



Hurricane Irma Voluntary Home Buyout Program Subrecipient Policies and Procedures

VERSION 1.1
December 4, 2023

VERSION HISTORY

Version Number	Change Date	Summary of Changes
1.0	12/29/2021	Original Document Published
1.1	12/4/2023	<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> <p>Updated 5.1 Meeting a National Objective with clarifying language on national objective requirements for the VHB program and included the Urgent Need National Objective</p> <p>Replaced section 19.0 Monitoring and Risk Assessment and its subsections with updated monitoring language creating section 19.0 Compliance Monitoring Plan, CDBG-DR Programs. Language referring readers to the Hurricane Irma Policy Manual for more specific monitoring requirements and procedures is included at the end of the section.</p> <p>Made minor formatting and typographical corrections.</p>

Version Policy

Version history is tracked in the Version History Table (page iii), 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

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

500-year flood plain: The geographical area defined by FEMA as having a 0.2 percent chance of being inundated by a flooding event in any given year.

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

Activity, Project or Program: A housing, infrastructure, economic development, or planning endeavor undertaken by the subrecipient.

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

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

CDBG: Community Development Block Grant

CDBG-DR: Community Development Block Grant – Disaster Recovery

Change order: Work that is added or deleted from the original contract activities to be performed and changes the original contract amount and/or the completion due date. Prior to being implemented, the change order must be approved by FloridaCommerce's OLTR and the homeowner, subrecipient, contractor, subcontractor and project architect and/or engineer, as appropriate.

CFR: Code of Federal Regulations

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

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

Corrective Action: Steps that are required to be taken to resolve findings and/or concerns identified in the FloridaCommerce Disaster Recovery Unit's monitoring report sent to a subrecipient.

Cost Reimbursement: Payment made to the subrecipient after a request for funds has been submitted and approved by the State of Florida. (In CDBG DR agreements, subrecipients initially pay for work completed and then submit a reimbursement request.)

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

Designated Area: the land determined by the subrecipient to be eligible for the VHB Program.

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

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

Duplication of Benefits (DOB): Any assistance provided to a homeowner for the same purpose (i.e., for repair, replacement or reconstruction) as any previous financial or in-kind assistance provided to a

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property owner for the repair, replacement, or reconstruction of his or her home. Rebuild Florida is prohibited from creating a DOB. This prohibition comes from the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) and therefore, these other sources of funds must be deducted from any potential award.

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.

Environmental Review Record (ERR): The environmental file and all documents associated with environmental review activities to be undertaken with CDBG-DR funds.

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.

Finding(s): A specific issue of noncompliance with federal or state regulatory requirements, including CDBG-DR subrecipient agreement provisions, that are identified in a monitoring report produced by FloridaCommerce sent to the subrecipient.

Grantee: As used in this manual, it is FloridaCommerce, the recipient of CDBG-DR funds from HUD.

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

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.

Low-to Moderate-Income Household (LMH): A household in which annual income does not exceed 80% of the median income for the area as most recently determined by HUD.

Low-to Moderate-Income (LMI) Resident, Person, or Individual: A person whose annual income does not exceed 80% of the median income for the area as most recently determined by HUD.

Offer: A response to a solicitation that, if accepted, would bind the offer. Responses to an Invitation to Bid are referred to as “bids” or “sealed bids.”

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

Program Income: The gross income received by the subrecipient that was directly generated from the use of CDBG-DR funds. (Refer to 24 CFR 570.500).

Project Cost: The total of CDBG-DR funds, local and other matching funds, and any business investment in the project.

Project Delivery Cost: Costs specific to meeting the requirements of completing a particular project, especially as it applies to meeting CDBG-DR requirements.

Project, Program, or Activity: Housing, infrastructure, economic development, or planning endeavor undertaken by the subrecipient using CDBG-DR funds.

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

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

Request for Funds (RFF): A subrecipient’s request for funds from FloridaCommerce.

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

Request for Qualifications (RFQs): A bidding solicitation in which an entity asks vendors to provide a cost quote for goods or services. RFQs are often used to procure the services of an engineering or architectural firm.

Request for Release of Funds (RROF): A subrecipient's request for funds to be released. This request is executed through HUD Form 7015.15.

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

Section 3: A HUD regulation relating to providing and tracking employment and other economic opportunities for LMI persons. The rules refer to Section 3 of the Housing and Community Development Act of 1968, as amended, and the implementing regulations, 24 CFR Part 75.

Section 3 Business or Business Concern: As related to Section 3 of the HUD Act of 1968, as amended, this refers to a business that:

- For projects awarded before November 30, 2020 (Old Rule): 51% or more owned by Section 3 residents or whose permanent, full-time employees includes 30% of such residents as employees.
- For projects awarded after November 30, 2020 (New Rule): 51% owned and controlled by low-or very low-income persons; or over 75% of the labor hours performed for the business over the prior three-month period were performed by Section 3 workers; or at least 51% owned and controlled by current public housing residents who currently live in Section 8-assisted housing.

Section 3 Resident: A public housing resident, tribal housing resident, or an individual residing in a metropolitan area or a non-metropolitan county who meets the definition of a an LMI person.

Service Area of Benefit: The total geographic area that will be directly or indirectly served by a subgrant project. that addresses the LMI National Objective, where at least 51% of the residents are LMI persons. The area of benefit must include all areas, and only those areas, that can reasonably be expected to benefit from the project activity.

Solicitation: Any request to submit offers or quotations to a local government. Solicitations under sealed bid procedures are called "Invitations to Bid." Solicitations under negotiated procedures are called "Request for Proposals." Solicitations 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 with a person or an entity to furnish supplies or services required for a larger project contract or another subcontract. It includes 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 primary contractor or another subcontractor.

Subrecipient: A municipality or county that has applied for and has been awarded a CDBG-DR buyout project by the Florida Department of Commerce (FloridaCommerce).

Subrecipient Agreement: An agreement between FloridaCommerce and a municipality or county to undertake activities using CDBG-DR funds.

Subrecipient Enterprise Resource Application (SERA): FloridaCommerce's web-based reporting and grants management system.

Very Low-Income (VLI) Household/Family: A household with an annual income that does not exceed 30% of the median income for the area as most recently determined by HUD.

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

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

2.0 Executive Summary

Hurricane Irma made landfall on September 10, 2017, bringing significant storm surge to coastal areas. (Some counties experienced storm surges of more than 15 feet.) Because of freshwater overflows, flooding in low-lying areas continued for days after Hurricane Irma made landfall. This caused major flooding destruction from the middle of the Florida Keys north through the center of the State. The goal of the Voluntary Home Buyout program (VHB) is to successfully revitalize the affected areas to reduce the risk of future flooding by converting properties to open space, recreational areas or floodplain and wetlands sites, while maintaining the tax base. (“Buyout” refers to the acquisition of properties located in a floodway or floodplain with a goal of reducing the risk of future flood-related residential damage.) To help maintain the tax base, this program will assist low-to-moderate income (LMI) households that were impacted by Hurricane Irma by offering Housing Replacement Awards to sellers that owned and occupied the properties at the time of the disaster.

All counties, and the municipalities within those counties, that received a declaration of both Federal Emergency Management Agency Disaster Assistance, Individual Assistance (FEMA IA), and Public Assistance (PA) after Hurricane Irma are eligible to apply for assistance for non-commercial properties, including owner-occupied structures, residential properties and vacant lots. The local governments will have two potential funding options in this program. The first option is to leverage Community Development Block Grant – Disaster Recovery (CDBG-DR) funding as a match for projects that are also eligible for the Hazard Mitigation Grant Program (HMGP). The second option is to apply directly to Rebuild Florida as a subrecipient to the VHB program, which focuses on LMI households that did not have flood insurance at the time of Hurricane Irma.

Seventy percent of the entire CDBG-DR grant award will be used to benefit LMI persons, while ensuring that properties acquired through the buyouts will be used in a manner that benefits all the residents in an area where at least 51% of the residents are LMI persons. This requirement is necessary to reach U.S. Department of Housing and Urban Development’s (HUD’s) National Objective.

The Florida Department of Commerce’s (FloridaCommerce’s), Office of Long-Term Resiliency (OLTR) CDBG-DR programs are funded by HUD and public laws 115-56 and 115-123. FloridaCommerce is the agency responsible for the administration of disaster funds allocated to housing, economic development, and infrastructure activities. As such, FloridaCommerce is administering Rebuild Florida’s VHB program.

The VHB program will provide local jurisdictions the opportunity to administer a local buyout program through a competitive application cycle. The program is designed to assist property owners in relocating outside of areas that are prone to flooding. Sellers must be in a Special Flood Hazard Area (SFHA) or other high-risk flood areas. All property sellers must be willing, voluntary participants, and the use of eminent domain is strictly prohibited.

Any property acquired, accepted, or from which a structure will be removed pursuant to the buyout project, will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or floodplain and wetland management practices. Subrecipients must develop and implement projects that are compliant with the 2018 Action Plan for Disaster Recovery, all Action Plan amendments, governing Federal Register Notices (6066- N-01, 6109-N-01 and any subsequent notices), the Rebuild Florida VHB Program Design and VHB Guidelines, and all applicable federal, state, and local rules and regulations.

OLTR will provide technical assistance to all UGLGs applying for disaster recovery-assistance dollars and will monitor those subrecipients that are successful in obtaining the funding. This manual provides the administrative framework of subrecipient responsibilities for Irma HUD allocations and it provides the implementation and management tools necessary for subrecipients to monitor their projects and to be HUD-compliant throughout the process.

FloridaCommerce’s OLTR supports each subrecipient’s ability to help their communities achieve long-term goals and grow their local economies by providing compliance requirements that will keep Florida

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in good standing with HUD while also delivering critical services to Floridians. This manual is intended to provide for consistent and efficient information regarding the application of procedures across all Hurricane Irma disaster recovery-related activities regardless of where, and by whom, these activities are conducted.

OLTR anticipates that circumstances will arise in which the application of policies and procedures outlined in this document may lead to unintended consequences and that some circumstances may not fit well within the policy and procedures framework. In these cases, deviations may be justified and necessary. However, any deviation from these policies and procedures must be approved by OLTR, clearly documented in writing, and included in the specific project file.

OLTR also expects that, as the CDBG-DR Program continues for Irma, policies and procedures may need to be updated or amended and that new policies may need to be developed. This document will be updated and revised to encompass the most current methods and requirements for compliance. The latest version of the document will always be available on the FloridaCommerce website at <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative/hurricane-irma/irma-voluntary-home-buyout-program>.

Policy and procedure questions should be directed to the Florida FloridaCommerce's OLTR at the following address:

Florida Department of Commerce
Office of Long-Term Resiliency
107 East Madison Street
Caldwell Building, MSC 420
Tallahassee, FL 32399
(850) 921-3254
CDBG-DR@Commerce.fl.gov

3.0 Introduction

This program manual is intended to assist subrecipients in the administration of Community Development Block Grant – Disaster Recovery (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.

The U.S. Department of Housing and Urban Development (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 Hurricane Irma.

Grant recipients receiving funding directly from HUD must prepare an Action Plan that outlines the overall plan for recovery, the proposed use of the funds, details on how funds will be distributed, and guidance as to how the grant will be administered. The Florida Department of Commerce (FloridaCommerce), under the guidance of the Office of Long-Term Resiliency (OLTR), has prepared and submitted the requisite Action Plan which was subsequently approved by HUD.

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 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 Irma allocations, 70% of beneficiaries are to be persons of low-to moderate-income (LMI) under the guidelines for the 80% allocation. For the 20% set-aside competitive allocation, all direct benefit activities must benefit 100%LMI, and indirect benefit activities must benefit at least 51% 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 Federal Emergency Management Agency (FEMA), the Small Business Administration (SBA), insurance, or any other sources of public or private funding that are available to undertake the same activity.

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

For the Voluntary Home Buyout (VHB) 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.

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This document 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. In addition, information obtained at training sessions and an overview of training sessions will be provided to CDBG-DR staff that did not attend the sessions as part of a continual education program.

4.0 Overview of CDBG-DR

Before federal disaster recovery funds are made available to the state of Florida, (FloridaCommerce OLTR) the state must prepare an Action Plan for HUD's approval using the relevant Federal Register as its requirements guide. A needs assessment must be conducted, programs must be designed, and the state must obtain HUD approval on a capacity assessment, an implementation plan and required certifications. The Action Plan must describe HUD's program goals and eligibility requirements and delineate how the funds will be used. It outlines the application process, defines citizen participation requirements and provides information regarding how any amendments would be considered and processed.

FloridaCommerce's Office of Long-Term Resiliency (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.

Once the Action Plan is approved by HUD, next steps include extensively communicating the funding opportunity and application requirements. The OLTR manages the application and scoring process. These requirements are more fully addressed in this manual. UGLGs are encouraged to contact OLTR if further guidance is required.

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

5.0 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 damage caused by Hurricane Irma.

5.1 Meeting a National Objective

All projects funded supported by HUD's CDBG-DR assistance must meet at least one of HUD's three national objectives:

1. Primarily benefit low-to-moderate income (LMI) persons,
2. Aid in the prevention or elimination of slum or blight, or
3. Meet an urgent need (i.e., an existing condition that poses a serious and immediate threat to the health or welfare of the community and when no other financial resources are available.)

Seventy percent of the overall state funding must benefit LMI persons. For any individual project to count toward the 70% LMI national objective goal, at least 50% of its beneficiaries must be LMI individuals or households.

All projects for the VHB program must meet either the LMI National Objective or the Urgent Need National Objective.

The LMI National Objective may be met through Low Moderate Area Benefit (LMA) national objective criteria or Low Moderate Housing Incentive (LMHI) national objective criteria. To meet LMA benefit the acquired properties acquired through buyouts must benefit all of the residents in an area where at least 51 percent of the residents are LMI persons. When using LMA, subrecipients must define the service area based on the end use of the buyout properties. To meet the LMHI national objective criteria, subrecipients will provide housing incentives tied to a voluntary buyout of housing owned by eligible LMI households which are provided for the purpose of moving the eligible household outside the affected floodplain or to a lower-risk area, or improving the residential structures that will be occupied by the LMI household. When using LMHI, the subrecipient must combine the acquisitions of properties with another direct benefit, such as the housing replacement assistance and allowance program that Rebuild Florida has established as an incentive for VHB. The goal is for CDBG-DR funds and the VHB is to support moving from high risk areas.

Subrecipients should note that second homes acquired through the VHB must meet the LMA national objective criteria in order to meet the LMI National Objective and be considered eligible for VHB. More information on the eligibility of and requirements for the acquisition of second homes can be found in the Voluntary Home Buyout Program Guidelines.

To use the Urgent Need National Objective, the subrecipient must provide justification of the need's urgency, as outlined in section 5.2 below.

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

5.2 National Objective Documentation and Records

Subrecipients must maintain records showing that funded activities meet the LMI National Objective (through either LMA or LMHI) or the Urgent Need National Objective. This information will also be useful in reporting performance measures information.

LMI National Objective Documentation

Documents required to be maintained for purposes of demonstrating that the LMI National Objective is being met are as follows:

- LMI service area boundaries
- Census data, including total persons and percentage of LMI households
- Evidence that the area is primarily residential
- Income verification survey documentation (if applicable)

Urgent Need National Objective Documentation

Documents required to be provided to FloridaCommerce for purposes of demonstrating that the Urgent Need National Objective is being met are as follows:

- A justification demonstrating why the need for assistance is urgent (for example, limited to no access to emergency services in a flood event, significant loss or damage due to flooding, etc.)
 - This justification must be provided to FloridaCommerce on the municipality's official letterhead.
 - If possible, the justification should be from the city's floodplain manager and/or emergency service manager.
- Photos of flooding and damage tied to the storm and supporting the claim of urgency. These photos must be provided with the justification.

Under CDBG-DR regulations, a project is not considered to have met a national objective until it has provided complete verification documentation. Subrecipients must be aware of their project's national objective category and should document compliance throughout the life of the project or program.

6.0 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 the requirements for developing an Action Plan. For Hurricane Irma, the applicable Federal Registers are as follows:

- Federal Register - Docket No. FR-6066-N-01, Volume 83, Number 28
- Federal Register – Docket No. FR-6109-N-01, Volume 83, Number 157
- Federal Register – Docket No. FR-6182-N-01, Volume 85, Number 17

These notices may be found on the Hurricane Irma page of FloridaCommerce’s website at <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative/hurricane-irma>.

6.1 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 both
- A copy of the Citizen Participation Plan with an adopting resolution
- Records documenting the implementation of, and compliance with, the Citizen Participation Plan

6.2 Beneficiaries

All CDBG-DR activities, except for planning and administration, are required to provide evident benefits to a community. If CDBG-DR funds are spent and then, at the time of closeout, there are no apparent beneficiaries, the cost will be disallowed. Therefore, all activities must provide the benefit/s 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 100 housing rehabilitations, 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 not advisable to reduce the number of beneficiaries without prior approval from OLTR.

Seventy percent of the overall state funding must benefit LMI persons. For any individual project to count toward the 70% LMI national objective goal, at least 51% of its beneficiaries must be LMI individuals or households. CDBG-DR funds allocated through the 20% set-aside must benefit 100% LMI beneficiaries. Indirect activities such as infrastructure must meet the 51% LMI threshold, while direct benefit activities such as housing must meet the 100% threshold. 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.

7.0 Subrecipient Applications

Twenty percent of CDBG-DR funding for Irma is competitive among eligible communities. Per HUD requirements (ref: the Action Plan), 80% of the funding is dedicated to the most impacted communities.

7.1 Eligible Applicants

Eligible applicants are delineated in the Federal Register Notice that contains the applicable disaster event and funding approved by Congress. Applicants must apply for funding to be considered.

For Hurricane Irma, the following communities are eligible:

- Monroe County
- Miami-Dade County
- Duval County
- Lee County
- Polk County
- Collier County
- Brevard County
- Broward County
- Orange County
- Volusia County

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

7.2 Eligible Activities

Eligible activities are outlined in the Action Plan and listed below:

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 action plan and the Federal Register, including but not limited to those set forth below:

- Projects must demonstrate tie-back to Irma.
- Projects must primarily serve LMI populations.
- Projects for infrastructure must support LMI housing.
- Projects must not duplicate benefits.

VHB-specific projects that are eligible include, but are not limited to:

- Environmental Reviews
- Buyouts and acquisitions
- Demolitions and clearance

Subrecipients must identify how unmet housing needs will be addressed or how its VHB activities will contribute to the long-term recovery and restoration of housing in the most impacted and distressed areas.

7.3 Ineligible Activities

Ineligible activities identified in the Federal Register, Vol. 83, No. 28, Friday, February 9, 2018, include the use of CDBG-DR for forced mortgage payoff, construction of a dam/levee beyond original footprint, incentive payments to households that move to disaster-impacted floodplains, assistance to privately

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owned utilities, not prioritizing 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. All activities and uses authorized under Title I of the Housing and Community Development Act of 1974 and allowed by waiver. In addition, any activities reimbursable by, or activities for which funds are made available by the Federal Emergency Management Agency (FEMA) or the Army Corps of Engineers are considered ineligible activities.

Costs that are not allowable under this VHB program include, but are not limited to:

- Compensation for land that is already held by an eligible entity. This is the case even if the eligible entity is not the subrecipient for the project. However, in that event compensation for development rights (e.g., obtaining an open space easement) may be an allowable cost.
- The cleanup or remediation of contaminated properties, except for permitted disposal of incidental demolition and household hazardous wastes.
- The acquisition of a property at a rate that exceeds current post-event fair market value.
- The use of housing incentives on a property considered a second home (meaning any home that is not the primary residence of the owner, a tenant, or any occupant at the time of the storm or at the time of application for assistance).

7.4 Application Procedures

Application procedures are outlined in the state's Action Plan. Applications are provided to eligible communities with a common deadline of at least 30 days, after which time they are scored and ranked. Applicants will be notified of the state's decision regarding funding. The state may award funding in full or in part depending on the eligibility of applicant activities, availability of funds, and alignment of applications with the state's goals and objectives.

8.0 Site Visits

8.1 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 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 can be funded.

8.2 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.

8.3 Application Documentation

During the 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.).

8.4 Local Policies Review

Required local policies will be reviewed for compliance with state and federal requirements.

8.5 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 require additional documentation, or the visit may be satisfactory without the need for further follow-up.

9.0 Subrecipient Agreement

Following application reviews, site visits 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's offices. Subrecipient agreements are sent unsigned to the subrecipient for review and approval. The subrecipient signs and returns the agreements to FloridaCommerce. A final review is completed, and the contract is executed by FloridaCommerce, and the requisite information is entered into the SERA and IDIS systems.

9.1 Amendments

During the term of the subrecipient agreement, changes may need to be made to the agreement. If the subrecipient 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 Time: This type of amendment must be requested when the subrecipient determines that all project work cannot be completed prior to the subrecipient agreement expiration date.

Budget Revisions: This type of amendment must be requested for the following:

- 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
- Transfer of funds from one activity to another activity

Scope of Work: This type of amendment must be requested when expanding or reducing the approved scope of work to be performed. For instance, if a project was approved to rehabilitate 20 homes, but the subrecipient has enough funds to buyout additional homes, 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 FloridaCommerce's environmental staff 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. However, increasing the scope of work without an increase in the budget does not generally require an amendment.

9.1.1 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 along with a transmittal letter explaining the need and providing a justification for the proposed amendment. The transmittal letter must be signed by the chief elected official or authorized designee. If an authorized designee is used, OLTR must have a designated authorized signee document on file approving the designee.

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OLTR will provide written notification of approving or disapproving the subrecipient agreement 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.

10.0 SERA System

The Subrecipient Enterprise Resource Application (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 CDBG-DR. This system is the means by which subrecipients draw funds 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.

11.0 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
- 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 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 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
- 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 such things as the following:

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

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

OLTR staff uses the Financial Management I Monitoring Checklist: System Review and the Financial Management II Monitoring Checklist: Transaction Testing Checklist during monitoring visits, which are forms based on HUD’s monitoring checklists and which can be found online at FloridaCommerce’s CDBG-DR website. The first financial management checklist is used on the first pre-award and the initial onsite monitoring visit to review the subrecipient’s internal controls, separation of duties, the accounting system used by the subrecipient, and procedures for determining allowable costs and housing escrow accounts with staff from the local government. The Transaction Testing checklist is usually used at the second onsite monitoring visit to review the subrecipient’s accounting records and checks a sampling of invoices, contracts, distributions, and bank statements to ensure that the local government is complying with federal regulations and state laws.

11.1 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, property, and other assets. 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. This means, for example, that 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.
- 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.

11.2 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 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 that 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: 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.
- 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 not available to subrecipients under this program. Therefore, all overhead costs must be allocated to projects. OLTR will provide guidance on the exact procedure for allocating costs.

11.3 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 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.

11.4 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.

11.5 CDBG-DR Accounting Records

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

11.6 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
- 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.

11.7 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.

11.8 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 1 or 2 weeks may be sufficient. To allow time for orderly processing and requisitioning of CDBG-DR contract funds, cut-off dates for receipt of invoices to be paid the next pay date should be established. All cash disbursements must be supported by source documentation, such as invoices, time sheets, and payroll vouchers, that fully explain the reason for the disbursement.

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

11.9 Subrecipient Financial Management

The information provided in this policies and procedures 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.

11.10 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 24 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.

11.11 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
- 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
- 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.

11.12 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 in this subpart (2 CFR 200, Subpart E, Cost Principles).

11.12.1 Program Income

Program income means gross income received by a state, a unit of general local government, or a subrecipient of a UGLG that was generated from use of CDBG-DR funds that exceeds \$35,000 received in a single year (24 CFR 570.489(e)2). 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
- Funds collected through special assessments made against nonresidential properties owned and occupied by households not of low and moderate income, where such assessments are used to recover all or part of the CDBG-DR portion of a public improvement

Program income received by a subrecipient must be recorded in the subrecipient's financial records system and must be recorded in the same activity line item as generated the program income. Program

income must be spent first on subsequent expenditures; remaining program income after closeout or generated after closeout is returned to OLTR. Program income should be reported to FloridaCommerce's grant manager and OLTR finance manager.

11.13 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
- Inadequate or untimely financial reports

11.14 Contract Funding Process

Prior to transmission of contract funds, the subrecipient must complete and submit to the CDBG-DR program a SERA Access Authorization Form. 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 local government must use a separate non-interest-bearing bank account for CDBG-DR funds. Any interest paid on the account must be remitted to OLTR by the local government for return to the U.S. Treasury.

A subrecipient cannot expend or obligate more than \$15,000 for administration, prior to receiving a Release of Funds from the CDBG-DR program. The release will clearly state that environmental conditions have been removed 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.

11.15 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 6 years from the date of the receipt of the audit for the year in which the grant was closed out (2 CFR 200.333).

12.0 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 where 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.
- 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.

12.1 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
- 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 deconcentration of assisted housing units
- Creating a local housing authority
- Advertise the community as a "fair housing community"

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- 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
- 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.

12.2 Equal Employment Opportunity Requirements

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

- 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 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
- Taking affirmative action to overcome the effect of past discrimination
- Advertising as an equal opportunity employer in bid solicitations
- Soliciting bids from minority, women, and locally owned businesses
- Maintaining a list of locally owned businesses that were awarded contracts

- Informing contractors of equal opportunity requirements at the pre-construction conference or through other means of notification
- Monitoring contractor compliance at work sites

12.3 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 local 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 or bid packages will be available or when Statements of Interest and Qualifications are due
- Requiring a Section 3 of the HUD Act of 1968 clause in all contracts

12.4 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-DR-funded program
- For area-wide activities, information on the area and the services provided and the race and ethnic character of the service area
- Race, ethnic character, age, disability status, gender of heads of households, and number of elderly benefiting from the project
- Race and ethnic character of households and disability status of persons displaced as a result of CDB-DRG 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 or more paid with CDBG-DR funds, including identification of women-owned businesses
- Affirmative actions the local government has taken to overcome the effects of prior discrimination in administering a CDBG-DR-funded program

12.5 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 the following:

- Current employment and personnel policy

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- 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
- The title of the civil rights compliance officer

13.0 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 200, Subpart D (federal procurement regulations)
- 24 CFR 135 (Section 3 of the Housing and Urban Development Act to guide economic development to low- and very-low income local residents and the businesses that hire them)
- Minority and Woman-Owned Business Enterprises reporting requirements
- Section 255.0525, Florida Statutes (advertising for competitive bids or proposals)
- Section 287.055, Florida Statutes (Consultants Competitive Negotiations Act)
- Section 287.133, Florida Statutes (public entity crimes)

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.

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 woman-owned business requirements are all resources used by OLTR to ensure compliance with federal requirements.

13.1 Procurement

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

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 individual's immediate family, partner, or an organization that employs or is about to employ any of the individuals has 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 FloridaCommerce 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 or 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 24 CFR 200.213, 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.

13.2 Competition

All procurement transactions must ensure fair and open competition. Examples of practices that limit competition that are to be avoided include the following:

- 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
- Any arbitrary action in the procurement process

Geographical preference requirements are not allowed unless federal statutes mandate or encourage geographic preference. 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.

13.3 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 200.67, which at the date of this manual is \$3,000.
- Small purchases: This method refers to procurement of services, supplies, or other property that does not exceed the Simplified Acquisition Threshold, currently set at \$150,000.
- Sealed bid: Bids are solicited through formal advertising, and the 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, Florida Administrative Code.

See 2 CFR 200.320.

13.4 Methods of Procurement for Professional Services

Required procurement of professional services must comply with Rule 73C-23.0051(3) of the Florida Administrative Code and federal procurement regulations (2 CFR 200.320(d)(5)). This federal statute 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 Florida Statutes Chapter 287.055, also known as the “Consultant’s 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.

13.5 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. Affirmative actions include the following:

- Placing small and minority businesses and women-business enterprises on solicitation lists
- Solicit small and minority businesses and women-business enterprises when they are potential sources
- When economically feasible, divide requirements into smaller tasks or quantities to encourage participation
- When possible, establish delivery schedules that encourage participation
- Use services and assistance of organizations such as the SBA and the Minority Business Development Agency of the U.S. Department of Commerce

- Require prime contractors to take affirmative steps, such as those described above, when subcontractors will be used

See 2 CFR 200.321.

13.6 Debarment and Public Entity Crimes

Florida Statutes Section 287.133 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 transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States—including 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://www.sam.gov/portal/SAM/##11>. 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 invitations to bid, requests for proposals, and contract documents for procurements exceeding the threshold for Category Two (presently \$35,000) (Section 287.017, Florida Statutes) must contain a statement that 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 request for proposals or be awarded or perform work as a contractor, supplier, subcontractor, or consultant.

14.0 Lead-based Paint, Asbestos, and Mold

Lead-based paint, asbestos, and mold are factors that affect the environmental review and contracting process. Lead-based paint has clear rules and regulations, whereas asbestos and mold are less codified. Nonetheless, these are requirements pertaining to the health and well-being of families and children that must be evaluated in conjunction with building rehabilitation or repair and demolition projects. Key among them is the evaluation for the presence of lead-based paint, 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.

14.1 Lead-Based Paint

The presence of lead-based paint in housing units constructed prior to January 1, 1978, is a concern in any housing rehabilitation or 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 lead-based paint in their environmental documentation submitted to FloridaCommerce. If lead-based paint is present, its safe removal and disposal must be addressed.

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

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

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

- 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 lead-based paint has been identified, removed, and clearance has been achieved in accordance with requirements outlined in 24 CFR 115(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

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- Required evaluation or lead-based paint hazard reduction or lead-based paint abatement on an exterior painted surface is delayed due to weather conditions or unsuitable conventional construction activities.
- If requested by the State Historic Preservation Office, 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(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 is referred to as the Lead Safe Housing Rule and require different approaches to addressing lead-based paint hazards in different housing rehabilitation projects based on the amount of funding assistance. The funding levels are: 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 lead-based paint is included in the Housing Rehabilitation Monitoring Checklist. The checklist can be found on the OLTR Subrecipient Resources page.

14.2 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 lead-based paint. Nonetheless, to ensure housing units are decent, safe, and sanitary, which is a HUD requirement, housing rehabilitation and demolition projects need to determine if asbestos is present, especially in structures built 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.

14.3 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>

Florida Statutes Chapter 468 addresses licensing and qualifications for individuals conducting mold assessments.

15.0 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 a project 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 to FloridaCommerce. The type of project a Responsible Entity 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:

4. **Project Aggregation:** The Responsible Entity 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.
5. **Determine the Level of Review:** The Responsible Entity must determine which level of environmental review is appropriate for each identified activity within the project scope.
6. **Documentation:** The Responsible Entity 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 Responsible Entity is proposing.

15.1 Project Aggregation

The Responsible Entity is responsible for the environmental review. Typically, the Responsible Entity 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.

15.2 Determine the Level of Review

The Responsible Entity 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 Responsible Entity. 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 § 58.5 (CENST);
- Categorically Excluded Subject to § 58.5 (CEST);
- Environmental Assessment (EA); and

- 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 Responsible Entity must follow the review steps listed under the most stringent classification.

15.3 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
- Any of the categorical exclusions listed in § 58.35(a) provided that there are no circumstances which require compliance with any other federal laws and authorities cited in § 58.5

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

For exempt activities, the Responsible Entity 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
- Request for Release of Funds and Certification (7015.15) form (a state requirement to track funding)

15.4 Categorically Excluded Activities Not Subject to § 58.5

A project classified as CENST requires a limited environmental review. Activities that qualify under this classification include the following:¹

- (1) Tenant-based rental assistance

¹ 24CFR 58.35(b)

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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 cost 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 guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under § 58.47.

See 24 CFR 58.35(b)

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

- For CENST activities, the Responsible Entity is required to submit the following:
- Certificate of Categorically Excluded and Not Subject to 24 CFR Part 58.5
- Documentation of Compliance with 24 CFR Part 58.6 (a-d) form
- Request for Release of Funds and Certification (RROF) Form (this is a state requirement to track funding)

15.5 Categorically Excluded Activities Subject to § 58.5

A project that is considered CEST requires a limited environmental review. Activities that qualify under this classification include the following: 2

- (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 in the same use without change in size and capacity of more than 20% (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, 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) Unity density is not changed more than 20%;
 - (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% 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%; 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 or 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.
 - (iii) Paragraphs 4 and 5 immediately above do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph 3.a.i of this section).
- (5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use
- (6) Combinations of the above activities

See 24 CFR 58.35(a)

15.6 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 the following:

- Change in use
- Any new construction
- Major rehabilitation
- A change in size or capacity by more than 20%
- New single-family housing in which 5 or more homes are located within 2,000 feet of one another

If the proposed project entails an EA activity, the Responsible Entity must prepare and maintain a written record of the environmental review undertaken for the project. This written record is called the Environmental Review Record (ERR).

15.7 Environmental Review Process

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

- Determine the appropriate level of review based on effects or activities of the project.
- 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 Responsible Entity may formally contact and consult with the State Historic Preservation Office (SHPO) and Native American Indian Tribes. Letters sent to these agencies must be on the Responsible Entity’s official letterhead and signed by the Responsible Entity (e.g., by the mayor).
 - If a response regarding a project raises concerns or requires further documentation and/or study, it is the Responsible Entity’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 Responsible Entity 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., 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 Responsible Entity will certify the project meets the appropriate level of review (e.g., CEST or EA). The signature of the Responsible Entity 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 Responsible Entity.
- Submit the ERR.

15.8 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: 7 days (publication required)
- Notice of Intent to Request Release of Funds (NOI/RROF)
 - Public comment period: 7 days (published); 10 days (posted)

- Concurrent Notice – Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds
 - 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 include a notarized statement verifying posting locations.

15.9 Environmental Impact Statement

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

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

15.10 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 looking at wetlands 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 shall be allowed for comment on the public notice.
 - C. A notice under this paragraph shall 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 shall indicate hours and address of the UGLG's main office at which 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 Responsible Entity shall consider feasible technological alternatives, hazard-reduction methods and related mitigation costs, and environmental impacts.

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4. Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain and/or wetland.
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 Responsible Entity 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 7 calendar days shall be provided for public comment before the approval of the proposed action. This notice may be run concurrent with either the Finding of No Significant Impact (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.

15.11 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 Responsible Entity 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 the following:

- A written statement on the Responsible Entity'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 when agencies are contacted
- Cost of the project and funding source(s)
- Determination if the original FONSI is still valid
- Indications whether comments or concerns were received during the initial environmental review

The written statement is signed and dated by the Responsible Entity.

If it is determined that the original findings are no longer valid and the re-evaluation indicates potentially significant impacts, the Responsible Entity must prepare an EA or EIS.

16.0 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 Housing and Community Development Act of 1974 may be applicable if CDBG-DR funds are involved in demolition or conversion of lower-income dwelling units.

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/13780

17.0 Duplication of Benefits

Duplication of Benefit is a component of the Stafford Act, which governs disaster recovery. Essentially, Duplication of Benefit prohibits recipients of federal disaster funds from being paid twice for the same activity (i.e., for repairs). Disaster recovery applicants 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. A separate policy document explains Duplication of Benefit, and it should be consulted for more specific details on this aspect of CDBG-DR.

18.0 Uniform Relocation Act Requirements

The FloridaCommerce URA Policy is available on the Office of Long-Term Resiliency website at [http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/office-of-disaster-recovery-main-page/master-v1-0-oltr-ura-rarap-\(9-14-2021\).pdf?sfvrsn=793b51b0_2](http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/office-of-disaster-recovery-main-page/master-v1-0-oltr-ura-rarap-(9-14-2021).pdf?sfvrsn=793b51b0_2).

18.1 Requirements under 24 CFR 570.606

Some of the activities identified in Hurricane Irma CDBG-DR may trigger requirements of the Uniform Relocation Assistance Act (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 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(2) as "any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of rehabilitation, demolition, acquisition for any activity assisted under this part."

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/program_offices/comm_planning/library/relocation/policyandguidance/handbook1378. 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.

18.2 Requirements under 49 CFR 24

The Uniform Relocation Assistance and Real Property Acquisition 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.

18.2.1 Subpart A: General Requirements

In addition to the purpose 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 record keeping in sufficient detail to demonstrate compliance with the URA requirements, 3-year retention, confidentiality of records, and submitting reports every 3 years or as URA requires on real-property acquisition and displacement activities
- NOTE: OLTR requires records retention for 6 years.
- Appeal procedures

18.2.2 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
- Donations

18.3 Requirements under 24 CFR 42

Requirements of 24 CFR 42 are applicable to CDBG-DR-funded programs or activities when lower-income (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 3 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 1 year before the subrecipient makes public the information demonstrating that replacement housing is not required (see above) and ending 3 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.

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- 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
 - 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 the state opposing information. If the state agrees with the request, the state must provide its recommendation and supporting information to the field office. Similar requirements must be met if the state intends to demonstrate that replacement housing is not required.
- Anyone who disagrees with a displaced-person determination or the amount of relocation assistance received can file a written appeal with the subrecipient. If the appeal is not resolved with the subrecipient, the appealing individual may submit a written request for the state to review the determination. Similarly, in the instance where the state has directly undertaken an activity that results in an individual that disagrees with the state's displaced-person determination or the amount of relocation assistance provide, a written appeal can be filed with the state. If the appeal is not resolved with the state, the appealing individual may submit a written request for HUD to review the determination. If full relief is not granted, the individual must be advised, by the subrecipient or the state, as appropriate, of his or her right to seek judicial review.

19.0 Compliance Monitoring Plan, CDBG-DR Programs

19.1 Introduction

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

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

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

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

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

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

Specific information regarding monitoring procedures and requirements is in the Hurricane Irma Policy Manual, which can be located on the Hurricane Irma CDBG-DR website at <https://floridajobs.org/CDBG-DR/Hurricane-Irma>.

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

20.1 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;
- 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 require them to financially (not administratively) close out a subrecipient to meet federal requirements for the timely distribution of funds set by HUD.
- 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, the 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 the FloridaCommerce OLTR.
- Proper disposition of acquired property
 - Meeting all special requirements (i.e., map and certification statement)
- Final engineering certification
 - Certification is required for all public infrastructure activities paid for with CDBG-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.

20.2 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.

20.3 Grant Closeout

After all the activities are completed and all subrecipient agreements are final closed, 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 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.

Appendix A: Acronyms

AGI	Adjusted Gross Income
CDBG	Community Development Block Grant
CDBG -DR	Community Development Block Grant - Disaster Recovery
CENST	Categorically Excluded Not Subject to § 58.5
CEST	Categorically Excluded Subject to § 58.5
CFR	Code of Federal Regulations
CWHSSA	Contract Work Hours and Safety Standards Act
DBA	Davis-Bacon Act
DR	Disaster Recovery
EA	Environmental Assessment
EIS	Environmental Impact Statement
ERR	Environmental Review Record
FEMA	Federal Emergency Management Agency
FONSI	Finding of No Significant Impact
HUD	U.S. Department of Housing and Urban Development
LMI	Low- to Moderate-Income
NEPA	National Environmental Policy Act of 1969
NFIP	National Flood Insurance Program
NOI	Notice of Intent
OLTR	Office of Long-Term Resiliency
RROF	Request for Release of Funds
SAM	System for Award Management
SBA	Small Business Administration
SERA	Subrecipient Enterprise Resource Application
SHPO	State Historic Preservation Office
UGLG	Unit of General Local Government
URA	Uniform Relocation Assistance

Appendix B: Uniform Relocation Act (URA) Information

More information on Uniform Relocation Assistance and the requirements of the Uniform Relocation Act are located in the Office of Long-Term Resiliency Uniform Relocation Assistance Guide and Residential Anti-Displacement and Relocation Assistance Plan located on the Rebuild Florida website at [http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/office-of-disaster-recovery-main-page/master-v1-0-oltr-ura-rarap-\(9-14-2021\).pdf?sfvrsn=793b51b0_2](http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/office-of-disaster-recovery-main-page/master-v1-0-oltr-ura-rarap-(9-14-2021).pdf?sfvrsn=793b51b0_2). This plan includes the recordkeeping and retention requirements to which subrecipients are subject.

Voluntary Home Buyout Standard Operating Procedures relating to Uniform Relocation Assistance requirements are located in the Subrecipient Uniform Relocation Activities Standard Operating Procedure. This document includes information on the following:

- Relocation Notification Requirements,
- URA Recordkeeping Requirements,
- Not Suitable for Rehabilitation Determination
- Documentation of Acquisition Activities for URA