Department of Labor's Wage Determinations Online site at <https://sam.gov/content/wage-determinations>. After determining the correct wage decision, the document should be included in bid and contract documents.

The contract, the wage decision number and version used for each project, the date of bid opening, and the date of award must be uploaded into SERA.

### 21.3 Certified Payroll Review

During project construction, the local government must monitor compliance with DBA, CWHSSA, and the Copeland Act by reviewing contractor and subcontractor payrolls. DBA applies to laborers and mechanics working on any project when the primary contract exceeds \$2,000. It does not apply to supervisory staff if 80 percent of their time during the workweek 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.

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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 the 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.

### 21.4 HUD Form 11 and Onsite Posters

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 or subcontractor. Onsite interviews should be conducted whenever possible, but mail interviews are acceptable if onsite 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). The form used is HUD Form 11 “Record of Employee Interview,” which can be found online at the HUD website.

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 greater than \$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 that check and that it was received. If there are overtime violations, the local government must assess contractor-liquidated damages of \$10 per day, per worker for those who should have received overtime. Restitution is also required. The contractor may request waiver of liquidated damages through FloridaCommerce.

The contractor must also post the wage decision on site and a Labor Standards poster that outlines the requirements of labor standards. The poster and wage decision should be in an area protected from the weather as much as possible, such as inside of a job box or in a construction trailer.

OLTR will monitor compliance with labor standards until the project is complete. 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 confirmed and/or added with Department approval;
- Ensuring *trainee* and *apprentice* labor classifications are applied in accordance with regulations for those titles;
  - The Florida Office of Apprenticeship and Training must certify the helper, trainee, or apprentice program. If trainees or apprentices are used, the contractor must provide a copy of the state certification to the subrecipient and the FLORIDACOMMERCE Disaster Recovery Grant Manager.
- Ensuring signed authorizations are on file for any employees with “other” payroll deductions;
- Ensuring interviews have been conducted with the prime contractor’s and any subcontractor’s employees;
  - HUD Form 11 can be used for interviews.
- In the case of multiple wage decisions, investigating payrolls to ensure that they distinguish which wage was applied to each worker; and
- Posting of the wage-rate decision in a conspicuous location the project site and posting a copy of “Notice to All Employees Working on Federal or Federally Financed Construction Projects.” A

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## ***Subrecipient Housing Repair and Replacement Program Subrecipient Policies and Procedures***

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:

- Inappropriate use of the *apprentice* and *trainee* classifications;
- Use of a classification that is not in the wage decision or is vague (i.e., “operator”);
- Failure to obtain subcontractor payrolls;
- Lack of signed authorizations from workers with “other” deductions;
- Lack of interviews, including not covering enough classifications or failure to interview subcontractors;
- Not treating “salaried” workers covered by DBA 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 not being paid the highest hourly rate possible for that classification.

## 21.5 Reporting

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

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

- Making Davis-Bacon Work: A Contractor’s Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects <http://portal.hud.gov/hudportal/documents/huddoc?id=4812-LRguide.pdf>
- *Making Davis-Bacon Work: A Practical Guide for States, Indian Tribes and Local Governments* ([https://www.hud.gov/sites/documents/21811\\_4813-LR.PDF](https://www.hud.gov/sites/documents/21811_4813-LR.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 ([https://files.hudexchange.info/resources/documents/Module3\\_TrainingSlides.pdf](https://files.hudexchange.info/resources/documents/Module3_TrainingSlides.pdf))

OLTR is working to incorporate these reporting requirements into SERA so that the information may be entered once along with the contract documents. This will streamline the reporting process.

## 22.0 Duplication of Benefits

DOB is a component of the Stafford Act, which governs disaster recovery. Essentially, DOB prohibits recipients of federal disaster funds from being paid twice for the same activity (i.e., for repairs). Disaster recovery subrecipients who have already received funds from private insurance, flood insurance, homeowner's insurance, or other sources for disaster repairs may not also receive CDBG-DR funds for the same repairs. For expanded DOB policies, please refer to the OLTR CDBG-DR Policy Manual on the OLTR webpage.

## 23.0 Acquisition and Relocation

In undertaking CDBG-DR projects, subrecipients may need to acquire real property to complete specific activities. Use of federal funds involving the acquisition, rehabilitation, or demolition of real property, the Uniform Relocation Assistance (URA) and Real Property Acquisition Act of 1970, as amended, may apply. Section 104(d) of the HCDA may be applicable if CDBG-DR funds are involved in demolition or conversion of lower-income dwelling units.

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 subrecipient to ensure that any activities undertaken meet applicable URA requirements. OLTR will provide technical assistance as needed for acquisition and relocation activities.

URA requirements are in 49 CFR Part 24, and Section 104(d) requirements are found in 24 CFR Part 42 Subpart C. Additional regulations are found in 24 CFR 570.606. A useful guide to these 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/1378\\_0](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/1378_0).

## 24.0 Uniform Relocation Act Requirements

The FloridaCommerce URA Policy is available on the Office of Long-Term Resiliency website at [www.FloridaJobs.org/CDBG-DR/](http://www.FloridaJobs.org/CDBG-DR/).

### 24.1 Requirements under 24 CFR 570.606

Some of FloridaCommerce's CDBG-DR activities may trigger requirements of the URA, a government-wide law that governs acquisition of real property and displacement of tenants, businesses, and property owners. This regulation establishes HUD's policy that efforts are to be taken to minimize displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) because of activities undertaken with CDBG-DR funds. It also provides that relocation assistance will be provided to a displaced person based on requirements in 49 CFR Part 24. In the discussion that follows, it is important to remember that the grantee is the State of Florida CDBG-DR program and the subrecipient is the local government that receives a Subrecipient Agreement from the state under the disaster recovery program.

A displaced person is defined in 24 CFR 570.606(b)(2)(i) 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, and/or acquisition for any activity assisted under this part."

URA requirements are complex, and HUD has excellent resources to assist in the URA process.

Handbook 1378 is available on the HUD website at:

<https://www.hud.gov/sites/dfiles/OCHCO/documents/1378CPDH.pdf>.

Subrecipients should consult this comprehensive resource for detailed guidance. In addition, OLTR staff are a resource for assistance prior to undertaking acquisition and relocation activities.

### 24.2 Requirements under 49 CFR Part 24

The URA for Federal and Federally-Assisted Programs is established in Title 49 CFR Part 24. It consists of Subparts A through G. Subpart A establishes that the purpose of the regulations is to ensure owners of real property acquired for federal or federally-assisted projects and persons displaced because 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.

#### 24.2.1 Subpart A: General Requirements

In addition to the purpose described above, this subpart includes the following elements:

- Definitions and acronyms;
- Prohibition of 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;
- Requirements that the state must provide assurances that it will comply with URA if a project is undertaken with federal assistance that will result in acquisition of real property or displacement and is subject to monitoring by HUD and must take measures to minimize fraud, waste, and mismanagement;
- Requirements for information to be contained in notices and how those notices are to be written and delivered;

- Guidelines for administration of jointly-funded projects when two or more federal agencies provide financial assistance to a non-federal agency;
- Authority for a federal agency to waive regulations;
- Lists of other federal laws and regulations with which the implementation of the URA must ensure compliance;
- Requirements for recordkeeping in sufficient detail to demonstrate compliance with the URA requirements, three-year retention, confidentiality of records, and submitting reports every three years or as URA requires on real-property acquisition *and* displacement activities; and
  - Note: OLTR requires records retention for six years.
- Appeal procedures.

## 24.2.2 Subpart B: Real Property Acquisition Requirements

Subpart B encompasses the following:

- Applicability of acquisition requirements;
- Basic acquisition policies;
- Criteria for appraisals;
- Review of appraisals;
- Acquisition of tenant-owned improvements;
- Expenses incidental to transfer of title to the subrecipient;
- Certain litigation expenses; and
- Donations.

## 24.3 Requirements under 24 CFR Part 42

Requirements of 24 CFR 42 are applicable to CDBG-funded programs or activities when LMI housing units, whether occupied or vacant and occupiable, are demolished or converted to a use other than LMI dwelling units. The requirements include the following:

- Demolished or converted units must be replaced on a one-for-one basis with comparable lower-income dwelling units.
  - Replacement units must be in the subrecipient's jurisdiction and, to the extent possible, within the same neighborhood.
  - Replacement units must be of sufficient number and size to house the number of occupants that could have occupied the units being demolished or converted. Replacement housing cannot be smaller than the units they are replacing (i.e., replacing two-bedroom units with one-bedroom units) unless it is demonstrated that the smaller units are consistent with the needs assessment in the HUD-approved consolidated plan. Non-entitlement local governments that do not have a consolidated plan must make available public information demonstrating that the replacement housing is consistent with the housing needs of lower income households in its jurisdiction.
  - Units must be in standard condition. Replacement housing can be obtained from substandard units improved to standard condition, provided no person was displaced from the unit and the unit was vacant for three months before an agreement was executed with the property owner.
  - Units must initially be made available for occupancy at any time during the period beginning one year before the subrecipient makes public the information demonstrating



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- that replacement housing is not required, (see above) and ending three years after the completion of the demolition or rehabilitation related to the conversion.
- 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.
  - Before the subrecipient enters into a contract to provide funds to demolish or convert lower income dwelling units, the subrecipient must make the following available to the CDBG-DR program:
    - A description of the proposed assisted activity;
    - A map of the location identifying the number of dwelling units by size (number of bedrooms) that will be demolished or converted;
    - A time schedule for commencement and completion of the demolition or conversion;
    - A map of the location and the number of dwelling units by size (i.e., number of bedrooms) that will be provided as replacement units;
      - If the information is not available, include the general location on a map, identify the approximate number of dwelling units by size, and provide information as to when the specific location and number of units by size will be submitted and disclosed to the public;
    - The source of funding and the time schedule for providing the replacement units;
    - 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; and
    - Information demonstrating that any proposed smaller units used as replacement units are consistent with the needs assessment in the HUD-approved consolidated plan.
      - For non-entitlement local governments that do not have a consolidated plan, information should be made available to the public demonstrating that the replacement housing is consistent with the housing needs of lower-income households in its jurisdiction.
  - 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 CDBG-DR program staff to support the conclusion the replacement housing is not required. The submitted information must be made public and inform interested parties that they have 30 days from the date of submission to provide FloridaCommerce opposing information. If FloridaCommerce agrees with the request, FloridaCommerce 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 subrecipient. If the appeal is not resolved with the subrecipient, the appealing individual may submit a written request for FloridaCommerce to review the determination. Similarly, in the instance where FloridaCommerce has directly undertaken an activity with which an individual disagrees with FloridaCommerce's displaced-person determination or the amount of relocation assistance provided, a written appeal can be filed with FloridaCommerce. If the appeal is not resolved with FloridaCommerce, the appealing individual may submit a written request for HUD to review the determination. If full relief is not granted, the individual must be advised, by the subrecipient or FloridaCommerce, as appropriate, of his or her right to seek judicial review.

## 25.0 Risk Assessment and Monitoring

For more information regarding Risk Assessment and monitoring, please see the OLTR CDBG-DR Policy Manual and the OLTR Compliance Monitoring Plan at [www.FloridaJobs.org/CDBG-DR](http://www.FloridaJobs.org/CDBG-DR).

### 25.1 Risk Assessment

The purpose of the Risk Assessment is to define the scope and focus of monitoring efforts, including establishing a framework for determining the appropriate level of monitoring. The Risk Assessment is used to determine risk category as high, medium, or low. Based on the Risk Assessment, the individual subrecipient's monitoring plan is developed. The plan includes the method of monitoring (onsite or desk monitoring), specific areas of the program to be monitored, the frequency of monitoring, and areas where technical assistance and training may be needed.

A Compliance Monitoring Plan (CMP) has been developed to assist OLTR in conducting monitoring visits' subrecipients may benefit from reviewing the CMP.

### 25.2 Monitoring Overview

Monitoring ensures that activities specified in the individual Subrecipient Agreements and their progress toward timely completion, allows for early identification of potential issues and problems so that they can be prevented or corrected. Monitoring should follow and reflect the individual subrecipient's monitoring plan.

Once a monitoring plan is finalized by the subrecipient, it should be sent to FloridaCommerce's Grant Manager for review.

### 25.3 Monitoring Preparation

When planning monitoring, subrecipients must follow and review their individual monitoring plan. From this plan, subrecipients can determine which type of monitoring is appropriate (onsite or desk monitoring). Monitoring priority and frequency should be based on the Risk Assessment. Subrecipients may reference OLTR's CMP for further guidance and definitions.

When conducting a monitoring, a standardized monitoring checklist(s) will be used. As a guide to develop this checklist, the subrecipient will utilize their Subrecipient Agreement with FloridaCommerce, any subcontracts procured by the subrecipient (contractors/vendors), and HUD's CPD Monitoring Handbook (6509.2) as applicable to the CDBG-DR program, which can be found at:

[https://www.hud.gov/program\\_offices/administration/hudclips/handbooks/cpd/6509.2/](https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2/).

### 25.4 Monitoring Results

When monitoring is conducted by the subrecipient, the results of the monitoring should be sent to FloridaCommerce's Grant Manager for review.

### 25.5 Technical Assistance

If a subrecipient requests guidance on any portion of the monitoring process, they should contact FloridaCommerce's Grant Manager.

## 26.0 Closeout

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 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 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 subrecipient's chief elected official or by the individual with a designation of signature authority signed by the chief elected official.

After 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.

### 26.1 Closeout Process

The subrecipient must submit a subrecipient agreement closeout report and documentation to the OLTR within 45 days of the termination of the contract or within 45 days of the completion of all activities.

Upon completion of activities contained in the Subrecipient Agreement, including any amendments, the subrecipient shall submit to OLTR a closeout report and documentation (closeout package) that includes the following:

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

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- A list of the homes receiving direct benefit; and
- Certification that each housing unit assisted was within the local government's jurisdiction for housing rehabilitation.

In addition:

- All funds drawn from the subrecipient award and not expended must be returned to OLTR prior to submission of the closeout report;
- The closeout report must contain original signatures;
- If a subrecipient fails to meet contractual requirements on time, OLTR shall financially (not administratively) close out a subrecipient to meet federal requirements for the timely distribution of funds set by HUD; and
- If an audit report is past due, the subrecipient 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, OLTR staff will complete an examination of closeout documents:

- Audit findings
  - There can be no open audit findings.
- CDBG-DR funds on hand
  - Funds cannot exceed \$5,000 and must be properly reflected in the closeout documents.
- Monitoring
  - There can be no open findings.
- Program income (if funds were returned)
  - Unless otherwise authorized, all program income must be returned to OLTR.
- Proper disposition of acquired property
- Meeting all special requirements (i.e., map and certification statement); and
- 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 the OLTR will mail Notice of Outstanding Closeout Issues letter identifying these issues and the actions needed to resolve them.

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

## **26.2 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 and FloridaCommerce 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.

## 26.3 Grant Closeout

After all the activities are completed and after final closeout of the subrecipient agreement, OLTR can close out the grant with HUD. The Grant Accounting Office completes and signs Standard Form 424 (Federal Financial Report) and completes HUD Form 40153 (State CDBG-DR Closeout Checklist). The FloridaCommerce Executive Director or authorized designee signs Form 40153. These forms and all attachments are mailed to:

Director, Community Planning and Development Division, 4HD

Charles E. Bennett Federal Building

U.S. Department of Housing and Urban Development

400 West Bay Street, Suite 1015

Jacksonville, FL 32202

or as specified by HUD.