



# State of Alaska Multi-Family Housing Program Policy and Procedures Manual for CDBG-Disaster Recovery DR 4413

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## Section 1. General

### 1.1 Purpose and Scope

This document provides program policies and general guidance for the use of Community Development Block Grant – Disaster Recovery (CDBG-DR) funds appropriated on January 27, 2020, through 85 FR 4681 under Public Laws 115–254 and 116–20. The Lead and Responsible Entity (RE) for administering the CDBG-DR funds allocated to the State of Alaska is the Department of Commerce, Community, and Economic Development (DCCED). CDBG-DR supports the State of Alaska’s unmet recovery needs related to the Federal Emergency Management Agency (FEMA) Major Disaster Declaration #4413. DCCED performed an Unmet Needs Assessment that covered the areas affected by DR 4413, and included data from FEMA and Small Business Administration (SBA), recognizing the requirement included in Federal Register Notice [83 FR 5851](#), published February 9, 2018, and [83 FR 40314](#), published August 14, 2018, to address housing needs first. DCCED expanded the Disaster Recovery Multi-family Housing Program (DR-MHP) based on the needs assessment results. DR-MHP Projects are funded to assist with meeting the unmet rental housing need, including the needs of individuals displaced from rental homes and individuals who became homeless as the result of the disaster. Multifamily projects include duplexes, townhomes, and apartment complexes. The DR-MHP will allow any eligible housing authority or non-profit organization (Applicants) to identify, select, and submit potential Projects to DCCED for eligibility assessment and review, approval, and funding.

### 1.2 Terms and Definitions

**Affordable Rents:** Rents at or below the “High” HOME Program rents published by the U.S. Department of Housing and Urban Development (HUD) for different metropolitan areas, except that units meeting the Deep Affordability requirement, Affordable Rents shall not exceed the 30% income level maximum rent limits.

**Affordable Units:** A “dwelling” that is rented at an Affordable Rent to a household earning less than 80 percent of Area Median Income adjusted for household size as calculated by the U.S. Department of Housing and Urban Development (HUD) for different areas within the State.

**Applicant:** Any eligible housing authority or non-profit organization that applies for funds pursuant to Section 2.1. (See Also: Grantee)

**Area Median Income (AMI):** [HOME](#) income limits for specific geographic areas, adjusted for household size, as calculated by HUD, and published annually by AHFC for Income Limits for multiple programs.

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

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

**Construction:** Alteration, demolition, installation, or repair of a building.

**Davis Bacon Wage Requirements:** Projects including eight (8) or more dwelling units require Contractors and subContractors performing work on federal construction contracts or federally assisted contracts in excess of \$2,000 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. Prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts.

**Deep Affordability:** Units available for households whose income is at or below 30% of AMI.

**Department of Housing and Urban Development (HUD):** Federal department through which the CDBG-DR funds are provided to DCCED.

**Developer:** A private for-profit or nonprofit organization that owns or has site control over real property and arranges all financing, professional, technical, and construction services necessary to develop or rehabilitate affordable housing.

**Disability:** Any mental or physical disability limiting a major life activity, including a disability that falls within the definitions in Government Code (G.C.) Sections 11135, 12926, and 12926.1 or within the definition of disability used in the Americans with Disabilities Act of 1990, codified at 42 U.S.C. 12102.

**Disaster Recovery Multi-Family Housing Program (DR-MHP):** The acronym used for the Disaster Recovery Multi-Family Housing Program.

**DR-MHP Assisted Unit:** An Affordable Unit subject to rent and occupancy restrictions because of the financial assistance provided by DR-MHP specified in the Declaration of Land Use Restrictive Covenants.

**Due Diligence:** A formal process requiring Subrecipients to submit forms and associated documentation to DCCED for review prior to the issuance of the Grant Agreement.

**Duplication of Benefits (DOB):** Financial assistance received from another source provided for the same purpose as the CDBG-DR funds.

**Elderly Person:** A person at least 62 years of age.

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

**Extremely Low Income (ELI):** Individuals or families whose income is at or below 30% of the area median income (AMI) or the federal poverty level, whichever is higher for the area of the proposed project.

**Fair Market Value:** The hypothetical price that a willing buyer and seller agree upon when they are acting freely, carefully, and with complete knowledge of the situation.

**Federal Emergency Management Agency (FEMA):** An agency of the United States Department of Homeland Security whose primary purpose is to coordinate the response to a disaster that has occurred.

**Federal Register Notice:** (FRN) A federal notice of a Major Disaster Declaration.

**Grant Agreement (Agreement):** Agreement between DCCED and a Grantee setting forth terms and conditions by which CDBG-DR funds are utilized.

**Grantee:** Eligible housing authority or non-profit in an Agreement with DCCED.

**Green Building:** The practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building's lifecycle from design, construction, operation, maintenance, renovation, and deconstruction.

**Green Requirements:** State of Alaska follows Building Energy Efficiency Standards (BEES) [Alaska Housing Finance Corporation :: Building Energy Efficiency Standard \(ahfc.us\)](#) along with guidance located in 84 FR 4844 Notice concerning green building codes.

**Household:** One or more persons occupying a housing unit.

**Land Use Restrictive Agreements:** A legal document establishing affordability restrictions on rent and occupancy for a specific approved project.

**Limited English Proficiency (LEP):** A designation for persons not fluent in and unable to communicate effectively in English because their primary language is not English. A person with Limited English Proficiency may have difficulty speaking or reading English. A LEP person benefits from an interpreter translating to and from the person's primary language. A LEP person may also need documents written in English translated into his or her primary language so that the person can understand important documents related to health and human services.

**Low-Income persons:** Individuals, families, and households whose incomes are no more than 50% of the area median income involved as set by HUD. Low-income working families are those earning less than twice the federal poverty line. Recent immigrants are those who came to the United States within the past 10 years.

**Low- to Moderate-Income (LMI):** People 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, borough, and census areas.

**Minority- and/or Women-Owned Business Enterprise (M/WBE):** A business that is owned and controlled by women or a member of a minority group (minimum of 51% ownership).

**Most Impacted and Distressed (MID):** An area meeting the definition of Most Impacted and Distressed set by HUD in the Federal Register Notice. HUD defines the Most Impacted and Distressed area for the purposes of the unmet needs allocation using the following criteria:

- A. Individual Assistance/Individual and Households Program (IHP) designation. HUD limits allocations to those disasters where FEMA determined the damage was sufficient to declare the disaster as eligible to receive IHP funding.
- B. Concentrated damage. HUD limits its estimate of serious unmet housing needs to areas with high levels of damage, collectively referred to as "most impacted areas".

**National Environmental Policy Act (NEPA):** Establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure 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 to Proceed (NTP):** The legal document within a Grant Agreement identifying an approved project's specific description, budget, milestones, construction schedule, reporting requirements and special conditions.

**Program Income (PI):** Gross income that is directly generated from a CDBG-DR-funded activity. Program income is subject to the CDBG-DR rules in perpetuity.

**Project:** A multi-family housing development which may include apartment complexes with 8 or more total units, or a Scattered Site Project with 4 or more total units.

**Project Solicitation Process (PSP):** The process implemented by Subrecipients at the local level to solicit applications from Developers for DR-MHP Projects addressing one or more DR-MHP program priorities and meeting DR-MHP federal, state, and local requirements. The Subrecipient's local Project Solicitation Process shall set forth the project selection schedule, local requirements, requirements set forth in this Policies and Procedures Manual, and criteria for how Subrecipients will select projects for submission to DCCED to receive DR-MHP funds.

**Reconstruction/Rehabilitation:** Demolishing and re-building a housing unit on the same lot in substantially the same manner. Reconstruction is rehabilitation for purposes of this section.

**Responsible Entity (RE):** The agency receiving CDBG-DR assistance set forth under the ERR requirements in 24 CFR Part 58. The RE must complete the environmental review process. The RE is responsible for ensuring compliance with NEPA and the Federal laws and authorities, issuing the public notification, ensuring the ERR is complete, and, when required, submitting the request for release of funds and certification.

**Scattered Site Project:** A Project with four or more residential properties on non- contiguous lots under common ownership and management.

**Senior Housing:** Housing where all units are restricted to residents who are 62 years of age or older under the federal Fair Housing Act (except for Projects utilizing federal funds whose programs have differing definitions for senior projects, or have Supportive Housing or Special Needs Projects also restricting occupancy to residents who are 55 years of age or older), and further be subject to state and federal fair housing laws with respect to senior housing.

**Small Business Administration (SBA):** SBA's Office of Disaster Assistance (ODA) provides affordable, timely, and accessible financial assistance to homeowners, renters, businesses, and other eligible applicants. SBA low-interest long-term loans are the primary form of federal assistance for the repair and rebuilding of non-farm private sector disaster losses.

**Special Needs or Special Needs Populations:** Individuals living with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities; individuals living with developmental disabilities, serious mental illness or substance abuse disorders; individuals who are survivors of domestic violence, sexual assault, and human trafficking; individuals who are experiencing Homelessness; individuals with HIV; homeless youth; families in the child welfare system for whom the absence of housing is a barrier to family reunification; frequent users of public health or mental health services, as identified by a public health or mental health agency; Elderly Persons; or other specific groups with unique housing needs as determined by DCCED. "Special Needs Populations" do not include seniors unless they otherwise qualify as a Special Needs Population.

**Subrecipient:** A recipient of federal CDBG-DR funds from DCCED received from HUD.

**Substantial Rehabilitation:** Defined in [24 CFR 5.100](#).

**Supportive Housing:** Housing with no limit on length of stay that is occupied by the target population and linked to onsite or offsite services to assist the resident(s) needing support to retain the housing, improve their health status, and maximize their ability to live and, when possible, work in the community.

**Uniform Relocation Assistance and Real Property Acquisition 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.

## Section 2. Program Requirements

### 2.1 Eligible Applicants

Eligible Applicants (Applicants) include housing authorities and non-profit organization serving CDBG-DR eligible jurisdictions.

Applicants may submit project plans for the activities located anywhere within the jurisdiction, including CDBG Entitlement communities, in accordance with the project eligibility requirements outlined below in Section 2.3.

Applicants may collaborate with other Applicants or with other units of local government as needed during DR-MHP implementation. DCCED must approve agreements for a project or between Applicants and other units of local government if program funds are included in the agreement. Agreements with other units of local government are limited to program implementation support and cannot allocate project funding directly to other government entities.

DCCED must assess the housing authority or non-profit's capacity to execute and monitor the proposed project(s) as a factor in prioritization review in accordance with [83 FR 5851](#).

#### Procedures:

Procedures below must be fully addressed to be considered an eligible applicants for submitting DR-MHP Plans..

1. The jurisdiction must be in compliance with single audit requirements in [2 CFR 200.501](#).
2. DCCED verifies Applicant has no outstanding monitoring findings through other programs administered by DCCED to determine they are in good standing with the State of Alaska.
3. Applicants must submit complete DR-MHP Plans to DCCED for review and approval.
4. Applicants must request approval from DCCED to engage with other units of local government for program implementation support.
5. Applicant shall enter into a Grant Agreement with DCCED following submission and DCCED approval of a DR-MHP Plans, including a project scope, budget, activities, milestones, and a timeline..

### 2.2 Eligible Activities

Authorized eligible activities under this statute include the clearance, demolition, removal, and reconstruction of buildings and improvements pursuant to [42 USC 5305\(a\)\(4\)](#). New housing construction is also an eligible activity in [83 FR 5851](#). The development of affordable rental units through new construction is critical for recovery.

### 2.3 Project Eligibility

- A. Eligibility of multi-family housing proposed projects will be assessed by DCCED based on its linkage to the HUD defined “most impacted and distressed” jurisdiction and

the below criteria:

- CDBG-DR funds are limited to LMI housing units.
- Projects must link to the disaster by increasing the supply of affordable housing units or reconstructing disaster-impacted units. The proposed project must have a minimum of 8 total units, or if the project is a Scattered Site Project a minimum of 4 total units. If the project is a Scattered Site Project, the project plan must include details on the Developer's experience managing Scattered Site rentals and must provide a reasonable plan to adequately supervise and maintain the properties.
- Projects must meet at least one DCCED project type including, 1) Family, 2) Special Needs, 3) Seniors, and 4) Supportive Housing.
- Scattered Site Projects are exempt from this requirement if they maintain affordability levels for Low-Income households not to exceed 80% AMI for the project area.
- All sources of funding required to develop and operate the project with positive cashflow must be identified, documented as committed, and accessible prior to DCCED issuing a firm commitment letter and Notice to Proceed.
- Projects must be cost reasonable, which is what a reasonable person would pay in the same or similar circumstances for the same or similar item or service. Cost reasonableness may be documented by comparing costs between vendors or similar projects.
- Projects must successfully meet environmental review clearance and receive an Authority to Use Grant Funds (AUGF) or environmental clearance letter from DCCED prior to DCCED issuing a firm commitment letter and Notice to Proceed.
- DR-MHP Assisted Units may only be leased to households with an annual income less than 80% of the AMI. Projects must meet the following affordable rent requirements and tenant income limits through the duration of the affordability period. Projects must also adhere to the following thresholds:
  - 1) Maximum Affordable Rents including all utility costs for DR-MHP Assisted Units restricted for households with an annual income between 31% - 80% AMI shall not exceed the High HOME rents as designated for the project area. Scattered site projects may exceed the High HOME rents if rent limits for Low-Income households do not exceed 80% AMI for the project area.
  - 2) Maximum Affordable Rents including all utility costs for DR-MHP- Assisted Units restricted for Households with an annual income at 30% or below AMI (Extremely Low Income) shall not exceed the 30% income level maximum rent limits as designated for the project area.
  - 3) Multi-family developments constructed with program funds must remain affordable for a period of 20 years, and reconstructed multi-family rental projects must remain affordable for 15 years.
  - 4) Sale of a project during the affordability period are acceptable if affordability periods are adhered to and included as a deed restriction.
- Projects must meet one of the priority criteria outlined in Section 2.4.

B. Maximum assistance per unit will be consistent with annual HUD established HOME

limits. An alternative subsidy amount up to 240% of the HOME subsidy limit may be used if HUD issues a regional per-unit subsidy increase for the Project area.

- C. Minimum total project cost is \$200,000 per project. DR-MHP waivers may be requested. Approval will be granted on a case-by-case basis in advance of project submission.

## 2.4 Project Priority Criteria

Applicants will provide their own priority ranking when submitting projects for DCCED to review. DCCED will require projects to meet the National Objective of LMI Housing established by HUD. Applicants may not receive CDBG-DR funds more than the total amount allocated to them in section 2.9, Allocation Methodology.

Project prioritization procedures include:

1. Applicants must create and submit to DCCED their own priority ranking criteria in accordance with project eligibility and prioritization requirements outlined in Sections 2.3 and 2.4 above. Applicant priorities should not conflict with sections 2.3 and 2.4 or with the CDBG-DR requirements.
2. Applicants shall identify which priority criteria applies to each DR-MHP Project submitted to DCCED.
3. DCCED reviews each DR-MHP submitted.

## 2.5 Verifying Eligible and Ineligible Costs

DCCED commits to funding activities eligible under Title I of the Housing and Community Development Act of 1974 or those activities specified in [83 FR 5851 published February 9, 2018](#), [83 FR 40314 published August 14, 2018](#), and [85 FR 4681 published January 27, 2020](#). Selected projects will be funded through completion in accordance with their financing needs and program policies.

Eligible costs include but are not limited to:

- Pre-application costs and application development costs
- Activity delivery costs for Grantees to implement their program, including staff time and environmental reviews for funded Projects.
- Architectural and engineering design
- Permitting fees
- Developer fees
- Mobilization, site prep, and clean up.
- Construction or reconstruction costs
- DCCED approved land and building acquisition costs

Ineligible costs include but are not limited to:

- Facility operating or maintenance expenses.
- Offsite Improvements

DCCED reserves the right to approve or deny the eligibility of costs on a per-plan basis. DCCED requires construction costs to be reasonable and consistent with current market costs for the area where multi-family construction or rehabilitation will take place.

## 2.6 Method of Assistance

The method of assistance from DCCED to the Grantee shall be a cost reimbursable grant. The form of assistance from the Grantee to Project Developers shall be a grant or contract and/or loan. DCCED may approve other forms of assistance from the Grantee to Project Developers on a case-by-case basis. Selected project activities will be funded to address a financial gap not to exceed 40% of total project costs up to amounts allocated to Grantees in Section 2.9. Scattered Site Projects may receive assistance in excess of 40% of total project costs if the per unit subsidy is equal to or lower than the HUD published HOME per unit subsidy limit.

Payments will be made to Grantees on a reimbursement basis via an Agreement and Notice to Proceed between DCCED and the Grantee. Specific payment terms and conditions are outlined in the Agreement. The Agreement will define financial and property management requirements as well as remedies to correct deficient or non-compliant projects. Agreements will also contain CDBG-DR recapture provisions for non-performance or breach of Grantee responsibility on any requirements, including adherence with CDBG-DR rules and regulations. (See Section 4 for additional information on the Agreement).

Assistance method procedures include:

1. DCCED issues a firm commitment letter and Notice to Proceed to the Grantee committing approved project funds not to exceed 40% of project cost after documenting the Grantee has secured all sources of funding required to develop and operate the project with positive cash flow for the duration of the affordability period (Refer to Section 4.1B). Scattered Site Projects may exceed 40% of total project cost if per unit subsidy does not exceed the HOME per unit subsidy limit published by Alaska Housing Finance Corporation. Grantees must successfully meet environmental review clearance for projects and receive an Authority to Use Grant Funds (AUGF) or environmental clearance letter from DCCED prior to DCCED issuing a firm commitment letter and Notice to Proceed.
2. Grantee submits eligible project costs for reimbursement to DCCED (Refer to Section 4.4).
3. DCCED makes payments on a reimbursement basis via an Agreement (Refer to Section 4.4).
4. DCCED monitors construction agreements between Grantees and developers to ensure proper financial controls and safeguards are in place and followed to protect CDBG-DR funds (Refer to Section 4.10).

## 2.7 Calculating Duplication of Benefits (DOB)

All CDBG-DR funded activities must implement a Duplication of Benefits (DOB) review and calculation to ensure compliance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5207) (Stafford Act) and [84 FR 28836](#) and [84 FR 28848](#). DOB

reviews must be conducted prior to project award and close out to prevent misallocation of resources and ensure disaster recovery needs are met.

DOB review aids in determining whether program beneficiaries received assistance from multiple sources for the same recovery purpose and/or exceeded their total need. The underwriting process must document the necessity and justification for additional CDBG-DR funding. This includes identifying all funds obtained or anticipated by the project from various sources, including, but not limited to, insurance proceeds, FEMA assistance, SBA loans, grants, local and state funding, and private or nonprofit contributions. Calculating the total recovery need and subtracting previously received assistance ensures funding is not duplicative and CDBG-DR funds support legitimate remaining unmet recovery needs.

DCCED will conduct a DOB review before issuing, amending, or closing out a project award. Periodic audits may be required during the project's lifecycle to confirm no duplicative assistance has occurred. Agreements include provisions requiring repayment of any duplicative assistance. Agreements also contain warnings about the potential civil or criminal penalties for knowingly making false claims. DCCED's CDBG-DR Grantee Introductory Handbook provides further guidance on identifying and verifying sources of assistance and calculating unmet needs.

DCCED will perform a Subsidy Layering Review to evaluate whether project costs are reasonable and necessary. This review ensures expenses are eligible and that profit and investments are appropriate, avoiding over-subsidization. DCCED will compare project costs with similar HUD and/or DCCED developments utilizing data sources such as R.S. Means to determine cost reasonableness. Adjustments to costs may be made to reflect post-disaster conditions in the impacted area. The review process will also verify profit margins and investment returns comply with established criteria. The Subsidy Layering Checklist and Duplication of Benefits Calculation Sheet will be provided to Grantees by the DCCED Grants Administrator and recorded in the Project file to document review findings. These forms will provide critical documentation during monitoring or audits, ensuring compliance with HUD requirements.

## 2.8 Verifying Program Income

DCCED manages Program Income (PI) through Agreement provisions. Grantees must report any PI to DCCED through a request for payment. PI must be expended prior to drawing additional grant funds. PI may only be used for eligible project activity costs. Grantees must generate, retain, and provide monthly PI reports to DCCED. DCCED must report all PI to HUD through the DRGR Quarterly Performance Report (QPR) per [83 FRN 5853](#). Grantees must remit to DCCED PI in excess of \$35,000.00 remaining at the end of each quarter or the expiration of the Agreement. PI remaining during close out in excess of \$35,000.00 will be remitted to DCCED where it will be tracked and reported as revenue until obligated through a new Agreement. PI held and awarded by DCCED is tracked through the Grant Management System like HUD grant funds.

## 2.9 Allocation Methodology

Eighty percent of CDBG-DR funds allocated for Action Plan approved unmet needs must be spent in the HUD defined Most Impacted and Distressed communities.

## 2.10 Applying Construction Standards/Requirements

All residential construction projects must comply with State of Alaska housing construction codes. All developed DR-MHP units must meet Alaska Housing Finance Corporation building codes and standards for new construction and locally adopted codes and ordinances. Alaska housing construction codes follow federal and state laws, regulations, and adaptations for construction of

single family and multi-family units.

A. Labor Standards: Grantees are responsible for complying with the Davis-Bacon (DBA), Copeland Anti-Kickback Act, Contract Work Hours and Safety Standards Act (CWHSSA), and the Fair Labor Standards Act (FLSA) collectively referred to as Davis Bacon and Related Acts (DBRA) per Section 110 of the Housing and Community Development Act and [HUD Handbook 1344.1](#). DBRA requires payment of prevailing wages to laborers and mechanics on contracts, financed in whole or in part with CDBG-DR funds, involving construction work valued in excess of \$2,000 and on residential Projects including eight (8) or more units. Advertising for bids, bid solicitation, and contracts must incorporate Davis Bacon Labor Standards and wage determinations, "Attention of Bidders" paragraph, and CDBG-DR Compliance Provisions for Construction Contracts. All Contractors and Subcontractors must submit required progress and financial reports during the contract:

All construction work shall be done through the use of a written contract with a licensed building Contractor incorporating these requirements. Grantee shall serve as the "awarding body" for contracts between the Grantee and a licensed building Contractor. . Third parties receiving funds from the Grantee and entering into contracts with licensed building Contractors shall serve as the "awarding body."

Wage rates on construction work will be the more restrictive of the Alaska Prevailing Wage Determination Pamphlet 600 [Laborers' & Mechanics' Minimum Rates of Pay \(alaska.gov\)](#) or the Davis-Bacon Wage Determination rates found at <https://sam.gov>.

B. Minority and Women Business Enterprise (M/WBE): Grantees, Contractors, and/or Developers must take all necessary affirmative steps to ensure small minority and women owned businesses and labor surplus area firms are used when possible per [2 CFR 200.321](#). Affirmative steps include:

1. Placing qualified small minority and women owned businesses on solicitation lists.
2. Assuring small minority and women owned businesses are solicited whenever they are potential sources.
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small minority and women owned businesses.
4. Establishing delivery schedules, where the requirement permits, encouraging participation by small minority and women owned businesses.
5. Using Small Business Development Agency, SBA, and U.S. Department of Commerce services and assistance of organizations such as the.
6. Requiring the prime Contractor, if subcontracts are to be let, to take affirmative steps above in paragraphs (1) through (5).

Grantees shall collect information from all Contractors and Developers and report monthly to DCCED all contracts and subcontracts awarded to minority and women owned businesses and labor surplus area firms.

C. HUD Act: Section 3 of the 1968 HUD Act (implementing regulation at [24 CFR Part 75](#)) is a provision fostering local and neighborhood economic development and individual self-sufficiency. Section 3 requires HUD housing and community development financial assistance recipients to provide job training, employment, and contracting, to the greatest extent feasible, for low- or very low-income residents in connection with projects and activities in their neighborhoods. DR-MHP projects receiving more than \$200,000 in

CDBG-DR funding triggers Section 3 requirements. When triggered, Grantees must make best efforts to extend Section 3 opportunities to verified Section 3 residents and businesses to meet these minimum numeric goals: (1) Twenty-five percent (25%) of the total hours worked on Section 3 projects must be performed by Section 3 workers; and (2) Five percent (5%) of the total hours worked on Section 3 projects must be performed by targeted Section 3 workers.

Grantees and their Contractors and Developers shall comply with HUD Act Section 3 (12 U.S.C. 1701u) and implementing regulation at [24 CFR, Part 75](#). Responsibilities in [24 CFR Part 75.19](#) include: 1) Notifying workers about training, employment, and contracting opportunities generated by Section 3 covered assistance; and 2) Notifying potential Contractors of Part 75, Subpart C and incorporating the Section 3 clause 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 the above Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75. The Contractor also 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 is in violation of 24 CFR Part 75 regulations.

The Contractor acknowledges that Grantees, Contractors, and subContractors are required to meet [24 CFR 75.19](#) employment, training, and contraction requirements regardless of whether Section 3 language is included in Agreements or contracts.

The Contractor will certify that any vacant employment or training positions are filled (1) after the Contractor is selected but before the contract is executed, and (2) with ineligible 24 CFR Part 75 Workers only after eligible 24 CFR Part 75 Workers were not available.

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 financial assistance.

The Contractor agrees to submit to the Grantee, 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 reporting period to direct hiring efforts to low- and very low-income persons, particularly Section 3 Workers and Targeted Section 3 Workers.

The Developer's/Contractor's Project Close out Report shall also include a Section 3 Summary Report of the total number of Contractor and subcontractor labor hours, the total number of Section 3 Worker labor hours, and the total number of Targeted Section 3 Worker labor hours per [24 CFR 75.25\(a\)](#). Grantee shall report the qualitative nature of its and its Contractors and subContractors activities if the number of Section 3 Worker labor hours divided by the total labor hours worked by all Section 3 project workers does not meet or exceed HUD's Twenty-five percent (25%) standard and/or the number of Section 3 Targeted Worker labor hours divided by the total labor hours worked by all Section 3 project workers does not meet or exceed HUD's Five percent (5%) standard as defined at [24 CFR 75.25\(b\)](#). Section 3 Worker and Targeted Section 3 Worker hour standards are subject to change by HUD as published in the Federal Register.

- D. Alaska Building Codes: All residential construction projects shall comply with the most current International Building codes (IBC) as there is no statewide standard for residential homes. Housing construction codes for building in Alaska follow federal and state laws, regulations, and adaptations for construction of single family and multi-family units.
- E. Green Building Standards: Grantees, Contractors, and/or Developers must adopt AHFC green building standards (Energy Star) and/or local requirements. A standard must be adopted for CDBG-DR funds.
- F. Green Requirements: DCCED follows [AHFC: Building Energy Efficiency Standard \(BEES\) \(ahfc.us\)](#) and [83 FR 5861](#) concerning green building codes. Grantees, Contractors, Developers, and subContractors must follow and record their approach to [Alaska Housing Finance Corporation :: Green Addendum \(ahfc.us\)](#) standards when designing and constructing new or rehabilitating substantially damaged residential buildings.
- G. Sustainability Requirements: Grantees, Contractors, Developers, and subContractors should follow any standards achieving greater energy efficiency or utility savings to improve building operation costs when construction or rehabilitation activity costs are reasonable. All new construction and rehabilitation projects must be designed to incorporate sustainability principles, including increasing water and energy efficiency and improving resilience to mitigate impacts from future disasters. Wherever feasible, the State of Alaska follows best practices, such as those provided by the U.S. Department of Energy, Home Energy Professionals: Professional Certifications and Standard work specifications.
- H. National Floodplain Elevation Standards: DCCED will not approve any projects in a floodplain or tsunami inundation area.
- I. Broadband Infrastructure: Broadband infrastructure in common areas and units shall be installed per requirements in 88 FR 32046.

- J. Uniform Relocation Assistance and Real Property Acquisition Act (“URA”): The URA contains requirements for carrying out real property acquisition or the displacement of a person, regardless of income status, for projects providing HUD financial assistance. [49 CFR Part 24](#) includes steps which must be taken with tenant occupants and those not be impacted by HUD assistance activities. One for one-replacement provisions in Section 104(d) of the Housing and Community Project Act of 1974 as amended are not applicable. Remaining Section 104(d) requirements are applicable.
- K. Additional Requirement. The DR-MHP must include an exhibit explaining either no tenant relocation will occur or that relocation will be temporary (supported by an adequately documented estimate of relocation costs) if project site is occupied. Grantees may request a waiver of this requirement on a case-by-case basis where permanent relocation may be necessary to meet program requirements.
- L. Prohibition Against Eminent Domain. No funds allocated to a Grantee may support any Federal, State, or local projects seeking to exercise eminent domain unless deployed only for a public use defined in [83 FRN 40314](#).
- M. Equal Opportunity Requirements and Responsibilities:
- Title VI of the Civil Rights Act of 1964 provides no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving federal financial assistance.
  - Title VII of the Civil Rights Act of 1968 (The Fair Housing Act) prohibits discrimination in housing based on race, color, religion, sex and/or national origin and requires actions promoting fair housing.
  - The Restoration Act of 1987 restores coverages and clarifies the application of the Civil Rights Act of 1964. It also prohibits institutions from discriminating based on race, color, national origin, religion, sex, Disability, or age through exclusion in a program or activity funded by federal financial assistance.
  - Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 53091] prohibits the exclusion of any person from participation (including employment); denial of program benefits, or discrimination based on race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.
  - The Fair Housing Amendment Act of 1988 amended the original Fair Housing Act to protect families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the U.S. Department of Justice’s jurisdiction to bring suit on behalf of victims in federal district courts, and bar discrimination on the basis of familial status for housing developments qualifying for persons age 55 or older.
  - The Age Discrimination Act of 1975 prohibits the exclusion of any person from participation, denial of program benefits, or discrimination based on age under any program or activity receiving federal funding assistance. The age cap of 70 was deleted from the law effective January 1987. Federal law preempts any State law currently in effect on the same topic.
  - Section 504 of the Rehabilitation Act of 1973 makes discrimination based on Disability via exclusion in federally assisted programs unlawful. Section 504 provides that no otherwise

qualified individual shall, solely by reason of his or her Disability, be excluded from participation (including employment), denied program benefits, or be subjected to discrimination under any program or activity receiving federal financial assistance. Section 504 also contains design and construction accessibility provisions for multi-family dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991.

- The Americans with Disabilities Act of 1990 (ADA) 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 employment phases.
  - Executive Order 11063 provides that no person shall be discriminated against based on race, color, religion, sex, or national origin in housing and related facilities receiving federal or lending assistance for residential property when such practices relate to federally insured or guaranteed loans.
  - Executive Order 11259 provides that all federal housing and urban development programs be administered to increase housing opportunities throughout the United States.
  - The Equal Employment Opportunity Act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in federal court against private sector employers after determining the charge found "probable cause" of discrimination and failed to obtain an acceptable conciliation agreement. It also brings federal, state, and local governments under the Civil Rights Act of 1964.
  - The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978 applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal, and referral. It is designed to assist employers, labor organizations, employment agencies, and licensing and certification boards in complying with federal laws prohibiting discriminatory employment.
  - The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002) ensures equal employment opportunity for qualified Disabled Veterans and Vietnam War Veterans. Affirmative action is required in the hiring and promotion of veterans.
  - Executive Order 11246 provides that no organization receiving federal financial construction assistance shall discriminate against any person based on race.
- N. Lead Based Paint Hazards: Activities performed with CDBG-DR assistance are subject to lead-based paint hazard regulations in 24 CFR, Part 35. Any grants or loans made by the Grantee with CDBG-DR assistance shall be made subject to provisions for the elimination or mitigation of lead-based paint hazards under these regulations. Grantees shall be responsible for the notifications, inspections, and clearance certifications required under these regulations.

## 2.11 Minimizing Land Acquisition/Relocation

Grantees shall minimize displacement of families from their home and/or neighborhood according

to the [Residential Anti-displacement and Relocation Assistance Plan](#) (RARAP) and comply with federal acquisition and relocation laws if acquisition and/or relocation is required. Please reference DCCED's [CDBG-DR Grantee Introductory Handbook](#) for additional acquisition and relocation procedures and requirements.

Projects shall be designed with the established community in mind to lessen the displacement of families. Projects rehabilitating or reconstructing multi-family rental projects with eight or more units require a 15-year affordability period to be imposed per 85 FR 4682 and 83 FR 40320. New construction multi-family rental Projects with five or more units require commitment to a 20-year affordability period per 85 FR 4682 and 83 FR 40320. Grantees helping to administer multi-family housing projects must follow RARAP requirements to minimize displacement or develop their own plan and gain State and public approval.

Grantees and Developers must comply with all applicable federal, state, and local relocation law. A Developer must have a relocation plan prior to proceeding with any project activity resulting in the displacement of persons, businesses or farm operations per relocation law. Notices to vacate and relocation services must be provided to affected persons and entities to mitigate disproportionate impacts on the public. Projects must have a DCCED approved relocation plan before CDBG-DR funds will be disbursed. A Developer's budget shall include funds to pay all relocation benefits and assistance costs when proposed activities may result in displacement. Any modifications to these requirements must be approved in advance by DCCED in writing.

## 2.12 Affirmative Marketing Plan

Developers advertise projects to fill vacant units or develop a waiting list of interested applicants for the subsidized housing. DR-MHP plans must include an Affirmative Marketing Plan developed using the Affirmative Fair Housing Marketing Plan Form HUD-935.2A. Affirmative Marketing uses special outreach and advertising efforts to communicate the availability of DR-MHP assisted housing to population groups who might otherwise be unlikely to apply. Analyses of U.S. Census Bureau data on local housing market area demographics will identify hard to reach population groups informing the Developer's selection and deployment of advertising and outreach efforts to reach these groups. Affirmative marketing efforts must begin at least 90 days prior to occupancy for new construction Projects.

### [Affirmative Marketing Procedures include:](#)

1. Download and review the [HUD-935.2A Form and instructions](#).
2. Identify the Census Tract where the housing is located.
3. Determine the Census Tract(s) comprising and develop a map representing the Housing Market Area..
4. Determine the Census Tract(s) comprising the Expanded Housing Market Area (generally multiple Census Tracts extending beyond jurisdictional boundaries).
5. Complete Form HUD-935.A Worksheet 1 using U.S. Census Bureau data. to list the number of residents in each category, including project wait list applicants and existing project, Census Tract, Housing Market Area, and Expanded Housing Market Area residents.
6. Target outreach and marketing towards any significantly underrepresented population groups identified after completing HUD-935.A Worksheet 1. Compare the Census Tract data to the Housing Market Area and the Expanded Housing Market Area to identify underrepresented groups in the Census Tract that are not identified in HUD-935.A

Worksheet 1. Individuals and families impacted by the disaster and Section 8 Housing Choice Voucher holders shall be considered underrepresented and least likely to apply.

7. Do not complete Worksheet 2. Establishing Residency Preference Areas is not required for DR-MHP Projects.
8. Complete Worksheet 3 to identify underrepresented population groups and community contacts to be consulted for implementing Affirmative Marketing. Identify and contact non-profit caseworkers and area public housing agencies and advertise through TV/Radio/Newspapers/Billboards/211 system to reach Section 8 Housing Choice Voucher holders and families and individuals impacted by the disaster.
9. Complete Worksheet 4 to identify appropriate advertising methods for targeting each population.
10. Review and update the AFHMP every five years, or when there are significant changes to the project or local housing market area demographics.

Applications shall also demonstrate that the proposed projects will support fair housing and adequate tenant market goals to lessen area racial, ethnic, and low-income concentrations, and/or promote affordable housing in low-poverty, nonminority areas in response to natural hazard related impacts.

### 2.13 Meeting a National Objective

CDBG-DR funded activities must satisfy a national objective per [24 CFR 570.208](#). DR-MHP Projects must meet the low to moderate income housing (LMH) national objective.

### 2.14 Completing Environmental Review

An environmental review must be performed on the project prior to federal funds being committed or disbursed by DCCED or Grantees. The environmental review shall document compliance with [24 CFR Part 58](#), NEPA, and all related laws, authorities, and executive orders. DCCED is the Responsible Entity for DR-MHP Projects. Housing authorities and non-profits will submit complete Environmental Review Records (ERR) to DCCED to gain approval to use funds. DCCED will retain all ERR records for completing Grantee projects. DCCED will coordinate environmental review when working with a Housing Authority as the developer per 24 CFR Part 50 (see Grant Agreement).

All undertakings or projects expending federal funds require completion of federal and state environmental review processes prior to beginning work or site acquisition. Any effort to break up a certain project into phases to circumvent these requirements is not allowed. There can be no choice-limiting actions on the part of the Developer/owner until environmental clearance is received in the form of an Authority to Use Grant Funds (AUGF) or a DCCED issued environmental clearance letter. The concept of prohibiting “choice-limiting” actions is to prevent the Developer from investing in projects before obtaining all necessary environmental clearances. 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 activities presenting the potential to adversely impact the environment or limit the choice of reasonable alternatives, including acquisition, construction, demolition, or reconstruction. Failure to comply with the prohibition against committing funds or taking choice limiting actions, 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 the Developer/owner to HUD for the amount expended, or suspension of the disbursement of funds for the affected activity per [24](#)

## [CFR Part 58.22.](#)

Environmental Review Procedures include:

1. Grantee will submit all [Environmental Review Records](#) (ERRs) and a request for release of funds (RROF), if applicable, to DCCED for review. Additional information can be found on [HUD guidance on Environmental Reviews](#).
2. DCCED will provide Grantee with an AUGF or an environmental clearance letter upon receiving, reviewing, and approving ERRs.
3. Grantee may incur drawdown funds and incur project costs upon receiving a AUGF or environmental clearance letter and a Notice to Proceed.

### [Section 3. Project Selection](#)

DCCED conducts an unmet needs assessment (UNA) of the Most Impacted and Distressed Area (MID) identified by the Federal Register Notice prior to using Community Development Block Grant – Disaster Recovery (CDBG-DR) funds to address unmet needs linked to or exacerbated by the disaster.

The UNA evaluates the core MID recovery areas, including housing, infrastructure, and economic revitalization. The UNA also informs disaster relief, recovery, and mitigation planning in the Action Recovery Plan.

### [Section 4. Program Operation](#)

#### [4.1 Legal Documents](#)

- A. DCCED shall enter a Grant-Agreement (Agreement) with the Subrecipient constituting a conditional commitment of funds. The Agreement defines financial and property management requirements and remedies to correct deficient or non-compliant Projects. The Agreement also contains CDBG-DR recapture provisions for non-performance or breach of Grantee responsibilities, including adherence to CDBG-DR rules and regulations.

The Agreement includes:

- Grantee's scope of work.
- Amount and terms of the funding.
- Provisions governing construction work.
- Applicable affordability provisions and requirements.
- Terms and conditions required by federal or state law.
- Program schedule.
- Program budgets.
- Project funds disbursement schedule and process.
- Reporting and recordkeeping requirements.
- Project inspection and monitoring terms and conditions.
- Tenant relocation provisions.

- Recapture of funds provisions.
  - Other necessary provisions.
- B. DCCED will issue a Notice to Proceed to the Grantee following Project approval and clearance of any applicable closing conditions.

Key criteria to approve a Notice to Proceed include:

- Aa copy of the Developer's insurance certification page.
- Approved zoning and permits.
- Applicable insurance bonding.
- Approved list of Contractors (Also applies to Section 3 and Davis Bacon)
- Environmental clearances and remediation in place

The Notice to Proceed is a binding document and component of the Agreement amending the allocation agreement between the Grantee and DCCED to commit funds to a specific Project. The Notice to Proceed the following Project details:

- Project description and the allowable uses of program funds.
  - Project budget and sources and uses of funds and financing.
  - Total number of units.
  - Project milestones marking land acquisition, commencement and completion of construction work, and the dates when eligible households are expected to be occupied.
  - Performance milestones; and
  - Performance penalties.
- C. The Grantee will give DCCED an executed copy of the Agreement between the Grantee and Developer upon receiving the Notice to Proceed. This Agreement will include HUD, CDBG-DR and DCCED requirements for Developers. The Grantee will also provide a copy of the deed including a first position lien on each property and a Land Use Restrictive Agreement enforcing affordability period, unit restriction, income targeting, rent, property standard, record, and reporting requirements.

#### 4.2 Agreements with Developers, Contractors, or Other Parties

- A. Grantees shall not enter into any written or oral agreements with any Contractors, Developers, or other parties without first determining these entities are eligible to receive federal funds and are not listed on the government-wide exclusions debarment list in the System for Award Management (SAM) per [2 CFR 200.214](#). The terms "other party" is defined as a public or private non-profit agency or organization and certain (limited) private for-profit entities receiving Grant Funds from a Grantee to undertake eligible Projects. Agreements between Grantees and any Contractors, Developers, or other parties shall:
- Comply with all State and federal requirements including labor standards, nondiscrimination, Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free Workplace Act.
  - Require at least the minimum State-required Workers' Compensation Insurance.

- Require unemployment insurance, disability insurance, and liability insurance reasonable to compensate any person, firm, or corporation that may be injured or damaged during the performance of Project activities.
  - Contractors shall:
    - Comply with the applicable provisions of the [HUD Handbook1344.1](#)
    - Perform project activities in accordance with applicable federal, state, and local housing and building codes.
    - 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 by DCCED in writing.
- B. Grantees shall withhold as retainage 10% of all DR-MHP funded Developer payments. No retainage payments shall be released to the Developer or reimbursed to the Grantee until receipt and approval by DCCED of all required and approved Project closeout documents identified in the Agreement or Developer Agreement.

#### 4.3 Procurement

Grantees are required to adopt procurement procedures per [2 CFR 200.318](#) - 327. 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 Grantees maintain records sufficient to detail the significant history of each procurement. All contracts and agreements procured by Grantees for use under the DR-MHP program must be reviewed and approved by DCCED. Grantees must obtain DCCED approval prior to executing new contracts. DCCED will review the Grantees procurement file to verify compliance with [2 CFR 200.318](#) – 327. DCCED will issue contract approval in writing.

Please reference the DCCED’s [CDBG-DR Grantee Introductory Handbook](#) for additional procurement procedures and requirements.

#### 4.4 Disbursement of Funds

Payments will be made directly to Grantees as reimbursements based on the monthly documented and satisfactory completion of Project work outlined in the Agreement and Notice to Proceed. Reimbursement means that Project costs must be incurred and activities performed and documented by the Grantee and/or Developer as required by the terms of the Agreement for payment of invoices. Monthly reimbursement requests referred to as Financial/Progress Reports submitted by the Grantee must include:

- Cover letter on Grantee’s letterhead signed by the person authorized to sign Financial Reports in the signatory authority form provided for the Grantee.
- Documentation showing Grantee, Developer, and Contractor staff time spent on the program and/or activity costs incurred during the reporting period. Examples may include:
  - General ledger pertaining to project expense.
  - Redacted paycheck stub and/or direct deposit.
  - Timecard, payroll register, Davis-Bacon certified payroll.
  - Paid Developer/Contractor invoices.
  - Bank statements from the Grantee showing the funds were expended.
  - Cancelled checks matching the invoices paid by the Grantee.

Grantees are required to submit progress narrative reports and photos in their monthly

Financial/Progress Report. Please see the DCCED's CDBG-DR Grantee Introductory Handbook for additional financial management procedures and requirements.

#### 4.5 Recapture of Funds

Grantees and/or Developers may be required to repay all or a portion of the funds received. Recapture reasons include:

- Grantee does not comply with Agreement terms.
- Grantee and/or Developer withdraws from the Program prior to completion of the Project failing to meet a national objective.
- Developer does not meet affordability requirements for the period specified above in Section 2.3.
- Grantee and/or Developer is found to have used program funds for ineligible activities or costs.
- Developer does not report the receipt of additional insurance, SBA, FEMA, non-profit assistance and/or any other Duplication of Benefits received after award; and/or,
- Funds remain after Project completion, 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 consistent with [2 CFR part 200](#) or other applicable cost principles. Complete recapture provisions will be included in the Agreement with the Grantee and must also be included in any agreements between the Grantee and Developer.

#### 4.6 Project Management

Developers will operate approved Projects in accordance with local requirements, DR-MHP Policies and Procedures Manual, and the Agreement between DCCED and the Grantee. The Grantee's roles will include the selection of qualified Developers, Project oversight, environmental reviews, compliance monitoring (including Section 3 and applicable labor and wage requirements), construction oversight, and Project closeout. The Grantee can open solicitations to qualified Developers defined as licensed entities with a minimum of three years of successful multi-family development and property management experience within the past ten years. Two years of this experience must involve projects comparative to the project being proposed in scope and scale.

Projects funded under this CDBG-DR grant will adhere to DCCED requirements to ensure compliance, including federal income limits. DCCED will provide technical assistance to Grantees to ensure compliance with CDBG-DR requirements and consistency with the Disaster Recovery Multi-Family Housing Program Policies and Procedures Manual. DCCED will monitor Grantee compliance and ensure timely Project completion. Grantees shall monitor and ensure Developers comply with CDBG-DR requirements.

- A. The Developer shall manage Project construction, maintenance, tenant selection, and annual household income and size recertification in accordance with CDBG-DR requirements.
- B. The Developer shall repair and perform ordinary maintenance and replacement of capital items on Project developments for a period of 30 following receipt of a certificate of

occupancy. The Developer shall maintain residential units, commercial space, and common areas in accordance with local health, building, and housing codes, and the management plan.

- C. The Developer shall ensure the Project is managed by a Grantee approved entity actively managing affordable housing. Any management contract entered for this purpose shall be subject to Grantee approval and contain a provision allowing the Developer to terminate the contract upon 30-days' notice. The Developer shall terminate any contract at the direction of and determined by the Grantee to not comply with CDBG-DR requirements.
- D. The Developer shall develop and obtain Grantee approval for a management plan prior to the start of construction. Any change to the plan shall require Grantee approval. The plan shall be consistent with CDBG-DR program requirements and include the following:
  - Developer roles and responsibilities, including delegation of authority.
  - Personnel policy and organizational chart.
  - Affirmative marketing plans and procedures for housing units ensuring equal access to all persons protected by federal, state, or local laws governing discrimination, without regard to any arbitrary factor, and achieving early and continued occupancy.
  - Tenant eligibility and selection procedures notifying applicants of eligibility and availability of a DR-MHP Assisted Unit and annually certifying household income and size per [26 USC 42: Low-income housing credit](#) and HUD [Home Rent Limits](#).
  - Procedures for notifying ineligible applicants of the reason for their ineligibility.
  - Eligible applicants waiting list procedures.
  - Maintenance and repair program plans.
  - Rent collection policies and procedures.
  - Accounting records and voucher maintenance, handling, and storage practices.
  - Tenant-management relations plans.
  - Any management agreement.
  - Management plan review and renewal practices and procedures.
  - Appeal and grievance procedures.
  - Tenant collection, eviction, and termination practices and procedures.
  - Special Needs Populations Project Services Plan, including Supportive Housing and Supportive Services.

#### 4.7 Performance Goals

- A. Performance goals and penalties for Grantees will be outlined in the Agreement.
- B. Performance goals and penalties for Developers will be outlined in the Notice to Proceed on a Project-by-Project basis.

#### 4.8 Reporting Requirements

- A. Grantees will be required to submit reports indicated in the Agreement. Grantees shall submit monthly financial/progress reports to DCCED including:
- Project status, including beneficiaries assisted and action taken to achieve expenditure deadlines.
  - Project activities to be undertaken in the next reporting period.
  - Project implementation challenges and successes and any mitigating actions and/or plans
  - Project fiscal status summary, including:
    - Award amount
    - Funds drawn
    - Remaining balance
- B. DCCED may require the performance of an independent financial audit of the Grantee's Project(s) at any time during the Agreement. Grantees shall provide a financial audit prepared by a certified public accountant at their own expense if requested by DCCED.
- C. Grantees shall require each Developer to provide an annual Project audit prepared by an independent certified public accountant. Grantees shall report any findings to DCCED within 30 days of reviewing the Developer's audit.

#### 4.9 Providing Technical Assistance

DCCED provides various types of technical assistance (TA) to Grantees and vendors throughout the program from initial award to Agreement closeout. DCCED's primary goal for technical assistance is to develop strong partnerships with and provide maximum programmatic support to Grantees. DCCED's TA to Grantees and vendors includes providing a clear understanding of program requirements to support their establishment of effective and compliant program policies and procedures. TA also includes assisting Grantees in maintaining their compliance with federal and state regulations and program requirements.

DCCED performs risk assessments to determine any Grantee capacity and/or potential compliance challenges. DCCED provides TA, monitoring, and helpful information to Grantees to improve their performance, develop or increase capacity, and augment management and technical skills. Some TA examples include:

- A. Verbal or written advice.
- B. In person or virtual training and workshops
- C. Regular and ongoing communications and check in meetings
- D. Documentation and guidance

Grantees should contact DCCED if requesting technical assistance for their Developers/Contractors.

#### 4.10 Monitoring and Compliance

HUD describes monitoring as an integral management control standard. Entities receiving HUD funding are required to monitor and evaluate program performance and compliance per [24 CFR 570.501\(b\)](#) and [2 CFR 200](#). DCCED monitors all DR-MHP implementation activities to ensure Grantees comply with all regulations governing administrative, financial, and programmatic

operations and achieve performance objectives on time and within budget. Monitoring enables DCCED to verify compliance with both regulatory and performance requirements.

- A. Grantees: Grantees are responsible for monitoring their Developers, and/or Contractors to ensure their Projects comply with all applicable requirements. Grantee monitoring may include on-site visits to the Grantee's offices or desk monitoring at DCCED. Please see DCCED's CDBG-DR Grantee Introductory Handbook for additional monitoring and compliance procedures and requirements.
- B. Developers. Grantees shall establish a project monitoring schedule to ensure physical property, program, and financial compliance.

- 1. Physical Monitoring

Physical inspections should include the inspection of all building exteriors, and common areas, and unit interiors to ensure compliance with HUD Housing Quality Standards (HQS).

- 2. Program Monitoring

Grantees will meet with the development's management staff and review performance under the contract for the following:

- 1. Initial Affordable Rents and subsequent rents during the period of affordability
- 2. Initial and annual certification of tenant income
- 3. LMI housing benefit
- 4. Affirmative Marketing requirements
- 5. Fair Housing requirements

- 3. Financial Monitoring

Grantees shall annually review the development's financial statements to ensure the development continues to be operated in a fiscally responsible manner, addressing all debt service obligations and adequately funding Project reserve accounts.

- 4. Record Retention

All records and books relating to the initial Project development phase (application through project completion) shall be retained for a minimum of six (6) years after DCCED closes the Agreement.

All records and books relating to the operational phase of the Development shall be retained for the most recent five (5) year period until five years after the affordability period terminates following Agreement closeout. All records must be maintained ensure reasonable protection from destruction or tampering. All records shall be subject to inspection and audit by the Grantee, DCCED, HUD, or its representative.

#### 4.11 Over-Income Tenants at Recertification

Developers may not evict tenants if their income at the time of tenant recertification exceeds the income level applicable to new affordable unit tenants consistent with [24 CFR 92.252\(h\)](#).

Developers shall instead take the following specific actions to remedy the temporary noncompliance:

- Increase the tenant's rent to the lesser of:
  - 30 percent of adjusted income
  - HUD Fair Market Rent applicable to the unit based on unit size and location; or
  - the rent limitations of another leveraged funding source that applies to the Development; and

#### 4.12 Grant Closeout

Grant closeout is a process through which HUD determines all applicable administrative and program requirements were completed. A grant is ready for closeout when the following conditions are met:

- All eligible activities are complete and meet a national objective.
- All grant funds are spent, or all remaining funds will be returned to HUD.
- All reporting requirements are complete and submitted (except for the final report that is submitted during the closeout process, if applicable).
- Any special conditions of the grant were met.
- All audit and monitoring issues affecting the grant are resolved.

Grantees are required to retain all CDBG-DR Project books and records for six (6) years after receiving notification from DCEED that the Agreement between HUD and DCCED is closed. See Section 4.10 above for Developer's records retention requirements.