State of California
Department of Housing and Community Development

2017 Community Development Block Grant - Disaster Recovery Infrastructure Program and Mitigation Resilient Infrastructure Program

Policies and Procedures Manual

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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 will result in the issuance of a new version. For example, the change to a rolling application process is a substantial change to the procedures provided in Version 1.0. Future policy changes will result in additional revision and the issuance of a new primary version number.

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, will be 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.

Community Development Block Grant – Disaster Recovery
Infrastructure Program and Mitigation Resilient Infrastructure Program
Policies and Procedures Manual

Version History

Version Number	Date Revised	Description of Revisions
v1.0	**October 2020**	**Initial Draft:** Policies and Procedures are subject to change at the sole discretion of the DR-Infrastructure and Mitigation Resilient Infrastructure Programs.
v2.0	**March 2021**	**Section 1.5.20 Environmental Review:** Update pre-agreement text to allow for activity delivery for completing environmental reviews. **Section 1.5.20 Environmental Review:** Add reference to flood insurance requirement for facilities in the SFHA. **Section 1.9 Determining the Non-Federal Share Amount:** Update to reflect that Cal OES will not match for HMGP. The HMGP non-federal match will be at 25%. **Section 1.10.2 NOI Requirements:** Remove OES Number – HMGP Match Only. **Section 1.10.5 Allocations from NOI:** HCD reserves the right to increase allocation amounts to ensure project feasibility. Allocations will not exceed the unmet need amount submitted under the NOI. **Sections 1.10.6, 1.10.9**: Update the application process to a rolling-approval process, as all applications do not need to be in for awards to be made and there is no longer a requirement for the 70% grant-wide LMI target and grant-specific 80% MID target in order to proceed with applications. **Section 1.25.2 HMGP Match:** Update to reflect that Cal OES will not match for HMGP. The HMGP non-federal match will be at 25%. **Section 1.26.2 Round One NOI Process:** Remove OES Number – HMGP Match Only.

v3.0	**October 2023**	**Full Document:** General updates related to grammar, capitalization, punctuation, and overall formatting. Clarification of uses of Standard Agreements (SAs) and Master Standard Agreements (MSAs) throughout grant life cycle. **1.3.1 FEMA PA Match:** Update regarding maximum non-federal share for U.S. Army Corps of Engineers (USACE) funded with CDBG-DR funds. **1.6.5, 1.7.2, and 1.8.2 Ineligible Uses of Funds**: Update regarding CDBG-DR funds are not allowed to be used for projects that include eminent domain unless employed a public use. **1.4.1Tie-back to the Disasters:** Clarification of location documentation requirements for tie-back documents and images. **1.4.2 Overall Housing Recovery:** Definition of 'Overall Housing Recovery' and examples of projects supporting OHR. **1.5.2 Copeland Act's Anti-Kickback Provision:** Update to the section based on CAKA summary from Department of Labor. **1.4.4 Eligible Applicants:** Update of requirements for Eligible Applicants working on behalf of another jurisdiction or special district. **1.5.10 Section 3:** Updates regarding the HUD Section 3 Final Rule amendments. **1.5.17 Procurement Policy:** Clarification regarding HCD review of subrecipient's procured contracts. HCD will not review each contract, but will confirm compliance through monitoring. **1.5.20 Environmental Review Procedures:** Clarification of requirements for subrecipients to use activity delivery funds for initiating environmental review. **1.9 Determining the Non-Federal Share Amount:** Addition of section that defines and provides methods of calculation for non-federal share match. **1.10.1 NOI Process:** Changed title from "Project Selection" to "NOI Process" to more accurately reflect terminology and content. **1.10.5 Allocations from NOI:** Clarifies HCD's ability to adjust allocations to ensure project feasibility, open additional funding rounds, and/or reprogram funds. **1.10.6 Project Application Process:** Clarification of the timing of the Application opening in Grants Network following receipt of the Resolution Authorizing submission of an application and entering into an Agreement. Inclusion of policy regarding application extensions.

		1.10.7 Application Requirements: Clarification of DOB review process. **1.10.8 Project Application Review:** Update of responsible entity for final project application approval. **1.10.10 Notice to Proceed:** Clarification of steps, submissions, and approvals required before HCD may issue an NTP. Clarification that NTP enables subrecipient to formally proceed with projects and expect to be reimbursed for eligible activity costs incurred after NTP execution date. Clarification that FEMA match projects that commenced construction prior to the NOI are excluded from restrictions on incurring pre-NTP activity costs. **Program Operations:** Changed section title from Program Operations and Implementation. **1.17 Timing of Eligible Costs Incurred:** Clarification of circumstances in which eligible costs may be incurred subsequent to the execution of an Agreement between HCD and the Subrecipient but prior to issuance of an NTP. Clarification of processes and reviews required for HCD to approve pre-NTP costs.
v4.0	**May 2025**	**Full Document:** Aligned section references to updated formatting **Appendix 1 Implementation Policies:** Section headers updated to clarify applicability to Round One, Round Two, or both. **1.27 Round Two MIT-RIP Program:** Section added to address Round Two implementation. **1.27.1 Round Two Allocation Methodology:** Added to detail Round Two allocation methodology and note allocation amounts.
V5.0	**June 2026**	**1.5 CDBG-DR and Cross-Cutting Federal Requirements:** Removal of federal language that is no longer applicable to the program. **1.5.8 Section 3:** Update to reflect changes to Section 3 thresholds as set out in the HUD Federal Register Notice of February 13, 2026 (91 FR 6752), effective March 16, 2026. **1.5.18 Environmental Review:** Update to clarify that environmental adoption can occur by both grantees and subrecipients with Responsible Entity status, and that routing of an adoption to HUD must occur through HCD. **1.18 Disbursement of Funds:** Updated to state HCD policy that Match projects will submit a single reimbursement request upon completion of the project, and to clarify HCD policy regarding retainage. **1.20 Compliance Actions and Authority for Compliance Actions:** Added to clarify the compliance actions HCD might

		take with regard to subrecipients, and to describe the authority for those compliance actions. **1.21 Expenditure Deadlines and Reallocations of Funds:** Added to describe the steps HCD will take to ensure unspent funds are used on eligible activities. **1.25 Program Expenditure and Outcome Projections:** Added to describe the steps HCD will take to monitor grant performance and adherence to expenditure timelines. **Appendix 1 Mitigation Resilient Infrastructure Program:** Minor updates throughout to better align with the requirements of HUD's Federal Register Notices. **1.28. Program Goals:** Clarification to more closely align with the language of the Federal Register Notice. **1.30.1 Round Two Allocation Methodology:** Addition to note that HCD may reallocate funds, as needed, based on remaining unmet need. **1.32 Mitigation Project Application Requirements:** Clarification to more clearly connect the application process with the language of the Federal Register Notice. Updates throughout document to make minor (non-substantive) improvements.

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General

1.1. Purpose and Scope

This document is designed to address program policies and provide general guidance for the use of Community Development Block Grant – Disaster Recovery (CDBG-DR) supplemental funds appropriated under Public Law Public Laws 115-254 and 116-20, Catalog of Federal Domestic Assistance Numbers 14.228 for State CDBG grantees and 14.218 for Entitlement CDBG Grantees.

On January 27, 2020, United States Department of Housing and Urban Development (HUD) allocated $38 million of CDBG-DR funding to the State to address California's unmet infrastructure recovery needs, related to the Federal Emergency Management Agency (FEMA) Major Disaster Declarations DR-4344 in October 2017 and DR-4353 in December 2017. The California Department of Housing and Community Development (HCD) is the lead and Responsible Entity for administering the CDBG-DR funds allocated to the State of California. CDBG-DR supports the State of California's unmet recovery needs related to the Federal Emergency Management Agency (FEMA) Major Disaster Declarations DR-4344 in October 2017 and DR-4353 in December 2017.

Recognizing the requirement included in Federal Register Notice 85 FR 4681, published January 27, 2020, to address the unmet infrastructure recovery needs, related to DR-4344 in October 2017 and DR-4353 in December 2017, HCD developed the Disaster Recovery Infrastructure Program (DR-Infrastructure). DR-Infrastructure projects are funded to assist with meeting the unmet infrastructure needs of local communities. This program provides funding for FEMA Public Assistance (PA) Match projects, FEMA Hazard Mitigation Grant Program (HMGP) Match projects, and stand-alone projects identified by local communities impacted by DR-4344 and DR-4353.

Additionally, in order for CDBG-DR funds to be used as the non-federal cost share local match, the project must be a HUD eligible activity and must meet a HUD national objective, per CDBG-DR rules and regulations. Similarly, the project must fully comply with all applicable federal rules and regulations, to include Davis Bacon and related acts, Section 3, Section 504, procurement, environmental review and all other CDBG-DR, cross-cutting, state and local applicable statutes, rules and regulations.

This document describes program policy and provides guidance for the DR-Infrastructure Program. Subrecipients should review all applicable Federal regulations, disaster specific Federal Register Notices and the state's CDBG-DR Action Plan, CDBG-DR Action Plan Amendment I, and Grant Administration Manual for detailed discussions of CDBG-DR procedures and requirements.

1.2. Terms and Definitions

Agreement: HCD utilizes multiple agreement templates as contracts with Subrecipients, including, but not limited to, Standard Agreements and Master Standard Agreements. The type of Subrecipient agreement used depends on the type and number of projects, among other factors. HCD determines the type(s) of Agreement used on a case-by-case basis in the reasonable exercise of HCD's discretion. "Agreement" is used throughout this manual as a general term when either a Standard Agreement or Master Standard Agreement, or any other agreement template, may be appropriate given the context of the section.

Activity Delivery Costs (ADC): ADCs are allowable costs incurred for implementing and carrying out eligible CDBG activities. ADCs cover the costs of staff directly carrying out 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-assisted activity, meet a national objective, and meet all other CDBG program requirements.

Application: A formal document used to assess viability of an individual project and includes final construction design plans, identify and document all funding sources, and provide additional documentation to show compliance with state and federal regulations.

Area Median Income (AMI): means the median family income for specific geographic areas, adjusted for household size, as calculated by HUD, and published annually by HCD for the CDBG program at https://www.hcd.ca.gov/grants-and-funding/income-limits

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

California Environmental Quality Act (CEQA): is 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.

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

Contractor: a properly licensed person or company that Subrecipients or developers hire to undertake a contract to provide materials or labor to perform a service or do a job.

Community Development Block Grant Program - Disaster Recovery (CDBG-DR): Assistance from the U.S. Department of Housing and Urban Development (HUD) to help the state recover from presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations.

Cross-Cutting Requirements: Regulations outside of CDBG-DR that apply to CDBG-DR programs. These requirements pertain to financial 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 in excess of $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 projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts. Contractors and subcontractors on Davis-Bacon Act prime contracts in excess of $150,000, or related Act contracts in excess of $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 workweek.

Eligible Applicant: means any city or county government that applies for funds pursuant to applicant eligibility section. (See Also: Subrecipient)

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

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 United States Department of Homeland Security. The agency's primary purpose is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.

FEMA Public Assistance (FEMA PA): Provides grants to state, tribal, territorial, and local governments, and certain types of private non-profit organizations so that communities can quickly respond to and recover from major disasters or emergencies. Through the program, FEMA provides supplemental federal disaster grant assistance for debris removal, life-saving emergency protective measures, and the repair, replacement, or restoration of disaster-damaged publicly owned facilities, and the facilities of certain private non-profit organizations.

Grantee: Refers to the California Department of Housing and Community Development (HCD).

Grants Network: The Department’s electronic grant management system and application portal.

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.

FEMA Hazard Mitigation Grant Program (HMGP) Project: FEMA HMGP Projects are those that that result in protection to public or private property, have a beneficial impact upon the designated disaster area, whether or not located in the designated area, and meet the meet the minimum project criteria in 44 CFR Section 206.434(b).

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

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. The MSA allows for multiple projects to be completed under one Agreement.

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 needs allocation, HUD has defined Most Impacted and Distressed as an area (county or zip code) that meets the following criteria:

A. 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.
B. 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.
C. Disasters meeting the most impacted threshold. Only 2017 disasters within the threshold are funded: a. One or more most impacted county, and/or b. 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 2017.

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.

Notice Of Intent: Process by which Eligible Applicants submit their eligible DR-Infrastructure Program projects and project Priority Level through Grants Network for Program eligibility and funding allocation.

Notice to Proceed (NTP): The NTP is a binding document, approved as to form a component of the Master Standard Agreement or project by project agreement, that amends the allocation agreement between the Subrecipient and HCD by committing funds to a specific project and gives official notice to the subrecipient that they can begin work on the project.

Permanent work: FEMA's Public Assistance program designation for "recovery work" which restores or rebuilds a damaged asset and is comprised of five categories: roads and bridges (Category C), water control facilities (Category D), buildings and equipment (Category E), utilities (Category F), and parks, recreation facilities, and other facilities (Category G).

Program Portal: A web-based portal via Grants Network to the DR-Infrastructure overview and program-specific documents, NOI and Project Application.

Project: Per 49 CFR 24.2 a (22), project means any activity or series of activities 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.

Project Worksheet (PW): FEMA form used to document the scope of work and cost estimate for a FEMA Public Assistance project. This form supplies FEMA with the information necessary to approve the scope of work and itemized cost estimate prior to funding. The PW may include mitigation measures up to 100% of the eligible PW value.

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 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 general local government and states. The approval of the RROF is required before environmental clearance may be provided to a recipient of CDBG-DR funds.

Responsible Entity (RE): Under the ERR requirements at 24 CFR Part 58, the term "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.

Section 3: is 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 projects and activities in their neighborhoods.

Stand-Alone Project: Non-match, stand-alone projects are those eligible infrastructure projects critical to address identified unmet disaster recovery needs and increase the resilience of cities and counties and are not funded by other federal recovery programs.

Standard Agreement: The contractual arrangement between HCD and the Subrecipient which sets forth the terms and conditions by which CDBG-DR funds are utilized. The Standard Agreement allows for one project to be completed under the Agreement.

Subrecipient: The term ‘‘Subrecipient’’ refers to a unit of local government receiving a direct award from HCD and providing grant awards to developers. Public or private nonprofit agency, authority or organization, or community-based development organization receiving CDBG-DR funds from the recipient or another subrecipient to undertake CDBG-DR eligible activities (see 24 CFR 570.500(c)).

- A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program (see 2 CFR 200.93)
- A subrecipient is a grantee’s partner in disaster recovery

Uniform Relocation Act (URA): A federal law that establishes minimum standards for federally funded programs and projects 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 provided to HCD.

Program Requirements

1.3. Infrastructure Program Activities

The DR-Infrastructure Program utilizes CDBG-DR funds to address two needs of Eligible Applicants: 1.) providing support to disaster-impacted units of government and other eligible entities with payment of their non-federal share (FEMA PA Match and FEMA HMGP Match) requirement so that they can access other disaster recovery resources without incurring an unexpected financial burden to address recovery needs; and 2.) providing funds to units of government to develop “Stand-Alone” infrastructure projects, which can be funded with up to 100% CDBG-DR funding, that are necessary to address unmet disaster recovery needs from impacts tied to DR-4344 and DR-4353. To address the needs, described in this paragraph, of Eligible Applicants, the DR-Infrastructure Program funds are used for the following project types:

- The non-federal share match on approved FEMA Public Assistance (PA) projects;
- The non-federal share match on approved FEMA Hazard Mitigation Grant Program (HMGP) projects; and
- Non-match, Stand-Alone Infrastructure projects that address identified unmet 2017 disaster recovery needs and increase the resilience of cities and counties.

1.3.1. FEMA PA Match

The FEMA Public Assistance (PA) Grant Program supports communities' recovery from major disasters by providing them with grant assistance for debris removal, life-saving emergency protective measures, and restoring public infrastructure. FEMA provides grants to the State and its sub-applicants (cities, counties, school districts, etc.) to address the long-term rebuilding, recovery, and resilience needs of the communities. Projects that are permanent work and approved for FEMA PA Match in FEMA Categories C through G are eligible for non-federal share, local match funding under the DR-Infrastructure Program. See Section 1.3.1 for a full description of eligible FEMA PA Match projects, activities, and compliance.

For any other federal match projects that include U.S. Army Corps of Engineers (USACE) funds, only $250,000 or less of CDBG-DR funds may be used for the non-federal cost-share of any project funded by USACE.

1.3.2. FEMA HMGP Match

FEMA Hazard Mitigation Grant Program (HMGP) activities are designed to help communities implement hazard mitigation measures following a Presidential Major Disaster Declaration in the areas of the state, tribe, or territory requested by the Governor or Tribal Executive. The key purpose of HMGP is to enact mitigation measures that reduce the risk of loss of life and property from future disasters. Projects that are approved for FEMA HMGP Match are eligible for non-federal, local match funding under DR-Infrastructure. See Section 1.3.2 for a full description of eligible FEMA HMGP Match projects, activities, and compliance.

1.3.3. Stand-Alone Infrastructure

Non-match, Stand-Alone CDBG-DR eligible infrastructure projects with a tie-back to the 2017 disasters that can be funded with up to 100 percent of CDBG-DR funding are eligible for the DR-Infrastructure Program. These non-match, Stand-Alone Infrastructure projects are critical to address identified unmet disaster recovery needs and increase the resilience of cities and counties that are not funded by other federal recovery programs. Stand-Alone Infrastructure projects can include FEMA PA or FEMA HMGP projects that were determined ineligible by FEMA, but all projects are subject to review for a tie-back to the 2017 Disasters, to confirm that they support or expand community resilience, and that they are consistent with CDBG-DR requirements and HCD's policies and procedures. All Stand-Alone Infrastructure projects require an environmental review to be completed by the Subrecipients. See Section 1.3.3 for a full description of eligible Stand-Alone Infrastructure projects, activities, and compliance.

1.4. Infrastructure Program Requirements

1.4.1. Tie-back to the Disasters

All projects funded through the DR Infrastructure Program must in some way respond to a direct impact from the following federally declared disasters:

- DR-4344 California Wildfires (October 8, 2017 – October 31, 2017)
- DR-4353 California Wildfires, Flooding, Mudflows, and Debris Flows (December 04, 2017 – January 31, 2018)

The FEMA PA program requires clear documentation showing a direct disaster related impact as a prerequisite for entry into the program. Only after an impact threshold has been met does FEMA consider making disaster funds available to applicants. It is assumed that if the potential applicant received funding for a FEMA PA program for the same project for which a DR-application is submitted, that same project has a tie to one of the declared disasters. For FEMA PA Match projects, the tie to the 2017 disasters is documented by FEMA's approval of the Project Worksheet.

For the Stand-Alone and HMGP Match projects, the tie-back to the 2017 disasters is documented as part of the NOI and application process and stored in the program file of Grants Network. Documentation that can show a direct impact can include, but is not limited to, a damage estimate prepared by city/county staff or contractor, reconstruction estimates for physical losses by engineers or other similar professionals, insurance claims, or photographic evidence of the physical impact of the disaster, or disaster-related activities, on the project with clear dates and timeline.

Tie-Back - Road Repair Project

For DR-Infrastructure to fund road repair projects, showing the damage or a decreased lifespan of a road, tie-back to the disasters is required. For example, if road repair is due to damage from disaster related debris removal, the applicant must demonstrate a tie-back to the disaster(s) by submitting both of the following:

1. Documentation of location: Shows that the debris removal occurred on the roads being submitted for funding to repair/rehabilitate/replace, such as:

    - A debris removal plan showing the respective road as the primary debris removal route and/or,

    - Confirmation from city or county officials, independent inspectors, Army Corps, Cal OES, FEMA, CalRecycle, or other governmental entity that the respective road was used as a debris removal route.

2. Documentation of damage: Shows the impact of the damage on the road lifespan. <u>At least one</u> of the following shall be provided to document damage:

    - Before and after photos of the impacted roads, including a date stamp on each photo and a description of the location of the photo,
    - A dated inspection report following the disaster/debris removal identifying damage to the roads,

- A dated inspection report providing evidence that the lifespan of the road has been decreased due to debris removal operations and the replacement or repair of the road is now necessary for the safety and security of drivers of the road,
- Dated inspection reports that describes the damage from during or after the disaster event,
- History of Pavement Condition Index (PCI), or other road condition index, for the roads being submitted, and/or
- Other documentation supporting the project's tie-back to the disasters as permitted by the Department.

1.4.2. Overall Housing Recovery

For all projects, HCD reviews how each project supports the overall housing recovery from DR-4344 or DR-4353. Projects that support overall housing recovery are infrastructure projects that enable the recovery of residential areas by meeting transportation needs, restoring essential utilities, and addressing other public infrastructure and facility needs. Examples of infrastructure projects that support overall housing recovery include, but are not limited to public roads, school facilities, stormwater drainage improvements, potable water, sanitary sewer, electric and gas utilities, wastewater treatment facilities, parks, and other public facilities that are important publicly owned assets.

1.4.3. Meeting a National Objective

In accordance with 24 CFR 570.208, all CDBG-DR funded activities must meet a national objective as required under 24 CFR 570.200(a)(2). Under section 101(c) of the authorizing Act (42 U.S.C. 5301) the CDBG program must ensure that the funded activity meets one of the named national objectives. The two qualifying national objectives are:

- Benefiting low- and moderate-income persons; and
- Meeting an urgent need.

National Objective Category	Subcategory	Required Documentation
LMI Benefit	**LMI Area Benefit**	1) Boundaries of service area of activity/project 2) Census data including the persons and percentage LMI 3) Evidence area is primarily residential 4) Survey documentation (if applicable)
	LMI Limited Clientele	Documentation that the beneficiaries are or are presumed to be LMI by category (e.g., senior housing, homeless shelters, etc.).
	LMI Housing	If applicable, income document for all household members 18 years of age and older.
Urgent Need	**Urgent Need**	Resolution from Subrecipient's city council, county board, or similar governing body stating that no other funds are available for the proposed project.

The DR-Infrastructure Program must demonstrate that funded activities meet one of the National Objectives. The types of records to be maintained for each CDBG-DR funded project depend on the National Objective category for which it qualifies. For all DR-Infrastructure Program projects, the final determination of the National Objective is completed during the application process based on HUD guidance. The Eligible Applicants also need to provide preliminary National Objective documentation as part of the NOI process in order to support the Priority Level of the project.

To demonstrate the National Objective for each activity, HCD ensures that Subrecipients use the best available data. Determining the service area of an activity involves consideration of the nature, location, and accessibility of each activity, and the information contained within project's description and scope of work (contained in the Project Worksheet for FEMA PA projects). Service areas are based on the beneficiaries of recovery activities and/or types of facilities (e.g., work on roads and bridges, repair/replacement of public utilities, etc.); geographic features (e.g., locations of highway, rivers, hillsides, etc.); and local population characteristics (e.g., population size and density). Wherever possible, HCD leverages pre-defined service areas mapped by a government agency or utility service providers.

HCD anticipates that projects that qualify under the Low- and Moderate-Income (LMI) National Objective are primarily using the Low- and Moderate-Income Area Benefit (LMA) category. Once a project's service area is identified, HUD LMI Summary Data is used to determine if at least 51 percent of the residents are low- and moderate-income persons.

For projects using the Low- and Moderate-Income Limited Clientele (LMC) activity, at least 51% of the beneficiaries of the activity must be LMI income persons. Projects that benefit a clientele who are generally presumed by HUD to be principally LMI income persons are as follows:

- Abused children;
- Elderly persons;
- Battered spouses;
- Homeless persons;
- Adults meeting Bureau of Census' definition of severely disabled persons;
- Illiterate adults;
- Persons living with AIDs; and
- Migrant farm workers.

The Urgent Need National Objective requires that the project is designed to meet community development needs having a particular urgency. In the absence of substantial evidence to the contrary, a project is considered to address this National Objective if the design of the project is certified to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the Subrecipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition is generally considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the Subrecipient.

1.4.4. Eligible Applicants

The Eligible Applicants for the 2017 DR-Infrastructure Program are city and county governments that received infrastructure damages from the DR-4344 and DR-4353 disaster events. The Eligible Applicants are identified in the State of California 2018 CDBG-DR Action Plan Amendment 1 (APA1) and listed below:

- City of Clearlake
- City of Napa
- City of Santa Barbara
- City of Santa Rosa
- City of Ventura
- Butte County
- Lake County
- Los Angeles County
- Orange County
- Mendocino County
- Napa County
- Nevada County
- San Diego County
- Santa Barbara County
- Sonoma County
- Ventura County
- Yuba County

Once Eligible Applicants sign an Agreement with HCD and become a Subrecipient, HCD will solicit Project applications in accordance with the eligibility requirements outlined in Section 1.4.4. As needed, Eligible Applicants may collaborate with other eligible entities, units of local government, or special districts in the implementation of the DR-Infrastructure Program.

Eligible Applicants may submit applications on behalf of another unit of local government, special district, or other eligible entities as a secondary subrecipient. If the application is approved by HCD, the Subrecipient may enter into an agreement with another jurisdiction or special district for implementing the project. However, prior to HCD issuing a Notice to Proceed (NTP) for the project, the Subrecipient must submit a written monitoring plan for the secondary subrecipient working under the agreement. The monitoring plan shall demonstrate that the Subrecipient has the capacity to oversee work of the secondary subrecipient.

Subrecipients cannot allocate project funding directly to a secondary subrecipient, unless the following two (2) conditions are met prior to HCD issuing an NTP for the specific potential project(s):

1.) Subrecipient provides a written monitoring plan of the unit of the secondary subrecipient for the proposed project(s). The monitoring plan must demonstrate that the Subrecipient has sufficient understanding of the program requirements, the applicable federal and state regulations, and the capacity to monitor the work of its subrecipients.

2.) Subrecipient provides the written agreement between the subrecipient and the secondary subrecipient. If a Subrecipient is a CDBG entitlement community and has a subrecipient agreement in place, they may use the agreement as a template or an amend an existing agreement to include CDBG-DR funds.

If the preceding two (2) conditions are met, the Subrecipient can make the units of local government, special districts, or other eligible entities subrecipients and can use funds from the Subrecipient's DR-Infrastructure allocation for individual projects approved by HCD during the Project Application process and for which HCD issues a Notice to Proceed. For all cases in accordance with 83 FR 5844 Section 51(k), HCD must also assess the Subrecipient's capacity to execute and monitor the proposed project(s) as a factor in the project review.

1.4.5. Infrastructure and Multifamily Housing Program Coordination

DR-Infrastructure funds are provided to units of local government for:

1)the non-federal local cost share match on disaster-related federal grants (FEMA and other federal grants); and

2)non-match, Stand-Alone infrastructure projects that address identified unmet 2017 disaster recovery needs and increase the resilience of cities and counties.

DR-MHP funds are provided to assist with meeting the unmet affordable rental housing need, including the needs of households displaced from rental homes and who became homeless as the result of the disasters.

For infrastructure activities on approved DR-MHP projects, the subrecipient (i.e., the unit of local government that is the eligible applicant allocated and/or awarded funds) determines the responsibility of the infrastructure activity implementation as part of the DR-MHP project's scope of work. For infrastructure activities that are the responsibility of the unit of local government, DR-Infrastructure funds can be used if the project meets the DR-Infrastructure program eligibility requirements and criteria. For infrastructure activities that are the responsibility of the qualified developer and contractor as part of the approved DR-MHP project scope of work, DR-MHP funds can be used but DR-Infrastructure may not be used for activities that are the responsibility of the developer/contractor.

1.4.6. 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 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 amount of the duplication is the amount of assistance provided in excess of the need. It is HCD's responsibility to ensure that the DR-Infrastructure 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.

The application must document all funds obtained for the same purpose as the DR-Infrastructure Program project from the date of the disaster until the date of the application. Additionally, HCD, in coordination with the Eligible Applicant, performs a DOB check prior to issuing funding and project closeout to ensure that duplicative assistance is not provided for the DR-Infrastructure project. 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 of any assistance later received for the same purpose as the CDBG–DR funds.

1.4.7. Recapture of Funds

A Subrecipient may be required to repay all or a portion of the funds received. The reasons for recapture include, but are not limited to, the following:

- Subrecipient does not comply with the terms of the Agreement;
- A Subrecipient withdraws from the Program prior to completion of the project and/or fails to meet a National Objective;
- A project does not meet the Infrastructure Program 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 DR-Infrastructure Program project including but not limited to insurance settlement funds, FEMA assistance, nonprofit assistance; and
- Funds are remaining after the project is completed, the expenditure deadline has passed, or the Agreement has expired.

The method of recapturing funds and the timeframe for doing so are determined on an individual project basis. However, the recapture method and timeframe are consistent with 2 CFR part 200 and other applicable cost principles. Complete recapture provisions are included in the Agreement with the Subrecipient and must also be included in any agreements between the Subrecipient.

1.5. CDBG-DR and Cross-Cutting Federal Requirements

HCD and its Subrecipients must comply with all applicable federal regulations and laws, including but not limited to the identified cross-cutting federal requirements below. Further, all DR-Infrastructure Program projects must comply with any and all applicable State of California, and locally adopted codes, regulations, and ordinances. This section provides a summary of the significant and applicable cross-cutting federal requirements for all DR-Infrastructure Program activities.

1.5.1. 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 in order to guarantee people with disabilities equal access to services and programs. Additionally, all activities are accessible, both structurally and administratively, to persons with disabilities. The requirement of ADA applies to all HCD, the Subrecipients, and vendors.

1.5.2. 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.[1]

1.5.3. 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 in excess of 40 hours in one week. Violations under this Act carry a liquidated damages penalty ($10 per day per violation).

1.5.4. Force Account Labor

Force account labor occurs when a unit of government is a CDBG-DR subrecipient or PA Match applicant uses their own workforce to complete construction of an infrastructure project. For DR-Infrastructure Program projects, the use of force account labor requires advance review and approval by HCD. This may be documented by approval of a project

[1] https://webapps.dol.gov/elaws/elg/kickback.htm

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 DR-Infrastructure Program activities.

1.5.5. Equal Employment Opportunity Act

Executive Order 11246, Equal Employment Opportunity, as amended, prohibits federal contractors and federally assisted contractors and subcontractors, who do over $10,000 in government business in one year from discriminating in employment decisions on the basis of 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]

1.5.6. Fair Labor Standards Act of 1983, As Amended

The Fair Labor Standards Act of 1938, as amended (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 hours worked in excess of 40 per week. These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project. Excluding the exceptions listed below, 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 DR-Infrastructure 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.

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).

1.5.7. Davis-Bacon Labor Standards

The Davis Bacon and Related Acts (DBRA) requires all contractors and subcontractors performing work on federal contracts or federally assisted contracts in excess of $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

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[2] 41 CFR Part 60

corresponding classes of laborers and mechanics employed on similar projects 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 in excess of $150,000, or related Act contracts in excess of $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 workweek.

Subrecipients are responsible for ensuring that applicable projects and services are in compliance with DBRA through the submission of certified payroll records and interviews of prime and subcontractor laborers. Supporting compliance documentation shall be uploaded to Grants Network. HCD ensures compliance through the review of DBRA documentation uploaded to Grants Network by the Subrecipients.

On September 15, 2015, HUD's Office of Community Planning and Development (CPD) issued Notice CPD-15-07[3] on September 15, 2015 that 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 states: "*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 FEMA PA Match and HMGP Match projects. For construction projects that were completed prior to August 21, 2019, the date HCD and HUD executed its grant agreement, Davis-Bacon prevailing wage rates are not applicable. For all projects with construction that is on-going or completed after August 21, 2019, Davis-Bacon prevailing wage rates apply retroactively to the beginning of construction and the Subrecipient must collect documentation to ensure that the prevailing wage rate has been provided to laborers since the beginning of the project.

1.5.8. Section 3

Section 3 of the Housing and Urban Development Act of 1968 (Section 3), as amended, requires that economic opportunities generated by CDBG-DR 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.

[3] https://www.hud.gov/sites/documents/15-07CPDN.PDF

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 project area.

Projects assisted with DR-Infrastructure funds in excess of $300,000 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 project must be worked by Section 3 workers; and (2) Five percent (5%) of the total hours worked on a Section 3 project 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 projects 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 projects 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 Project, 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 Project 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 project 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 project 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.

DR-Infrastructure Program projects 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 project and project bid dates. HCD staff ensures that Section 3 objectives are addressed through direct technical assistance with subrecipients and file reviews of projects.

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 projects. Notify all bidders that adherence to the Recipient's Section 3 Plan is required for contracts and sub-contracts in excess of $300,000.

1.5.9. Fair Housing

The Fair Housing Act requirements are adhered to 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[4]. 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 disaster recovery programs.

1.5.10. 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.[5]

1.5.11. 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,

[4] https://www.hcd.ca.gov/community-development/building-blocks/program-requirements/equal-housing-opportunity.shtml

[5] https://www.hcd.ca.gov/policy-research/plans-reports/docs/Appendix_D-Relocation_and_Anti-Displacement_Plan.docx

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.

Real Property

If DR-Infrastructure Program 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).[6]

1.5.12. Financial Management

HCD ensures that its grant management as well as those administering DR-Infrastructure Program funds demonstrate conformity with financial management requirements shown in 2 CFR 200 and applicable Federal Registers. 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 DR-Infrastructure Program funds are managed with high levels of accountability and transparency.

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

- Internal controls are in place and adequate;
- Documentation are 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.

[6] 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)

1.5.13. Insurance and Property Management

For all projects in the DR-Infrastructure Program, all Subrecipients, with the exception of those in the PA Match Program, must procure and maintain insurance for the duration of the subrecipient 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 subrecipient Agreement or a longer period as HCD deems appropriate, the Subrecipient reimburses HCD for the share of the property's value according to the Agreement.

1.5.14. Recordkeeping, Retention, and File Management

Record retention is a requirement of the DR-Infrastructure Program. Records are maintained to document compliance with Program requirements and Federal, State, and local regulations and to facilitate a review or monitored by HUD.

HCD adheres to State of California record retention requirements, which require all records to be maintained for a period of five 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.

HCD Subrecipients shall retain all records, such as financial records, supporting documents, statistical records, and all other records pertinent to the 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.

Every Subrecipient is required to establish and maintain at least three major categories of records: Administrative, Financial Management, and Project 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 project 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, board or council minutes, contractors, and other agreements.

Financial Records

These include Financial Records, such as the chart of accounts, cash receipts and 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.

Project Files

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

1.5.15. Procurement Policy

Subrecipients must follow Federal, State, and local procurement rules 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:

- Necessary: 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 project/activity.

- Reasonable: This term is generally 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.
- Allowable: The costs must be allowable under the eligibility requirements of CDGB-DR funds.
- Allocable: The costs are logically related to or required in the performance of the project 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. For active previously procured contract that the subrecipient would like to apply towards a DR-Infrastructure project, 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 will be certified by subrecipients when financial reports are submitted to HCD and reviewed by HCD during subrecipient monitoring visits.

1.5.16. 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 DR-Infrastructure Program funds, with Grants Network serving as the primary system of records. Grants Network contains both Subrecipient and project level files including, but not limited to, NOI documentation, Application and project documentation, Subrecipient expenditure tracking, applicable procurement documentation, available funding, Subrecipient agreements and other agreements, financial 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 the DR-Infrastructure Program.

All Subrecipient and project data is secured in HCD's System of Record, Grants Network, in accordance with the State of California's CDBG-DR Grant Administration Manual's retention policy.

Recordkeeping, including scanning and uploading to Grants Network, and filing of pertinent DR-Infrastructure 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.

1.5.17. 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 strictly 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 recipient 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.

1.5.18. Environmental Review

An environmental review must be performed on the project prior to federal funds being committed or disbursed by HCD and Subrecipients. The environmental review shall document compliance with 24 CFR Part 58, NEPA, and all related laws, authorities, and executive orders. For DR-Infrastructure, each Subrecipient is responsible for completing environmental reviews of all projects and must submit complete Environmental Review Records to HCD, the Responsible Entity, to grant the authority to use funds. Pursuant to 83 FRN 40314, HCD may accept another federal agency's environmental review. Subrecipients are also responsible for ensuring compliance with CEQA, including the submission or designation of applicable waivers to the CEQA Clearinghouse with a copy to HCD. No work may start on a proposed project, 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 DR-Infrastructure Program does not reimburse projects that have been determined to have a Finding of Significant Impact (FOSI).

Subsequent to submission of an application by a Subrecipient for the use of DR-Infrastructure 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 (ATUGF) or environmental clearance letter issued by the Department. The concept of prohibiting **choice-limiting** actions is to prevent the Subrecipient from investing in a project 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 project, reimbursement by Subrecipient to HCD for the amount expended, or suspension of the disbursement of funds for the affected activity.

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, grantees and subrecipients with Responsible Entity status are permitted to adopt environmental reviews completed by other federal entities 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 the awarding federal agency and HUD must be exactly the same work. The completed environmental review or Record of Environmental Consideration (REC) must be routed through HCD for adoption prior to the issuance of an AUGF.

For FEMA PA Match and HMGP Match projects, eligible projects are able to adopt FEMA's completed environmental review. If a project's scope changes beyond what was approved in the project 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 and keep the copy in its project 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.[7]

For Stand-Alone projects, each Subrecipient is required to perform a NEPA environmental review on the Project prior to any choice-limiting actions. The Subrecipient is allowed to use DR-Infrastructure Program activity delivery funds to complete environmental reviews. Activity Delivery expenses for environmental compliance work for intended Project Applications may be incurred prior to the execution of the NTP 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 Stand-Alone Infrastructure Project:

1. Once a Subrecipient enters into an Agreement with HCD and is ready to submit a Project Application, the Subrecipient must submit all Environmental Review Records (ERRs) and request for release of funds (RROF), if applicable, to HCD for review. If the Subrecipient is using DR-Infrastructure Program activity delivery

[7] See the HCD Grant Administration Manual for additional information see section on 'Adoption of Other Federal Environmental Reviews': https://www.hcd.ca.gov/funding/dr/grant-administration

funds to initiate the environmental review prior to the execution of the Agreement, the Subrecipient must notify HCD of their intentions in writing prior to expending any activity delivery funds. If activity delivery funds will not be expended until after the Agreement is executed, a written request is not necessary.

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 ATUGF or environmental clearance letter and Notice to Proceed, Subrecipient may incur Project costs and draw down funds.

For all projects, Subrecipients are responsible for ensuring that DR-Infrastructure Program projects are in compliance with the California Environmental Quality Act (CEQA) and obtain all necessary local and state permits.

Flood Insurance and Floodplain Elevation Requirements

The Subrecipient shall comply 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.

1.6. FEMA PA Match

1.6.1. FEMA PA Categories

The FEMA Public Assistance (PA) program is designed to provide assistance to the impacted jurisdictions for emergency work (under FEMA Sections 403 and 407) and permanent work (Sections 406 and 428) on infrastructure and community facilities. Emergency work takes place immediately after an event and permanent work restores or rebuilds a damaged asset or facility.

FEMA PA projects fall under the following categories:

- Emergency Work
  - Category A – Debris Removal
  - Category B – Emergency Protective Measures
- Permanent Work
  - Category C – Roads and Bridges
  - Category D – Water Control Facilities

- Category E – Public Buildings and Equipment
- Category F – Public Utilities
- Category G – Parks, Recreational, and Other Facilities

1.6.2. Eligible Activities

HUD allows Grantees to use CDBG-DR funds to address the non-federal cost share, as noted in the authorizing Federal Register Notice, but requires that the funded project meet at least one additional HUD eligible activity and a National Objective. Infrastructure repair is an eligible activity according to 42 USC 5305(a)(2), which authorizes 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.

1.6.3. Eligible Projects

Proposed projects are assessed by HCD. Eligibility criteria include:

- The proposed project must be located in a city or county impacted by DR-4344 or DR-4353;
- The proposed project must be approved as FEMA PA permanent work under Categories C through G only;
- All sources of funding required to complete the project must be identified and secured or readily accessible; and
- The proposed project must relate to infrastructure and tie back to the 2017 disaster.

1.6.4. Eligible Use of Funds

FEMA PA projects eligible for PA Match funding under the DR-Infrastructure Program fall under Title I of the Housing and Community Development Act of 1974 or those activities specified by waiver in 83 FR 5844 published February 9, 2018; 83 FR 40314 published August 14,2018; 84 FR 97 published January 9, 2019; and 84 FR 6813 published February 28, 2019.

CDBG-DR funds may fund required FEMA PA local non-federal share (match) funding for approved projects under the following FEMA PA permanent work categories:

- Category C (Road and bridges);
- Category D (Water control facilities);
- Category E (Public buildings and equipment);
- Category F (Public utilities); and
- Category G (Parks, recreational, and other facilities).

All projects must meet a National Objective as detailed in Section 1.4.3.

1.6.5. Ineligible Uses of Funds

Ineligible FEMA PA Match costs include required FEMA PA Match funding for approved emergency work projects under Categories A (Debris Removal) and Category B (Emergency Protective Measures). Any increase in scope or modification of a FEMA PA project is also ineligible for funding. Further ineligible costs include those costs that are covered by another party in order to preclude a Duplication of Benefits.

No DR-Infrastructure Program funds may be used to support any federal, state, or local projects that seek to use the power of eminent domain unless eminent domain is employed for a public use.

1.6.6. Labor Compliance

FEMA PA Match projects completed prior to August 21, 2019, that were not Davis Bacon or Section 3 compliant are eligible for non-federal match funding under the DR-Infrastructure Program. Eligibility of FEMA PA Match projects that were completed after August 21, 2019, or are in progress at the time of the application requires that the Eligible Applicant must show project compliance with federal regulations and federal labor regulations (i.e. Davis Bacon Compliance and Section 3).

1.7. FEMA HMGP Match

1.7.1. Eligible Uses of Funds

Eligible FEMA HMGP costs are those activities eligible under Title I of the Housing and Community Development Act of 1974 or those activities specified by waiver in 83 FR 5844 published February 9, 2018; 83 FR 40314 published August 14,2018; 84 FR 97 published January 9, 2019; and 84 FR 6813 published February 28, 2019. As such, CDBG-DR funds may fund required FEMA HMGP local non-federal share (match) for approved projects that meet the CDBG-DR requirements, including a tie-back to the DR-4344 and DR-4353 disaster events. All projects must meet a National Objective as detailed in Section 1.4.3. To be eligible for FEMA HMGP Match, the project also must be a project obligated by FEMA, and the project and service location must be in an area impacted by DR-4344 and DR-4353.

Eligible Applicants are responsible for providing documentation on the tie-back to the DR-4344 and DR-4353 disaster events. Examples of eligible project types include:

- Acquisition
- Defensible Space
- Flood Control (wildfire soil stabilization, debris catchment, etc.)
- Generators (permanently mounted, clear disaster tie-back, and usage is CDBG-eligible)
- Planning (wildfire mitigation plans, hazard mitigation plan updates)

FEMA HMGP infrastructure projects that are approved by Cal OES are eligible for funding under the DR-Infrastructure Program. Eligible projects must tie back to the DR-4344 and DR-4353 disasters. Projects that are complete or in progress at the time of application must show compliance with federal regulations and federal labor regulations (i.e., Davis Bacon and Section 3) to be eligible.

1.7.2. Ineligible Uses of Funds

FEMA HMGP projects that are not related to infrastructure and/or without a tie-back to the 2017 disaster events are ineligible for funding. FEMA HMGP costs covered by another funding source and are a Duplication of Benefits are ineligible for funding. Ineligible projects include:

- Seismic-related projects
- Portable generators

No DR-Infrastructure Program funds may be used to support any federal, state, or local projects that seek to use the power of eminent domain unless eminent domain is employed for a public use.

1.8. Stand-Alone Infrastructure

1.8.1. Eligible Uses of Funds

Eligibility of Stand-Alone Infrastructure Projects requires that the projects are non-match, stand-alone infrastructure projects that have a tie-back to the DR-4344 or DR-4353 disaster events and address identified unmet disaster recovery needs. Further, Stand-Alone Infrastructure Projects must be those activities eligible under Title I of the Housing and Community Development Act of 1974 or those activities specified by waiver in 83 FR 5844 published February 9, 2018; 83 FR 40314 published August 14,2018; 84 FR 97 published January 9, 2019; and 84 FR 6813 published February 28, 2019. All projects must meet a National Objective. Examples of Stand-Alone Infrastructure Project activities that potentially tie back to the 2017 disasters include, but are not limited to:

- Soil stabilization in impacted areas following the fires;
- Generators that are affixed to the structure (i.e., not mobile) with a specific disaster tie-back;
- Undergrounding power lines that were damaged by the disaster event;
- Acquisition of land for fire mitigation and/or to make the community more resilient; and
- Hillside or streambank stabilization due to mud/rockslides related to the disaster event.

1.8.2. Ineligible Uses of Funds

Non-match, stand-alone projects not related to infrastructure, increased code compliance, or DR-4344 or DR-4353 disaster events are ineligible for funding. Further, any costs for non-match, stand-alone projects that are funded by another source are ineligible for funding.

Private infrastructure activities are ineligible for program funding. Private infrastructure activities include but are not limited to funding the construction, repair, or replacement of private roads, bridges, and private utilities.

No DR-Infrastructure Program funds may be used to support any federal, state, or local projects that seek to use the power of eminent domain unless eminent domain is employed for a public use.

1.9. Determining the Non-Federal Share Amount

The non-federal share match is that portion of the project funding that is not covered by the federal government. FEMA administers its grants according to Federal cost sharing requirements as outlined in Title 2 of the Code of Federal Regulations, Sections 200.29, 200.306, and 200.434 and consistent with Title 44 of the CFR, the Robert T. Stafford Disaster Relied and Emergency Assistance Act, as amended, and the National Flood Insurance Act, as amended. In general, FEMA funds may be used to pay up to 75 percent of eligible activity costs.

The non-federal share for FEMA PA Match and HMGP Match project totals 25% of the overall project cost. For FEMA PA projects, of the 25% non-federal share, the State of California's Disaster Assistance Act (CDAA)[8] funds 75% of the remaining non-federal share (18.75% of the total). The DR-Infrastructure Program provides the remaining 25% of a project's non-federal local share (i.e., 6.25% of the total).

For HMGP Match projects, the DR-Infrastructure Program is available for up to 25% of the overall project cost. There is no State cost share for HMGP projects.

Federal Agency	Federal Programs	Federal Cost Share	Non-Federal, State Cost Share	Non-Federal, Local, Share	Disasters
FEMA	Public Assistance (PA)	75%	18.75%	6.25%	DR-4344, DR-4353
FEMA	Hazard Mitigation Grant Program (HMGP)	75%	None	25%	DR-4344, DR-4353

Implementation Policies

1.10. Project Selection

1.10.1. NOI Process

Eligible Applicants submit eligible DR-Infrastructure Program Projects identifying an unmet need through a Notice of Intent (NOI) via Grants Network. The purpose of the NOI is to facilitate the completion of an unmet needs assessment that HCD uses to allocate

[8] https://www.caloes.ca.gov/cal-oes-divisions/recovery/public-assistance/california-disaster-assistance-act

funds based on the NOI review (Section 1.10.3) and NOI allocation methodology (Section 1.10.5) described below.

Following the release of the NOI, Eligible Applicants have six (6) weeks to complete and submit the NOI detailing eligible DR-Infrastructure Program projects. Eligible Applicants must use the Grants Network Program Portal to submit eligible Projects. If HCD has questions or feedback regarding potential projects, Eligible Applicants are allowed to provide clarifications. HCD determines program allocations following a final review and evaluation of all submitted NOIs.

If LMI and MID funding targets, see Section 1.4.3, are not able to be met by the potential projects submitted through the NOI process, HCD reserves the right to pause the NOI process and reevaluate the DR-Infrastructure Program as a whole. HCD could reopen the NOI release period for as long as it deems necessary to meet LMI and MID funding targets.

1.10.2. NOI Requirements

Eligible Applicants are required to submit the information below regarding Projects, unless otherwise noted as optional. Failure to submit the required information may disqualify the project from being included in the unmet needs assessment. The submission of optional information does not impact the eligibility of projects, nor the Eligible Applicant's allocation. The required information is as follows:

- Declaration of project type being submitted (FEMA PA Match, FEMA HMGP Match, or Stand-Alone)
- Affirmation and description of the jurisdiction's existing capacity to manage the solicitation, selection, monitoring, environmental review, compliance, and oversight of the program
- Project Details:
    - What disaster is this project related to?
        - Eligible Applicant is required to identify which of the 2017 declared disasters the submitted project is related to.
    - Eligible Applicant
        - Identity of the Eligible Applicant. Eligible Applicants are those cities and counties identified in Section 1.4.4 above.
    - Is this a project on behalf of another government entity or special district other than the Eligible Applicant?
        - If yes, name of other government entity or special district
    - Project Title
    - Project Description / Scope of Work
        - For FEMA PA Match and FEMA HMGP Match projects the description and scope of work should be the same as provided for those projects, as such HCD can retrieve the scope of work from the project worksheets. A description or scope of work for stand-alone infrastructure projects is required.
    - Project Location Description
        - Provide a description of the project location including any addresses

- Project City
- Project Zip Code
- Project Latitude and Longitude
  - Decimal Degrees (e.g., 38.57933, -121.49092)
- Does the Project service area benefit LMI population or area?
- Does the Project service area benefit the MID area?
- Identify the Priority Level
  - Eligible Applicants must identify the Priority Level of each submitted project based on the project eligibility and prioritization requirements outlined in Section 1.10.9
- What Census Tracts/Block Groups are served by this project?
- Service area map *(Optional)*
  - If available, provide a map of the service area showing MID and LMI benefit
- FEMA PA Project Number – PA Match Only
- FEMA PW Number – PA Match Only
- FEMA PA Category – PA Match Only
  - Category C: Roads and Bridges
  - Category D: Water Control Facilities
  - E: Public Buildings and Equipment
  - F: Public Utilities
  - G: Parks, Recreational, and Other Facilities
- OES Number – HMGP Match Only
- Affirmation and documentation of project compliance from the start of construction with Davis-Bacon Act and Section 3 if in-progress or completed after 8/21/2019
- If project is complete, date of the completion
- Project Status
  - Provide the current status of the project
- Total Project Unmet Need ($ amount)
  - Provide the total unmet need amount of the project, including any amount that is not being sought through CDBG-DR funding. This should include both hard cost as well as ADCs.
- Anticipated CDBG-DR funding request ($ amount)
  - Provide the amount of funds that being requested through the DR-Infrastructure Program, including the hard costs and ADCs.
- Is there a gap between total project unmet need and CDBG-DR funding request?
  - If yes, please explain how the gap is anticipated to be funded and provide estimated dollar amounts.
- Basis for Cost Estimate / Unmet Need
  - Provide a description of the basis for the cost estimate and/or unmet need of the project.
- Provide cost estimate documentation *(Optional)*
  - The documentation should clearly demonstrate the reasoning of the cost estimate and support the description of the cost estimate and/or unmet need.

- Was the project denied by FEMA for PA or HMGP funds?
- If yes, provide a reason why the project was denied by FEMA
  - Provide a description of why the project was denied by FEMA, additional documentation may be requested.
- What eligible CDBG activity does this fall under?
- Has an environmental review been completed?
- Provide documentation of the NEPA environmental review *(Optional)*
- Explain the tie-back to the 4344 and 4353 disasters
  - Provide a clear description of the tie-back to DR-4344 and/or DR-4355 disasters.
- Tie-back documentation *(Optional)*
  - The documentation should demonstrate a clear tie back to the federally declared disasters. See Section 1.4.1 on types of documentation.
- Assuming Spring 2021 start date, what is your expected period of performance?
  - What is the anticipated start date and completion date?
- Project Timeline *(Optional)*
  - If available, please provide a timeline of the submitted project.
- FEMA HMGP Status

1.10.3. NOI Review

To ensure that the unmet need of each Eligible Applicant is calculated correctly, HCD reviews projects submitted in NOIs based on the following criteria:

- Project Eligibility
- Priority Level
- Total Project Cost

Project Eligibility

HCD reviews projects to determine evidence of eligible disaster tie-back to DR-4344 and 4353. Disaster tie-back for FEMA PA Match projects show disaster tie-back as long as they are listed in relation to projects are assumed to have a tie-back due to the eligibility requirements of the FEMA PA program. DR-4344 and DR-4353. All FEMA HMGP Match and Stand-Alone projects shall include a description in the NOI describing of how the project ties to DR-4344 and DR-4353. If the NOI does not provide sufficient explanation or evidence of disaster tie-back, HCD may inform the Eligible Applicant of need to clarify tie-back. If HCD asks for clarifications, the Eligible Applicant is given two weeks to provide clarification of the disaster tie-back. If the tie-back explanation is insufficient to establish tie-back, the project is not considered an unmet need and not included in the allocation determination.

FEMA HMGP Match and Stand-Alone infrastructure projects must show that they are infrastructure projects and are an eligible CDBG activity. If HCD staff identifies a project that does not meet those requirements, HCD allows 1 week for the Eligible Applicant to provide sufficient documentation showing that it is an eligible infrastructure project and

CDBG activity. If the Eligible Applicant is unable to provide sufficient evidence for the project to qualify as an eligible CDBG activity, the project is not considered an unmet need and is not included in the allocation determination.

Priority Level

HCD staff reviews all submitted NOI projects to ensure that the correct Priority Level is listed for a project. If there are questions about the service area, HCD informs the Eligible Applicant of the need for service area clarifications. HCD reserves the right to reclassify Priority Levels based on the service area data provided by the Eligible Applicant.

Total Project Costs

For Stand-Alone projects, HCD reviews estimated project costs for reasonableness. No formal budget analysis is completed at the NOI stage, but further clarification may be asked of the Eligible Applicant if cost estimate calculations are incorrect or are determined to be unreasonable by HCD staff.

1.10.4. NOI Approval

The DR-Infrastructure Program Review Board evaluates Infrastructure Program allocations and provides concurrence of the allocations calculated by HCD staff. The Review Board consists of three to five HCD staff members and may be assisted by additional staff or subject matter experts. The DR-Infrastructure Program Manager shall chair the Review Board. Review Board decisions shall be unanimous. If consensus cannot be reached in favor or against allocations, an Issue Memo shall be developed by the dissenting Board Members and submitted to the CDBG-DR Section Chief for consideration and further discussion until consensus is achieved. Once consensus is achieved, the allocation amount for Eligible Applicants based on their submitted projects is submitted to HCD’s Internal Loan Committee for final approval. Upon approval, the decision shall be documented in a letter to the Subrecipient. Following the allocation approval, HCD and the Subrecipient shall enter into an Agreement regarding the use of funds (see Section 1.14 below).

1.10.5. Allocations from NOI

To determine allocations, Priority 1, Priority 2, and Priority 3 projects are used to determine unmet need by Eligible Applicant and calculate allocations. Priority 1 and Priority 2 projects contribute to meeting the requirement of 70% of grant-wide funds benefiting LMI populations. Priority 1 and Priority 3 projects contribute to the requirement that 80% of grant-wide funds be expended in MID areas. Priority 4 projects are still allowed in the NOI process and are used to understand overall unmet need, but Priority 4 projects are not factored into calculating allocations.

Allocations are calculated based on the total unmet dollar amount for Priority 1-3 projects. Included in the allocation calculation are all resubmitted “set aside” projects that were submitted in January 2020 under the initial FEMA PA Match NOI (all Priorities are allowed). If the unmet need exceeds funding available, allocations are calculated by funding all set aside projects first and with all other non-set aside unmet need budgets by Eligible Applicant funded proportionally based on provided eligible projects. HCD reserves the right to provide partial funding to Eligible Applicants, increase select Eligible Applicant allocations to ensure project feasibility, open another NOI round, and/or reprogram Infrastructure Program funds.

Example

Total Unmet Need by Jurisdiction:

	Unmet Need	**Percent of Total Funds**
Eligible Applicant 1	$ 18,500,000.00	41.11%
Eligible Applicant 2	$ 11,200,000.00	24.89%
Eligible Applicant 3	$ 15,300,000.00	34.14%
Total Unmet Need	**$ 45,000,000.00**	**100.00%**

Allocation totals following proportional allocation calculation:

	Allocation	**Percent of Total Funds**
Eligible Applicant 1	$ 1,428,571.43	41.11%
Eligible Applicant 2	$ 714,285.71	24.89%
Eligible Applicant 3	$ 2,857,142.86	34.14%
Total Allocated Funds	**$ 36,154,651.00**	**100.00%**

1.10.6. Project Application Process

Subrecipients must use the Grants Network Program Portal to submit project applications. Project applications to HCD must be authorized by a resolution of the Subrecipient's governing board. If allowed by local policies, HCD can accept a resolution from the governing board authorizing specific Subrecipient staff to submit on the Subrecipient's behalf.

Applications are available in Grants Network after the Agreements begin routing and the Authorized Resolutions have been submitted. All applications must be submitted by January 31, 2022. If Subrecipients need additional time to complete an application, HCD accepts extensions to Subrecipients on a case-by-case basis and allows up to four (4) additional weeks for the project application as long as the Subrecipient has started an application submission prior to the original application deadline. Subrecipients are not limited to applying for projects that were submitted with the NOI but must meet the priority level of the allocation in order to be eligible. HCD reviews application submissions and anticipates providing a follow-up response to subrecipients including, but not limited to, feedback, questions, and comments within 30 calendar days of the application period closing. The HCD review process ensures compliance with regulatory requirements and confirms the project is consistent with broader recovery goals.

If Infrastructure Program funds remain following the application period, HCD may consider a second round of applications and projects. The timeline for the second application round is determined by HCD staff.

1.10.7. Application Requirements

The purpose of the application is to confirm information that was presented in the NOI, submit final construction design plans, identify and document all funding sources, and provide additional documentation to show compliance with state and federal regulations. The required information in every application includes:

- Overall Project Description/Scope of Work
  - The overall project description and scope of work provides a complete summary of the project with supporting documentation that ties the project to the 2017 disasters. The project description includes the ownership of the project and who benefits from the project. The scope of work includes a full description of construction activities.
- National Objective/MID Documentation
  - Ensure that the final proposed project service area hasn't changed from the NOI. If the project benefits MID areas, the service area must show the MID area benefit.
  - For LMI, the Subrecipient must complete a beneficiary form detailing demographic calculations and supporting maps/figures.
  - Urgent Need documentation – resolution from the city council or county board stating that no other funding is available for this project.
- Complete Cost Estimate/Budget
  - Complete list of all project funds and sources of funds (CDBG, Local, Private, Other State funds, Federal funds, other).
  - Final budget (eligible activity costs and project delivery costs)
  - Design and construction cost estimates with description of materials needed, quantities, unit prices, and an itemized amount (if possible).
  - Provide justification of any additional testing, investigations, or other engineering fees (soil boring tests, environmental site assessments, etc.).
- Duplication of Benefits Review
  - Complete list and supporting documentation of all funding sources (insurance, utility settlements, state and local grants, etc.).
  - A final review for duplication of benefits is performed by the Subrecipient to document if there are any duplicative funds to the CDBG-DR or MIT for the same purpose.
- Project Maps
  - Detailed maps of the existing infrastructure and proposed infrastructure improvements (can be combined, if needed).
  - Service area of the project.
  - Census track/block groups related to the service area of the project.
- Project Timeline
  - List of project milestones (design, preconstruction, phases of construction, and completion).

1.10.8. Project Application Review

The DR-Infrastructure Review Board reviews all aspects of the project application including scope, budget, eligibility, environmental review, legal/policy issues, procurement, and compliance. Any concerns noted from the NOI review are also reviewed prior to voting on the project. Projects that receive approval must be unanimous by the Review Board. Applications that are rejected may be amended and re-submitted to the Review Board at a later date. Once consensus is achieved, the projects are submitted to HCD's Disaster Recovery Branch Chief for final approval. Once an application has been approved, applicants are notified of the decisions via email and an acceptance letter is uploaded to Grants Network.

The DR-Infrastructure Program Review Board reviews applications and notifies the Subrecipient if any clarifications, corrections, or revisions are required. If all options have been explored and the project cannot meet the program requirements, a notice of denial is issued. The notice of denial includes guidance on actions the Subrecipient can take for application reconsideration.

1.10.9. Application Award Methodology

HCD evaluates projects based on the eligibility requirements as outlined in Section 1.4. HCD prioritizes LMI and MID projects and evaluates projects based on the following Priority Levels:

- Priority 1: Projects benefit the MID and serve LMI
- Priority 2: Non-MID projects but serve LMI
- Priority 3: Projects benefit the MID, but do not serve LMI
- Priority 4: Non-MID and non-LMI

For all submitted applications, HCD reviews special conditions in Section 3 of Exhibit E of the Master Standard Agreement and verifies all conditions have been satisfied from all Subrecipients. If the Subrecipient has satisfied all conditions, HCD will complete a review of the Subrecipient's allocation and will determine whether each Subrecipient's application amount across all its projects falls within its allocation amount. HCD will notify jurisdictions if they have exceeded the allocation amount and request application resubmission. Subrecipients with submitted applications at or below the allocation amount will proceed with approved project applications. Applications above the Subrecipient allocation amount will be held if and when additional funds are available or the Subrecipient accepts a reduced award amount.

If an evaluation of submitted applications by HCD determines that the proposed projects do not result in HCD meeting its grant-wide 70% LMI requirement and program-specific 80% MID requirement funding levels, HCD reserves the right to reevaluate the program and weigh options for ensuring that DR-Infrastructure Program funds meet HUD requirements.

Previous NOIs

For the Eligible Applicants that submitted NOIs in January 2020 under the initial FEMA PA Match program, DR-Infrastructure Program funds for those project applications are held as a set aside and evaluated and approved first.

1.10.10. Notice to Proceed

Once the Project's award recommendation is approved, Projects, excluding FEMA match projects that commenced construction prior to the NOI, may not proceed to incur activity costs until HCD provides a Notice to Proceed (NTP) for the project. The NTP specifies the award amount, project milestones, LMI and MID targets, and other related details. To receive an NTP, the Subrecipient must have a complete and approved Environmental Review, all special conditions in the Agreement must meet approval, and a letter of clearance must be issued. The NTP enables the Subrecipient to formally proceed with the project and expect to be reimbursed for eligible activity costs incurred after the NTP execution date.

1.10.11. Appeals Process

Subrecipients have the right to appeal the DR-Infrastructure Program Review Board's determination regarding the determination for the NTP.

The Subrecipient must submit their appeal in written form, within 60 days from the date the award decision was issued via Grants Network.

An authorized person of HCD Leadership shall review the appeal and then discuss the merits of the appeal with the CDBG-DR Section Chief and the DR-Infrastructure Program Review Board before rendering an independent decision concerning the appeal. The decision of the authorized person of HCD Leadership shall be final.

1.11. 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 in the Due Diligence. As Subrecipients, Eligible Applicants are required to comply with the requirements, requests, and results of HCD's capacity assessment and maintain the capacity to carry out disaster recovery activities in a timely manner. The Due Diligence may result in specific conditions in the Agreement to ensure the capacity to carry out disaster recovery activities in a timely manner. As such, the completion of the Due Diligence is a necessary prerequisite to entering into an Agreement.

1.12. Technical Assistance to Subrecipients

HCD provides various types of technical assistance (TA) to Subrecipients and vendors throughout the program from the release of the NOI to Agreement closeout. The objectives of technical assistance are to initially aid the Subrecipient and vendors to clearly understand the program requirements and appropriately submit the project 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 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 technical assistance include:

A. Verbal or written advice
B. Formal training and workshops
C. Documentation and guidance

1.13. Activity Delivery Costs

Activity Delivery Costs (ADCs) are allowable costs incurred for implementing and carrying out eligible CDBG activities. ADCs cover the costs of staff directly carrying out 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-assisted activity or an activity that is CDBG-eligible, meet a national objective, and meet all other CDBG 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% of the total project cost, additional justification and documentation are required to justify the need for ADCs that exceed 20% of the total project cost.

If the initial project(s) are unable to be completed, a review of the causes of the project failure is performed. The Subrecipient needs to provide documentation demonstrating the cause of the project'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 project was put forth and preceded in good faith on the part of the Subrecipient, then HCD would consider a new eligible project from the subrecipient that has the same or higher Priority Level, as long as the initial ADC can be shown to have contributed to the new project. Prior to any funding of the new project, a new capacity assessment, project evaluation, and amended Agreement with stricter grant conditions is required.

If it is shown that the project failed due to egregious behavior or actions, including but not limited to conflicts of interest, fraud, waste, abuse, and similar types of issues or actions, on the part of the Subrecipient, then any funding payments made toward the project are required to be repaid and the Subrecipient is allowed to put forth a new project submission. If the review shows that the Subrecipient acted in a reasonable manner, then the Subrecipient is allowed to put forth a project proposal. If the project put forth by the Subrecipient does not meet the eligibility requirements, Priority Level requirements for a new project, or does not sufficiently demonstrate that the initial project's ADCs have contributed to the new project, HCD shall open the outstanding funding for other Eligible Applicants in order to meet the Eligibility and Priority Level requirements of the DR-Infrastructure Program.

Program Operations

1.14. Subrecipient Agreements

A. HCD shall enter into either a Master Standard Agreement (MSA) or, in situations of limited project eligibility, a Standard Agreements on a project-by-project basis with the Subrecipient constituting a conditional commitment of funds. These Agreements define financial and development management requirements as well as remedies to correct deficient or non-compliant projects. The Agreements also contain CDBG-DR recapture provisions for non-performance or breach of Subrecipient responsibility on any requirements, including adherence with CDBG-DR rules and regulations. The MSA and/or the Standard Agreement shall contain, but not be limited to, the following:

- A description of the Subrecipient's program implementation responsibilities;
- The amount and terms of the funding;
- The amount of Activity Delivery Costs per project;
- Provisions governing the construction or rehabilitation work;
- Terms and conditions required by federal or state law;
- The approved schedule of the program;
- The approved program budget;
- Manner, timing and conditions for disbursement of project funds;
- Reporting and recordkeeping requirements, defining the specific reports and the reporting dates, along with the particular records and the timeline for maintaining them in order to assist HCD in meeting HUD's recordkeeping and reporting requirements;
- Terms and conditions for the inspection and monitoring of the project in order to verify compliance with the requirements of the program;
- Provisions regarding the recapture of funds;
- Requirements for multiyear property and hazard insurance policies;
- Provisions relating to the erection and placement on or in the vicinity of the project site a sign indicating that HCD has provided financing for the project; HCD may also arrange for publicity of the program funds in its sole discretion;
- The form of the Notice to Proceed; and
- Other provisions necessary to ensure compliance with the requirements of the DR-Infrastructure.

B. Upon HCD approval of individual projects and clearance of any closing conditions (if applicable), HCD issues a Notice to Proceed (NTP) to the Subrecipient. The NTP is a binding document, approved as to form a component of the Master Standard Agreement or Standard Agreement, that amends the allocation agreement between the Subrecipient and HCD by committing funds to a specific project. The NTP includes project details, including but not limited to:

- A description of the approved project and the permitted uses of program funds;
- The approved project development budget and sources and uses of funds and financing;
- The approved schedule of the project, including design, if any, commencement and completion of construction work;
- Performance milestones; and
- Performance penalties.

1.15. Agreements with Contractors or Other Parties

Per 2 CFR 200.213, 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.

A. The terms “other party” is defined as public or private non-profit agencies or organizations and certain (limited) private for-profit entities who receive Grant Funds from a Subrecipient to undertake eligible projects.

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

- Compliance with all State and federal requirements 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;
- 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 project activities;
- Contractors shall:
    - Comply with the applicable provisions of the California Labor Code;
    - Perform the project activities in accordance with federal, state and local housing and building codes, as applicable; and
    - Provide security to assure completion of the project(s) 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 project are required.

1.16. Document Retrieval Process

All documentation at each step of the process of the project’s life, from NOI to grant closeout, must be submitted through the Grants Network Program Portal. This ensures that all the required documents are available for review and retrieval in one location. To submit or retrieve a document, the Subrecipient needs to enter their project Workspace through the Grants Network Program Portal and upload the document into the proper location.

1.17. Timing of Eligible Costs Incurred

There are circumstances when eligible costs may be incurred prior to an NTP but subsequent to the execution of an Agreement between HCD and the Subrecipient. First, Activity Delivery expenses for environmental compliance work for intended Project Applications may be incurred prior to an NTP provided that such expenses are eligible and are supported by documentation satisfactory to the Department. Second, with Program Manager or Section Chief written approval, other costs may also be incurred prior to the execution of the NTP, such as the cost of procuring consultants and architectural, engineering and other professional services required to prepare plans, drawings, specifications, or work write ups that are incurred not more than 24 months prior to the Approved Project being set up in DRGR, provided these procurements are conducted in a manner consistent with 2 CFR 200.317 – 200.326, "Procurement Standards". Notwithstanding the foregoing, if an NTP is not eventually approved by HCD, the eligibility of costs incurred for the same Project are not guaranteed and, after further review, they may be deemed ineligible for reimbursement with CDBG-DR Infrastructure Program funds. See Section 1.13, Activity Delivery Costs for details about failed projects that incur eligible costs.

1.18. Disbursement of Funds

Payments are made directly to Subrecipients as reimbursements based on the documented completion of agreed upon project milestones, as outlined in the Agreement. Reimbursement-based means that activity delivery and project costs must be incurred by the Subrecipient and documented as required by the terms of the Agreement for payment of invoices. Please see the state's CDBG-DR Grant Administration Manual, Section V for additional financial management procedures and requirements.

Please note, wherever possible, Match projects will submit a single draw request in the form of a financial report uploaded through Grants Network. The financial report containing the single draw request is submitted after the project is complete, approved, and the non-HCD project costs have been paid by the federal entity requiring the matching funds, such as FEMA. Exceptions to allow reimbursement for Match project costs incurred prior to completion of the project, will be made on a case-by-case basis.

For stand-alone infrastructure projects, the Subrecipient may withhold as retainage up to ten percent (10%) of all DR-Infrastructure/MIT-RIP funded Contractor payments. No retainage payments shall be released to the Contractor or reimbursed to the Subrecipient until receipt and approval by the Department. Although retainage is not a requirement, it has been found to be helpful to maintain ten percent (10%) retainage from partial payments until after final inspection, in case of unresolved problems.

1.19. Reporting Requirements

Subrecipients are required to submit reports at times indicated in the agreement, in accordance with HCD and HUD reporting requirements, and via Grants Network. At a minimum, during the term of the agreement, on a monthly basis the Subrecipient shall submit to HCD a progress report which addresses the following topics:

- A description of the current status of the project activity;
- A description of activities to be undertaken in the next reporting period;
- A description of problems or delays encountered in project 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 project expenditure deadlines; and
- A summary of project fiscal status, including:
    - Award amount;

- Funds drawn; and
- Remaining balance.

At any time during the term of the agreement, HCD may perform or cause to be performed an independent financial audit of any and all phases of the Subrecipient's project(s). 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 CDBG-DR Grant Administration Manual, 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.

1.20. Compliance Actions and Authority for Compliance Actions

Under the authority of applicable federal regulations, Master Standard Agreement(s), Standard Agreement(s), Notice(s) to Proceed, and approved project documents, HCD maintains oversight responsibility for subrecipient compliance with programmatic, contractual, and National Objective requirements. As described in the *Subrecipient Program Compliance Guidance* (February 2026) and the *Income Eligibility and Review Guidance for National Objective Low and Moderate Income–Limited Clientele* (January 2026),[9] HCD may initiate compliance actions when a subrecipient exhibits deficiencies related to project performance, reporting, contractual obligations, or income eligibility documentation necessary to substantiate compliance with the LMI National Objective.

HCD is authorized to require subrecipients to establish and follow approved policies and procedures, submit requested documentation, and demonstrate compliance through verifiable records, as projects are not considered compliant until required documentation is complete, accurate, and accepted by HCD. HCD's compliance actions are implemented through a stepped corrective process designed to mitigate risk and promote timely resolution of deficiencies:

1. Consistent with the *Subrecipient Program Compliance Guidance*, HCD may issue Technical Assistance Memoranda, Notices of Potential Noncompliance, Requests for Corrective Action Plans (CAPs), Notices of Noncompliance, and formal Resolution of CAP notices.
2. Consistent with the *Income Eligibility and Review Guidance for National Objective Low and Moderate Income–Limited Clientele*, HCD may require revisions to income eligibility policies and forms, impose deadlines for corrective action, direct pauses in project activities, deny or withhold reimbursement for ineligible or unsupported costs, and require repayment of funds, if National Objective compliance cannot be substantiated.

All of the actions set out above are taken pursuant to HCD's contractual enforcement authority and responsibility to ensure that CDBG-DR and CDBG-MIT funds are

[9] https://www.hcd.ca.gov/funding/dr/dr-inf-mit-rip/resources

administered in compliance with federal and state requirements and that subrecipient activities remain eligible and aligned with approved program objectives.

1.21. Expenditure Deadlines and Reallocations of Funds

Time is of the essence to ensure complete and compliant projects before grant closeout. The Department is legally and financially accountable for the use of all funds. The Department will track the projected use of funds by Subrecipients and ensure that all funds will have an eligible use within program deadlines. If required to ensure the eligible use of funds, the Department will reallocate funds between Subrecipients based on a reassessment of unmet recovery/mitigation needs (including whenever an application portal closes). Prior to any reallocation of funds, the Department will work with Subrecipients to see whether funds can be eligibly used on existing approved projects, but will set deadlines on use of awarded funds, as needed, to ensure timely expenditures of funds.

As set out in the Master Standard Agreement or Standard Agreement, failure by a Subrecipient to complete activities before the expenditure deadline may result in the Department recapturing some or all of the funds from the Subrecipient. Furthermore, the Department reserves the right to reallocate unobligated Grant Funds within the program, in its sole and absolute discretion (e.g. if the Department determines the Subrecipient is unable to meet the performance milestones in a timely manner following a failure of Subrecipient to meet any milestone(s), or if the Department determines that Grant Funds are surplus upon completion of an Approved Project(s)). In addition, funds not obligated to Approved Projects by the milestones outlined in the approved project timeline will be subject to deobligation and/or reallocation by the Department.

1.22. 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 DR program;
- FRN requirements applicable to the 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. HCD's procedures for preventing fraud, waste, and abuse are available in HCD's CDBG-DR Grant Administration Manual, Section V.

1.22.1. HCD's Monitoring of Subrecipients

HCD monitors its subrecipients and contractors/vendors, when applicable, based upon an assessment of risk posed by the jurisdiction or contractor/vendor and according to specific monitoring criteria per 2 CFR 200.331. HCD conducts a Risk Assessment of all subrecipients and contractors/vendors on an annual basis. In accordance with 2 CFR 200.221, 24 CFR 570.492 and 42.U.S.C Section 5304(e)(2), the risk assessment seeks to gauge subrecipients capacity to implement program or project, its compliance with the Agreement, performance objective and assess operational risk. The goal of this process is to determine the highest risk areas across all CDBG-DR activities and inform HCD with the programs, subrecipients, and/or contractors/vendors who require the greatest administrative oversight. The results of risk assessment advises 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 monitoring and on-site monitoring follow the same process as follows:

- Notification letter to the subrecipient;
- Document collection and pre-monitoring work begins for the next 30 days after issuance of the notification letter;
- Entrance Conference via teleconference for desk monitoring and in person for onsite monitoring;
- Review of documents, interview of subrecipients, and requests for additional documents;
- Exit conference via teleconference for desk monitoring and in person for on-site monitoring. Review of findings and concerns including next step discussion; and
- 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 area specific (e.g. Procurement and Contract, Environmental, Section 3, Financial Management) or a comprehensive review of the project. Typically, desk monitoring is only conducted for low risk to medium risk subrecipients and in 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, HCD representative reviews files for compliance with applicable federal and program requirements. This review is similar to 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, project file documents, draw requests, and policies and procedures provided by the Subrecipient. Typically, on-site 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. On-site 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 then a desk monitoring.

Generally, HCD does not monitor a Subrecipient's construction contractor. Rather, HCD monitors the Subrecipient's monitoring of the contractor since monitoring the contractors is the responsibility of the Subrecipient. 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 project inspections with the Subrecipient and its contractors to confirm eligible CBDG-DR activities are being conducted, eligible costs are being charged and that the required national objective is being met.

1.22.2. Subrecipient Monitoring Responsibilities

HCD requires the Subrecipients to develop their own monitoring plan for their projects and contractors that complete construction on DR-Infrastructure funded projects. Therefore, Subrecipients are responsible for carrying out their projects to meet these compliance requirements. HCD monitoring plan is available for guidance to the subrecipient to develop their own monitoring plan.

For construction projects, it is the responsibility of the Subrecipient to monitor projects to ensure compliance with terms of the Agreement and applicable regulations. Subrecipient monitoring should include:

i. Ensuring project scopes of work are consistent with the scope of work described in the Project Applications;
ii. Physical inspection should include the inspection of all construction projects to ensure the project;
iii. Monitoring construction contractors for equal opportunity, federal and state labor standards and Section 3 requirements;
iv. Following procurement processes in accordance with 2 CFR §200 or local standards if higher;
v. Project milestones are being met;
vi. Environmental reviews are completed and documented properly;
vii. Complying with the terms and conditions of the Standard Agreement with HCD, especially anti-fraud and abuse;
viii. Monitoring contractors/vendors for federal compliance standards;
ix. Financial Management: internal controls, accounting , program income and record keeping are in compliance with 2 CFR 200 and CDBG-DR costs are eligible, allowable, reasonable, and allocable; and
x. Documenting national objective compliance for all activities.

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

1.23. Record Keeping

HCD's Agreement with the Subrecipient is the contractual document that details the financial and recordkeeping requirements and standards for Subrecipients allocated funds to carry out specific eligible DR-Infrastructure activities. Such reports and recordkeeping requirements, defining the specific reports and the reporting dates, along with the particular 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 agreement with HUD include, but are not limited to:

- Executed agreement(s)
- Description, geographic location and budget of each activity
- Eligibility and national objective determinations 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, 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 project and/or activity

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.

1.24. Grant Closeout

The closeout of a grant is a process through which HUD determines that all applicable administrative and program requirements of the grant were completed. 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 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; and
- All audit and monitoring issues affecting the grant were resolved.

1.24.1. Closeout of an Individual Activity

Individual elements of the CDBG-DR grant may be closed out as a course of grant closeout. Closeout of individual activities are coordinated between HCD and the Subrecipients. Upon completion of the activity, DRGR must be updated with the project status.

As individual activities of the grant are preparing to close, HCD reviews and updates the following in DRGR:

- The total amount of funds drawn down for the activity;
- A final check for DOB;
- The activity type;
- The national objective; and
- The grant activity accomplishments.

Individual activity completion should also be reflected in the Quarterly Performance Report (QPR)(see Section 5, for additional information.

1.24.2. Closeout of a Contract

CDBG-DR Subrecipients are required to submit the following to HCD for each contract to complete closeout:

- The Final Request for Funds;
- Evidence of a public hearing reporting the grant accomplishments and expenditures of each project to the residents of the jurisdiction; and
- If applicable, the final projects 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 project warrant contract closeout. HCD disencumbers any remaining funds, if applicable, and enters all needed information in DRGR to show the activities and projects are “completed.”

Once all documentation has been processed and DRGR has been updated, HCD sends a Closeout Letter to the Subrecipient, outlining all closeout requirements. HCD Subrecipients are required to retain CDBG-DR records 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.

Once these items have been completed, 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:

1. 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;
2. Ensure that funds received under this subpart are only spent for reasonable and necessary costs of operating programs under this subpart; and
3. Ensure that funds received under this subpart are not used for general expenses required to carry out 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; and/or
- 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, an audit of the grant activities may be conducted by HUD.

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.

1.25. Program Expenditure and Outcome Projections

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

Mitigation Resilient Infrastructure Program General

1.26. Purpose and Scope

This addendum addresses requirements specific to the Community Development Block Grant – Mitigation (CDBG-MIT) Resilient Infrastructure Program (MIT-RIP). For all other procedures and grant management requirements, the CDBG-DR Infrastructure (DR-Infrastructure) policies and procedures apply to the administration of CDBG-MIT.

This document describes program policy and provides general guidance for the Resilient Infrastructure Program. Subrecipients should review all applicable Federal regulations, disaster specific Federal Register Notices, the state's CDBG-MIT Action Plan, and the Grants Administration Manual[10] for detailed discussions of CDBG-MIT procedures and requirements.

The MIT-Resilient Infrastructure Program allocates $64,004,742 of the $88 million in CDBG-MIT funds appropriated in Public Law 115-123, to assist local jurisdictions with mitigation-related infrastructure needs to support risk reduction from the three primary hazards (wildfire, flooding, and earthquake) as established within the Mitigation Needs Assessment found in the CDBG-MIT Action Plan. Eligible projects must address risks to a variety of systems and structures to enable continuous operations of critical business and government functions during future disasters and improve responses for human health and safety or economic security. Project funding under the Resilient Infrastructure Program is available in two rounds.

- **Round One:** The first round makes CDBG-MIT funding available to local projects that have completed designs, are already moving forward in initial design stages, or can exhibit some level of "shovel-readiness." In addition, the first round serves jurisdictions that can demonstrate prior experience in implementing risk reduction projects of scale and scope similar to what they are proposing. Local jurisdictions that are not able to present shovel ready projects and exhibit a minimum standard of capacity for Round One project funding are afforded an opportunity to complete relevant planning initiatives and build capacity through the Resilience Planning and Public Services Program. Once eligible applicants are able to present fully developed project proposals and demonstrate a proper level of capacity, they would be eligible to apply for funding to implement their mitigation project. HCD anticipates the majority of Round One projects to be implemented, completed, and have met a National Objective within the first six years of the grant period.

- **Round Two:** HCD will administer funds through an allocation methodology that considers past damage impacts and future vulnerabilities within the MID as well as outstanding MIT-RIP and MIT-PPS Round One unmet need. Eligible jurisdictions will then be invited to either apply their allocation to existing funding gaps in their ongoing 2017 Round One Projects or submit new projects via an application that

[10] https://www.hcd.ca.gov/funding/dr/grant-administration

serve the MID and meet the HUD definition of mitigation. Projects that are a result of plans funded under the 2017 Planning Program will also be encouraged.

1.27. Terms and Definitions

Acronym	Meaning
BCA	Benefit Cost Analysis
CAC	Citizen Advisory Committees
CDBG-MIT	CDBG Mitigation grant allocation
FEMA HMGP	FEMA Hazard Mitigation Grant Program
HMP	Hazard Mitigation Plan
MNA	Mitigation Needs Assessment
UNM	Urgent Need Mitigation

FEMA Hazard Mitigation Grant Program: The purpose of HMGP is to help communities implement hazard mitigation measures following a Presidential Major Disaster Declaration in the areas of the state, tribe, or territory requested by the Governor or Tribal Executive. The key purpose of this grant program is to enact mitigation measures that reduce the risk of loss of life and property from future disasters.

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

HUD-Identified MID Area: Cities, counties, zip codes or other jurisdictions or geography identified by HUD as most impacted and distressed areas based on analysis of FEMA and state data.

Mitigation: Those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

Mitigation Needs Assessment: Analysis of historical data and institutional knowledge provided in state and local hazard mitigation plans and from prior disasters to determine risks of impacts for disasters to housing and infrastructure.

CDBG MIT-Resilient Infrastructure Program Requirements

1.28. Program Goals

The MIT-RIP program assists local jurisdictions with mitigation-related infrastructure needs to support risk reduction from the three primary hazards (wildfire, flooding, and earthquake) as established within the Mitigation Needs Assessment. The program prioritizes projects that impact vulnerable and LMI populations as well as those located inside the MID or documented to impact the MID. Per the grant requirements, 50% of the funds are required to benefit the MID, 50% of the funds are required to be spent in the MID, and 50% of the funds are required to benefit LMI persons.

Mitigation activities are defined by HUD as those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters. Additionally, one of the goals of CDBG-MIT is to include mitigation of one or more of the seven Community Lifelines (Safety and Security; communication food, water, sheltering; flood risk; transportation; health and medical; hazardous material (management); energy (power and fuel)). Community Lifelines are the most fundamental services in communities that, when stabilized, enable all other aspects of society to function smoothly.

1.28.1. Stand-Alone Infrastructure Activities

Non-match, Stand-Alone MIT-RIP projects that meet the HUD definition of mitigation and generate a measurable resilience benefit can be funded with up to 100 percent of CDBG-MIT funding. The Resilient Infrastructure Program assists local jurisdictions with mitigation-related infrastructure needs to support risk reduction from the three primary hazards (wildfire, flooding, and earthquake) as established within the Mitigation Needs Assessment. Projects may address risks to a variety of systems and structures to enable continuous operations of critical business and government functions during future disasters and improve responses for human health and safety or economic security. Funding may also be used in tandem with other local, state or federal resources.

1.28.2. HMGP Match

CDBG-MIT funds may be used as a match to FEMA Hazard Mitigation Grant Program (HMGP) projects. HMGP activities are designed to help communities implement hazard mitigation measures following a Presidential Major Disaster Declaration in the areas of the state, tribe, or territory requested by the Governor or Tribal Executive. The key purpose of HMGP is to enact mitigation measures that reduce the risk of loss of life and property from future disasters. Projects that are approved for FEMA HMGP Match are eligible for non-federal, local match funding under the Resilient Infrastructure Program.

The non-federal share for FEMA HMGP Match project totals 25% of the overall project cost. The DR-Infrastructure Program can provide up to the full 25% of the overall project cost for the non-federal local share. There is no State cost share for HMGP projects.

Federal Agency	Federal Programs	Federal Cost Share	Non-Federal, State Cost Share	Non-Federal, Local Share	Disasters
FEMA	Hazard Mitigation Grant Program (HMGP)	75%	0%	25%	DR-4344, DR-4353

See DR-Infrastructure Policy and Procedures Section 1.7 for a full description of eligible FEMA HMGP Match projects, activities, and compliance.

1.28.3. Meeting a 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 at 84 FR 45838, all CDBG-MIT funded activities must either benefit low- and moderate-income persons (LMI) or meet an Urgent Need Mitigation (UNM).

All Resilient Infrastructure Program activities must meet one national objective criterion related to its specific mitigation impact and defined direct benefits or service area.

Benefiting Low- and Moderate-Income Persons

For a full explanation of the LMI National Objective see Section 1.4.3 of the DR-Infrastructure Policies and Procedures.

Urgent Need Mitigation

HUD has created a new National Objective - Urgent Need Mitigation (UNM) for CDBG-MIT programs. This National Objective provides a better fit for CDBG-MIT activities that aim to address risks that do not tie back to the disaster events of the 2017 CDBG-DR funding, or subsequent disasters.

Projects using the UNM national objective must provide documentation that demonstrates a measurable and verifiable impact on reducing risks at the completion of the activity. UNM projects must:

- Address the current and future risks as identified in the Mitigation Needs Assessment; and
- Result in a measurable and verifiable reduction in the risk of loss of life and property.

Slum and Blight

Unless HCD receives prior approval from HUD, the slum and blight national objective designation may not be used for CDBG-MIT activities.

For additional National Objective Compliance guidance refer to Section 1.4.3 of the DR-Infrastructure Policies and Procedures.

1.28.4. Eligible Use of Funds

Eligible use of Resilient Infrastructure Program funds are those costs generally considered eligible within standard CDBG guidelines under Title I of the Housing and Community Development Act of 1974 or those activities specified by waiver in 83 FR 5844 published February 9, 2018; 83 FR 40314 published August 14, 2018; 84 FR 97 published January 9, 2019; and 84 FR 6813 published February 28, 2019. Consideration is given to certain costs typically related to emergency management, disaster response, or disaster preparedness that are not generally eligible for CDBG funding but provide a demonstrable benefit to the community per the definition of a mitigation activity.

MIT-RIP funds may be used in conjunction with CDBG-DR Infrastructure funds for a single project should the proposed project include a scope that meets both program requirements. In order to meet both CDBG-DR and MIT-RIP requirements a component of the scope must satisfy the CDBG-DR tie-back requirement while a separate component of the project must meet the definition of mitigation.

Eligible Activities

- **HCDA Section 105(a)(1) – Acquisition of Real Property:** the acquisition of real property (including air rights, water rights, and other interests therein) which is:
    - A. Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;
    - B. Appropriate for rehabilitation or conservation activities;
    - C. Appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;
    - D. To be used for the provision of public works, facilities, and improvements eligible for assistance under this title; or
    - E. To be used for other public purposes.

- **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)(4) – Clearance, Rehabilitation, Reconstruction, and Construction of Buildings (Including Housing):** the clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned properties, and including the renovation of closed school buildings).

- **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.

- **HCDA Section 105(a)(11) – Relocation:** relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate and associated solely with acquisition activities.

1.28.5. Ineligible Costs

Resilient Infrastructure Program projects that do not meet the HUD definition of mitigation, do not serve the MID, or are for private infrastructure activities are ineligible for funding.

Private infrastructure activities include, but are not limited to:

- Repair or replacement of private roads and bridges, and
- Repair, replacement, or relocation of private utilities.

Further, any costs for projects that are funded by another party are ineligible for funding.

Implementation Policies

1.29. Round One MIT-RIP Program

1.29.1. Round One Project Selection

1.29.2. Round One NOI Process

For the complete NOI process, refer to Section 1.10 of the DR-Infrastructure Policies and Procedures.

1.29.3. Round One Mitigation NOI Requirements

For all projects, Eligible Applicants are required to submit the information below regarding Projects, unless otherwise noted as optional. Failure to submit the required information may disqualify the project from being included in the mitigation needs totals. The submission of optional information does not impact the eligibility of projects, nor the Eligible Applicants allocation. The required information is as follows:

- Declaration of project type being submitted (HMGP Match, or Stand-Alone)
- Affirmation and description of the jurisdiction's existing capacity to manage the solicitation, selection, monitoring, environmental review, compliance, and oversight of the program
- Project Details:
    - Eligible Applicant
        - Identity of the Eligible Applicant. Eligible Applicants are those cities and counties identified in Section 1.4.4 of the DR-Infrastructure Policies and Procedures.
    - Is this a project on behalf of another government entity or special district other than the Eligible Applicant?
    - If yes, name of other government entity or special district
    - Project Title
    - Project Description / Scope of Work
        - For FEMA HMGP Match projects the description and scope of work should be the same as provided for those projects. A description or scope of work for stand-alone infrastructure projects is also required.
    - Project Location Description
        - Provide a description of the project location including any addresses
    - Project City
    - Project Zip Code

- Project Latitude and Longitude
    - Decimal Degrees (e.g. 38.57933 -121.49092)
- Does the Project service area benefit an LMI population or area?
- Does the Project service area benefit the MID area?
    - CDBG-MIT projects must be located within the MID or demonstrate benefit to the MID as described by the Action Plan.
- What Census Tracts/Block Groups are served by this project?
- Service area map *(Optional)*
    - If available, provide a map of the service area showing MID and LMI benefit
- **OES Number – HMGP Match Only**
- Affirmation and documentation of project compliance from the start of construction with Davis-Bacon Act and Section 3 if in-progress or completed after 8/21/2019
- If project is complete, date of the completion
- Project Status
    - Provide the current status of the project
- Total Project Unmet Need ($ amount)
    - Provide the total unmet need amount of the project, including any amount that is not being sought through CDBG-MIT funding.
- Anticipated CDBG-MIT funding request ($ amount)
    - Provide the amount of funds that being requested through the CDBG Program.
- Is there a gap between total project unmet need and CDBG-MIT funding request?
- If yes, please explain how the gap is anticipated to be funded and provide estimated dollar amounts.
- Basis for Cost Estimate / Unmet Need
    - Provide a description of the basis for the cost estimate and/or unmet need of the project.
    - Eligible projects must consider and incorporate operations and maintenance into the overall project budget.
- Provide cost estimate documentation *(Optional)*
    - The documentation should clearly demonstrate the reasoning of the cost estimate and support the description of the cost estimate and/or unmet need.
- Was the project denied by FEMA for PA or HMGP funds?
- If yes, provide a reason why the project was denied by FEMA
    - Provide a description of why the project was denied by FEMA, additional documentation may be requested.
- Describe the eligible CDBG activity this program falls under.
- Has an NEPA Environmental Review been completed?
- Provide documentation of the NEPA Environmental Review *(Optional)*

- Is the proposed project identified as a priority project in your hazard mitigation plan?
- What community lifeline will this project protect?
  - Select one or more of the seven community lifelines
    - Community lifelines are the most fundamental services in communities that, when stabilized, enable all other aspects of society to function smoothly. Resilient Infrastructure Program projects must reduce risk to these services (Safety and Security; communication food, water, sheltering; flood risk; transportation; health and medical; hazardous material (management); energy (power and fuel)).
- How will this project improve resilience for underserved communities and vulnerable populations?
- Can this project be replicated in other communities? If so, how?
- Has CAL FIRE identified this project as a priority project?
- Attach confirmation from CAL FIRE
- Upload quantitative data showing a project's anticipated impact on current and future risks
  - Eligible projects must be able to show anticipated impact on current and future risks.
- Assuming Spring 2021 start date, what is your expected period of performance?
  - What is the anticipated start date and completion date?
- Project Timeline
  - If available, please provide a timeline of the submitted project.
- FEMA HMGP Status

1.29.4. Round One HCD NOI Evaluation Criteria

HCD evaluates the submissions for allocation based on the eligibility requirements as outlined in Section 1.29.3 above. Primary factors in evaluating submissions for allocations include meeting the grant requirements of 50% of the funds benefiting the MID, 50% of the funds being spent in the MID, and 50% of the funds benefiting LMI persons. Submissions must also meet the HUD definition of mitigation, as outlined in Section 1.29, and if Urgent Need Mitigation, must present measurable mitigation and resilience outcomes.

1.29.5. Round One Allocation Methodology

The Round One Resilient Infrastructure Program calculates allocations based on the total unmet dollar amount for the submitted shovel ready projects that meet the primary evaluation factors (see section 1.29.4 above), namely demonstrating that the funds benefit the MID and meet the HUD definition of mitigation.

Project submissions that do not meet established requirements for Round One allocations are allowed to submit under Round Two. As appropriate, HCD encourages jurisdictions to take part in the capacity building portion under the Resilience Planning and Public Services Program to ensure proper local implementation, oversight, and compliance with CDBG-MIT requirements. Eligible applicants receive technical assistance regarding CDBG-MIT requirements, and HCD and its partners help applicants identify or address both the short- term and long-term mitigation needs, develop and incorporate additional resilience elements in proposed projects, and develop projects that are scalable and replicable.

1.30. Round Two MIT-RIP Program

1.30.1. Round Two Allocation Methodology

Extensive outreach was conducted by the HCD team to determine outstanding needs of eligible applicants for the following:

1. Funding gaps in Round One -projects
2. Mitigation projects not funded by Round One
3. New mitigation projects
4. Mitigation projects resulting from HCD 2017 CDBG-MIT Planning Grants

Potential projects were assessed for general eligibility and their ability to be completed within the program period of performance. The resulting project list and corresponding budgets were used to determine the following direct allocations:

Eligible Applicant	Benefitting MID	Round Two Allocation
Mendocino County	95470 zip code	$11,913,474.00
Napa County	94558 zip code	$1,644,664.00
Sonoma County	Sonoma County	$3,522,407.00
Ventura County	Ventura County	$2,325,676.00
Yuba County	95901 zip code	$300,000.00
Nevada County	95901 zip code	$2,500,000.00

All new Round Two projects must be submitted via application prior to being awarded. If an allocation is declined by an eligible applicant, HCD will reallocate the funds based on remaining unmet need.

1.31. Project Application Process

Subrecipients must use the Grants Network Program Portal to submit project applications. Project applications to HCD must be authorized by a resolution of the Subrecipient's governing board. If allowed by local policies, HCD can accept a resolution from the governing board authorizing specific Subrecipient staff to submit on the Subrecipient's behalf.

All applications must be submitted by the established deadline. If Subrecipients need additional time to complete an application, HCD accepts extensions to Subrecipients on a case-by-case basis and allows up to four (4) additional weeks for the project application as long as the Subrecipient has started an application submission prior to the original application deadline. HCD reviews application submissions and anticipates providing a follow-up response to subrecipients including, but not limited to, feedback, questions, and comments within 30 calendar days of the application period closing. The HCD review process ensures compliance with regulatory requirements and confirms the project is consistent with broader recovery goals.

1.32. Mitigation Project Application Requirements

The purpose of the Round One and Round Two application is to confirm project eligibility, submit final construction design plans, identify and document all funding sources, and provide additional documentation to show compliance with state and federal regulations. The required information is as follows:

- Overall Project Description/Scope of Work
    - The overall project description and scope of work provides a complete summary of the project that justifies how the project meets the HUD definition of mitigation. The project description includes the ownership of the project and who benefits from the project. The scope of work includes a full description of construction activities.
- National Objective/MID Documentation
    - Ensure that the final proposed project service area hasn't changed from the NOI. As all eligible projects must benefit the MID, the service area must show the MID area benefit.
    - For LMI, the Subrecipient must complete a beneficiary form detailing demographic calculations and supporting maps/figures.
    - For Urgent Need Mitigation, must document the following[11]:
        - Explain how the project meets the definition of Urgent Need Mitigation (see Section 1.28.3). This explanation should touch on:
            - How will the Project address current and future risks as identified in the Mitigation Needs Assessment?
- Complete Cost Estimate/Budget
    - Complete list of all project funds and sources of funds (CDBG, Local, Private, Other State funds, Federal funds, other).
    - Final budget (eligible activity costs and project delivery costs)
    - Design and construction cost estimates with description of materials needed, quantities, unit prices, and an itemized amount (if possible).
    - Provide justification of any additional testing, investigations, or other engineering fees (soil boring tests, environmental site assessments, etc.).
- 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 are calculated by the Subrecipient.
- Project Maps
    - Detailed maps of the existing infrastructure and proposed infrastructure improvements (can be combined, if needed).
    - Service area of the project.

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[11] Once the Activity Reporting requirement is initiated, Subrecipients who reported that their project will meet the Urgent Need Mitigation national objective in the application must provide an update on how they are preparing and planning to collect measurable mitigation impacts from the project.

    - Census track/block groups related to the service area of the project.
- Project Timeline
    - List of project milestones (design, preconstruction, phases of construction, and completion).
- Mitigation
    - A description of how the project will help mitigate against future risk and how resilience needs of the community have been designed into the project.

1.33. Mitigation Award Methodology

HCD evaluates Round One and Round Two projects based on the eligibility requirements captured above in Section 1.32 namely demonstrating that the funds benefit the MID and meet the HUD definition of mitigation. Project applications that did not meet established requirements for Round One allocations are allowed to submit under Round Two.