State of California
Department of Housing and Community Development

2023/2024 CDBG-DR Tribal Program

Policies and Procedures Manual

Version 3.0

June 2026

Version Policy

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

Substantive changes within this document that reflect a policy change result in the issuance of an updated version. For example, the change to a rolling application process represents a substantial modification to the procedures outlined in Version 1.0. Future policy changes will result in additional revisions and the issuance of a new primary number version.

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, are included in minor version updates denoted by a sequential number increase behind the primary version number. Such changes would result in a version number such as 2.1, 2.2, etc.

Version History

Version Number	Date Revised	Description of Revisions
v1.0	**September 2025**	**Initial Draft:** Policies and Procedures are subject to change at the discretion of HCD.

v2.0	**May 2026**	• General updates related to definitions and policies.
		• Updates throughout document to consistently refer to the Master Standard Agreement as such and to make minor (non-substantive) improvements.
		• Updates consistent with HUD's Universal Notice (90 FR 1754), as amended:
		    o See new Section, 4.5.1 Mitigation and Resilience Metrics and 5 Program Expenditure and Outcome Projections.
		    o See updates to Sections 1.2 Terms and Definitions, 2.4.3. Duplication of Benefits, 2.4.11 Residential Anti-Displacement, and 2.4.12 Uniform Relocation Act and Real Property Acquisition.

v3.0	**June 2026**	• Updates to Sections 2.4.3. Duplication of Benefits and 2.4.12. Uniform Relocation Act and Real Property Acquisition.

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2023/2024 CDBG-DR Tribal Program
Policies and Procedures Manual

1. General

1.1. Purpose and Scope

This document addresses policies and procedures specific to the 2023/2024 Community Development Block Grant – Disaster Recovery (CDBG-DR) Tribal Program.[1] Subrecipients, should review the state's CDBG-DR Action Plan (and amendments thereto) and the Grants Administration Manual for detailed discussions of CDBG-DR procedures and requirements, including rules for specific Activities, eligibility, program deadlines, protocols for demonstrating capacity, and specific eligible and ineligible costs. This document will be posted to the Program website prior to the acceptance of applications. Updated versions of this document will replace the prior version on the website.

In response to the 2023 and 2024 Severe Winter Storms, Flooding, Landslides and Mudslides (FEMA Disaster Numbers 4699, 4707, and 4785), the U.S. Department of Housing and Urban Development (HUD) released Federal Register Notice 6512-N-01 on January 16, 2025. The Notice allocated $416,597,000 in CDBG-DR funds to the State of California, administered through the California Department of Housing and Community Development (HCD), under Public Law 118-158. In June of 2025, HUD approved HCD's 2023/2024 CDBG-DR Action Plan which allocated $20 million to specifically assist the Hoopa Valley Tribe and Tule River Tribe in identifying and administering eligible activities across housing, infrastructure, and economic development. These funds are intended to assist with the development and implementation of Tribal community-driven recovery efforts.

Both Tribal Entities experienced significant and unprecedented impacts during the 2023 and 2024 federally declared disasters, including damage to homes, disruptions to health services, and critical infrastructure challenges. This targeted funding aims to support locally defined solutions that address these impacts and promote long-term resilience.

The program prioritizes activities and programs that benefit vulnerable and Low- and Moderate-Income (LMI) populations as well as those located inside the Most Impacted and Distressed area (MID) or documented to impact the MID. Activities and/or programs must be HUD eligible activities and meet a HUD National Objective, per CDBG-DR rules and regulations. Similarly, the activities must fully comply with all applicable federal rules and regulations, including labor compliance (i.e., Davis Bacon and related acts, lower income priority workers (i.e., Section 3), disability rights (i.e., Section 504), procurement, environmental review, and all other CDBG-DR, cross-cutting, state and local applicable

[1] Note: CDBG-DR is the federal program funding source and CDBG-DR Tribal is the HCD Program.

statutes, rules, and regulations.

The 2023–2024 CDBG-DR Tribal Program follows a two-phase approach: Planning (Phase One) and Implementation (Phase Two). In Phase One, the Tribes will conduct a comprehensive assessment of unmet disaster recovery needs. Phase Two will use the results of that assessment to design and carry out activities and programs that address those needs. Because this process is iterative, this manual initially outlines the policies and procedures for Phase One. It will be updated, with Tribal input, to include guidance for Phase Two activities, such as application processes, and policies related to specific activities such as housing, infrastructure, and economic revitalization. Sections where Phase Two policies and procedures will be added or updated are clearly highlighted throughout the document.

1.2. Terms and Definitions

Acronym	Meaning
CDBG-DR	Community Development Block Grant Disaster Recovery Program
FEMA	Federal Emergency Management Agency
FRN	Federal Register Notice
HCD	California Department of Housing and Community Development
HCDA	Housing and Community Development Act of 1974, as amended
HUD	U.S Department of Housing and Urban Development
NAHASDA	Native American Housing and Self Determination Act of 1996

Activity: Per 49 CFR 24.2(a)(22), any work undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines.

Activity Costs: Any reasonable and necessary costs that are directly related to labor and/or direct construction and/or direct Program implementation costs which will meet a National Objective as defined in 42 U.S.C. 5304(b)(3), as amended and 24 CFR 570.483.

Activity Delivery Costs (ADC): Any reasonable and necessary costs that are allowable costs incurred for implementing and conducting eligible CDBG-DR activities. ADCs cover the costs of staff directly conducting the activity in addition to engineering, design, architecture, and environmental services that are necessary for successful completion of the activity. ADCs must be allocable to a CDBG-DR assisted activity, meet a National Objective, and meet all other CDBG-DR program requirements.

Applicant: A federally recognized tribe that applies for funds pursuant to the applicant eligibility section for the CDBG – DR Program whose Primary Residence or affected property is located in one of the HUD designated Most Impacted and Distressed (MID) Areas impacted by the 2023 or 2024 federally declared flood disasters that has applied for Program assistance. [Also see “Eligible Applicant” and “Subrecipient.”]

Application: A formal document used to assess eligibility and viability of an individual Activity and may include but is not limited to activity description, final construction design plans, timeline and milestones, national objective information, funding sources and description of costs, authorizing resolutions, performance measures, documentation showing Applicant’s capacity for and compliance with state and federal regulations, and information relevant to determining compliance with 2023/2024 CDBG-DR Tribal Policies and Procedures. Any HCD approved Application becomes an approved Activity.

Area Median Income (AMI): For activities located on tribal trust land, the AMI means the most recent applicable county median family income, as determined by HUD. for Tribal Entity applicants where the activity is to be located on Native American lands, the applicable AMI is the greater of the median income for the counties, or their equivalent in which an Indian area is located in the state of California, or the median income for the United States as provided for at 25 USC section 4103 (15), provided that it shall not exceed the area median income defined by HUD for the federal CDBG-DR programs unless HUD approves an alternative.

Authorization to Use Grant Funds (AUGF): written notification from HCD to the Subrecipient, indicating that a specific Activity has met HCD’s prerequisites, including all applicable environmental clearances, and authorizing the Subrecipient to expend CDBG-DR funds on that specific Activity.

Authorizing Resolution: a formal resolution of the subrecipient’s highest authority, including the tribal council or tribal leadership, authorizing the subrecipient to accept CDBG-DR funding and the responsibilities that attach thereto, in general and authorizing persons performing specific roles to act on its behalf, including, but not limited to, being a signatory of the HCD agreements and other supporting documents.

Bureau of Indian Affairs (BIA): United States federal agency within the Department of the Interior that manages over 55,700,000 acres of trust, restricted or allotted lands held in trust or otherwise administered by the U.S. federal government for over 574 federally recognized Indian tribes through its Office of Trust Services and includes issuing approvals of leases and recording of leases, mortgages, encumbrances, liens, rights-of way, or other security documents against the tribal trust land through its Land and Title Records Office.

CALGreen: is California’s first green building code and first in the nation state-mandated green building code. It is formally known as the California Green Building Standards Code, Title 24, Part 11, of the California Code of Regulations. For more information, visit [https://www.dgs.ca.gov/BSC/Codes.](https://www.dgs.ca.gov/BSC/Codes)

CDBG-DR: The Community Development Block Grant – Disaster Recovery fund which is the funding source for the Approved Activities the Department has agreed to fund via this Agreement.

CDBG-DR Grant Administration Manual: A manual that outlines the Department's policies and procedures for administering CDBG-DR grant programs.

California Environmental Quality Act (CEQA): a statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible. For tribal Applicants where the activity is located on trust land, this requirement will not apply.

Code of Federal Regulations (CFR): the acronym used for the Code of Federal Regulations.

Choice-Limiting Action: A choice-limiting action is any activity that a grantee undertakes, including committing or expending HUD or non-HUD funds, that reduces or eliminates a grantee's opportunity to choose activity alternatives that would avoid or minimize environmental impacts or enhance the quality of the human environment.

Choice Limiting Actions may include but are not limited to real property acquisition; demolition; disposition; rehabilitation; repair; new construction; site preparation or clearance; ground disturbance; and leasing, including a binding legal contract to commit these activities that is not conditioned on successful completion of the environmental review process.

Contractor: Per 2 CFR 200.331, a contract is to obtain goods and services for the Tribe's own use and creates a procurement relationship with the Contractor. See the definition of contract in § 200.1 of Part 200. Characteristics indicative of a procurement relationship between the Tribe and a Contractor are when the Contractor meets at least one of the following:

- Provides the goods and services within normal business operations
- Provides similar goods or services to many different purchasers.
- Normally operates in a competitive environment.
- Provides goods or services that are ancillary to the operation of the federal program.
- Is not subject to compliance requirements of the federal program because of the agreement, though similar requirements may apply for other reasons.

Cross-Cutting Federal Requirements: Federal regulations that apply to any activity or program funded by federal money, including HUD funding. These federal requirements pertain to fiscal management, procurement, environmental, labor, acquisition, relocation, fair housing, and non-discrimination.

Davis-Bacon Wage Requirements: The Davis Bacon and Related Acts (DBRA) requires all contractors and subcontractors performing work on federal or District of Columbia contracts or federally assisted contracts exceeding $2,000 for construction, alteration, or repair (including painting and decorating) to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar Activities in the area. The prevailing wage rates and fringe benefits are determined by the U.S. Secretary of Labor for inclusion in covered contracts. Contractors and subcontractors on DBRA prime contracts exceeding $150,000, or related DBRA contracts exceeding $100,000, are also required, according to the Contract Work Hours and Safety Standards Act, to pay laborers and mechanics one and one-half times their basic rates of pay for all hours over 40 worked on a covered contract in a workweek.

For Tribal Applicants where the activity is located on trust land, this requirement will not apply if the Tribe has formally adopted through its Tribal Law a Tribally Determined Wage (TDW) and has provided HCD with 1) a copy of the tribal resolution or ordinance adopting the TDW and 2) the methodology of how it determined the wage, according to 25 U.S.C. § 1000.16 (e).

Duplication of Benefits (DOB): Financial assistance received from another source that is provided for the same purpose as the CDBG-DR funds. The Stafford Act prohibits any person, business concern, or other entity from receiving financial assistance from CDBG Disaster Recovery funding for any part of the loss resulting from a major disaster for which he/she has already received financial assistance under any other program, from insurance, or any other sources. It is an amount determined by the program that may result in the reduction of an award value.

Eligible Applicant: means any Tribal Entity that applies for funds according to the Applicant eligibility section. (See Also: Applicant and Subrecipient).

Environmental Review Record (ERR): A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents as required by CEQA and NEPA regulations. (See California Environmental Quality Act and National Environmental Policy Act).

Federal Emergency Management Agency (FEMA): An agency of the U.S. Department of Homeland Security with the primary purpose of coordinating the response to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.

Federally Recognized Tribe: A tribe that meets the definition of Indian tribe under Section 4103(13)(B) of Title 25 of the United States Code or a Tribally Designated Housing Entity (TDHE) under 25 USC 4103(22).

Grantee: The term ‘‘Grantee’’ refers to HCD.

Grants Network Portal: The Department’s online system by which applicants submit required application documents using their Grants Network Portal account. Subrecipients also use the system to manage awarded activities and programs.

Ground Lease for Tribal Applicants: Ground lease of Indian Country entered by Tribal Entities for that certain real property identified in the executed lease to be approved by BIA and recorded in the BIA’s Land Title and Records Office of the U.S. Department of the Interior, and, in the official records of the County wherein the Indian Country is located. Grantee shall provide evidence of BIA approval of the Ground Lease promptly upon receipt of approval by the BIA. Indian County is defined as:

- All land located in “Indian country” as defined by 18 U.S. Code (USC) 1151.
- All land within the limits of a Rancheria under the Jurisdiction of the United States Government.
- All land held in trust by the United States for an Indian tribe or individual; and
- All land held by an Indian tribe or individual subject to a restriction by the United States against alienation.

Hazard Mitigation Plan: State and local plans designed to identify risks to the community and ways to reduce impacts and damages from disasters.

HUD Public Facilities Activity and Match Activity:

- HCDA Section 105(a)(2) – Public Facilities and Improvements: 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 for the general conduct of government), and site or other improvements.
- HCDA Section 105(a)(9) – Payment of Non-Federal Share: 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.

Low- to Moderate-Income (LMI): Low- to moderate-Income people are those having incomes not more than the moderate-income level (80 percent Area Median Family Income) set by the federal government for the HUD-assisted Housing Programs. This 80 percent income standard changes from year to year and varies by household size, county, and the metropolitan statistical area.

Master Master Standard Agreement (MSA): The contractual arrangement between HCD and the Subrecipient which sets forth the terms and conditions by which CDBG-DR funds are utilized.

Most Impacted and Distressed (MID): An area that meets the definition of Most Impacted and Distressed set by HUD in the Federal Register Notice. For purposes of the unmet need allocation, HUD has defined Most Impacted and Distressed as an area (county or zip code) that meets the following criteria:

- Individual Assistance/Individual and Households Program (IHP) designation: HUD has limited allocations to those disasters where FEMA had determined the damage was sufficient to declare the disaster as eligible to receive IHP funding.
- Concentrated damage: HUD has limited its estimate of serious unmet housing need to counties and zip codes with high levels of damage, collectively referred to as ‘‘most impacted areas’’. For this allocation, HUD is defining most impacted areas as either most impacted counties—counties exceeding $10 million in serious unmet housing needs—and most impacted zip codes—zip codes with $2 million or more of serious unmet housing needs. The calculation of serious unmet housing needs is described below.
- Disasters meeting the most impacted threshold. Only 2018 disasters within the threshold are funded.
- One or more most impacted county, and/or
- An aggregate of most impacted zip codes of $10 million or greater than was declared by the President to be a major disaster area under the Stafford Act for a disaster event occurring in 2018.

National Environmental Policy Act (NEPA): Establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government consider the environment prior to undertaking any major federal action that could significantly affect the environment.

National Flood Insurance Program (NFIP): Created by Congress in 1968 to reduce future flood damage through floodplain management and to provide people with flood insurance through individual agents and insurance companies. FEMA manages the NFIP.

Native American Lands: Real property located within the State of California that meets the following criteria:

- It is trust land for which the United States holds title to the tract or interest in trust for the benefit of one or more tribes or individual Indians, or is restricted Indian land for which one or more tribes or individual Indians holds fee title to the tract or interest but can alienate or encumber it only with the approval of the United States; and the land may be leased for housing development and residential purposes under federal law; or
- Lands outside the Jurisdiction of tribal government owned or co-owned by a Native American Entity.

Non-Federally Recognized Tribe (NFRT): A Non-Federally Recognized Tribe is a Tribal Entity that does not meet the Bureau of Indian Affairs' definition of Federally Recognized Tribe and is not included in the Federal Register listing of Federally Recognized Tribes.

Notice to Proceed (NTP): The NTP is a binding document, approved as to form as a component of the Agreement, that amends the allocation agreement between the Subrecipient and the Department by committing funds to a specific Activity. A fully executed NTP is required for each Approved Activity, and no work may be commenced, costs or expenses incurred, nor choice-limiting action(s) taken by Subrecipient prior to the execution of the NTP. The NTP includes, among other things, various Activity details, including but not limited to the following: a description of the Approved Activity and the permitted uses of program funds; the Approved Activity budget and sources and uses of funds and financing; the approved schedule of the Activity; the deadlines for the commencement and completion of construction or rehabilitation work; Performance milestones; Performance penalties; and any special conditions applicable to the Approved Activity.

Request for Proposal (RFP): A procurement document designed to solicit proposals for services where cost is considered as a factor.

Request for Release of Funds (RROF): An environmental review term for a process used by Responsible Entities (the state) when requesting the release of funds and the authority to use such funds for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of local government and states.

Responsible Entity (RE): "Responsible Entity" (RE) means the agency receiving CDBG assistance. The Responsible Entity must complete the environmental review process. The RE is responsible for ensuring compliance with NEPA and the federal laws and authorities, for issuing the public notification, for submitting the Request for Release of Funds and certification, when required, and for ensuring the Environmental Review Record (ERR) is complete, pursuant to 24 CFR Part 58.

Section 3: A provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low-income residents in connection with activities and activities in their neighborhoods.

Stafford Act: The Robert T. Stafford Disaster Assistance and Emergency Relief Act, PL 100-707 as amended by the Disaster Relief Act of 1974, PL 93-288. (Stafford Act).

Subrecipient: An entity receiving an award from HCD under this Tribal Disaster Recovery Program for an approved activity and has an executed agreement with HCD.

Subrecipient Work: The scope of work required of Subrecipient as set forth in the Master Master Standard Agreement, and the scope of work required of an Approved Activity(ies) as set forth in its Notice(s) to Proceed.

Tribal Determined Wage (TDW): A prevailing wage rate to be paid to all laborers and mechanics employed in the development of affordable housing, which is duly adopted in accordance with Tribal Law and in compliance with Section 104(b) of the Native American Housing and Self Determination Act of 1996 (NAHASDA), 24 C.F.R. 1000.16 and 29 CFR 2 and 1.3. and when duly adopted in compliance with NAHASDA, the Davis-Bacon, HUD Determined and California Prevailing Law shall not apply to the Activity.

Tribal Entity: Tribal Entities are defined as one of the following:

- A tribe that meets the definition of Indian tribe under Section 4103(13)(B) of Title 25 of the United States Code.
- A tribe that meets the definition of Tribally Designated Housing Entity (TDHE) under 25 USC 4103(22).
- A tribe that is either of the following:
  - Listed in the BIA of Federal Acknowledgement petitioner list pursuant to Section 82.1 of Title 25 of the Federal Code of Regulations; or
  - Listed on the contact list maintained by the California Native American Heritage Commission for the purposes of consultation pursuant to Section 65352.3 of the Government Code; and
  - Organized as a separate legal entity-non-profit organization that is organized as a 501(c)(3) organization pursuant to the Internal Revenue Code and it is demonstrated to the satisfaction of HCD that the separate legal entity-non-profit organization is controlled by the Eligible Tribal Entity Applicant.

Tribal Law: Includes the following documents:

- Constitution of the Eligible Applicant Tribal Entity; and
- Tribal Entity Ordinance and/or Resolution(s) duly adopted in accordance with Tribal Law; and
- Tribal Entity (Ordinance or Resolution) designating a TDHE to be an Eligible Applicant for Tribal Entity(ies).
- Tribal governing documents, ordinances, resolutions, or other laws adopted by the tribe.
- Uniform Relocation Act (URA): A federal law that establishes minimum standards for federally funded programs and Activities that require the acquisition of real

property (real estate) or the displacement of persons from their homes, businesses, or farms.

- U.S. Department of Housing and Urban Development (HUD): Federal department through which the CDBG-DR funds are allocated to HCD.

2. Program Activities and Requirements

2.1. Phase One Activities and Requirements

The program will use CDBG-DR funds to address planning efforts and activities. During this Phase, HCD will provide technical assistance to each Tribal Entity to develop an Unmet Needs Assessment. This process will help Tribal Entities (1) determine their disaster recovery unmet needs, (2) set long-term goals and short-term objectives, (3) develop activities to meet the goals and objectives, (4) evaluate the progress made; and (5) manage, coordinate, and monitor activities necessary for effective planning.

The CDBG-DR planning activities are designed to help identify the unmet needs following a Presidential Major Disaster Declaration for a Tribal Entity, or territory requested by the Governor or authorized tribal official. The key purpose of the CDBG-DR Tribal program is to provide funding for the necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization.

Planning activities do not include:

- Engineering, architectural and design costs related to a specific Activity (e.g., detailed engineering specifications and working drawings).
- Income surveys.
- Other costs of implementing plans.

2.2. Phase Two Program Activities and Requirements (To Be Updated)

Phase Two of the program will include the implementation of activities and programs to address unmet needs identified in Phase One. This section will be updated as more information is known about the types of activities and programs that will be most applicable to addressing the identified Phase One unmet needs.

The following CDBG-DR eligible activities may be utilized for Phase Two activities and programs, depending on the unmet needs identified in Phase One. As unmet needs and potential activities are identified, this section will be updated in more detail regarding those activities and related requirements:

- Infrastructure
- Housing
- Public Services

- Planning
- Economic Revitalization

2.3. National Objective

In accordance with 24 CFR 570.208, Section 104(b)(3) of the HCDA, and as further outlined within the waivers and alternative requirements per Federal Register Notice Federal Register Notice 6512-N-01 all CDBG-DR funded activities must meet a CDBG National Objective.

2.3.1. Meeting a National Objective – Phase One

Please note that eligible administration and planning activities, such as those in Phase One, do not need to meet a National Objective.

2.3.2. Meeting a National Objective – Phase Two - To Be Updated

All CDBG-DR activities in Phase Two must meet one National Objective criterion related to its specific disaster recovery impact and defined direct benefits or service area. The final determination of the applicable National Objective will be made during the Phase Two application process, in accordance with HUD guidance.

This section will be updated as more information is known about the types of activities and programs that will be most applicable to addressing the identified Phase One unmet needs.

2.3.3. Overall Benefit Requirement – To Be Inserted

2.3.4. Benefit to LMI Persons – To Be Updated

Activities that qualify under the benefit to LMI persons National Objective category must meet the criteria of an activity, as defined by 24 CFR 570.208:

- Area benefit activities: An activity, the benefits of which are available to all residents in a particular area, where at least 51 percent of the residents are low- and moderate-income persons.
- Limited clientele activities: An activity which benefits a limited clientele, at least 51 percent of whom are low- and moderate-income persons.
- Housing activities: An activity which is carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low- and moderate-income households
- Jobs activities: An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full-time equivalent basis, involve the employment of low- and moderate-income persons.

For more information on meeting the benefit to LMI persons national objective see: CDBG

Guide to National Objectives and Eligible Activities Chapter 3. Additionally, HUD's Basically CDBG for States includes Chapter 6 Public Facilities, Special Assessments and Privately Owned Utilities, which provides guidance on how to determine the appropriate national objective category for infrastructure, and how to document compliance with the national objective. Information from the Basically CDBG for States public services resource is summarized below.

This section will be updated as more information is known about the types of activities and programs that will be most applicable to addressing the identified Phase One unmet needs.

2.3.5. Eligible Applicants

A) The Eligible Applicants with allocations for this program are Hoopa Valley Tribe and Tule River Tribe. Both Tribal Entities experienced significant and unprecedented impacts during the 2023 and 2024 federally declared disasters and were identified in FEMA Disaster Numbers 4699, 4707, and 4785.

B) The Tribal DR Program applicants will participate in the two-phased program by submitting an Intake Application that will be reviewed against eligibility thresholds to ensure they meet program requirements.

Eligible Applicants with Allocations

Tribal Entity	Allocation
Hoopa Valley Tribe	$10,000,000
Tule River Tribe	$10,000,000
TOTAL	**$20,000,000**

2.4. Funding Provision

Funds are awarded as grants for reimbursement of eligible costs. The final reimbursement request for the Activity must be submitted to HCD prior to the contract expiration deadline, as defined in the Master Standard Agreement.

In alignment with program requirements, HCD is responsible for ensuring that all reimbursable costs have been properly incurred. As part of this process, HCD will review submitted invoices and/or receipts prior to issuing reimbursement.

Should any costs later be determined ineligible under applicable HCD or HUD guidelines, HCD will collaborate with the Tribal Entity to address the issue. In such cases, repayment may be required in accordance with federal and state regulations.

2.4.1. Eligible Uses of Funding

The 23/24 CDBG-DR Tribal Program supports up to 100 percent of necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization with CDBG-DR funding.

2.4.2. Eligible and Ineligible Costs

2.4.2.1. Eligible Uses of Funds

Eligibility of CDBG-DR Tribal funds requires that the Program’s activities, and/or program(s) address a disaster-related impact—either direct or indirect—such as housing, infrastructure, or public services. The activity(ies) or program(s) must align with an eligible activity under the Community Development Block Grant – Disaster Recovery (CDBG-DR) program and tie back to the applicable disaster-related impact.

Phase	Eligible Activity	Examples of Eligible Uses
Phase One - Planning	Planning	• Data Collection and Analysis • Unmet Needs Assessments • Local Community Planning specifically for tribal areas impacted by the disaster. • Risk Assessments • Tribal Community Outreach and Engagement
Phase Two - Implementation	Housing	• Homeowner Rehab and Reconstruction • Homebuyer Assistance • Rental Housing Activities • New Construction • Buyout of properties in a floodplain or Disaster Risk Reduction Area
	Infrastructure	• Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements • Construction, reconstruction, rehabilitation, or improvement of privately-owned buildings to be used as public emergency shelters • Infrastructure improvements (streets, curbs, water and sewer lines and facilities) • Neighborhood facilities (public schools, libraries, recreational facilities, parks, playgrounds, and community centers) • Non-Federal match for other Federal programs • Facilities for persons with special needs

Phase	Eligible Activity	Examples of Eligible Uses
	Economic Revitalization and Development	• Job training • Acquiring, constructing, reconstructing, rehabilitating, or installing commercial or industrial buildings, structures, and other real property equipment and improvements • Assisting a private, for-profit business
	Public Services	• Employment services • Childcare • Crime prevention and public safety • Health services • Homebuyer counseling • Energy Conservation • Services for homeless • Services for seniors

2.4.2.2. *Ineligible Uses of Funds*

Activities that do not respond to an identified disaster-related impact, are restricted in the appropriations laws, or fail to meet a CDBG National Objective are ineligible for funding. Further, equipment purchases are typically ineligible.

During Phase One, architectural and design costs related to a specific Activity (e.g., detailed engineering specifications and working drawings) are ineligible.

2.4.3. Duplication of Benefits

In accordance with the Stafford Act requirements, all activities funded with CDBG-DR must undergo a Duplication of Benefits (DOB) review and a calculation must be completed prior to funding awards and again prior to close out. DOB occurs when a program beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. This includes all benefits available to a person or entity, including cash and other resources such as insurance proceeds, grants, FEMA, other local, state, or Federal programs, and private or nonprofit charity organizations (see Federal Register notice published November 16, 2011 (76 FR 71066) and Federal Register notice published June 20, 2019 (84 FR 28848)) to be identified and considered to prevent a duplication of benefit. The duplication is the amount of assistance provided in excess of the need. It is HCD's responsibility to ensure that the Tribal DR Program provides assistance only to the extent that the disaster recovery need has not been fully met by funds that have already been paid, or will be paid, from another source.

For all activities funded with CDBG-DR, HCD's application process adheres to the requirements of the Universal Notice and saves DOB calculations to file. Consistent with the Universal Notice, HCD will require documentation of local/state funds available for proposed infrastructure activities and, if such funds were previously designated but are no longer available, will obtain a certification from the subrecipient that their Capital Improvement Plan (or equivalent), does not contain funds set aside for the activity. The application must document all funds obtained for the same purpose as the Tribal DR project from the date of the disaster until the date of the application. Additionally, HCD, in coordination with the Eligible Applicant, performs a DOB review prior to issuing funding and again prior to project closeout to ensure that duplicative assistance is not provided for the Tribal DR project in subsequent phases. HCD also reserves the right to require that the Subrecipient perform additional DOB checks throughout the course of the project's period/performance to ensure there is no duplicative assistance during the course of the project. To address any potential duplication, the agreement includes provisions requiring repayment equal to any assistance later received for the same purpose as the CDBG-DR funds.

HCD will conduct a review, for each applicant, to determine whether the applicant received FEMA, SBA, insurance, or any other major form of assistance (e.g., state disaster assistance programs, local assistance, etc.). Assistance includes, but is not limited, to the following:

- Cash awards
- Insurance proceeds (e.g., payouts from policies under the National Flood Insurance Program (NFIP) for flood-related disasters)
- Grants
- Subsidized loans
- Other funds from local, state, or Federal programs

HCD will then complete the following:

1. Identify total need
2. Identify total assistance
3. Calculating DOB: DOB = Total Assistance – Exclusions
4. Calculating potential CDBG-DR Award: CDBG-DR Award = Total Need – DOB

Note that a potential award is subject to the overall allocation amount provided to an eligible applicant.

HCD will ensure CDBG-DR funds are not used to pay for costs available or reimbursable by FEMA or the Army Corps of Engineers (USACE). As a result HCD will:

1. Verify whether FEMA or USACE funds are available (i.e., whether the application period is open)
2. Verify whether activity costs are reimbursable by FEMA or USACE (i.e., whether the applicant may receive assistance to reimburse the costs of the activity)

Private vs Subsidized Loans: For DOB analyses subject to Universal Notice requirements, *private loans* are not financial assistance and need not be considered in the DOB calculation, regardless of whether the borrower is a person or an entity. By contrast, subsidized loans are considered financial assistance, unless an exception applies.

Duplication of Benefits Contract Provisions: Please refer to Section XI. D of the Community Development Block Grant – Disaster Recovery Grant Administration Manual for details regarding the subrogation agreement to repay any assistance (e.g., unexpected insurance payout) later received for the same purpose as the CDBG disaster recovery funds, if total assistance received exceeds total need.

Reassessment of Need: To identify and document additional unmet needs HCD will account for any reasonable changes to applicants' circumstances (e.g., if the community was hit by a subsequent disaster causing additional damage to project underway). Reassessments of need may be in the form of completing a professional inspection to verify revised estimates of cost or require applicants to provide updated documentation on all forms of assistance. However, an increase in unmet need may not result in an increase in an allocation unless there is available program funding.

2.4.4. Recapture of Funds

A Subrecipient may be required to repay all, or a portion of the disbursed funds through recapture, under the following conditions:

- Subrecipient does not comply with the terms of the Agreement.
- A Subrecipient withdraws from the Program prior to completion of the Activity and/or fails to meet a National Objective.
- An Activity does not meet the requirements specified in this section, Section 2 Program Activities and Requirements.
- A Subrecipient is found to have used program funds for an ineligible activity or cost.
- A Subrecipient receives assistance for the same purpose as the funded CDBG-DR Program including but not limited to insurance settlement funds, FEMA assistance, nonprofit assistance (a DOB); and
- Funds are remaining after the Activity is completed or the Master Standard Agreement has expired.

The above list is not exhaustive and other conditions may arise that will subject the Subrecipient to the recapture of funds. Recapture of funds are determined on an individual basis in accordance with 2 CFR Part 200 and other applicable cost principles. Recapture provisions shall be included in the Subrecipient Agreement and any agreements entered between the Subrecipient and other parties.

2.5. CDBG-DR and Cross-Cutting Federal Requirements

HCD and its Subrecipients must comply with all applicable federal laws and implementing regulations, including but not limited to, the identified Cross-Cutting Federal Requirements set forth below. Further, all CDBG-DR Activities must comply with all applicable State of California laws and implementing regulations, and locally adopted codes, and ordinances.

This section provides a summary of the mandatory and applicable Cross-Cutting Federal Requirements for all CDBG-DR activities.

2.5.1. Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against “a qualified individual with a Disability” in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment. HCD ensures that reasonable modifications or changes to policies and procedures are made to guarantee people with disabilities equal access to services and programs. Additionally, all activities are accessible, both structurally and administratively, to persons with disabilities. Where applicable, the requirement of ADA applies to all HCD, the Subrecipients, and vendors.

2.5.2. Copeland Act's Anti-Kickback Provision

The "Anti-Kickback" provision of the Copeland Act (40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR Part 3) requires that workers be paid weekly, that deductions from workers' pay be permissible, and that contractors maintain and submit weekly payrolls.

The U.S. Department of Labor describes the Copeland Act's Anti-Kickback as prohibiting contractors and subcontractors performing work on covered contracts from in any way inducing an employee to give up any part of the compensation to which he or she is entitled. The Copeland Act and implementing regulations also require contractors and subcontractors performing on covered contracts to pay their employees on a weekly basis and in cash or a negotiable instrument payable on demand and to submit weekly payroll reports of the wages paid to their laborers and mechanics during the preceding payroll period. Additionally, the Act's regulations at 29 CFR §§ 3.5 and 3.6 list payroll deductions that are permissible without the approval of DOL and those deductions that require consent of DOL and prohibit all other payroll deductions.[2]

2.5.3. Contract Work Hours and Safety Standards Act

The Contract Work Hours and Safety Standards Act (40 USC, Chapter 5, Sections 326-332; and 29 CFR Part 4, 5, 6 and 8; 29 CFR Part 70 to 240) applies to contracts over $100,000 and requires that workers receive overtime compensation (time and one-half pay) for hours they have worked more than 40 hours in one week. Violations under this Act carry a liquidated damages penalty ($10 per day per violation).

2.5.4. Force Account Labor

Force account labor occurs when a unit of tribal government is a CDBG-DR Subrecipient and uses their own workforce to complete construction of an Infrastructure activity. For CDBG-DR activities, the use of force account labor requires collaborative, advance review by HCD, who will approve in accordance with federal requirements. This may be documented by approval of an Activity budget that includes force account labor as a line item. Subrecipients that proceed without prior approval risk disallowance of all incurred costs. The force account labor approval process is used for all CDBG-DR activities.

2.5.5. Equal Employment Opportunity Act

Executive Order 11246, Equal Employment Opportunity, as amended, where applicable, prohibits federal contractors and federally assisted contractors and subcontractors, who perform over $10,000 in government business in one year from discriminating in employment decisions based on race, color, religion, sex, sexual orientation, gender identity or national origin. The Executive Order also requires government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

2.5.6. Fair Labor Standards

A Subrecipient that receives CDBG-DR funds must comply with the Fair Labor Standards Act of 1938, as amended (FLSA). The FLSA establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one- half times the basic hourly rate of pay for working more than forty hours per week. These labor standards are applicable to the entire Activity construction contract regardless of whether CDBG-DR funds finance only a portion of the Activity.

All workers employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under HCD’s Tribal Disaster Recovery Program must be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended or a Tribally Determined Wage, as applicable, excluding the exceptions listed below:

In some cases, the State of California prevailing wage rate and the Davis-Bacon prevailing wage rates both apply. In such instances, the higher of the two wage rates prevails. Exceptions to the FLSA include:

- Construction contracts of $2,000.
- Real property acquisition.
- Architectural and engineering fees.
- Other services (such a legal, accounting, construction management).
- Other non-construction items (such a furniture, business licenses, real estate taxes).
- Rehabilitation of residential property designed for fewer than eight families; and
- Debris removal demolition, and/or clearance activities, unless related to construction (demolition and clearance as independent functions are not considered construction).

2.5.7. Davis-Bacon Labor Standards

A Subrecipient that receives CDBG-DR funds must comply with the Davis Bacon and Related Acts (DBRA). The DBRA requires all contractors and subcontractors performing work on federal contracts or federally assisted contracts exceeding $2,000 for construction, alteration, or repair (including painting and decorating) to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar Activities in the area.

The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts. Prime contractors and subcontractors on Davis-Bacon Act contracts exceeding $150,000, or related Act contracts exceeding $100,000, are also required, pursuant to the Contract Work Hours and Safety Standards Act, to pay laborers and mechanics one and one-half times their basic rates of pay for all hours over 40 worked on a covered contract in a work week.

- Subrecipients must comply with the DBRA by ensuring that applicable activities and programs follow DBRA by submitting the necessary documents including, but not limited to, certified payroll records and interviews of prime and subcontractor laborers; all supporting compliance documentation must be uploaded to Grants Network.
- Subrecipients may be impacted by the HUD's Office of Community Planning and Development Notice CPD-15-07 issued on September 15, 2015, which provides guidance on pre-application costs and clarifies how cross-cutting requirements apply to CDBG-DR activities. Notice CPD-15-07 includes clarification on the applicability of DBRA and provides, "...the Davis-Bacon wage rates will not apply when:
    - The Grantee was not a party to the construction contract; and
    - The construction work is fully complete before the owner applies for CDBG- DR assistance.
- If construction work is ongoing when an application for reimbursement or financing of construction costs is submitted, then Davis-Bacon prevailing wage rates are applicable. Under regulations of the Department of Labor (DOL) at 29 CFR 1.6(g), where Federal assistance is not approved prior to contract award (or the beginning of construction if there is no Contractor award), Davis-Bacon wage rates apply retroactively to the beginning of construction and must be incorporated retroactively in the contract specifications (pg. 7)."
- Subrecipients shall follow HUD's guidance for all CDBG-DR Tribal Activities. For construction activities that were completed prior to December 1, 2020, the date HCD and HUD executed its grant agreement, Davis-Bacon prevailing wage rates are not applicable.
- For all Activities with construction that is on-going or completed after December 1, 2020, Davis-Bacon prevailing wage rates apply retroactively to the construction and the Subrecipient must collect documentation to ensure that the prevailing wage rate has been provided to laborers since the beginning of the Activity where applicable.
- For Tribal Applicants, where the activity is located on trust land, this requirement will not apply if the tribe has formally adopted through its Tribal Law a "Tribally Determined Wage" and has provided HCD with
    1) a copy of the tribal resolution or ordinance adopting the TDW and

2) the methodology at how it determined the wage pursuant to 25 U.S.C. § 1000.16(e).

2.5.8. Compliance with Federal and California's Prevailing Wage Law

If the Subrecipient's Activity is located outside Native American Lands, the Subrecipient's Activity is subject to state and federal prevailing wage law, including but not limited to the California prevailing wage law at Labor Code section 1720 et seq. The Subrecipient is urged to seek professional legal advice about prevailing wage law requirements and the Subrecipient's potential obligations thereunder.

Prior to disbursing the CDBG-DR grant funds, the Department will require a certification of compliance with California's prevailing wage law, as well as all applicable federal prevailing wage law. The certification must verify that prevailing wages have been or will be paid if such payment is required by law, and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by the Subrecipient and its general contractor(s).

If the Subrecipient's Activity is located on or inside Native American Lands that are tribal trust or restricted land or Rancheria lands within Indian Country, the Subrecipient's Activity may be subject to a Tribally Determined Wage (TDW) that has been duly adopted and determined by the Subrecipient pursuant to Section 104, subdivision (b)(3) of NAHASDA. Where the Subrecipient has a duly adopted TDW, prior to disbursing the CDBG-DR grant funds, the Department will require the Subrecipient, prior to the execution of the MSA, to submit the following:

1) A certification of compliance with the Tribally Determined Wage and all applicable federal prevailing wage law.
   i. Said certification must verify that prevailing wages have been or will be paid if such payment is required by law; and
   ii. Labor records will be maintained and made available to any enforcement agency upon request; and
   iii. said certification must be signed by Subrecipient and its general contractor(s).
2) A copy of the TDW adopted by the Subrecipient;
3) A copy of the adopted tribal ordinance, resolution or other document establishing the TDW in accordance with 24 C.F.R. § 1000.16 (e); and
4) A copy of the methodology used by the Subrecipient to determine the TDW and ensure that the TDW law requires the payment of not less than those wage rates the tribe determines to be prevailing.

The Subrecipient must comply with any duly adopted TDW in accordance with Section 104 (b)(3) of NAHASDA, or the requirements of the United States Department of Labor and Secretary of Labor as required and described above.

Upon proof of submission of all certifications and documents set forth in items 1-4 above, the Department will accept the Subrecipient's TDW and allow its application to the Activity. The Subrecipient will be exempt from compliance with the federal prevailing wage laws and the California Prevailing Wage laws for the Activity.

2.5.9. Section 3 of the HUD Act of 1968

Section 3 of the Housing and Urban Development Act of 1968 (Section 3), as amended, requires that economic opportunities generated by CDBG-MIT funds be targeted toward Section 3 residents. Section 3 eligible residents are low- and very-low-income persons, particularly those who live or reside in public or government assisted housing.

In accordance with Section 3, recipients using CDBG-DR funding for housing or other public construction are required, to the greatest extent feasible, to provide training and employment opportunities to lower income residents and contract opportunities to businesses in the activity's area.

Activities assisted with CDBG-DR funds exceeding $200,000 trigger Section 3 requirements. When triggered, best efforts must be made to extend Section 3 opportunities to verified Section 3 residents and business concerns to meet these minimum numeric goals:

1) Twenty-five percent (25%) of the total hours worked on a Section 3 Activity must be worked by Section 3 workers; and
2) Five percent (5%) of the total hours worked on a Section 3 Activity must be worked by Targeted Section 3 workers.

The Subrecipient and Subrecipient's contractors shall comply with Section 3 and implementing regulation at 24 CFR Part 75. The responsibilities outlined in 24 CFR Part 75.19 include:

- Implementing procedures designed to notify Section 3 workers about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.
- Notifying potential Contractors for Section 3 covered Activities of the requirement of Part 75, Subpart C and incorporating the Section 3 Clause set forth below in all solicitations and contracts.

Section 3 Clause

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted Activities covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 CFR. Part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and Applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking Applications for each of the positions; and the anticipated date the work shall begin.

The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75. The Contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

The Contractor agrees to submit, and shall require its subcontractors to submit to them, annual reports detailing the total number of labor hours worked on the Section 3 Activity, the total number of labor hours worked by Section 3 Workers, and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 workers and Targeted Section 3 workers.

The Activity Completion Report shall also include a Section 3 Summary Report of the total number of labor hours worked by all contractors and subcontractors, the total number of labor hours worked by Section 3 workers, and the total number of labor hours worked by Targeted Section 3 workers, as required pursuant to 24 CFR 75.25(a). In the event that the number of Section 3 worker labor hours divided by the total labor hours worked by all workers on a Section 3 Activity does not meet or exceed HUD's twenty-five percent (25%) standard, and/or that the number of Section 3 targeted worker labor hours divided by the total labor hours worked by all workers on a Section 3 Activity does not meet or exceed HUD's five percent (5%) standard, Subrecipient shall provide additional reporting on the qualitative nature of its activities and those its contractors and subcontractors pursued, as defined at 24 CFR 75.25(b). The standards for hours worked by Section 3 Workers and Targeted Section 3 Workers are subject to change by HUD as published in the Federal Register. Tribal DR activities are required to meet Section 3 requirements as shown above. Section 3 goals and objectives are set depending on the date of completion of each activity and activity bid dates. HCD staff ensures that Section 3 objectives are addressed through direct technical assistance with subrecipients and file reviews of activities.

HCD requires the following actions of all Subrecipients to ensure compliance with Section 3:

- Prepare and utilize a Section 3 Plan.
- Designate a Section 3 Coordinator.
- Take affirmative steps to follow the Section 3 Plan and document those efforts; and
- Include the Section 3 Clause and the Contractor Certification of Efforts to Fully Comply with Employment and Training Provision of Section 3 in any bid packets for contracts on DR Activities. Notify all bidders that adherence to the Recipient's Section 3 Plan is required for contracts and sub-exceeding $200,000.

2.5.10.Fair Housing

A Subrecipient that receives CDBG-DR funds must comply with the Fair Housing Act requirements when applicable. The Fair Housing Act requires all Grantees, Subrecipients, and/or developers, funded in whole or part with HUD financial assistance for housing related activities, to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability or marital status. HCD enforces the Fair Housing Act by ensuring that all Grantees, Subrecipients, and/or developers meet the applicable Fair Housing and Affirmative

Marketing requirements, provide a marketing plan, and report on compliance in accordance with the Fair Housing Act and the associated forms on HCD's website, where applicable. The Affirmative Marketing Plan must be in compliance with applicable Fair Housing Laws and demonstrate how the Applicant affirmatively furthers fair housing throughout applicable HCD Mitigation programs.

For Tribal Subrecipients, where the activity is located on trust land, this requirement will not apply pursuant to 25 U.S.C. § 1000.12.

2.5.11. Residential Anti-Displacement

When applicable, HCD and its Subrecipients shall make every effort to minimize displacement of families from their homes and/or neighborhood, according to the State of California's Residential Anti-displacement and Relocation Assistance Plan (RARAP). HCD amended its existing RARAP consistent with the requirements of the Universal Notice. Consistent with Universal Notice part III.A.2.a., 'Minimizing displacement and relocation policies and procedures', HCD will minimize displacement by prioritizing project alternatives that avoid or reduce permanent or temporary displacement and by ensuring accessibility needs of persons with disabilities are addressed. HCD will follow the State of California's RARAP when implementing any CDBG-DR activity that could trigger displacement.

As needed, HCD will require its subrecipients to conduct site visits, interviews, and orientations to identify the needs of potentially displaced persons. As appropriate, HCD will require its subrecipients to consider variables like housing market conditions, acquisition costs, relocation payments, and professional services costs, in developing budgets, and will ensure planning and budgeting are scoped to the complexity of the displacing activity.

2.5.12. Uniform Relocation Act and Real Property Acquisition

When applicable, HCD and its subrecipients must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Uniform Relocation Act Amendments of 1987 (URA or Uniform Act). The URA contains requirements for carrying out real property acquisition or the displacement of a person, regardless of income status, for a project or program in which HUD financial assistance is provided. The implementing regulations, 49 CFR Part 24, include steps which must be taken with tenant occupants, including those who are not impacted by the HUD assisted activity. URA was amended by Public Law 105-117. Methods for identifying the needs of potentially displaced persons or entities include:

- site visits, interviews, and orientations
- budget development variables such as housing market conditions, acquisition costs, relocation payments, and professional services costs

Real Property
If Tribal DR funds are used to acquire real property, HCD ensures that the property is acquired voluntarily and continues to be used for its intended (and approved) purpose, proper records are maintained to keep track of it, steps are taken to protect and maintain it, and that if the property is sold, HCD is reimbursed for the CDBG-DR share of the property's value.

This approach to the ownership, use, management, and disposition of property is complicated by two facts. First, the rules about property management and disposition differ slightly depending on whether a grantee is a public-sector grantee (the rules are generally more explicit for governmental grantees). Second, the rules depend on the nature of the property. Real property (e.g., land, buildings) is treated differently than personal property (e.g., equipment, supplies, intangible property like copyrights) (Property Management and Disposition Regulations 24 CFR 570.503; all subrecipients (subs) 24 CFR 85.32; 85.34, govt. subs 24 CFR 84.32; 84.34, nonprofit subs) (as amended by 2 CFR 200 as needed).

Consistent with Universal Notice part III.A.2.a., 'Minimizing displacement and relocation policies and procedures', HCD and its subrecipients will carry out relocation consistent with the URA and, an optional relocation policy under 24 CFR 570.606(d), when applicable. Prior to any action that may cause temporary or permanent displacement, HCD/subrecipients will plan and budget for relocation. For activities that do not trigger displacement (e.g., planning), minimizing displacement is not applicable.

2.5.13.Financial Management

HCD ensures that its grant management staff and Subrecipients administering CDBG-DR funds demonstrate conformity with fiscal management requirements established in 2 CFR 200 and applicable Federal Register Notices. These requirements include, but are not limited to, areas covering Financial Management; Advances; Internal Controls; Accuracy of Report Information; Program Income; Salaries and Wages; Indirect Costs; Lump Sum Drawdowns; and Single Audit provisions pursuant to 2 CFR 200 Subpart F. HCD's financial management system is consistent with and in compliance with 24 CFR Parts 84, 85, and 570 (as applicable), which ensures that CDBG-DR funds are managed with high levels of accountability and transparency.

HCD's Monitoring and Compliance team ensures that a Subrecipient's fiscal management practices adhere to the following:

- Internal controls are in place and adequate.
- Documentation is available to support accounting record entries.
- Financial reports and statements are complete, current, and reviewed periodically; and
- Audits are conducted in a timely manner and in accordance with applicable standards.

2.5.14. Insurance and Property Management

For all Activities in CDBG-DR, when applicable, all Subrecipients must procure and maintain insurance for the duration of the Master Standard Agreement to protect all contract assets from loss due to any cause, such as theft, fraud, and physical damage. If CDBG-DR funds are used to acquire real property or personal property, the Subrecipient is responsible for ensuring that:

- The property continues to be used for its intended (and approved) purpose.
- The Subrecipient keeps track of, and takes care of, the property; and
- If the Subrecipient sells or disposes of the property within 5 years after the expiration of the Master Standard Agreement or a longer period as HCD deems appropriate, the Subrecipient reimburses HCD for the share of the property's value.

2.5.15. Recordkeeping, Retention, and File Management

Subrecipients that receive CDBG-DR funds must comply with record retention requirements. Records are maintained to document compliance with Program requirements and federal, state, and local regulations and to facilitate a review or monitoring by HUD. HCD adheres to State of California record retention requirements, which require all records to be maintained for a period of five (5) years after the CDBG-DR grant closeout with HUD. This requirement is in line with 24 CFR part 570.490, or as required by applicable laws and regulations under 24 CFR parts 570.487, 570.488 and 570.502(a)(7). Exemptions to the five-year period are provided in the applicable laws and regulations under 24 CFR parts 570.487, 570.488 and 570.502(a)(7). Exceptions include, but are not limited to:

- If any litigation, claim, or audit, is started before the expiration of the five-year period, records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- When HCD is notified by HUD, or another federal agency, that the record retention period requirement has been extended.
- Records for real property and equipment acquired with CDBG-DR funds must be retained for three years after disposition; or
- When records are transferred or maintained by HUD, the retention requirements no longer apply to HCD.

Subrecipients shall retain all records, such as financial records, supporting documents, statistical records, and all other records pertinent to the Master Master Standard Agreement (MSA) for a period of not less than five years after the fiscal year of their grant in accordance with CDBG-DR record retention requirements. HCD notifies Subrecipients when the HUD grant has been closed. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the retention period, then all such records must be retained until completion of the actions and solution of all issues, or the retention period, whichever occurs later.

Subrecipients, including Tribal governments, are encouraged to establish and maintain comprehensive records across three key categories—Administrative, Financial Management, and Activity Documentation—to support transparency, compliance, and effective program implementation in alignment with federal and state requirements.

Subrecipients are required to establish and maintain at least three (3) major categories of records: Administrative, Financial Management, and Activity Files.

Administrative Records

These are files and records that apply to the overall administrative of the Subrecipient's CDBG-DR activities. They include the following:

- Personnel files.
- Property management files.
- General program files: files relating to the Subrecipient's or Contractor's Activity information, grant agreement(s), program policies and procedures, and correspondence with Grantees, and reports; and
- Legal files: articles of incorporation, bylaws of the organization, tax status, Tribal board or council minutes, contractors, and other agreements.

Financial Records

These include records such as the chart of accounts, cash receipts, disbursement journal, payroll journal, general ledger, and any applicable accounting policies and procedures. Source documentation (purchase order/change, paid invoices, payroll records, timesheets, and attendance records, canceled checks, etc.), procurement files, bank account records, audit files, and/or another mechanism approved by HCD in writing for the specific grant, etc.

Activity Files

These files document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.

2.5.16. Procurement Policy

Subrecipients must follow federal, state, and local procurement rules, where applicable, when purchasing services, supplies, materials, and/or equipment. Subrecipients are required to adopt procurement procedures in 2 CFR 200.318 - 326. All procurement transactions funded in whole or in part with CDBG-DR funds, regardless of dollar amount, must be conducted to provide “maximum open and free competition.” 2 CFR 200.318(i) requires that Subrecipients maintain records sufficient to detail the significant history of each procurement. Subrecipient procurement transactions shall also follow best practices of cost reasonableness and must meet the critical tests below. The costs must be:

- <u>Necessary</u>: The expenditures fill a necessary gap to address an unmet need that cannot be filled by another funding source, as demonstrated by completed DOB analysis for each Activity.
- <u>Reasonable</u>: This term is defined as what a prudent business would pay in a competitive marketplace. A cost can be allowable and allocable, and still not be what a prudent businessperson would pay.
- <u>Allowable</u>: The costs must be allowable under the eligibility requirements of CDGB- DR funds.
- <u>Allocable</u>: The costs are logically related to or required in the performance of the Activity contract. Many costs may be allowable but not related to the work required under the contract.

The Subrecipient is responsible for procuring contractors and ensuring compliance with local, state, and federal regulations and any other relevant applicable laws. For an active previously procured contract that the Subrecipient would like to apply towards a Tribal DR Activity, the Subrecipient must provide the procurement file to HCD for review. HCD program staff are responsible for identifying any concerns regarding conforming to the minimum procurement requirements found at 2 CFR 200.318 – 326. Compliance with all applicable local, state, and federal regulations, or any other relevant applicable laws, will be certified by subrecipients when financial reports are submitted to HCD and reviewed by HCD during subrecipient monitoring visits.

2.5.17.Audit Trail

All records defined by the organization as important are captured in HCD’s three record management systems: HUD’s Disaster Recovery Grant Reporting System (DRGR), the State’s Financial Information System for California (FI$Cal), and the system of record, Grants Network. Together, these three systems are used to account for Tribal DR Program funds, with Grants Network serving as the primary system of records.

Grants Network contains both Subrecipient and Activity level files including, but not limited to, Application and Activity documentation, Subrecipient expenditure tracking, applicable procurement documentation, available funding, Subrecipient agreements and other agreements, fiscal management, labor compliance (Section 3 and Davis-Bacon), and citizen participation data. Grants Network ensures data security and oversight creating a clear audit trail of Tribal DR Program funding. All Subrecipient and Activity data is secured in HCD's System of Record, Grants Network, in accordance with the State of California's Grant Administration Manual's retention policy.

Recordkeeping, including scanning and uploading to Grants Network, and filing of pertinent Tribal DR Program documentation retention policies are to provide both a physical and an electronic record of activities so that documentation is available for audit purposes.

To protect personally identifiable information (PII), data security measures are in place. HCD, its Subrecipients, and contractors take the following steps to protect PII:

- Limit collection of PII.
- Maintain hard copies of PII records in locked cabinets; and
- Password-protect access to electronic files containing PII.

Filing cabinet keys and electronic passwords are shared with program staff only. HCD releases records containing PII upon request, after verification, by federal and state auditor and other federal or state agencies for duplication of benefits (DOB) analyses.

2.5.18.Conflicts of Interest and Confidentiality

Conflicts of interest between covered persons (e.g., Eligible Applicants, recipients, program administrator, contractors, or program staff) and other parties are prohibited by federal law. A "covered person" is an employee, agent, consultant, officer, or elected official or appointed official of the State, or of a unit of general local government, or any designated public agencies, or recipients that are receiving CDBG-DR funds. Generally, no person who is a covered person, and who exercises or has exercised any functions or responsibilities with respect to CDBG-DR activities and who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

The conflict of interest regulations contained in the contract between the Subrecipient and HCD prohibit locally elected officials, state staff, recipient employees, and consultants who exercise functions with respect to CDBG-DR activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, from receiving any benefit from the activity either for themselves or for those with who they have family or business ties, during their tenure or for one year thereafter.

2.5.19.Environmental Review

Subrecipients that receive CDBG-DR funds must perform an environmental review of the Activity prior to federal funds being committed or disbursed by HCD and Subrecipients. The environmental review shall document compliance with 24 CFR Part 58, NEPA

(National Environmental Policy Act), and all related laws, authorities, and executive orders. For DR- Infrastructure, each Subrecipient receiving CDBG-DR funds, where applicable, becomes the Responsible Entity for completing environmental reviews of all Activities and must submit complete Environmental Review Records and a Request for Release of Funds to HCD to grant the authority to use grant funds. Pursuant to 83 FRN 40314, HCD may accept another federal agency's environmental review.

Subrecipients are also responsible for ensuring compliance with CEQA where applicable, including the submission or designation of applicable waivers to the CEQA Clearinghouse with a copy to HCD. No work may start on a proposed Activity, or proposed site acquisition, if applicable, before both the federal and state environmental review processes are completed, even if that work/acquisition is being done using non-federal funds. The Tribal DR Program does not reimburse Activities that have been determined to have a Finding of Significant Impact (FOSI).

After submission of an Application by a Subrecipient for the use of CDBG-DR funds, there can be no choice-limiting actions on the part of the Subrecipient until environmental clearance is received in the form of an Authority to Use Grant Funds (AUGF) or environmental clearance letter issued by the Department. The concept of prohibiting choice-limiting actions is to prevent the Subrecipient from investing in an Activity before all necessary environmental clearances are obtained. Market studies, environmental studies, plan development, engineering or design costs, inspections and tests are not considered "choice-limiting" actions. Choice-limiting actions are defined as any activity that would have an adverse environmental impact or limit the choice of reasonable alternatives, such as acquisition by the Subrecipient, construction, demolition of buildings or infrastructure, or rehabilitation or reconstruction of buildings or infrastructure. Per 24 CFR Part 58.22, failure to comply with the prohibition against committing funds or taking physical action (using either HUD funds or non-HUD funds) before the completion of the environmental review process could result in loss of HUD assistance, cancellation of the Activity, reimbursement by Subrecipient to HCD for the amount expended, or suspension of the disbursement of funds for the affected Activity.

If the Activity is located within Native American Lands the Department will satisfy any environmental clearances required pursuant to California Environmental Quality Act (CEQA). The Department recognizes that CEQA requirements do not apply on Native American Lands and if CEQA is required, the Department may be responsible for carrying out any CEQA requirements. Native American Entity Activities may utilize Department resources to meet Activity environmental requirements on a case-by-case basis.

Environmental Review Procedures

An environmental review that complies with the National Environmental Policy Act (NEPA) must be completed before CDBG-DR funds are expended. However, HUD Grantees are permitted to adopt FEMA's environmental review if that federal agency has previously performed an environmental review for assistance under the Robert T. Stafford Disaster

Relief and Emergency Assistant Act. In those cases, the work performed by FEMA and HUD must be the same work.

For HMGP Match, and other federally funded match Activities, eligible Activities can adopt FEMA's completed environmental review. If an Activity's scope changes beyond what was approved in the Activity worksheet, an additional HUD environmental review must be completed. When adopting FEMA's environmental review, the Subrecipient must obtain a completed copy of FEMA's Environmental Review Record (ERR) and keep the copy in its Activity file. If the environmental review documentation is not available, verification from FEMA or the California Governor's Office of Emergency Services (Cal OES) is necessary.

The Subrecipient is allowed to use CDBG-DR Program Activity Delivery funds to complete environmental reviews. Activity Delivery expenses for environmental compliance work for intended Activity Applications may be incurred prior to the receipt of the Authorization to Use Grant Funds (AUGF) provided that such expenses are eligible and are supported by documentation satisfactory to the Department. The environmental review shall document compliance with 24 CFR Part 58, NEPA, and all related laws, authorities, and executive orders. To process the environmental review for each activity, use the steps below as a guide:

1) Once a Subrecipient enters into an Agreement with HCD, the Subrecipient must submit all Environmental Review Records (ERRs) and Request for Release of Funds (RROF), if applicable, to HCD for review. The Subrecipient may use Tribal Program activity delivery funds to complete the environmental review.
2) Upon receipt, review, and approval of a completed ERR, HCD provides Subrecipient with an Authority to Use Grant Funds (AUGF), if applicable, or environmental clearance letter.
3) Upon receipt of the AUGF or environmental clearance letter, Subrecipient may incur Activity costs and draw down funds.

For all Activities, Subrecipients are responsible for ensuring that CDBG-DR Activities comply with CEQA and obtain all necessary local and state permits.

Flood Insurance and Floodplain Elevation Requirements

The Subrecipient shall comply, where applicable, with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001). The Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, that flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

Subrecipients must comply with the national floodplain elevation standards for new construction, repair of substantially damaged structures, or substantial improvements to public facilities in flood hazard areas. All structures designed for public facilities use within a special flood hazard area (SFHA), or one percent annual chance, floodplain will be elevated with the lowest floor at least two feet above the base flood elevation level and comply with the requirements of 83 FR 5850 and 83 FR 5861.

3. Implementation Policies

3.1. Phase One Application Process

3.1.1. Application Process

HCD is committed to supporting each Tribal Entity throughout the submission and review process, with an emphasis on transparency, collaboration, and respect for Tribal sovereignty. During Phase One – Planning, the Tribal Entities must submit an **Intake Application**. This form provides baseline information that supports the due diligence and compliance review. The application process is not competitive. The following steps are a part of the application process:

1) Tribal Entities must submit the required Due Diligence documentation and Intake Application information to the Grants Network Portal by the announced deadline.
2) Each Tribal Entity may submit one application. The intake application must include the funding request, and description of eligible activities to be implemented during Phase One.
3) A Subrecipient that cannot meet the Application deadline, may request an extension in writing as directed by the Application Guidelines prior to the deadline. An HCD Program Manager or Section Manager may approve the extension request at their sole and absolute discretion.
4) A deadline extension request shall be evaluated by HCD on a case-by-case basis. Following review, HCD shall notify the requester of the final determination. In the event HCD needs additional information to complete extensions request review, HCD shall provide a follow up response within 60 days of receipt of the extension request.

3.1.2. Phase One Application Requirements

The purpose of the Application process is to establish the eligibility and budget of submitted Activities, demonstrate that the Activity(ies) adheres to program policies and grant conditions, identify and document all funding sources, and provide additional documentation to show compliance with state and federal regulations. The required information as applicable is as follows to initiate Phase One of the Activity. HCD may modify and provide additional details and instructions on the Application requirements:

- Organizational Documents
    - Tribal Governance documents, including but not limited to:
        - Tribal Constitution,

        - Tribal Ordinances, or
        - Tribal Laws confirming the organization of the Tribal Official and Tribal Counsel and,
        - The Tribal official’s authority to sign on behalf of the tribe and bind the tribe to the terms and conditions of the HCD and Program documents.
        - Any other governing documents in support of capacity of legal entity to transact business with HCD.
- Tribal Authorizing Resolution
    - HCD will provide a template that must be used.
    - Tribal Authorizing Resolution duly adopted and executed in accordance with Tribal Law and submitted to HCD at time of Application.
- Overall Activity Description/Scope of Work
    - The overall Activity description and scope of work provides a complete summary of the Activity, including the roles and responsibilities of key staff members. The activity description should include who is projected to benefit from the Activity. The scope of work includes a full description of activities.
- Complete Cost Estimate/Budget
    - Complete list of all Activity funds and sources of funds (CDBG, local, private, other state funds, federal funds, other)
    - All sources of funding required to complete the Activity must be identified and secured or readily accessible
    - Final budget (eligible Activity Costs and Activity delivery costs)
- Duplication of Benefits
    - Complete list and supporting documentation of potentially duplicative funds for the same purpose (insurance, utility settlements, state and local grants, etc.)
    - Final Duplication of Benefits is calculated by the Subrecipient
- **Activity Schedule and Milestones**: Under the Activity Schedule section, include the following Program Milestones for the Master Master Standard Agreement and the Planning Notice to Proceed:
    - **MSA**: All activities shall satisfy the conditions required for the Department to issue a Notice to Proceed within one (1) year of the MSA execution date
    - **MSA**: Subrecipient will submit first funds request within one (1) year of

MSA execution date

- **MSA**: All activity closeout documentation must be received by the expiration date as captured in the STD 213 form
- **Planning**: Subrecipient shall provide evidence of plan reaching 25% completion by date identified in subrecipient generated activity schedule as found in the MSA
- **Planning**: Subrecipient shall provide evidence of plan reaching 50% completion by date identified in subrecipient generated activity schedule as found in the MSA
- **Planning**: Subrecipient shall provide evidence activity completion by date identified in subrecipient generated activity schedule as found in the MSA

3.1.3. Application Review

HCD reviews all Applications, including scope, budget, eligibility, environmental review, legal/policy issues, procurement, and compliance. Applications are complete when all required documentation has been provided by the deadline. Activities that meet all eligibility requirements are submitted to HCD's Disaster Recovery Branch for final approval. Once an application has been approved, the Tribal Entities are notified of the decision via email and an acceptance letter is uploaded to Grants Network.

HCD will provide technical assistance during the application process as well as following application reviews, should an application need additional information in order to meet eligibility requirements. If the Subrecipient disagrees with a decision with respect to its application(s), the Subrecipient may request technical assistance from HCD for clarification on meeting eligibility requirements.

3.1.4. Tribal Authorizing Resolution

The Tribal Authorizing Resolution is necessary for completion of an executed Master Master Standard Agreement. Subrecipients must submit an executed Authorizing Resolution on the template provided by HCD with the Intake Application via Grants Network Portal or where applicable, another acceptable format as approved by HCD. Any deviation from the HCD Authorizing Resolution Template language may delay implementation of the Eligible Applicant's Activity(ies).

The Authorizing Resolution documents each Tribal Entity's authority to submit Applications and enter into an agreement with HCD for CDBG-DR funding. No Master Master Standard Agreement between HCD and a Subrecipient will be valid until the respective Tribal Authorizing Resolution is submitted and accepted by HCD.

3.1.5. Unmet Needs Assessment

The CDBG-DR Tribal Program requires that each Tribal Entity complete an Unmet Needs

Assessment to comprehensively discuss the scope of unmet needs within the local community resulting from a declared disaster and the proposed activities that will be undertaken to address them.

While each Tribal Entity will shape their Assessment to reflect unique priorities, certain content areas are necessary to meet HUD guidelines and ensure funding eligibility. They are as follows:

1) **Executive Summary**: Provide a brief overview of the disaster event, the total amount of CDBG-DR Tribal funds requested, and the primary goals for how the funds will support the Tribe's recovery.
2) **Disaster Impact and Recovery Needs**: Provide an overview of the disaster's impact on the Tribe, including any ongoing or unmet needs not addressed through other sources such as FEMA assistance, insurance, or other recovery programs. This may include, but is not limited to, needs related to infrastructure, housing, and public services.
3) **Tribal Member and Stakeholder Engagement**: We encourage each Tribal Entity to describe the strategies they will use to engage Tribal members and stakeholders throughout the planning and implementation processes, including gathering community input, ensuring participation, and incorporating feedback.
4) **Leveraging of Funds**: Please describe how CDBG-DR Tribal funds may be aligned with other available resources—such as federal, state, local, or private funding—to enhance the overall impact of recovery efforts. This section may include examples of partnerships or coordinated funding strategies that support long-term community resilience.
5) **Proposed Activities**: Please describe the specific programs, activities, and/or activities your community proposes to undertake using the requested funds. Tribes must discuss how these proposed activities tie back to disaster-related impacts.
6) **Budget**: Please provide a proposed budget that outlines anticipated costs, accompanied by a brief narrative explaining each budget item. This information will help ensure alignment with program requirements and support effective resource planning.

Tribes will be allowed to develop and submit plans to HCD for a maximum period of up to twelve months following an executed Master Master Standard Agreement. HCD will collaborate closely with the Hoopa Valley Tribe and Tule River Tribe to ensure that each Plan meets HUD compliance requirements. Once a Plan satisfies the federal compliance threshold, the Tribal Entity will advance to **Phase Two – Implementation**.

3.2. Phase Two Application Process – To Be Updated

HCD is committed to supporting each Tribal Entity throughout the submission and review process, with an emphasis on transparency, collaboration, and respect for Tribal sovereignty. During Phase Two – Implementation, the Tribal Entities must submit an **Intake Application**. This form provides baseline information that supports the due diligence and compliance review per each activity proposed by the Tribal Entity. The following steps are a part of the intake application process:

1) Tribal Entities must submit the required Due Diligence documentation and Intake Application information to the Grants Network Portal by the announced deadline.
2) There is no limit to the number of Intake Applications that may be submitted. Each intake application submitted equates to one Activity. The total Activities funded in Phase Two may not exceed each Tribal Entities allocation. The intake application must, at minimum, include the funding request, proposed eligible activity, national objective, and scope of work. Eligible activity specific requirements will be updated as Phase One is underway.
3) A Subrecipient that cannot meet the Intake Application deadline, may request an extension in writing as directed by the Application Guidelines prior to the deadline. An HCD Program Manager or Section Manager may approve the extension request at their sole and absolute discretion.
4) A deadline extension request shall be evaluated by HCD on a case-by-case basis. Following review, HCD shall notify the requester of the final determination. In the event HCD needs additional information to complete extensions request review, HCD shall provide a follow up response within 60 days of receipt of the extension request.

This section will be updated as more information is known about the types of activities and programs that will be most applicable to addressing the identified Phase One unmet needs.

3.2.1. Phase Two Application Requirements – To Be Updated

The purpose of the Intake Application process is to establish the eligibility and budget of submitted Activities, demonstrate that the Activity(ies) adheres to program policies and grant conditions, identify and document all funding sources, and provide additional documentation to show compliance with state and federal regulations. The required information as applicable is as follows to initiate Phase Two of the Activity. HCD may modify and provide additional details and instructions on the Intake Application requirements:

- Tribal Authorizing Resolution
    - HCD will provide a template that must be used.
    - Tribal Authorizing Resolution duly adopted and executed in accordance with Tribal Law and submitted to HCD at time of Application.
- Overall Activity Description/Scope of Work
- The overall Activity description and scope of work provides a complete summary

of the Activity, including the roles and responsibilities of key staff members. The activity description should include who is projected to benefit from the Activity. The scope of work includes a full description of activities.

- Complete Cost Estimate/Budget
  - Complete list of all Activity funds and sources of funds (CDBG, local, private, other state funds, federal funds, other)
  - All sources of funding required to complete the Activity must be identified and secured or readily accessible
  - Final budget (eligible Activity Costs and Activity delivery costs)
- Duplication of Benefits
  - Complete list and supporting documentation of potentially duplicative funds for the same purpose (insurance, utility settlements, state and local grants, etc.)
  - Final Duplication of Benefits is calculated by the Subrecipient
- **Activity Schedule and Milestones**: Under the Activity Schedule section, include the following Program Milestones for the Master Master Standard Agreement and the Planning Notice to Proceed:
  - **MSA**: All activities shall satisfy the conditions required for the Department to issue a Notice to Proceed within one (1) year of the MSA execution date
  - **MSA**: Subrecipient will submit first funds request within one (1) year of MSA execution date
  - **MSA**: All activity closeout documentation must be received by the expiration date as captured in the STD 213 form

This section will be updated as more information is known about the types of activities and programs that will be most applicable to addressing the identified Phase One unmet needs.

3.2.2. Phase Two Application Review – To Be Updated

HCD reviews all Applications, including scope, budget, eligibility, environmental review, legal/policy issues, procurement, and compliance. Applications are complete when all required documentation has been provided by the deadline. Activities that meet all eligibility requirements are submitted to HCD's Disaster Recovery Branch for final approval. Once an application has been approved, the Tribal Entities are notified of the decision via email and an acceptance letter is uploaded to Grants Network.

Following the acceptance letter, HCD will issue a Notice to Proceed per activity.

This section will be updated as more information is known about the types of activities and programs that will be most applicable to addressing the identified Phase One unmet needs.

3.3. Subrecipient Due Diligence

For HCD's Subrecipient capacity assessment, as required in Federal Register Notice 83 FR 5867, Eligible Applicants are required to provide documents and information as part of the Due Diligence process. As Subrecipients, Eligible Applicants are required to comply with the requirements, requests, and results of HCD's capacity assessment and maintain the capacity to conduct Disaster Recovery activities timely as required in the terms of the Program.

The Due Diligence process may result in special conditions in the Agreement to ensure the capacity to conduct Disaster Recovery activities in a timely manner as required in the terms of the Program. As such, the completion of the Due Diligence is a prerequisite to entering into an Agreement.

3.4. Technical Assistance to Subrecipients

HCD provides several types of technical assistance (TA) to Subrecipients and vendors throughout the program. The objectives of TA are to initially aid the Subrecipient and vendors to clearly understand the Program requirements and appropriately submit the Activity Application. Also, HCD, through the provision of TA, supports Subrecipients to maintain their day-to-day compliance with federal and state regulations and program requirements.

In addition, HCD performs a risk assessment to determine a Subrecipient's capacity to manage the grant(s) and to identify deficiencies in complying with applicable grant and program requirements. According to the risk assessment results, HCD provides technical assistance and guidance to Subrecipients to improve their performance, develop or increase capacity, and augment management and technical skills. Some examples of TA include:

- Verbal or written advice
- Formal training and workshops
- Documentation and guidance

HCD encourages Eligible Applicants to reach out to HCD via email to schedule TA related to these Program Policies and Procedures, the NOFA, and Activity Applications to ensure Applicants are prepared prior to the Application opening.

3.5. Activity Delivery Costs

The Subrecipient may begin to perform Activity related tasks for Phase One (Planning) and to incur Activity Delivery Costs (ADCs) only after the Master Master Standard Agreement is executed, prior to the issuance of an AUGF, so long as such activities would not be considered a choice-limiting action. ADCs incurred must be tied to a specific Activity.

ADCs must be allocable to a CDBG-assisted activity or an activity that is CDBG-eligible, meets a National Objective (applicable to Phase Two), and meets all other CDBG-DR program requirements. There is no maximum cap on ADCs, but Subrecipients must show that ADCs are reasonable for the CDBG-eligible activity being carried out, as authorized under 24 CFR 570.201-570.204. If the proposed ADCs exceed 20 percent of the total activity cost, additional justification and documentation are required to justify the need for ADCs that exceed 20 percent of the total activity cost.

Examples of ADCs that may be incurred in Phase One (Planning) include:

- Procurement activities to select a vendor to perform the Activity
    - For instance, a Subrecipient may procure a Contractor to develop its Unmet Needs Assessment. The staff time related to developing the procurement solicitation, selecting a vendor from the solicitation responses, and executing a Contractor with the vendor would all be considered ADCs.
- General oversight and program management of Partners and Contractors working on the Activity
- Staff time spent monitoring Partners and Contractors related to the Activity
- Staff time spent completing reporting and compliance requirements for HCD

3.5.1. Authorization to Incur Costs Before an Executed Master Standard Agreement

There are two circumstances when ADCs may be incurred prior to the execution of a Master Standard Agreement.

1) With written approval from the HCD Program Manager or Section Manager, ADC expenses for environmental compliance work for intended Activity Applications may be incurred prior to execution of a Master Master Standard Agreement between the Subrecipient and HCD provided that such expenses are eligible and are supported by documentation satisfactory to HCD.
2) With written approval from the HCD Program Manager or Section Manager, other costs may also be incurred prior to the execution of an Master Standard Agreement, such as the cost of procuring consultants and architectural, engineering, and other professional services required to prepare plans, drawings, specification, or work write-ups not more than

24 months prior to the Approved Activity being set up in DRGR, provided the Subrecipient procured contracts are conducted in a manner consistent with 2 CFR 200,317 – 200.326, “Procurement Standards.”

To seek reimbursement, the Subrecipient must first receive written approval to incur the

ADCs and then must submit a complete Financial Report through Grants Network.

In no event shall HCD’s approved authorization to incur costs prior to a Master Standard Agreement be interpreted to mean that the Subrecipient is not obligated to comply with the requirements around choice-limiting actions. Regardless of the authorization, it is still the responsibility of the Subrecipient to limit its activities and incurring of costs to comply with the choice-limiting action requirements.

3.5.2. Subrecipient ADCs with Incomplete Activities

If the activity(ies) are unable to be completed, a review of the causes of the activity failure is performed. The Subrecipient must provide documentation demonstrating the cause of the activity’s failure for HCD to review. Depending on the specifics of the situation, HCD may require more evidence of the causes of failure during the review process. If, after the review, the evidence demonstrates that the Activity was put forth and proceed in good faith on the part of the Subrecipient, then HCD would consider a new eligible activity from the Subrecipient, if the initial ADCs can be shown to have contributed to the new activity. Prior to any funding of the new activity, a new capacity assessment, activity evaluation, and amended Master Standard Agreement with stricter grant conditions is required.

In accordance with federal compliance regulations, if it is determined that an activity failed due to actions, including but not limited to conflicts of interest, fraud, waste, abuse, and similar actions on the part of the Subrecipient, then any funding payments made toward the activity must be repaid and the Subrecipient is allowed to put forth a new activity submission. If the review shows that the Subrecipient acted in a reasonable manner, then the Subrecipient is allowed to put forth a new activity proposal. If the activity put forth by the Subrecipient does not meet the eligibility requirements or does not sufficiently demonstrate that the initial Activity’s ADCs have contributed to the new Activity, HCD shall open the outstanding funding to other Eligible Applicants to meet the Eligibility and Priority Level requirements of CDBG-DR.

4. Program Operations

4.1. Subrecipient Agreements

HCD’s Master Standard Agreement is the contractual agreement between HCD and the Subrecipient which sets forth the terms and conditions by which CDBG-DR funds must be utilized with regards to awarded Activities. Following the approval of Activity Applications by HCD, HCD shall route the Subrecipient’s Master Standard Agreement(s) for approval, and when ready, the Master Standard Agreement(s) will be delivered to the Subrecipient for execution via Grants Network. Upon execution of the Master Standard Agreement and completion of NEPA documentation, Subrecipients may begin incurring eligible costs.

Each Master Standard Agreement includes milestones for each Activity, as identified by HCD and in the Activity Application. All activities in Phase One should be completed within 12 months of execution of the Master Standard Agreement. Additional time may be provided for the Activity if sufficient reasons are provided and approved by HCD. All Activities must be completed at least 120 days prior to the contract expiration deadline, as defined in the Master Standard Agreement.

Each Master Standard Agreement includes the amount of funding committed to approved activities within it, the required reporting schedule and documentation required by each Subrecipient. HCD works with the Subrecipient to ensure timely and accurate reporting. HCD contacts Subrecipients on a regularly scheduled basis to obtain progress updates and to provide technical assistance as the programs progress forward through completion.

By executing HCD's Master Standard Agreement, the Subrecipient agrees to comply with all federal and state statutes, regulations, and rules that apply to the CDBG-DR activities, as well as the requirements listed within the contract, in exchange for receiving the grant for the awarded activities. Some requirements must be fulfilled prior to incurring costs and/or prior to requesting funds from HCD.

HCD's Master Standard Agreement includes provisions based on 24 CFR 570.503 and includes, but is not limited to, the following components:

- Scope of work, which includes a description of the work to be performed, a schedule for completing the work, and a budget
- Reports and recordkeeping requirements, defining the specific reports and the reporting dates, along with the records and the timeline for maintaining them in order to assist HCD in meeting HUD's recordkeeping and reporting requirements
- Program income restrictions and requirements for funds generated as result of the activities funded in the contract, including HCD approval of program income expenditures, along with reporting requirements
- Uniform administrative requirements, as outlined in both the federal Office of Management and Budget (OMB) and the California State Administrative Manual (SAM).
- Specific grant related requirements
- Suspension and termination clauses, if HCD finds that a Subrecipient materially fails to comply with the terms of the contract, and that the contract may be terminated for cause.
- Reversion of assets clause, stating that upon contract expiration, the Subrecipient will transfer CDBG-DR funds on hand to HCD, along with accounts receivable attributed to the use of the CDBG-DR funds (where they do not meet the definition of Program Income
- Other provisions necessary to ensure compliance with the requirements of the 23/23 CDBG-DR Tribal Program

Please note that it can take multiple months to process a Master Standard Agreement with the State. This time can be reduced by promptly responding and providing requisite documentation.

4.2. Agreements with Contractors or Other Parties

Subrecipient shall not enter into any agreement, written or oral, with any Contractor, vendor, or other party without the prior determination that the Contractor, vendor, or other party is eligible to receive federal funds and is not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors in accordance with 2 CFR § 200.213.

The term "other party" is defined as public or private nonprofit agencies or organizations and certain (limited) private for-profit entities who receive Grant Funds from a Subrecipient to undertake eligible Activities.

Requirements of an agreement between the Subrecipient and any Contractor or other party shall include, but not limited to the following:

- Compliance with all state and federal requirements, where applicable, including those that pertain to labor standards, nondiscrimination, Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free Workplace Act.
- Maintenance of at least the minimum state-required Workers' Compensation Insurance, where applicable.
- Maintenance of unemployment insurance, disability insurance and liability insurance which is reasonable to compensate any person, firm or corporation who may be injured or damaged during the performance of Activities, where applicable.
- Contractors, where applicable, shall:
    - Comply with the applicable provisions of the California Labor Code.
    - Perform housing and infrastructure Activities in accordance with federal, state, and local housing and building codes as applicable; and
- Provide security to assure completion of the activity(ies) by furnishing the borrower and construction lenders with proof of sufficient insurance and performance and payment bonds, or other security approved in advance in writing by the Department, as determined by the particulars of each individual Activity are required.
- Where required by the Department, the Subrecipient must cause the Activity architect(s) or other appropriate professional to certify to the Department, in form acceptable to the Department, that all construction is completed in accordance with the Plans and Specifications and in compliance with all applicable federal, state, and local laws relating to accessibility for persons with disabilities, including Fair Housing Act Design and Section 504 UFAS requirements

4.3. Document Retrieval Process

To support transparency and efficient recordkeeping, all documentation related to the Activity—from Application through grant completion and closeout—should be submitted through the Grants Network Program Portal. This centralized system ensures that required documents are accessible for review and retrieval in one location. Subrecipients can access their activity workspace via the Grants Network Program Portal and upload documents to the appropriate sections as needed.

4.4. Disbursement of Funds

Payments are made directly to Subrecipients as reimbursements based on the documented completion of agreed upon the Statement of Work and/or Activity Report as outlined in the Master Standard Agreement. "Reimbursement-based" means that Activity Delivery and Activity costs must be incurred by the Subrecipient and documented as required by the terms of the Master Standard Agreement for payment of invoices. Please see the state's Grant Administration Manual, Section V for additional fiscal management procedures and requirements.

4.5. Reporting Requirements

Subrecipients are required to submit reports via Grants Network at times indicated in the Master Standard Agreement, in accordance with HCD and HUD reporting requirements. At a minimum, during the Master Standard Agreement period of performance, the Subrecipient shall submit monthly HCD Activity Reports and Quarterly Financial Reports which may include but not be limited to the following topics:

- Number of beneficiaries served.
- Various beneficiary demographic data.
- Data related to National Objective compliance.
- Race and ethnicity beneficiary data, as applicable.
- Labor standards compliance reporting, as applicable.
- Data related to Activity performance measures included in the Master Standard Agreement.
- Activity status.
- Expenditure status.
- Contract milestones status.
- Data related to the household demographics of activity beneficiaries.
- A description of the Activity status.
- A description of activities to be undertaken in the next reporting period.

- A description of problems or delays encountered in activity implementation and course of action taken to address them.
- Any questions that have arisen during implementation or a request for technical assistance.
- A description of actions taken to achieve activity milestones.

4.5.1. Mitigation and Resilience Metrics

Consistent with Universal Notice section III.A.2.b., Tribal DR projects will integrate hazard-specific mitigation measures into the construction, reconstruction, or rehabilitation of residential or non-residential buildings and public facilities. HCD will require subrecipients to identify the hazard-specific mitigation and resilience measures already incorporated into each project's scope, or to confirm that planned design standards reflect best-practice mitigation requirements for the project's hazard type. HCD will identify and enter resilience performance measures in DRGR for each applicable activity, using available project information, and will use these measures to support project selection, monitoring, and closeout.

4.6. Monitoring and Compliance

HUD describes monitoring as an integral management control standard and requires any entity receiving HUD funding to monitor and evaluate program performance and compliance, see CDBG Regulation 24 CFR 570.501(b). HCD staff monitors all CDBG-DR programs and activities. HCD is required to ensure that its Subrecipients comply with:

- The requirements of the CDBG-DR program.
- FRN requirements applicable to the CDBG-DR program and any applicable waivers.
- Other federal regulatory guidance, such as Uniform Administrative Requirements, cost principles, and audit requirements outlined in 2 CFR 200.
- Specific conditions as stated in 2 CFR 200.205 and 200.207 respectively to mitigate the risk of the grant.
- The Agreement with HCD, including amendments if applicable; and
- The annual monitoring assessment and strategy.

Monitoring provides information about program participants, assesses quality of performance over time and is critical for making informed judgements about program effectiveness and management efficiency. It also identifies instances of fraud, waste, and abuse.

The Subrecipient is required to allow HCD, HUD, the State Auditor and any other state or federal agency seeking to monitor the Subrecipient access to all books, accounts, records, reports, files, and other electronic or paper documentation pertaining to the administration, receipt and use of federal funds necessary to facilitate such reviews and audits.

4.6.1. HCD's Monitoring of Subrecipients

HCD monitors its Subrecipients and Contractors/vendors, when applicable, based upon an assessment of risk posed and according to specific monitoring criteria pursuant to 2 CFR § 200.331.

HCD conducts a Risk Assessment on all Subrecipients and Contractors/vendors on an annual basis. In accordance with 2 CFR § 200.221, 24 CFR § 570.492 and 42 USC §5304(e)(2), the risk assessment gauges a Subrecipients' capacity to implement a program or activity, its compliance with the Master Standard Agreement performance objectives, and to assess operational risk. The goal of this process is to determine the highest risk areas across all CDBG-DR activities and alert HCD to the programs, Subrecipients, and/or Contractors/vendors who require the greatest administrative oversight. The results of the risk assessment advise HCD of those high risk Subrecipients, Contractors/vendors for technical assistance, capacity training, scheduling frequency, and type of monitoring activities.

The Monitoring Plan provides HCD's responsibilities and procedures for monitoring its Subrecipients, as well as the Annual Monitoring Strategy. Two types of monitoring will be employed by HCD: desk monitoring and onsite monitoring. Both desk and on-site monitoring follows the same process:

1) HCD sends a monitoring notification letter to the Subrecipient.
2) Document collection and pre-monitoring work begins for the next thirty business days after issuance of the notification letter.
3) Entrance Conference via teleconference for desk monitoring and in-person for onsite monitoring is held.
4) Document review, interview of Subrecipients, and requests for additional documents.
5) Exit conference via teleconference for desk monitoring and in person for on- site monitoring. Review of findings and concerns including next step discussion; and
6) Monitoring is concluded with a Monitoring Report which is issued to the Subrecipient within 30 days of the Exit conference.

Desk Monitoring

Desk monitoring is conducted at the HCD office regardless of the location of the Subrecipient's office. It commences 30 days after the Subrecipient is notified via the notification letter. During the 30-day notification period, the Subrecipient will provide HCD with any documentation requested in the notification letter. A desk monitoring can either be a comprehensive review of the Activity or area-specific (e.g., Procurement and Contract, Environmental, Section 3, Financial Management). Typically, desk monitoring is only conducted for low-risk to medium-risk Subrecipients and on some cases may trigger an onsite monitoring based on the findings of the HCD monitor. The outcome of the desk monitoring is communicated to the Subrecipient via an Exit Conference and in writing via a Monitoring Report.

Onsite Monitoring

During the onsite visit, an HCD representative reviews files for compliance with applicable federal and program requirements. This review is like the desk monitoring process. To prepare for onsite visits, the HCD monitor uses information contained within Grants Network, the Agreement, and Program Application. These may include items such as employee timecards, financial statements, Activity file documents, draw requests, and policies and procedures provided by the Subrecipient. Typically, onsite monitoring is reserved for medium-high to high-risk Subrecipients. This group of Subrecipients present the greatest risk to HCD's compliance with HUD's grant requirements. Onsite monitoring is intended to be a more comprehensive assessment of the Subrecipients' management of the DR program in compliance with applicable federal, state, and local regulations and requirements. This level of monitoring is performed at the Subrecipient’s location and is more formal than a desk monitoring.

HCD does not directly monitor construction contractors engaged by Subrecipients. Instead, HCD’s oversight focuses on ensuring that Subrecipients are effectively monitoring their contractors, as contractor oversight is the responsibility of the Subrecipient under program requirements. However, if HCD determines that a Subrecipient has not performed adequate monitoring of its Subrecipients or Contractors, HCD may directly monitor the Subrecipient or Contractor to confirm that applicable regulatory compliance is being provided. When necessary, the HCD representative arranges onsite activity inspections with the Subrecipient and its Contractors to confirm eligible CDBG-DR activities are being conducted, eligible costs are being charged and that the required National Objective is being met.

4.6.2. Subrecipient Monitoring Responsibilities

HCD requires the Subrecipients to develop their own monitoring plan for their activities and Contractors that complete construction on CDBG-DR funded Activities. Therefore, Subrecipients are responsible for conducting their Activities to meet these compliance requirements. HCD’s monitoring plan is available on the HCD website and provides guidance to the Subrecipient to develop their own monitoring plan.

It is the responsibility of the Subrecipient to ensure compliance with the terms of the Agreement and applicable regulations. Subrecipient monitoring should include the following:

- Ensuring Activity scopes of work are consistent with the scope of work described in the Activity Applications.
- Physical inspection should include the inspection of all construction Activities to ensure the Activity remains in scope.
- Monitoring construction Contractors for equal opportunity, federal and state labor standards, and Section 3 requirements.
- Following procurement processes in accordance with 2 CFR §200 or local standards if higher.
- Ensuring Activity milestones are being met.
- Ensuring environmental reviews are completed and documented properly.
- Complying with the terms and conditions of the Agreement with HCD, especially anti-fraud and abuse.
- Monitoring Contractors/vendors for federal compliance standards.
- Financial Management: internal controls, accounting, program income and record keeping comply with 2 CFR Part 200 and CDBG-DR costs are eligible, allowable, reasonable, and allocable; and
- Documenting National Objective compliance for all activities.

Please see the State of California's Grant Administration Manual, Section XVI for additional monitoring and compliance procedures and requirements.

4.7. Record Keeping

HCD's Master Standard Agreement with the Subrecipient is the contractual document that details the financial and recordkeeping requirements and standards for Subrecipients allocated funds to conduct specific eligible Disaster Recovery activities. Such reports and recordkeeping requirements, defining the specific reports and the reporting dates, along with the record and the timeline for maintaining them are to assist HCD in meeting HUD's recordkeeping and reporting requirements per Section 104(e); (a)(2)(D) and (a)(3)(b), §570.506 (records to be maintained), and §570.508 (public access to records). Further record keeping requirements as detailed in 85 FR 4681 and per HCD's grant agreement with HUD include, but are not limited to:

- Executed Master Standard Agreement(s)
- Authorizing Resolutions
- Entity Organizational Documents
- Description, geographic location, and budget of each activity
- Eligibility and National Objective determinations for each activity

- Documentation of disaster tie back for each activity
- Evidence of having met a National Objective
- Evidence of having met the MID criteria
- Evidence of having met the LMI criteria
- Subrecipient Agreement
- Any bids or contracts
- Characteristics and location of the beneficiaries
- Compliance with special program requirements
- Personnel files
- HUD monitoring correspondence
- Citizen participation compliance documentation
- Fair Housing and Equal Opportunity records
- Environmental review records
- Documentation of compliance with crosscutting requirements (e.g., Davis-Bacon, Uniform Relocation Act, Section 3, and Lead-Based Paint, etc.)
- Budget and expenditure information
- Chart of accounts
- Accounting procedures
- Accounting journals and ledgers
- Source documentation (purchase orders, invoices, canceled checks)
- Procurement files (including bids, contracts, etc.)
- Real property inventory
- Draw down requests.
- Payroll records and reports
- Financial reports
- Audit files
- Relevant financial correspondence
- The status of the Activity
- Tribal Governance Documents
- Tribally Determined Wage Documents

- Tribal Partnership Agreements

Further, Subrecipients are required to maintain financial records and submit the financial reports sufficient to ensure compliance with all recordkeeping and reporting requirements. Per the Standards for Financial Management Systems, accounting records must be supported by source documentation such as canceled checks, invoices and demands, payrolls, time and attendance records, contract, and sub-grant award documents, etc.

Throughout the Master Standard Agreement period, HCD may perform or cause to be performed an independent financial audit of all phases of the Subrecipient's Activity(ies). At HCD's request, the Subrecipient shall provide, at its own expense, a financial audit prepared by a certified public accountant. As stated in the State of California's Grant Administration Manual, Section V.J.1 on internal audits, all non-federal entities that expend $1,000,000 or more in federal awards in a fiscal year are required to have a single audit for that year in accordance with the Single Audit Act of 1984, Single Audit Act Amendments of 1996, and 2 CFR §200 Subpart F-Audit Requirements.

Subrecipients are required to maintain all books and records for five (5) years following the final closeout of the grant from HUD to HCD. Subrecipients are encouraged to convert all paper files to electronic files. However, if any litigation, claim, negotiation audit or other action involving the records has been started before the expiration of the five-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period, whichever is later.

4.8. Closeout

4.8.1. Closeout of an HCD Master Standard Agreement

Initiation of Master Standard Agreement closeout must occur at least 120 days prior to the Master Standard Agreement expiration deadline. To complete closeout, Subrecipients are required to submit the following to HCD for each Master Standard Agreement:

- The final request for funds.
- Evidence of a public hearing reporting the grant accomplishments and expenditures of each activity to the residents of the Tribal Entity.
- If applicable, the final activities of the grant funding (planning studies, environmental review records, etc.).

HCD reviews the documentation and processes the final funds requests if all provided documentation and the circumstances of the activity warrant contract closeout. HCD disencumbers any remaining funds, if applicable, and updates all needed information in DRGR to show the activities and activities are "completed."

HCD reviews and updates the following in DRGR:

- The total amount of funds drawn down for the activity.

- A final check for Duplication of Benefits (DOB)
- The activity type
- The National Objective
- The grant activity accomplishments

Once all documentation has been processed and DRGR has been updated, HCD sends a Closeout Letter to the Subrecipient, outlining all closeout requirements. HCD will update the next Quarterly Performance Report (QPR) regarding closeout of an Activity's Master Standard Agreement.

Subrecipients are required to retain CDBG-DR records for a period of not less than five (5) years after the fiscal year of their grant in accordance with CDBG-DR record retention requirements. HCD notifies subrecipients when the HUD grant has been closed.

4.8.2. HCD Closeout of HUD Grant

The closeout of the HCD grant is a process through which HUD determines that all applicable administrative and program requirements of the grant were completed by HCD. In general, a grant is ready for closeout when the following conditions are met:

- All individual activities were completed, met a National Objective, and closed out in DRGR.
- All contracts (i.e., Master Standard Agreements) have completed closeout.
- All grant funds were expended in full, or all remaining funds are planned to be returned to HUD.
- All reporting requirements were completed and submitted (except for the final report that is submitted during the closeout process, if applicable).
- Any special conditions of the grant were met.
- All audit and monitoring issues affecting the grant were resolved. Once HCD has completed closeout of all program activities, HCD completes the Subrecipient Closeout Certification Form (HUD Form 40175) along with the Grant Closeout Checklist (HUD Form 40183) and submits these forms to HUD.

Within 90 days of the execution date of the Closeout Certification, HCD submits to HUD a copy of the final performance and evaluation report described in 24 CFR part 91 as well as Federal Financial Report SF-425 or a financial report that meets the criteria in 24 CFR part 570.489(d). These requirements must:

- Be sufficiently specific to ensure that funds received under this subpart are used in compliance with all applicable statutory and regulatory provisions and the terms and conditions of the award.

- Ensure that funds received under this subpart are only spent for reasonable and necessary costs of operating programs under this subpart.
- Ensure that funds received under this subpart are not used for general expenses required to fulfill other responsibilities of state and local governments.

HCD may satisfy this requirement by:

- Using fiscal and administrative requirements applicable to the use of its own funds.
- Adopting new fiscal and administrative requirements.
- Applying the provisions in 2 CFR. Part 200.

If opting to satisfy this requirement for fiscal controls and administrative procedures by applying the provisions of 2 CFR Part 200, HCD must comply with all requirements therein. Additionally, HCD must ensure that recipients of the state's CDBG-DR funds comply with 2 CFR Part 200.

Concurrent with the financial report is a final QPR as well as an update of all transactional data in DRGR. If an acceptable report is not submitted, HUD may conduct an audit of the grant activities.

Once a review has been completed by HUD, the HUD field office prepares a closeout agreement. The grant is considered closed on the date that the appropriate HUD official executes the closeout agreement. Any unused grant funds are recaptured by HUD as a course of the closeout process.

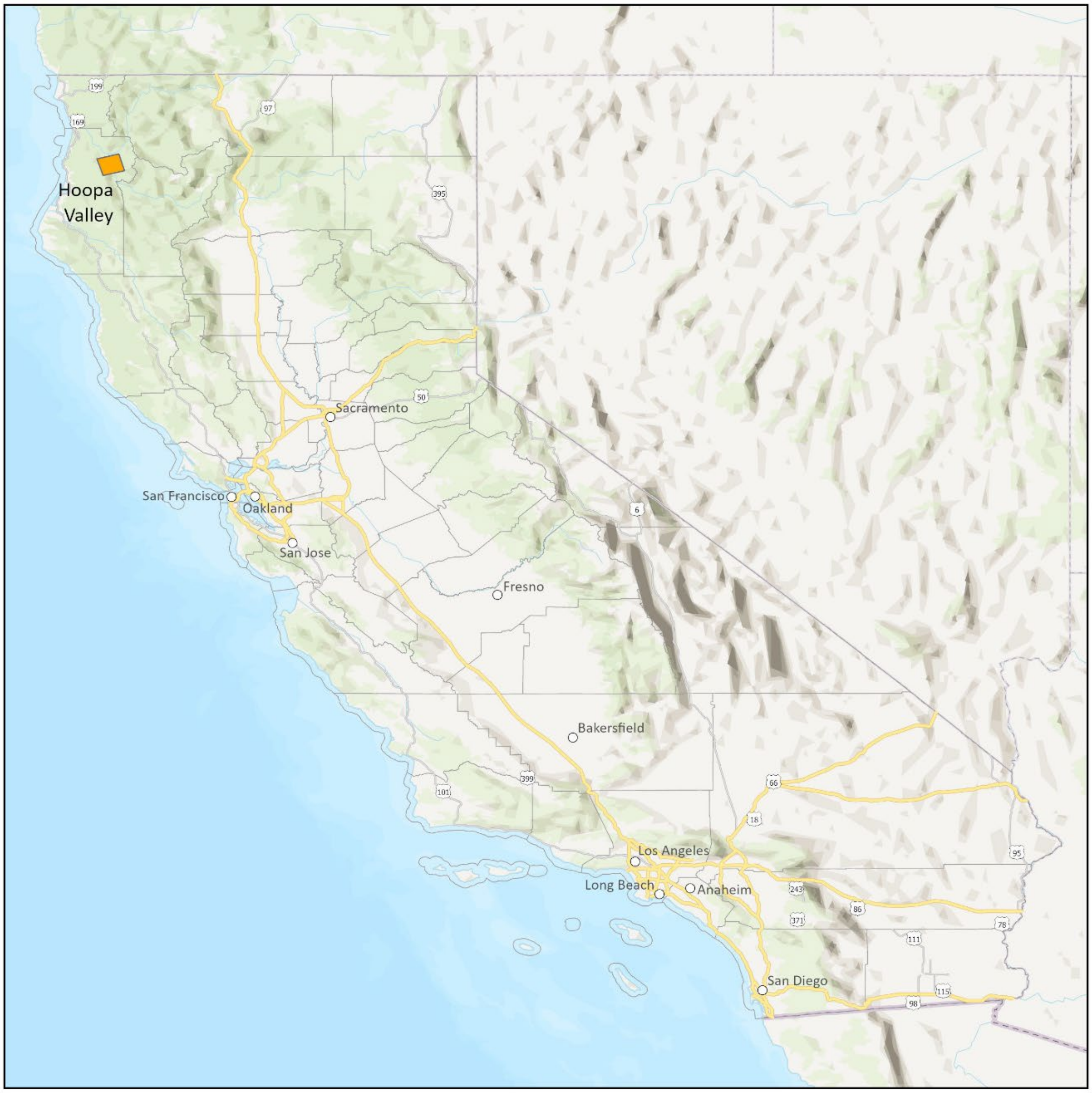
Note that grants cannot be closed out if there are open monitoring reports associated with the contract; all monitoring findings, concerns and requirements must be received and approved by HCD, and HCD must also receive a Clearance Letter stating the monitoring has been complete.

5. Program Expenditure and Outcome Projections

Section III.A.2.C of the CDBG-DR Universal Notice requires the Department, as part of their development of program-specific policies and procedures, to develop projected expenditures and outcomes for each quarter of the grant. These must be posted on the Department's public website to ensure transparency and enable public tracking of performance. This allows HUD and the public to compare actual expenditures and outcomes to the projections. Program projected expenditures and outcomes will be reviewed and adjusted as needed when an Action Plan Amendment revises program budgets, allocations, and/or expected outcomes. The expenditure and outcomes projections are located on the Department's website at the following link: https://www.hcd.ca.gov/funding/dr/dashboard-and-reporting/hud-reports.

HCD will compare the actual expenditures and outcomes accomplished as part of the quarterly performance report against each program's projected expenditures and outcomes to monitor grant performance and adherence to expenditure timelines. These quarterly performance reports are available on the Department's website at the following link: https://www.hcd.ca.gov/funding/dr/dashboard-and-reporting/hud-reports.

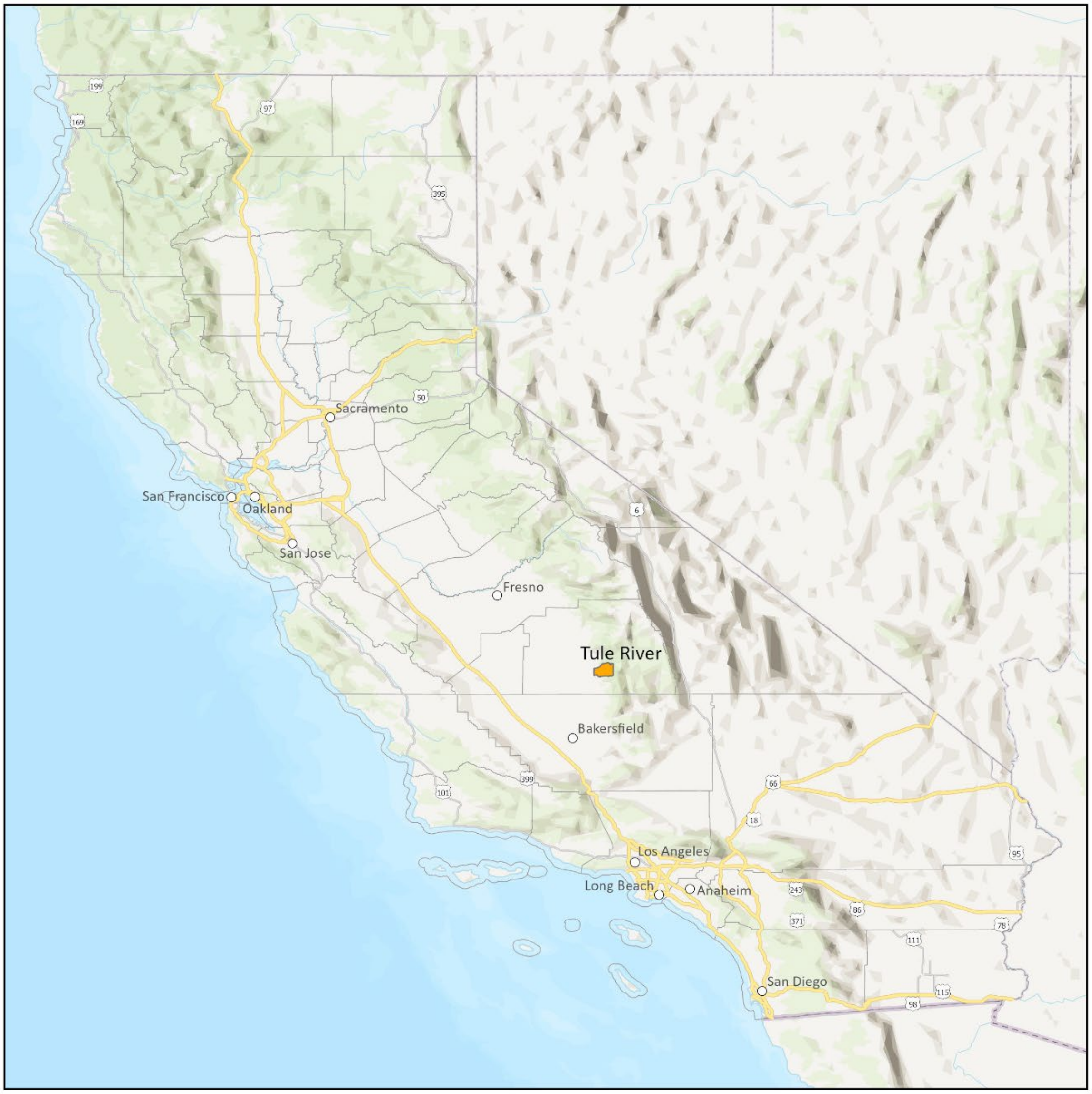
Appendix 1: Maps of Hoopa Valley Tribe Disaster Impact



DR-4707 MID Area

Hoopa Valley Reservation

Appendix 2: Map of Tule River Tribe Disaster Impacts



DR-4699 MID Area

Tule River Reservation