
**COMMUNITY DEVELOPMENT BLOCK GRANT
DISASTER RECOVERY**

**INFRASTRUCTURE & PUBLIC FACILITIES PROGRAM
PROGRAM GUIDELINES**



**MICHIGAN
ECONOMIC**
DEVELOPMENT
CORPORATION



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VERSION

The version history of the policy guidelines is tracked in the table below, with notes for each change. The dates of each publication are also tracked in the table.

The MEDC will publish a new version after making substantive changes that reflect a policy change. The updated policy guidelines will be assigned a new primary version number such as 2.0, 3.0, etc.

After making non-substantial changes, such as minor wording and editing or clarification of existing policy that do not affect the interpretation or applicability of the policy, the MEDC will publish a version of the document with a sequential number increase behind the primary version number such as 2.1, 2.2, etc.

Amendments made to policy may go into effect on the date of the revision or may be applied retroactively. Whether a policy will be applied proactively or retroactively will be detailed in the version history below and/or within the relevant program sections.

Version Number	Date Revised	Key Revisions
1.0	April 2023	Original Michigan CDBG-DR IPF Program Guidelines

1. GENERAL

1.1. PURPOSE

The purpose of this policy guidelines is to provide the overall objectives, requirements, and process by which the Michigan Economic Development Corporation (MEDC) will award CDBG-DR funds to eligible applicants to prioritize projects that provide the essential infrastructure and public facilities in LMI and socially vulnerable communities, protect life and property, and address needs of members of protected classes, HUD-identified vulnerable populations, and historically underserved communities.

1.2. TERMS AND DEFINITIONS

CDBG-DR: The Community Development Block Grant Disaster Recovery (CDBG-DR) Program works to rebuild areas affected by disaster through grants for unmet housing needs, infrastructure, and business needs. Congress appropriates these funds in response to presidentially declared disasters.

DOB: A duplication of benefits (DOB) occurs when a person, household, business, government, or other entity receives financial assistance from multiple sources for the same purpose within the same time period, and the total assistance received for that purpose is more than the total need for assistance.

Infrastructure: Infrastructure is the set of facilities and systems that serve a county, city, or other area, and encompasses the services and facilities necessary for its economy, household, and firms to function.

Public Facilities: Institutional responses to basic human needs, such as health, education, safety, recreation, and worship. Examples of typical public facilities include churches, hospitals, and police stations.

LMI/LMA: Low-to-Moderate Income (LMI) means any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50% of households have an income less than 80 percent of the Area Median Gross Income (AMGI), or which has a poverty rate of at least 25%.

HCDA: The Housing and Community Development Act of 1974 (HCDA) specifies activities that can be funded as long as each activity is eligible and will meet one of the three broad national objectives (low-mod, urgent need, slum and blight).

HUD: The Department of Housing and Urban Development is the Federal agency responsible for national policy and programs that address America's housing needs, that improve and develop the Nation's communities, and enforce fair housing laws.

UN: Urgent need (UN) means a condition, which poses a serious and immediate threat to the health or welfare of the community, which is of recent origin, within a three-year period, which a community cannot finance, and no other funds are available.

RFP: A request for proposal (RFP) is both the process and documentation used in soliciting bids for potential business or IT solutions required by an enterprise or government agency.

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FEMA: The federal awarding agency authorized to manage the PA and HMGP programs. FEMA's primary responsibilities are to determine the amount of eligible funding, participate in educating the Applicant on specific program issues and procedures, assist the Applicant with the development of project applications and review the projects for compliance with laws, regulations, and policy.

FEMA PA: The Federal Emergency Management Agency's Public Assistance Program provides aid in the wake of a major disaster to state and local governments, and to certain non-profits, to help communities in their recovery efforts.

FEMA HMGP: FEMA's Hazard Mitigation Grant Program provides funding to state, local, tribal and territorial governments so they can develop hazard mitigation plans and rebuild in a way that reduces, or mitigates, future disaster losses in their communities.

MEDC: Michigan Economic Development Corporation is a public-private partnership serving as the State's marketing arm and lead agency for business, talent and jobs, tourism, film and digital incentives, arts and cultural grants, and overall economic growth.

Subrecipient: The Subrecipient (i.e., the unit of local government, or non-profit entity) applies for and receives CDBG-DR funds. The Subrecipient is the responsible party for the CDBG-DR grant and enters into the contract (Grant Agreement) with MEDC. The Subrecipient receives CDBG-DR grant disbursements, assures compliance, and ensures that the CDBG funds will be used for the purposes intended. The Subrecipient is encouraged to engage a Certified Grant Administrator (CGA) to assist in grant administration.

FRN: The Federal Register is the official journal of the federal government of the United States that contains government agency rules, proposed rules, and public notices. Publishing a Federal Register Notice (FRN) informs the public about new appropriations and allocations, proposed rules, updates to existing rules, compliance requirements, and other important agency activities.

2. PROGRAM SUMMARY

2.1. OVERVIEW

The **Infrastructure and Public Facilities Program (IPF)** will award funds to eligible projects within the most impacted and distressed areas to address unmet recovery and mitigation needs associated with general infrastructure and public facilities. The grant funds will allow recipients to design and construct infrastructure and public facilities that will directly benefit individuals and the larger community.

The IPF Program includes the rehabilitation or new construction of a wide range of facility types, including public buildings, roads and bridges, utility infrastructure, and parks. Each project must revitalize disaster impacted communities by directly or indirectly address remaining need. The program focuses on projects that benefit the community as a whole and will protect life and property. IPF is designed to promote sound, sustainable long-term recovery and projects that account for the unique hazards, opportunities, land use restrictions, urban growth boundaries, underserved communities, and disaster impacts within Michigan's impacted communities.

2.1.1. Most Impacted and Distressed (MID) Areas

The Federal Register Notice (FRN) requires at least 80% of all allocations address unmet disaster needs or mitigation activities in the HUD-identified MID areas. For IPF, 100% of the allocation is available for eligible HUD MIDs, including Midland, Saginaw, and Gladwin Counties for the 2020 disaster. Wayne County is the HUD-identified MID area for the 2021 disaster. Except for Detroit and Dearborn, the county will be eligible to receive funding for projects.

2.1.1. Eligible Applicants

The responsible entities for the program will be MEDC and its subrecipients. Applications will be submitted by units of local governments as Subrecipients.

2.2. ELIGIBLE PROGRAM ACTIVITIES

Eligible activities include construction, reconstruction, or installation of public works, facilities, and improvements to public infrastructure.

- **HCDA 105(a)(1):** The acquisition of real property., which is blighted or deteriorated, necessary for rehabilitation, necessary for conservation of open spaces or natural resources, to be used for the provision of public works, facilities, and improvements, or to be used for other public purposes. Eligibility of the activity is based on the planned use of the property.
 - **Examples:** Acquisition of land, air rights, easements, water rights, rights-of-way, buildings and other real property improvements, or other interests in the real property.
- **HCDA 105(a)(2):** The acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings used for the general conduct of government), and site or other improvements.
 - **Examples:** Street improvement, rehabilitation of buildings that provides a benefit to a community, extension of municipal utility distribution lines, reconstruction of water/sewer lines, or flood and drainage.

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- **HCDA 105(a)(4):** Clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements.
 - **Examples:** remediation of known or suspected environmental contamination, demolishing a vacant structure, exterior improvements of a building, or building enhancements to comply with building codes.
- **HCDA 105(a)(9):** Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of activities assisted under this title.
 - **Examples:** Any proposed use of CDBG funds to pay the non-federal share of a federal grant program should be evaluated against the requirements of said grant program.
- **HCDA 105(a)(12):** Activities necessary to develop a comprehensive community development plan that furthers the implementation of infrastructure projects to meet these goals and objectives of the program.
 - **Examples:** Initial planning costs needed to survey the project site and design what the project will be before environmental reviews and construction begins.

2.3. FEMA PUBLIC ASSISTANCE MATCH

FEMA Public Assistance (PA) program provides funding for emergency assistance and assists with funding for permanently restoring community infrastructure affected by a federally declared incident. These CDBG-DR funds can be used as local match portion of the non-federal share match of eligible FEMA approved PA Categories C-G; Roads and Bridges, Water Control Facilities, Public Buildings and Contents, Public Utilities, and Parks, Recreational and other Facilities.

For any disaster declaration declared occurring or having an incident period beginning between, Jan.1, 2020 and Dec. 31, 2021, FEMA will grant a [minimum 90 percent federal cost share](#) for Public Assistance, the Hazard Mitigation Grant Program, and specified Individual Assistance programs.

2.3.1. Eligible Use of FEMA Public Assistance Funds

MEDC will provide funding for the following types of projects:

- **Non-Federal Match:** For eligible FEMA projects, MEDC will work with applicants to determine the required local match and determine what eligible costs to fund with CDBG-DR. The maximum match award will be capped based on the local match percentage of the amount FEMA has obligated on the Project Worksheet (PW).
- **Gap Assistance:** Some projects may have scope of work made ineligible by FEMA or work that is above what FEMA has opted to obligate as eligible. If the scope of work is still eligible for CDBG-DR funding, HUD allows to cover the gap needed to ensure that the entire project can be funded.

2.3.2. Ineligible Use of Funds of FEMA PA Funds

The Stafford Act authorizes FEMA to provide PA funding for specific work performed as a result of the incident. It does not authorize FEMA to provide PA funding for all losses or costs resulting

from the incident. The following costs are ineligible because the Stafford Act does not authorize FEMA to provide PA funding for these items:

- **Loss of Revenue:** cannot fund the loss of revenue that may occur because of an incident.
- **Loss of Useful Service Life:** cannot fund the value of the projected loss of useful life of a project/site due to an incident.
- **Tax Assessments:** cannot fund the costs related to conducting tax assessments to re-assess real property values after an incident.
- **Increased Operating Costs:** cannot fund the costs of operating a facility or providing a service. Short-term increased costs for emergency health and safety are eligible.

2.4. FEMA HMGP MATCH

The FEMA's Hazard Mitigation Grant Program (or HMGP) provides funding to state, local, tribal, and territorial governments so they can develop hazard mitigation plans and rebuild in a way that reduces, or mitigates, future disaster losses in their communities. All state, local, tribal and territorial governments must develop and adopt hazard mitigation plans to receive funding for their hazard mitigation projects.

During the project development phase, there are two types of FEMA hazard mitigation funding that should be considered for post-disaster implementation: Section 404 HMGP and Section 406 PA. Section 404 funding is used to fund structural and non-structural projects, and a facility does not need to be damaged to use these funds. Section 406 funding is used to restore the parts of a facility that were damaged during a disaster, and the restoration must provide protection from subsequent events. When combined, Section 406 hazard mitigation funding is used to provide protection to the parts of a facility that were damaged and Section 404 hazard mitigation funding is used to provide protection to the undamaged parts of the facility.

FEMA HMGP funds may be used to pay up to 75 percent of the eligible activity costs. The remaining 25 percent of eligible activity costs are derived from non-Federal sources, such as CDBG-DR funds.

2.4.1. Eligible Use of Funds of HMGP Funds

FEMA HMGP funding can fund the following eligible activities. MEDC will review applications to determine which projects are the best fit for CDBG-DR funding.

- Property Acquisition and Structure Demolition and Relocation
- Structure Elevation
- Mitigation Reconstruction
- Dry Floodproofing of Historic Residential Structures and Non-residential Structures
- Generators
- Localized and Non-localized Flood Risk Reduction Projects
- Structural Retrofitting of Existing Buildings
- Non-structural Retrofitting of Existing Buildings and Facilities
- Safe Room Construction
- Wind Retrofit for One- and Two-Family Residences
- Infrastructure Retrofit
- Soil Stabilization
- Wildfire Mitigation
- Post-Disaster Code Enforcement
- Hazard Mitigation Plans

Similar to FEMA PA projects, MEDC will fund FEMA HMGP projects that require either non-federal match assistance or gap assistance.

2.4.2. Ineligible Use of Funds of HMGP Funds

FEMA HMGP will not fund the following activities. This list is not exhaustive. See FEMA's [Hazard Mitigation Assistance Guidance](#) for more details.

- Projects that do not reduce the risk to people, structures, or infrastructure.
- Projects that are dependent on a contingent action to be effective and/or feasible (i.e., not a stand-alone mitigation project that solves a problem independently or constitutes a functional portion of a solution).
- Flood control projects related to the repair or replacement of dams and other flood control structures and repair of dams for the purpose of regular pre-scheduled or damage-induced maintenance.
- Projects for which actual physical work, such as groundbreaking, demolition, or construction of a raised foundation, has occurred prior to award or final approval. Projects for which demolition and debris removal related to structures proposed for acquisition or mitigation reconstruction has already occurred may be eligible when such activities were initiated or completed under the FEMA PA program to alleviate a health or safety hazard as a result of a disaster.
- Activities required as a result of negligence or intentional actions that contributed to the conditions to be mitigated; activities intended to remedy a code violation; or the reimbursement of legal obligations, such as those imposed by a legal settlement, court order, or State law.

2.5. STAND-ALONE INFRASTRUCTURE

MEDC will fund eligible projects that went through FEMA PA and HMGP review and were denied funding, projects that are no longer eligible for submission to FEMA for funding, or projects developed with the intention of being funded mainly by CDBG-DR. Stand-alone projects should focus on making updates and necessary improvements to existing public infrastructure systems and benefit the low-to-moderate income population in an impacted community. MEDC will require that projects are consistent with local and regional plans and generate a measurable resilience benefit.

2.5.1. Eligible Use of Funds of Stand Alone Projects

Project costs may be ineligible for FEMA but eligible under CDBG-DR as long as the project and activity meet the requirement under CDBG-DR. Due diligence would need to be conducted to ensure that the rationale for why an activity is ineligible under FEMA would not also apply to CDBG-DR. Refer to [Section 2.2](#), for a list of eligible program activities that can be funded.

Projects Ineligible for FEMA PA or HMGP

As funding of last resort, CDBG-DR provides many grantees with the opportunity to tap into an additional funding resource and fund specific scope of work that other sources of funding may choose not to fund. If feasible, MEDC will require applicants to submit their projects through FEMA to determine if assistance is available. FEMA may review a project and deem it ineligible for various reasons. The applicant should document the assessment made by FEMA and submit that documentation as part of the application to MEDC. MEDC will want to understand what portions

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of the project that FEMA is not covering and the rationale. MEDC will determine whether the same costs can be made eligible under CDBG-DR. This determination will apply for ineligible projects and projects where funding gap remain even with the non-federal match assistance.

Projects Not Previously Submitted to FEMA

There is a statutory order of assistance for Federal agencies and CDBG-DR funds may not be used for activities reimbursable by or for which funds are made available by FEMA or other sources. Before funding a project through this program, MEDC must verify whether FEMA funds are available for the activity. Part of the process is completing a duplication of benefits check to ensure assistance has not been or cannot be provided for the same purpose from any other source.

If a project was not submitted through FEMA, MEDC will request an explanation from the applicant. The reason could be that the project was not conceptualized in time to be submitted during FEMA application period or the applicant deemed that the project would not pass FEMA's review for funding. MEDC will assess each project for CDBG-DR eligibility before moving forward with potentially proving assistance.

Flood Management Projects

MEDC will look to assist low- and moderate-income communities in constructing flood prevention infrastructure and making improvements to existing water, sewer, and wastewater public infrastructure systems. These projects will help improve distribution of water resources and mitigate the effects of future disasters.

- Replacement and/or improvement to water lines, sanitary and storm sewer lines, and wastewater treatment plants and related activities.
- Installation of flood gauges along tributaries.
- Activities related to addressing soil erosion.
- Activities directly related to and completed in association with eligible infrastructure replacement and/or improvement (i.e., roads, sidewalks, streetscape, etc.).
- Engineering costs related to the above activities.

Public Facilities – Community/Resilient Centers

In Michigan's HUD MID areas, community centers were damaged during the disaster and subrecipients may require federal resources to create a new community center. Rebuilding community centers can be critical for mitigation in that they can serve as emergency centers during a future disaster event. MEDC will prioritize funding to these community centers where possible. For public facilities, only 2020 funding will be applicable; public facilities are not applicable to the 2021 funding allocation.

2.5.2. Ineligible Use of Funds of Stand Alone Projects

As per 24 CFR Part 570.207, the following projects or activities are considered ineligible:

1. Types of projects that are ineligible:

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- a. Projects associated with the rehabilitation or construction of dams or levees to enlarge a dam or levee beyond the original footprint of the structure that existed prior to the disaster event.
2. No disaster recovery assistance will be considered with respect to any part of a disaster loss that is reimbursable by FEMA, the USACE, insurance, or another source due in part to the restrictions against duplication of benefits outlined in this program policy.
3. An activity underway prior to the disaster declaration will not qualify unless the disaster directly impacted said project.
4. No disaster assistance may be provided for the repair, replacement, or restoration of a property to a person/entity who has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person/entity has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property.
5. If the property is purchased through the use of eminent domain, the ultimate use of that property may not benefit a particular private party and must be for public use.
6. The purchase of equipment and construction equipment. Compensation for the use of such construction equipment through leasing or depreciation, as applicable for an otherwise eligible activity is an eligible use of CDBG funds. And the purchase of construction equipment for use as part of a solid waste disposal facility is eligible under § 570.201(c).
7. The cost of any activity associated with buildings used for the general conduct of government (e.g., city halls, courthouses, and emergency operation centers) or for expenses required to carry out the regular responsibilities of the unit of general local government.
8. The maintenance and operation of public facilities. This includes any expense associated with repairing, operating, or maintaining public facilities, improvements, and services.

3. APPLICATION PROCESS

3.1. NOTICE OF FUNDING AVAILABILITY (NOFA)

After MEDC announces the availability of CDBG-DR funding, MEDC will use multiple competitive rounds to award funds to eligible projects being completed by eligible local governments and/or entities. Each round of funding will be used to determine the project types impacted communities seek to complete, what eligible projects are already in the queue, and what projects MEDC would want to prioritize for later rounds of funding.

MEDC will post the funding rounds and publish the awards on the main recovery website: <https://www.miplace.org/cdbg-dr/>.

MEDC reserves the right to amend this NOFA, cancel it and/or reissue it at its discretion, and to request proposal revisions as needed.

3.1.1. Application Period and Training Workshops

The application period will start in Summer 2023. Prior to each application window, applicants must visit the website for details. The applications will be open for a three-month period. The application will be available on the <https://www.miplace.org/cdbg-dr/> website.

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The first section of the application will ask questions to determine an applicant's eligibility to participate in the program and will ask applicants to certify their application for submission. The second section will ask project specific questions and may require document submissions that will be used to score applications.

MEDC will provide applicants with training and guidance on how to complete and submit the application. The training will be recorded and posted on the recovery website.

3.2. APPLICATION SUBMISSION

The application process will require applicants to demonstrate the project's tie-back to the disaster, how it services the LMI community, its public benefit, the project scope of work, estimated budget and project timeline, and other elements.

The following section provides further information on how to successfully submit a complete application:

3.2.1. Application Submission Requirements:

Applications will be evaluated on the following project components, a full document list is included at the end of each Application section:

- Completed CDBG-DR IPF Program Application
- SAM.gov Verification (Unique Entity Identifier)
- Disaster Tie-Back Supporting Documentation
- Mitigation Measures and Resilience Performance Metrics
- National Objective Documentation
- Detailed Project Location Map
- Flood Map – FEMA FIRMette
- Detailed Project Budget
- Preliminary Construction Cost Estimate, Signed by Licensed Engineer/Architect
- Project Schedule Form
- Public Participation Form
- Public Hearing Notice – Published
- Public Hearing Minutes or Summary of Meeting
- Subrecipient Capacity and Conflict of Interest
- Project Maintenance Plan
- Statement of Assurances Form
- Authorizing Resolution
- Anti-Displacement and Relocation Plan
- Identified Compliance Policies/Plans
 - Local Citizen Participation Plan
 - Procurement Policy
 - Fraud, Waste, & Abuse Policy
 - Cross-Cutting Federal Compliance (Fair Housing and Civil Rights Laws, Labor Standards and Section 3)
- Associated Local Plans (optional)

3.2.2. Tie-back to the Disasters

Projects funded through the Program will be required to address remaining direct and indirect impacts in HUD-identified MID. Direct impacts are the physical or structural impacts caused by the disaster such as the destruction of infrastructure from high winds or flooding. Indirect impacts refer to the non-physical disaster-related impacts, such as business interruption, job losses, or the loss of resident population in a community. Applicant can provide a narrative for the how the community would be affected should no action be taken to repair the damaged facilities or infrastructure. Other documentation can also be provided like photos, damage assessments, FEMA PWs, or excerpts from local plan identifying the project as a priority.

Projects may address risks from future potential disasters with the integration of mitigation measures and strategies included in project activities.

3.2.3. Meeting a National Objective

Assistance provided under this Program will meet one of the national objectives of benefiting low- and moderate-income areas (LMA), low- and moderate-income clientele (LMC), or addressing an urgent need (UN). To determine the national objective and necessary documentation, refer to the Grant Administration Manual (GAM): [Chapter 2 - National Objectives](#). *The LMC national objective is still pending an Action Plan Amendment.*

The program may use the Urgent Need National Objective to aid the eligible disaster impacted areas with incomes greater than 80% AMI. The Urgent Need national objective will only be used when an LMI national objective cannot be achieved through the project, but the project has demonstrable recovery or mitigation benefits. Urgent Need can be used for programs or activities in the Action Plan within 36 months of the applicability date of the Allocation Announcement Notice, which allows MEDC to make changes until May 2025.

3.2.4. Mitigation Requirements

The Disaster Relief Supplemental Appropriations Act of 2021 requires HUD to set aside 15 percent of disaster recovery grants for disaster mitigation activities in any allocation of CDBG-DR funds for unmet needs. Through this program, MEDC will identify how their proposed use of the CDBG-DR Mitigation set-aside will meet the definition of mitigation activities, address the current and future risks as identified in the mitigation needs assessment, ensure that proposed activities are CDBG eligible activities, and meet a national objective.

The IPF Program focuses on projects that benefit the community as a whole and will mitigate, eliminate, or reduce the loss of life or property in the face of current and future natural hazards. The program is designed to promote sound, sustainable long-term recovery and projects that account for the unique hazards, opportunities, land use restrictions, urban growth boundaries, underserved communities, and disaster impacts within Michigan's impacted communities. The focus of the program is on projects that will mitigate flood damage by improving sewer and water systems and projects that will make the communities more resilient through projects such as enhancements of public facilities and road improvements.

Applications will be required to describe the data and/or planning analysis they will use in their evaluation of hazard risk, including climate-related natural hazards.

3.2.1. Resilience Performance Metrics

HUD requires grantees to establish resilience performance metrics for each activity that constructs, reconstructs, or rehabilitates residential or non-residential structures. As part of the application review process, subrecipients will work with MEDC to develop resilience performance metrics for each applicable activity.

The resilience performance metrics will include a description of the projected risk from natural hazards to the project/service area, identification of the mitigation measure that will address the risk, and an assessment of the quantifiable benefit of the project's resilience measures through verifiable data. Tracking and reporting resilience performance metrics will be a required activity included within the terms of the Grant Agreement.

The benefit of each activity should be a quantifiable metric that illustrates how the resilience measure is expected to improve outcomes compared to conditions if the activity were not implemented. Awardees will work with MEDC to ensure the metrics selected are feasible and meet HUD requirements.

3.2.2. Disadvantaged & Vulnerable Populations

The IPF program will prioritize projects that benefit the most at-risk and vulnerable populations. To facilitate this, the scoring criteria provides preference to projects serving communities with high proportions of vulnerable populations. Applications must address the extent to which the project benefits such populations and underserved communities and include documentation of the Social Vulnerability Index (SoVI) and other data of the area served.

3.2.3. Public Notice and Community Outreach

Applicants will be required to solicit public feedback on the projects for which they are applying. Soliciting public feedback promotes discussion among community members about strategies to create a disaster-resilient community. Community engagement and other outreach activities that capture a community's values and priorities are likely to result in a project having greater legitimacy and support, leading to greater success in implementation.

Refer to Michigan's [Citizen Participation Plan](#) on the recovery website.

Public Notice and Public Hearing

Applicants must host a virtual or in-person public meeting with municipality, county, and tribal governments. The public meeting notice should be posted in a newspaper of general circulation and to the applicant's website for a minimum of 5 business days (not including the day of the notice and the day of the hearing). Allow for a 10-day public comment period, which must be completed prior to the submission of the application.

Applicants should provide documentation to demonstrate that a meeting was held (e.g., public meeting notice, sign-in sheet, and meeting minutes). Applications must include evidence of meeting the public notice requirement and applicants must discuss the community engagement and other outreach activities it engaged in to capture the community's values and priorities.

3.2.4. Project Budget & Preliminary Construction Cost Estimate

Submissions must include a proposed project budget with detailed description of anticipated costs by category of work, including support services, program management, and administration. The

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budget should include explanations for how funding request amounts were determined. The budget should also include leveraged funding sources and uses of available funding.

Leveraged Funds

Applicants should develop a feasible budget that includes CDBG-DR funds, local funds, and any other committed sources of funding. Commitments of funding sources should be documented and included within the application. This program will provide preference to applications that leverage outside sources beyond the CDBG-DR funds.

Cost-Reasonableness

The program places high priority on funding projects that are cost reasonable. CDBG-DR project applications will be scored based, in part, on cost effectiveness demonstrated through a price/cost analysis. The analysis will conduct a comprehensive review of historical projects and consider the current market conditions to ensure that projects are cost reasonable. The cost analyses will be reviewed by MEDC.

Preliminary Construction Cost Estimate

To determine a clear total project budget, a preliminary construction cost estimate must be submitted with the application. The cost estimate should be prepared by a licensed engineer or architect, that is on staff or procured. The estimate should be signed and sealed. Clearly identify the costs of mitigation efforts proposed for CDBG-DR funds. And be sure to include contingencies.

3.2.1. Project Description & Scope of Work

Each project scope of work must provide sufficient information to clearly identify the proposed project, define the location, clearly describe the scope of work, the public benefit and population it serves, identify environmental assessment information, provide detailed funding structure/stack that include any non-CDBG-DR funds to be used, and how the project will be maintained post-completion.

3.2.2. Project Schedule

Applicants must provide a project schedule that details how the entire proposed scope of work will be completed and by when. Depending on the type of project, MEDC may require subrecipients to complete projects within 24 to 36 months. Subrecipients managing projects that need more time can provide justification and request from MEDC a time extension. The schedule should detail how non-CDBG-DR funds will be drawn down and for what scope of work, if possible. The phases of the schedule should consider the completion of the environmental review, design, construction, and project closeout.

3.2.3. Partnerships

Responses may include proposed subrecipient partnerships to deliver CDBG-DR projects. Leveraging partners allow applicant communities to access resources and coordinate on strategy with other communities, states, the federal government, and non-profit and private partners. If an applicant intends to utilize a partnership to complete a project, it must identify the partner/s in the application.

3.2.4. Operations and Maintenance

Applicants will be required to demonstrate how the projects will be operated and maintained beyond the life of the CDBG-DR grant, including incorporating technologies to prevent early failures of the project. This should include identification of a responsible entity for operating and maintaining the project and a description of dedicated funding sources.

Furniture, Fixtures, and Equipment

As part of the operation of facilities, furniture, fixtures, and equipment are also not covered by the program. This includes moveable, non-permanent items, which are not an integral structural fixture to a public facility (e.g., refrigerator, microwave, couch, etc.). Permissible costs would include the installation of generators affixed permanently to a public facility or the purchase of fire trucks which is allowable.

3.2.1. Subrecipient Capacity Review

Applicants must provide clear evidence of management capacity and a plan to implement the project within budget and on time. Documentation should demonstrate that an applicant understands what is expected of them, ensures the human capital and financial resources needed to complete the project are in place and develop a realistic timetable.

In addition to reviewing applications, MEDC will assess subrecipients for their capacity to implement and manage projects funded by federal funds. MEDC encourages Subrecipients to engage a Certified Grant Administrator (CGA) to assist in grant administration. The administrator is responsible for compliance with federal regulations, policy guidelines, and program oversight. If necessary, in advance of the award, MEDC will provide technical assistance to Subrecipients to assist in the submission of application and the development of their capacity.

3.3. APPLICATION REVIEW METHODOLOGY

MEDC will review submitted applications and rank them based on factors such as:

- Projects that meet the LMI national objective criteria will be prioritized until 70 percent of funding is awarded. The State reserves the right to allocate funds to projects if the project would otherwise meet program objectives and achieves a different national objective.
- Projects that leverage other sources of funding (FEMA PA and HMGP, bonding, district funding, dedicated infrastructure funding, or general funds).
- Projects that incorporate mitigation activities that address current and future risks, as identified in the Mitigation Needs Assessment of the CDBG-DR Action Plan.

3.3.1. Scoring Criteria

REVIEW FACTORS	POINTS
Project Detail and Justification	Up to 10 points
Tie Back to the Disaster	Up to 10 points
National Objective	Up to 15 points
Budget and Leveraged Funding	Up to 10 points
Benefit to Disadvantaged Communities	Up to 10 points

Infrastructure Capacity	Up to 15 points
Mitigation Measures	Up to 20 points
Coordination and Partnerships	Up to 5 points
Operations and Maintenance	Up to 5 points
TOTAL	100 Points

3.4. PROJECT SELECTION & AWARD

The minimum program assistance available is \$1,000,000 and the maximum assistance available is \$10,000,000. Adjustments may be made to the minimum and maximum amounts to ensure completion of projects and implementation of resiliency and mitigation measures.

If local units of governments have projects that meet the minimum award threshold, then eligible applicants may submit applications to MEDC. An exception to the threshold applies if projects submitted by the local units of government do not meet the minimum award threshold. In those cases, eligible counties may coordinate with local units of governments to aggregate several projects under one application.

3.4.1. Final Award and Project Approval

Based on the application review, MEDC may fund all or a portion of the total requested funding up to the maximum award amount. Allocation of funding will be determined by the availability of funding and program priorities. MEDC will send a Notice of Award to successful applicants which is a preliminary offer to enter into a grant agreement. The execution of a grant requires both parties to agree to the terms and conditions, including project scope, budget, timeliness of spending, project milestones, and compliance requirements.

Acceptance of the funding does not indicate an approval of eligibility or funding for specific projects. Awards will be considered final upon receipt of a signed grant agreement between MEDC and the applicant. All projects must be approved, environmental review completed, and project design approved by MEDC before proceeding with construction.

3.4.1. Negotiation

MEDC reserves the right to negotiate funding amounts and payment schedules with selected applicants. On a case-by-case basis, negotiations may be appropriate for, but not limited to, situations such as demand exceeding amount of funds available, the existence of project readiness issues, and discrete project components meeting program objectives or grant requirements, such as LMI Benefit. Such negotiations may result in the award of a planning or preconstruction grant with conditional commitment of construction financing in future program years.

3.4.2. Appeals

All appeal requests related to program activities are processed and reviewed by MEDC. The Program Specialist will review the appeal and make a determination. The determination will be sent back to the applicant to notify them of next steps.



4. GRANT MANAGEMENT

For more information on the subsequent sections, please refer to the GAM Chapter 8 Financial Management.

4.1. SUBRECIPIENT AGREEMENTS

The Subrecipient Agreement includes the terms and conditions of the CDBG-DR award. The award will be administered according to the Program guidelines, the CDBG-DR Action Plan, and applicable federal, state, and local laws.

The Subrecipient Agreement (SRA) will outline the conditions of the approved project:

- Project Name & Project Number
- Proposed Project Outcomes
- Program Requirements & Award Conditions
 - Facilitate Tie-Back to Disaster
 - Meet Eligible Activity and National Objective
 - Environmental Review per 24 CFR, Part 58.
 - Evidence of Commitment of Leveraged Funds
 - Citizen Participation Plan
 - Approved Procurement Policy
 - Conflict of Interest
 - Fraud, Waste, & Abuse Policy
 - Anti-Displacement and Relocation Plan
 - Cross-Cutting Federal Compliance:
 - Fair Housing and Civil Rights Laws
 - Labor Standards
 - Section 3
- Award Amount
 - Identified Leveraged Amount
- Term of Award
 - Period of Performance
 - Grant Disbursement Requirements

Generally, the conditions will restrict the draw down, or obligation of grant funds, until the conditions have been met and approved.

An official of the UGLG with legal authority to execute contracts, documented by a resolution, must sign and return a copy to the Program Specialist. The Program Specialist will return one copy once fully executed by MEDC for recordkeeping.

4.1.1. Timely Expenditures and Project Completion

The period of performance will commence upon execution of a grant agreement between MEDC and the applicant. To ensure projects are completed within the required timeline, MEDC will impose a period of performance of up to 3 years for all projects in the Infrastructure and Public Facilities Program. MEDC may approve extensions to the period of performance, contingent on overall grant timeline and HUD approval, provided the subrecipient demonstrates that good cause exists.

4.1.2. Subrecipient Agreement Modifications and Extensions

Applicants may request a grant amendment to extend period of performance, amend budgets, change the scope of work, or update project milestones. MEDC will review submissions from applicants and determine if a grant amendment is warranted. Subrecipients must submit the request for a grant amendment as soon as the need is identified. Requests can be submitted at any time until at least ninety (90) days prior to the termination date of the grant agreement.

4.1. DISBURSEMENT METHOD

Funding will be provided on a cost reimbursement basis upon actual expenditures or by percentage of project completed. If MEDC identifies that the grantee has insufficient cashflows to cover the costs of the expenses incurred, the State may pay for costs that have been incurred but not paid. As per 2 CFR 200.305, MEDC's payment method must minimize the time elapsing between the transfer of funds from the HUD Treasury and the disbursement to subrecipients. There is no explicit time period, but the general rule is that payment must take place within three business days of receiving CDBG-DR funds.

Subrecipients must verify all costs before submitting invoices to MEDC for reimbursement and provide all required reporting (i.e., Quarterly progress or Section 3 reporting) and supporting documentation (i.e., grant agreements, contracts and procurement files, program files) requested by MEDC.

4.1.1. Pre-Disbursement Conditions

Upon execution of the Grant Agreement, the Subrecipient may proceed with the implementation of the project. However, before the Subrecipient may draw down any grant funds, it must complete all Pre-Disbursement conditions. These conditions identify the actions and the documentation that must be completed by the Subrecipient to move forward.

No grant funds will be released until all applicable items have been received and are found to be acceptable. At that time, the Subrecipient can start to process payment requests if other terms of the agreement have been met.

Pre-Disbursement Conditions include the following:

1. Requirements outlined within the Subrecipient Agreement.
2. Procurement Documentation
3. Contracts Documentation
4. Insurance Bonding
5. Labor Standards

4.1.2. Supporting Documentation

Supporting documents provide necessary information to determine expenditures eligibility with the Grant Agreement, Costs Principles, and the Standards for Financial Management.

1. Proof of Service (e.g., Detailed Invoice, Purchase Order, Receipt, Payroll)
2. Proof of Payment (e.g., Proof of Service and Cancelled Check)
3. Proof of Match (e.g., Paid Itemized Receipt)

These supporting documents should include:

1. Vendor Name and Contact Information
2. Invoice/Document Number
3. Invoice Date
4. Dates of Services
5. Services Performed
6. Amount Due

4.1.3. Disbursement Request

Disbursement Requests must be submitted at least quarterly and no more than monthly. After required corresponding documentation has been submitted and approved by the Program Specialist, the Disbursement Request will be processed within 10 Business Days. Any Request that is not completed properly may be returned to the Subrecipient without being processed.

4.2. ELIGIBLE AND INELIGIBLE COSTS

4.2.1. Eligible Costs

Activity Delivery Costs and Direct Program Costs are allowable costs incurred for the implementation, management, or oversight of eligible CDBG-DR activities. It covers the costs of staff directly carrying out the activity. These costs must meet a national objective and all program requirements.

Eligible costs for the IPF include, but are not limited to:

- Engineering, architectural, and environmental review (including Section 106 applications) costs related to the project.
- Construction costs.
 - Materials and supplies related to approved program activities.
- Real property acquisition costs pursuant to MEDC policy.
- Procurement costs (such as advertisements)
- Participant outreach (such as advertisements, public engagement community support, etc.)

4.2.2. Ineligible Costs

Ineligible costs for the IPF include, but are not limited to:

- Material or supply costs unrelated to approved IPF activities.
- Equipment, fixtures, furnishings, motor vehicles, and any other personal property.
- Political activities or lobbying.
- Payments to a for-profit business while that business or business owner is the subject of unresolved findings for non-compliance with Federal or state funds.
- Expenses required to carry out the regular responsibilities of the unit of local government.
- Maintenance, operating, or repairing of maintaining a public facility (e.g., maintenance of publicly owned streets, parks, water and sewer facilities, filling of potholes in streets, repairing cracks in sidewalks, mowing of grass in public parks, etc.)
- Any costs determined as unallowable or ineligible pursuant to applicable state or federal laws or regulations, or guidance from HUD, MEDC, or any applicable government agency.

4.2.3. Program Income Policy

An UGLG could potentially receive CDBG-DR Program Income from community development eligible projects through IPF. For example, gross income from the use or rental of real property owned by the UGLG (such as a community center) that was repaired or rehabilitated with CDBG-DR funds can be considered Program Income. See HUD regulation [24 CFR 570.489 \(e\)](#) for a full list of potential Program Income sources. More information can also be found in Chapter 15: Program Income Policy.

Program Income received by the UGLG across all CDBG-DR programs must be counted to determine if the UGLG received \$35,000 (UGLG Total PI).

Program income received (and retained, if applicable) before or after closeout of the grant that generated the program income, and used to continue disaster recovery activities, is treated as additional CDBG-DR funds subject to the requirements of the Consolidated Notice and must be used in accordance with the grantee's action plan for disaster recovery.

Alternative requirements dealing with program income are identified in the CDBG-DR Addendum of the Chapter.

4.3. DUPLICATION OF BENEFITS (DOB)

The *Stafford Act*, Section 312, establishes the requirement for MEDC to implement policies and procedures for the review and analysis of CDBG-DR assistance and benefits from all sources to ensure no duplication occurs. See [Chapter 17: Duplication of Benefits](#), for more information.

CDBG-DR is the last source of disaster recovery funding – made available after all other forms of disaster assistance have been exhausted and cannot duplicate or supplant funding from other sources. In general, an applicant must have spent, or have available to spend, all funds received from government sources, private insurance, Federal or state government assistance including other HUD programs, the National Flood Insurance Program (NFIP), and any private sources for the intended purpose(s). And must still have an unmet need before the Subrecipient qualifies for CDBG-DR funds.

During the DOB review, MEDC will conduct its due diligence process to verify the information provided on potential DOB sources through various available information, including data provided by other state or Federal agencies or information collected independently. DOB reviews are also required to comply with the “necessary and reasonable benefits” requirement in accordance 24 CFR part 570, as well as in the cost principles found at 2 CFR Part 200, et al.

MEDC will utilize its grants management system to track all funding sources for a specific project and calculate the maximum award CDBG-DR can provide to a project.

4.3.1. Subrogation

When the CDBG-DR assistance is provided, MEDC will require that each applicant sign a Subrogation Agreement stating that any funds received from any source after award determination must be reported and will be subject to repayment or reimbursed to MEDC.

4.3.2. Recapture of Funds

If an activity triggers a duplication of benefits and requires MEDC to reduce the amount of CDBG-DR funding used on a project, MEDC staff will notify the subrecipient to reconcile overpayment or eligibility issues before requesting the subrecipient to repay back funds to the program. Subrecipients who have been identified for recapture of program funding will not be able to close out of the program until all funds have been repaid to the state.

4.4. RECORD KEEPING

Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt, and use of CDBG-DR funds and necessary to facilitate reviews and audits. The Subrecipient must provide citizens with reasonable access to records regarding the past use of CDBG-DR funds consistent with State or local requirements concerning the privacy of personal records. (24 CFR 570.490 - Recordkeeping requirements)

In accordance with federal regulations, **all records relevant to the Subrecipient's contract shall be retained for a period of three (3) years subsequent to the final closeout by the State CDBG-DR grant with HUD.** MEDC will notify all CDBG-DR Program participants of the date upon which local records may be destroyed, and the subrecipient shall retain all records related to this contract until the destruction date determined by MEDC.

4.4.1. File Maintenance

The Subrecipient shall maintain records which will allow assessment of the extent of Subrecipient performance of the Scope of Work, and which allow for the comparison of actual outlays with budgeted amounts. The Subrecipient's overall financial management system must ensure effective control over, and accountability for, all funds received. Accounting records must be supported by source documentation such as time sheets and invoices.

4.4.2. Reporting Requirements

To keep track on program progress and the status of projects funded through this program, MEDC will require subrecipients to provide a quarterly performance reports that detail the activities completed in the previous quarter. These reports will be aggregated and used to provide HUD with a report on grant progress. The reports will include, at a minimum:

- Narrative of the activities completed during the quarter.
- Financial metrics that demonstrate costs incurred to date and projected future spending.
- Documentation showing total number of beneficiaries served or accomplishments completed.
- Section 3 reporting on total labor hours and target labor hours.

4.5. MONITORING AND COMPLIANCE

Federal regulations require the State to oversee and document all expenditures of CDBG dollars. For more information, please review Chapter 12 Monitoring, of the GAM.

4.5.1. Monitoring of Subrecipients

The MEDC staff may schedule a monitoring visit with the Subrecipient at any time to review the program performance on-site. A visit may be a comprehensive program evaluation, or it may be oriented toward assessing performance in specific areas. All records and files pertaining to the program, as well as any other information requested should be made available to Program Specialist.

The purpose of the monitoring visit is to determine if the grant is being conducted in compliance with applicable Federal and State laws and requirements which have been discussed in these Program Guidelines and the General Administration Manual. The review will also determine the Subrecipient's ability to implement the program in a timely manner.

The monitoring visit consists of a review of project files, records, and documentation as well as a visit to the project site.

4.5.2. Subrecipient Monitoring Responsibilities

Together, the Subrecipient and MEDC will decide on a suitable date and time for the monitoring visit. The Subrecipient will be notified, via email, approximately two weeks prior to the visit. The email will provide instructions with regard to documents and staff required to be present at the onsite monitoring. The Subrecipient must have all records, files, and documentation available for review at the monitoring visit. Failure to have records readily accessible will result in a program "finding."

The following is a listing of the program areas to be reviewed as applicable:

- National Objectives
- Environmental Review
- Financial Management
- Citizen Participation
- Procurement and Contracting
- Construction Management and Labor Standards
- Section 3
- Fair Housing and Equal Opportunity
- Acquisition and Relocation
- Program Requirements

This listing may not include all areas that may be reviewed during an on-site monitoring visit. After the monitoring visit, the Program Specialist will have an exit conference to discuss any findings or areas of concern. The Program Specialist, to the extent possible, will work with the Subrecipient on-site to correct any problems.

4.6. GRANT CLOSEOUT

The closeout process encompasses a series of activities to verify CDBG-DR funds have been properly spent and the Subrecipient complied with all applicable rules and requirements in the implementation of its program. For more information, see Chapter 13 Grant Closeout of the GAM.

UGLGs will be expected to carry out each project as proposed in the grant application and grant agreement. The proposed activities should be completed, and proposed beneficiaries should be served/assisted prior to project closeout.

4.6.1. Closeout of a Grant Agreement

Following the end of the term of work, the Subrecipient has 120 days to complete and submit a closeout package containing the following the items:

1. Final Progress Report
2. Final Section 3 Report
3. Building Inspector Letter
4. Actions to Affirmatively Further Fair Housing
5. Closeout Public Hearing
6. Monitoring Letters
7. Grant Award Decrease for Closeout
8. Return Unexpended Funds
9. Personal Property Management Report
10. Real Property Management Report
11. Return Interest Earned

4.6.2. Closeout of HUD Grant

Final Closeout

Grant activities are complete, award was expended or returned, National Objective was met, all audits have been received, reviewed, and approved, and documentation of closeout has been entered into DRGR.

Conditional Closeout

Grant activities are complete, award was expended or returned, National Objective was met. However, MEDC is awaiting receipt and approval of audit(s) – see GAM Chapter 8. After all audits have been approved, a Final Closeout letter will be sent.

5. PROGRAM IMPLEMENTATION

5.1. UNIFORM RELOCATION ACT AND REAL PROPERTY ACQUISITION

All of the requirements, and HUD policy guidance on acquisition and relocation under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and Section 104(d) of the Housing and Community Development Act of 1974, as amended, apply. The URA applies to any acquisition of real property for programs and projects where there is Federal Financial Assistance in any part of the project costs. See Chapter 6: Acquisition and Chapter 7: Relocation for more details.

The URA established minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects.

Project activities that require occupants, Residential or Non-Residential, to be permanently displaced are not eligible for CDBG-DR funding. Additionally, if a project triggers Section 104(d), the one-for-one housing replacement policy, the project will not be eligible for CDBG-DR funds.

At the time a Letter of Interest or Offer Letter is executed with MEDC, URA compliance is triggered, regardless of who is acquiring the property. An Agency is considered to be a State, State Agency, or a person who has the authority to acquire property by eminent domain under State law. The Agency is responsible for providing applicable notices, maintaining URA related documentation, and ensuring compliance with URA. If acquisition and relocation are not involved, the MEDC may require notification in writing that the Uniform Act does not apply; Property Acquisition and Relocation Will Not Occur Letter SAMPLE (Form 6-A).

5.1.1. Residential Anti-Displacement

MEDC is following a Residential Anti-displacement and Relocation Plan (RARAP) in connection with any activity assisted with CDBG-DR Grant Funds that fulfills the req 24 CFR part 42, and 24 CFR part 570, as amended by waivers and alternative requirements.

5.1.2. Real Property Acquisition

Real property includes:

- Permanent and temporary easements necessary for the project.
- Fee simple title/a parcel of land.
- Long-term leases of 50 years or more.
- Rights of way.

Acquisitions can be acquired through a voluntary (without the threat of eminent domain) or involuntary (with the threat of eminent domain) processes. These processes are defined by specific steps and timely notices. Please review Chapter 6: Acquisition for guidance on the acquisition process.

It's important to remember that an Agency cannot enter any construction contracts prior to completing the acquisition of all properties required for completion. If a property is in the process of being condemned (eminent domain), the action must be filed in court prior to execution of a construction contract.

An ‘option agreement’ may be executed prior to the completion of the environmental review record, if a Letter of Interest or Offer Letter has been issued by the MEDC. However, **acquisition of property cannot be completed or finalized until after the environmental review record is complete**. Prior to executing an option agreement, contact the Program Specialist for guidance.

5.2. PROCUREMENT

As CDBG-DR are federal funds, subrecipients must adopt a procurement policy (or amend the current policy) and comply with the federal procurement requirements of 2 CFR 200.318-327. In general, the procurement and contracting requirements will also apply to any subcontractors that may engage to operate the program. Chapter 4: Procurement and Contracting further describes the policies and procedures that must be followed to enter into contractual agreements.

Key procurement requirements:

- Any cost charged to the grant must meet three standards of necessary, reasonable, and allowable.
- All procurements must demonstrate compliance with “free and open” competition requirements.
- All procurements must have an independent cost estimate (ICE) in advance of award, and preferably in advance of procurement. Selecting the lowest bidder in the absence of an independent cost estimate does not meet HUD or 2 CFR Part 200 procurement requirements.
- Any contracts or procurement actions that exceed the micro-purchase threshold (as defined by 2 CFR 200.67) are required to be posted on the grantee’s CDBG-DR website.
- Requirements for procurement of professional services at 2 CFR 20.59 apply.
- Contract preferences is for firm fixed price contracts, except for professional services contracts that can be time and materials contracts. Timesheet documentation is required for all time and materials (T&M) contracts.
- Goods and services contracts must include:
 - The period of performance or date of completion and the contract amount.
 - Performance requirements and liquidated damages into each procured contract.
- Contracts that will trigger labor standards reporting (Davis Bacon) should specify this in the procurement and include a wage determination. Contract documents should specify reporting requirements. SAM documentation for general contractors and sub-contractors should be in file.
- Contracts triggering Section 3 reporting of labor hours in three categories (total labor hours, Section 3 labor hours, Targeted Section 3 labor hours) should include these requirements in both procurement and contract documents.

5.3. DESIGN DEVELOPMENT

5.3.1. Scope of Work

The overall scope of work should be made clear, detailing how various sources of funds will be utilized, and at what point in the project – this also includes potential cost-overruns.

During the project design process, Subrecipients and their partners must define the final project budget, secure all other sources of funding for the project, and scale the scope of the project to the funds available.

Subrecipients must confirm federal environmental review clearances and incorporate any necessary floodplain management or mitigation measures to the design. It's critical to assure the timeline of the environmental review is aligned with the design process to ensure viability of the project.

5.3.2. A&E Selection

Selecting the project architect or engineer is a key milestone. Carefully crafting selection criteria will ensure that A&E firm is able to deliver a quality project on time and on budget. Attention should be given to the experience of the firm with comparable projects and with CDBG-DR and cross-cutting requirements, this will help avoid delays or cost overruns due to misunderstanding of program rules or regulations.

5.3.3. Development of Construction Drawings and Record Drawings

It's encouraged, especially for public improvement projects, there be community engagement in the development and design process. Community members often have particular insight that the subrecipient or A&E firm may not be aware of and may need to be accommodated in the design. Involving the community in the design process contributes to a sense of ownership among stakeholders or beneficiaries. Thus, updates to project milestones and timelines are encouraged to keep the public informed.

The A&E firm is responsible for preparing an Independent Cost Estimate (ICE) that will be used for analyzing construction bids. In addition, recommendations for cost-control measures should be included, such as, dividing work into multiple phases, or identifying a base scope of work and alternate work that can be incorporated into the project if enough funds are available.

The subrecipient shall receive and maintain copies in digital format of the project(s) permit set and record drawing(s), as constructed. A copy of the record drawings must be provided as required by the applicable contract milestone. See executed subrecipient agreement for additional information.

5.4. ENVIRONMENTAL REVIEW

24 CFR Part 58 outlines the rules and regulations that govern the environmental review process for CDBG-DR projects, complying with the National Environmental Policy Act (NEPA). Please review Chapter 5: Environmental Review to better understand the required policies and processes to completing an Environmental Review Record (ERR).

Subrecipients must maintain the written record of the environmental review (the ERR) undertaken for each project, covering all activities, including exempt activities. As required by Federal regulations, the ERR must be available for public review and contains all the environmental review documents, public notices, and written determinations or environmental findings required under Part 58. The actual content of the ERR will vary according to the level of environmental review under which a project falls.

5.4.1. Choice Limiting Actions

An important concept under environmental regulation is the timing of the environmental review. An environmental review must be performed before any funds, regardless of source, are

committed to an activity or a project. No activity or project may be undertaken if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives (24 CFR 58.22(a)). HUD's restrictions on choice limiting actions apply only after receipt of an application for HUD assistance. Once submitted, the project is considered a Federalized project, and NEPA applies. Thus, no project funds (private or other public funds) may be committed until the full environmental review has been completed and the release of funds has been issued.

Choice limiting actions may include:

- The execution of legally binding agreements (such as a property purchase or construction contract).
- Expenditure of CDBG-DR funds.
- Use of non-CDBG-DR funds on actions that would have an adverse impact (e.g., demolition, dredging, filling, excavating.)
- Use of non-CDBG-DR funds on actions that would be "choice limiting" (e.g., acquisition of real property; leasing property; rehabilitation, demolition, construction of buildings or structures; relocating buildings or structures, conversion of land or buildings/structures.)

5.4.2. Adoption of Another Agency's Environmental Review

Appropriations acts allows subrecipients of CDBG-DR funds to supplement Federal assistance to adopt, without review or public comment, any environmental review, approval, or permit performed by another Federal agency.

The other agency's environmental review must cover all project activities that are CDBG-DR funded for each project. If the project activity previously presented is modified (e.g., scope of work is extended, site is expanded, etc.) the subrecipient is only required to supplement the other agency's environmental review to comply with HUD regulations (e.g., publication or posting requirements for Notice of Finding of No Significant Impact (FONSI), Notice of Intent to Request Release of Funds (NOI-RROF), concurrent or combined notices, or HUD approval period for objections). To be adequate:

1. The Subrecipient must obtain a completed electronic or paper copy of the Federal agency's review, submit to the Grantee for review, and retain a copy in its environmental records.
2. The Grantee must notify HUD on the Request for Release of Funds (RROF) Form 7015.15 that another agency review is being used. The grantee must include the name of the other Federal agency, the name of the project, and the date of the project's review as prepared by the other Federal agency.

5.4.3. ASTM Phase I and II Environmental Site Assessment (ESA)

HUD policy requires that "all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property." Site contamination hazards must be analyzed using "current techniques by qualified professionals." The investigation and source documentation required to satisfy this standard will vary depending on the type of HUD-assisted activity, and its level of environmental review. The [HUD Exchange's Site Contamination website](#) provides guidance on the policy, determining the appropriate investigation, and source documentation for each project type.

HUD requires the performance of a Phase I ESA in accordance with ASTM E 1527 as part of environmental reviews in many of its programs. The ERR should include evidence that the project site is not contaminated, or a determination the hazard will not affect health and safety of the occupants or conflict with the intended use of the site, including any mitigation measures used, or a letter of “No Further Action” required from the appropriate state agency.

As described in 24 CFR Part 50.3(i) and 24 CFR 58.5(i)(2), that:

- Environmental review of non-residential properties shall include evaluation of previous uses of the site and other evidence of contamination on or near the site, to assure that occupants of proposed sites are not adversely affected by the hazards.
- Particular attention should be given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes.
- The responsible entity shall use current techniques by qualified professionals to undertake investigations determined necessary.
- Unknowing individuals or parties that acquire contaminated property with good intentions could face liability for clean-up costs under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), third party lawsuits, and costly delays in implementing the project.

5.5. FLOODPLAIN MANAGEMENT

5.5.1. Elevation Standards – Non-Residential

If your land is shown on the map as “in” the floodplain, but the natural ground of your building site is higher than the Base Flood Elevation (BFE), get a surveyor, engineer, or architect who is authorized to certify elevations to complete a FEMA Elevation Certificate (EC). Submit the EC with an application to FEMA and a Letter of Map Amendment may be issued. The Elevation Certificate includes diagrams for eight building types.

Alternative requirement for the elevation of structures when using CDBG–DR funds as the non-Federal match in a FEMA funded project. As long as the CDBG–DR grantee is following a FEMA-approved flood standard this waiver and alternative requirement will continue to apply.

- For new construction or substantial improvements to a structure the lowest floor of the structure must be at or above the level of the base flood and
- For Critical Actions, at or above the level of the 500-year flood.
- 44 CFR 9.11(d)(3)(iii) allows for an alternative to elevation to the 100- or 500-year flood level, subject to FEMA approval, which would provide for improvements that would ensure the substantial impermeability of the structure below flood level.

5.5.2. Flood Control Measures

A Regulatory Floodway must be implemented, comprising the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. This is the segment of the floodplain that will generally carry flow of flood waters during a flood and is typically the area of greatest risk to structures in the floodplain. HUD financial assistance is prohibited in floodways unless an exception in section 55.12(c) applies or the project is a

functionally dependent use (e.g., dams, marinas, and port facilities) or a floodplain function restoration activity.

Executive Orders 11988 and 11990 - Floodplain and Wetlands Management requires Federal activities to avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable. HUD's regulations in 24 CFR Part 55 outline HUD's procedures for complying with EO 11988. Part 55 applies to all HUD actions that could be harmed or cause harm if located in a floodplain, including but not limited to proposed acquisition, construction, demolition, improvement, disposition, and financing actions under any HUD program.

It is highly desirable to avoid floodplains and wetlands when undertaking project activities. However, when this cannot be avoided, specific review procedures contained in 24 CFR Part 55 (Floodplain Management and Wetlands Protection) must be completed. Since development in these areas is clearly an environmental issue, the effects of these actions must be clearly articulated in one of the decision processes described in §§ 55.12(a) and 55.20, whichever process is applicable.

5.5.3. Flood Insurance

The requirement for purchasing flood insurance for applicable properties will be stated within the grant agreement, and failure to maintain insurance may result in being ineligible for future disaster relief. Evidence that the property has flood insurance must be provided before closeout, if flood insurance is required due to previous federal disaster assistance received. If flood coverage is required but not available due to the disrepair of the property, a declination letter from the insurer must be submitted at the time of contract execution.

At the time of application, applicants must declare whether the property was covered by a policy of private flood insurance and all amounts that were received for structural loss and additional living expenses that were paid under the policy that are related to the severe storms, flooding, landslides and mudslides from disaster (DR-4595) that occurred between February and March, 2021 or the severe storms, straight-line winds, flooding and tornadoes from disaster (DR-4630). The subrecipient then verifies that the declared amounts are correct by contacting individual private flood insurance companies.

5.6. LABOR STANDARDS

5.6.1. Fair Labor Standards Act of 1983, As Amended

The Fair Labor Standards Act (FLSA) contains federal minimum wage rates, overtime (O/T) requirements, and child labor requirements. These requirements generally apply to any labor performed (i.e., with or without federal assistance) and are generally pre-empted (or superseded) by other federal standards, such as the DBRA and related prevailing wage requirements and Contract Work Hours and Safety Standards Act O/T provisions. Only the DOL has the authority to administer and enforce FLSA. HUD will refer to the DOL any possible FLSA violations found on HUD projects.

5.6.2. Davis-Bacon Labor Standards

The Davis-Bacon Act (DBA), enacted by the United States Congress, covers contracts that are directly federally funded. After the DBA was enacted, Congress extended the reach of its

provisions by passing Davis-Bacon Related Acts (DBRA), which cover contracts that are indirectly federally financed (or assisted) in whole or in part. The CDBG program is funded through HUD. Thus, most of the CDBG program's construction contracts are indirectly federally funded and subject to DBRA. DBA and DBRA are basically the same in substance and purpose. This chapter and its attachments will use the term DBRA to refer to the Davis- Bacon Act, Davis-Bacon requirements, prevailing wage requirements, DBA, and DBRA.

DBRA requires the payment of locally prevailing wages to laborers and mechanics for on-site construction, alteration, or repair on federally financed projects having contracts in excess of \$2,000. Locally prevailing wages are determined for specific employee classifications by the U.S. Department of Labor (DOL) and made available to the public as "wage decisions." A contractor(s) on a CDBG project covered by DBRA must meet, at a minimum, the wage requirements set forth in the wage decision(s) applicable to the project.

5.6.3. Copeland Anti-Kickback Act

The Copeland Anti-Kickback Act (18 U.S.C. §874 as implemented in 29 CFR Part 3) makes it a criminal offense for any person to induce, by any manner whatsoever, any person employed in the construction, reconstruction, completion, or repair of any public building, public work, or building, or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he/she is entitled under his/her contract of employment. The Act also provides for the submission of weekly certified payroll reports (CPRs) by all contractors and subcontractors. All contracts for construction, reconstruction, or repair over \$2,000 on federally assisted projects must include the following prohibition:

"No contractor or subcontractor shall induce, by any means, any person employed in such publicly funded construction, reconstruction or repair to give up any part of the compensation to which he is otherwise entitled except for authorized payroll deductions."

UGLGs should conduct confidential interviews with employees to assure compliance with the terms of this law, and the contractor is required to maintain payroll records, and to submit weekly certified payrolls documenting compliance. The Copeland Anti-Kickback Act requires that payment to employees must be made at least once a week without subsequent deductions or rebate on any account except "permissible" payroll deductions. The recipient must obtain payrolls and a Statement of Compliance from contractors and subcontractors weekly. The UGLG must check these payrolls for accuracy. Each employer and the UGLG must maintain the basic records supporting the payrolls until notified by the MEDC.

5.6.4. Contract Work Hours and Safety Standards Act

The Contract Work Hours and Safety Standards Act (CWHSSA), (pronounced "kwas-sa") (40 U.S.C. §327 et seq.), applies to federally financed (in whole or in part) contracts over \$100,000, and provides that workers be paid at least one and one-half times their basic rate of pay for any time worked in excess of 40 hours weekly. In the event of violations, the contractor or subcontractor shall be liable to any affected employee for his unpaid wages as well as to the United States for liquidated damages computed at \$10.00 per day for each employee who worked overtime and was not paid overtime wages. Funds may be withheld from contractors and subcontractors to satisfy unpaid wages and liquidated damages.

Contractors and subcontractors must be advised in writing that, if they are aggrieved by the withholding of a sum of liquidated damages, they have the right to appeal within 50 days. A

written appeal must state the reason for liquidated damages and should be addressed to the Program Specialist.

Safety Standards provisions require contractors on covered projects to comply with the following:

- Safety standards provisions of applicable laws, building, and construction codes, the Manual of Accident Prevention in Construction published by the Associated General Contractors of America, the requirements of the Occupational Safety and Health Act of 1970, and the requirements of Title 29, Section 1518.
- Exercise every precaution at all times for the prevention of accidents and the protection of persons (including employees) and property.
- Maintain at the construction office or other well-known place on the job site, all articles necessary for giving first aid to the injured and make standing arrangements for the immediate removal to a hospital or to a doctor's care those persons (including employees), who may be injured on the job site. In no case shall employees be permitted to work at a job site before the employer has made a standing arrangement for removal of injured persons to a hospital or doctor's care.

5.6.5. Force Account Labor

Force account is the use of a subrecipients own labor force to carry out a capital project. Force account work may consist of design, construction, refurbishment, inspection, and construction management activities, if eligible for reimbursement under the grant. Incremental labor costs from flagging protection, service diversions, or other activities directly related to the capital grant may also be defined as force account work. Documentation can include a force account plan for the work accomplished or planned, or any other documentation that reflects that in-house labor forces were "budgeted" to accomplish the work.

6. OTHER CROSS-CUTTING FEDERAL REQUIREMENTS

6.1. FRAUD, WASTE, AND ABUSE

The Infrastructure and Public Facilities program funds will be monitored periodically by MEDC to ensure compliance with all Federal and state requirements. A subrecipient must agree to return all unexpended funds and improper payments to MEDC in the event of fraud, waste, or mismanagement and/or substantial noncompliance with the guidelines. Complaints alleging violation of fair housing laws will be directed to HUD for immediate review. Complaints regarding fraud, waste, or abuse of funds will be forwarded to the HUD Office of the Inspector General Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov). MEDC's fraud, waste, and abuse policy will be available on the CDBG-DR Recovery website.

6.1.1. Conflict of Interest and Confidentiality

CONFLICTS PROHIBITED. Except for the use of CDBG funds to pay salaries and other related administrative or personnel costs, the general rule is that no persons who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this subpart or who are in a position to participate in a decision making process or to gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

PERSONS COVERED. The conflict-of-interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or subrecipients which are receiving funds under this part.

It is required that subrecipients take reasonable measures to safeguard personally identifiable information (e.g., social security or bank account numbers) and other information designated to be sensitive by HUD or the state, consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality.

6.2. FAIR HOUSING AND EQUAL OPPORTUNITY

6.2.1. Fair Housing

Title 1 of the Housing and Community Development Act of 1974, as amended, requires that the UGLGs receiving HUD funding (including states and their UGLGs) affirmatively further fair housing. This effort generally takes form in promoting and publicizing Fair Housing and Civil Rights laws. The UGLG must develop a method for documenting efforts to promote and monitor fair housing activities. This chapter provides examples of actions that can be taken to accomplish this requirement. Local conditions and needs should determine the type of activities undertaken. UGLGs must certify via resolution or ordinance that they will affirmatively further fair housing. For a sample fair housing ordinance, refer to Fair Housing Ordinance SAMPLE (Form 9-E). In addition to the fair housing certification, the UGLGs must have fair housing posters displayed and must

undertake at least one additional activity to further fair housing which should be identified in their Fair Housing Plan. This information must be made available at the monitoring visit.

6.2.2. Americans with Disabilities Act

This Act provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications. The ADA also states that discrimination includes the failure to design and construct facilities (built for first occupancy after January 26, 1993) that are accessible to, and usable by, persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable, and able to be carried out without much difficulty or expense. Regulation citation: 42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225.

6.2.3. Section 3

In conjunction with construction activity, Section 3 applies to projects that receive \$200,000 or more in CDBG assistance, including projects that are financed in conjunction with state, local, or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

- Section 3 applies to recipients of CDBG funding, as well as its sub-recipients, contractors, and subcontractors; and
- Professional service contract labor hours (construction contract oversight, engineering, architectural, environmental and property evaluation, construction progress and construction draw inspection, and prevailing wage labor compliance) are not required to be reported. If a contract covers both professional services and other work and the recipient, contractor, or sub-contractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.
- Section 3 requirements do not apply to material supply contracts. The regulations should not be construed to mean that recipients are required to hire Section 3 Workers or award contracts to Section 3 Business Concerns other than what is needed to complete covered projects and activities. If the expenditure of funding for an otherwise covered project and activity does not result in new employment, contracting, or training opportunities, reporting is still required.

6.2.1. Citizen Participation

All applicants for CDBG funding should have developed and adopted a Citizen Participation Plan to be in compliance with Section 508 of the Housing and Community Development Act of 1974, as amended. At a minimum, the plan should:

1. Provide for and encourages citizen participation, with emphasis on participation by persons of Low and Moderate Income (LMI) who are residents of slum or blighted areas and of areas in which funds are proposed to be used.
2. Provide citizens with reasonable and timely access to local meetings, information, and records relating to the UGLG's proposed method of distribution and relating to the actual

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use of funds under Title I of the Housing and Community Development Act of 1974, as amended.

3. Provide for technical assistance to groups representative of persons of LMI that request such assistance in developing proposals with the level and type of assistance to be determined by the UGLGs.
4. Provide for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including the development of needs, review of proposed activities, and review of program performance; which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodations for the handicapped. (At a minimum, two hearings are required: one at the time of application, and one at the end of the grant.)
5. Provide for a formal written procedure that will accommodate a timely written response to written complaints and grievances, within 15 days where practicable.
6. Identify how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be expected to participate.

6.2.2. Equal Employment Opportunity Act

An Equal Employment Opportunity clause as described under 41 CFR 60-1.4(b) must be included in all contracts that meet the definition of a “federally assisted construction contract”.

Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60). (All construction contracts awarded in excess of \$10,000 by subrecipients and/or beneficiary of funds and their contractors or sub grantees.)

6.2.3. Minority- and/or Women-Owned Business Enterprises

The UGLGs and their agents are encouraged to utilize MBE/WBE in the CDBG projects. Although HUD does not specify a numerical goal for MBE and WBE participation in the CDBG projects, UGLGs are encouraged to undertake steps to encourage participation by these types of businesses.

In addition, UGLGs are required to complete and maintain a Section 3 Contract & Worker Solicitation (Form 9-D) for covered projects, including an internal record of efforts to involve MBE/WBE businesses in the funded project. This tool will allow the UGLG to verify solicitation of bids, price quotations, and proposals from all participating contractors and professional services providers. This report must be maintained in the project files for monitoring purposes.

The UGLGs are required to maintain the Contract and Subcontract Activity Report (Form 4-P) and submit each report to MEDC. The State must submit a consolidated Contract and Subcontract Activity Report to HUD annually. The Contract and Subcontract Activity Report is further discussed in Chapter 4.

The UGLGs are responsible for the following to encourage the use of MBE/WBE businesses and compliance requirements:

1. Develop a list of minority-owned and women-owned businesses to be notified of opportunities for participation in project contracts. The local Chamber of Commerce or similar business association can often provide a listing of companies. Regional planning organizations may also serve as a source of information.
2. Notify eligible MBE/WBE firms of contract opportunities. This can be accomplished by distributing public notices, including newspaper advertising, and/or sending information to disadvantaged businesses that could reasonably be expected to submit a bid. The UGLGs must ensure that all bid notices, including Affirmative Action efforts, be distributed in a timely manner. Please refer to Chapter 4 – Procurement and Contracting for additional requirements regarding the advertising and direct solicitation of bids.
3. Monitor contractor and subcontractor compliance with applicable MBE/WBE provisions.

6.3. FINANCIAL MANAGEMENT

The Grantee’s financial management system, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Grant, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Grant.

The financial management system of the Grantee must provide for the following (see also Recordkeeping Requirements):

1. Identification, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the CFDA title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.
2. Accurate, current, and complete disclosure of the financial results of each Federal award or program that are sufficient to facilitate reviews and audits of the Grantee under Audit Requirements.
3. Records that identify adequately the source and application of funds for federally funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest and be supported by source documentation.
4. Effective control over, and accountability for, all funds, property, and other assets. The Grantee must adequately safeguard all assets and assure that they are used solely for authorized purposes. (See also Internal controls).
5. Comparison of expenditures with budget amounts for each Grant.
6. Written procedures to implement the requirements the Grant Disbursement Requirements.

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7. Written procedures for determining the allowability of costs in accordance with Subpart E
- Cost Principles and the terms and conditions of the Grant Agreement.



