



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

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Section 1. 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) 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 Declarations. DCCED performed an Unmet Needs Assessment that covered the areas affected by DR 4413, and included data from FEMA, 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 and based on the results of the needs assessment, DCCED expanded the Disaster Recovery Multifamily Housing Program (DR-MHP). 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 apartment complexes and mixed-use developments. The DR-MHP will allow Subrecipients to identify, select, and submit potential Projects to DCCED for eligibility assessment and review, approval, and funding.

1.2 Terms and Definitions

Affordable Rents: means rents that are 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: means a “dwelling” that is rented at an Affordable Rent to a household that earns 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: means any eligible jurisdiction, city, borough, or organization that applies for funds pursuant to Section 2.1. (See Also: Subrecipient)

Area Median Income (AMI): means the [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): 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.

Davis Bacon Wage Requirements: For Projects that include eight (8) or more dwelling units, the Davis Bacon, and Related Acts (DBRA) requires all 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. The 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.

Rider to Development Agreement: The legal document that sets forth terms and conditions by which CDBG-DR funds must be utilized for a specific Approved Project. It is issued with the Notice to Proceed and shall be made a part of the development agreement between the Subrecipient and Developer.

Disability: any disability, including mental or physical disability, that limits 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 federal Americans with Disabilities Act of 1990, codified at 42 U.S.C. 12102.

Disaster Recovery Multifamily Housing Program (DR-MHP): is the acronym used for the Disaster Recovery Multifamily Housing Program.

DR-MHP Assisted Unit: An Affordable Unit that is subject to rent and occupancy restrictions as a result of the financial assistance provided by DR-MHP, as specified in the Regulatory Agreement.

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

Duplication of Benefits (DOB): Financial assistance received from another source that is 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): 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. The agency's primary purpose is to coordinate the response to a disaster that has occurred.

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

Grantee: The term “grantee” refers to 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.

Limited English Proficiency (LEP): A designation for persons that are unable to communicate effectively in English because their primary language is not English, and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. A LEP person benefits from an interpreter who translates 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 person can understand important documents related to health and human services.

Low-Income persons: "Low-income" persons mean individuals, families, and households whose incomes are no more than 50% of the area median income involved, as set by HUD. From the demography point of view, the low-income working families are those earning less than twice the federal poverty line; and recent immigrants are those who came to the United States within the past 10 years.

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, borough, and census areas.

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

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 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 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 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 to Proceed (NTP): The legal document within a Subrecipient Agreement that provides an approved Project's specific description, budget, milestones, construction schedule, reporting requirements and special conditions.

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

Project: A multifamily housing development which may include apartment complexes, and mixed-used developments with 8 or more total units, or a Scattered Site Project with 4 or more total units.

Project Solicitation Process (PSP): is the process implemented by Subrecipients at the local level to solicit applications from Developers for DR-MHP Projects that address one or more DR-MHP program priorities, meet DR-MHP federal, state, and local requirements, and that meet locally established criteria. The Subrecipient’s local Project Solicitation Process shall set forth the Project selection schedule, local requirements in addition to the 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.

Regulatory Agreement: The legal document that sets forth affordability restrictions on rent and occupancy for a specific Approved Project. It is issued with the Notice to Proceed and shall be recorded in first lien position against the fee and leasehold title to the property (as applicable) for the applicable affordability period as required in the Subrecipient Agreement.

Responsible Entity (RE): Under the ERR requirements at 24 CFR Part 58, the term “responsible entity” (RE) means the agency receiving CDBG-DR assistance. The RE 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 ERR is complete.

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 the Rehabilitation of occupied developments restricted to residents 55 or older, 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, and businesses, as well as other eligible applicants. The 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: means 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 the DCCED. “Special Needs Populations” do not include seniors unless they otherwise qualify as a Special Needs Population.

Subrecipient: The term “Subrecipient” refers to a city, borough, or organization receiving a direct award from DCCED and providing awards to developers.

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

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

Supportive Housing: means housing with no limit on length of stay, that is occupied by the target population and is linked to onsite or offsite services to assist the resident that needs support in retaining the housing, improving his or her health status, and maximizing his or her 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

The applicant must be an eligible jurisdiction, city, borough, or organization directly impacted by the FRN and have an allocation of funding.

Eligible 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 in Section 2.3 below.

As needed, eligible applicants may collaborate with other eligible applicants or with other units of local government in the implementation of the DR-MHP. DCCED must approve agreements for a project or between eligible 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.

In accordance with [83 FR 5851](#) DCCED must assess the jurisdiction's capacity to execute and monitor the proposed project(s) as a factor in prioritization review.

Procedures:

To consider the above jurisdictions as eligible Applicants for submitting DR-MHP plans, the procedures below must be fully addressed.

1. The jurisdiction must be in compliance with the single audit requirements of [2 CFR 200.501](#).
2. DCCED verifies the jurisdiction is in good standing with the State of Alaska, meaning there are no outstanding monitoring findings through other programs administered by DCCED.
3. Jurisdictions must submit complete plans to DCCED for review and approval.
4. Eligible jurisdictions must request approval from DCCED to engage with other units of local government for program implementation support. Such agreements are considered subrecipient agreements and must adhere to all relevant requirements.
5. The jurisdiction shall have entered a Subrecipient Agreement with DCCED, following submission and approved items, including a resolution of the Subrecipient's governing board, proof of effort in attaining compliance in a timely manner, allocation budget, and allocation milestones.

2.2 Eligible Activities

Pursuant to [42 USC 5305\(a\)\(4\)](#), authorized activities under this statute include the clearance, demolition, removal, reconstruction, and rehabilitation of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and of privately- owned properties). New housing construction is also eligible as established in [83 FR 5851](#). The development of affordable rental units through new construction is critical for recovery.

2.3 Project Eligibility

- A. Eligibility of multifamily housing Projects will be assessed by DCCED based on HUD defined “most impacted and distressed” jurisdiction and specific eligibility criteria below:
- CDBG-DR funds are limited to low to moderate income housing units. Proposed Projects may have mixed-income units, but CDBG-DR funds must only be applied to the Affordable Units for occupation by Low- to Moderate- Income Households.
 - The proposed project must tie back to the disaster by increasing the supply of affordable housing units or rehabilitating 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.
 - The proposed project must have a minimum of 4 affordable units or 30% of units must be Affordable Units, whichever is greater. Pursuant to [24 CFR 570.483\(b\)\(3\)](#), if the project is a rehabilitation project or a senior new construction project, the project must include at least 51% of units as LMI- occupied. All rehabilitation projects must result in the addition of affordable units to the affordable housing stock to be deemed eligible.
 - The proposed project must meet at least one of the DCCED Project types including, 1) Family, 2) Special Needs, 3) Seniors, and 4) Supportive Housing.
 - A Scattered Site Project is exempt from this requirement if it maintains 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 the DCCED issuing a firm commitment letter and Notice to Proceed.
 - The proposed project 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 to similar Projects.
 - The proposed project 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 that is

less than 80% of the Area Median Income. The proposed project must meet the following affordable rent requirements and tenant income limits through the duration of the affordability period. At a minimum, the following thresholds must be adhered to in all projects:

- 1) Maximum Affordable Rents (inclusive of all utility costs) for DR-MHP Assisted Units restricted for households with an annual income between 31% - 80% Area Median Income 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 (inclusive of all utility costs) for DR-MHP- Assisted Units restricted for Households with an annual income at 30% or below Area Median Income (Extremely Low Income) shall not exceed the-30% income level maximum rent limits as designated for the Project area.
 - 3) Multifamily developments must meet the following affordability requirement: a minimum affordability period of 15 years for the rehabilitation or reconstruction of multifamily rental projects and a minimum affordability period of 20 years for the new construction of multifamily rental units.
 - 4) Sale of a project during the affordability period is acceptable; however, affordability periods must still be adhered to and included as a deed restriction.
- The proposed project must meet one of the Priority Criteria outlined in Section 2.4.
- B. Per unit maximum assistance will be consistent with annual HOME limits established by HUD. If HUD has issued a regional per-unit subsidy increase for the Project area, the alternative subsidy amount may be used, up to 240% of the HOME subsidy limit.
- C. The minimum total project cost is \$200,000 per project. Waivers may be requested from DR-MHP on a case-by-case basis in advance of project submission.

2.4 Project Priority Criteria

Prioritization will occur at the local level through the selection of proposed projects to DCCED for funding. Jurisdictions may not receive CDBG-DR funds more than the total amount allocated to them in section 2.9, Allocation Methodology.

The jurisdiction will provide their own priority ranking for DCCED to review. DCCED will require Projects meet the National Objective of Low-Moderate Income Housing established by HUD.

Procedures:

To prioritize a Project to be funded:

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

- Activity delivery costs for Subrecipients 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, Reconstruction or Rehabilitation costs
- Land and building acquisition costs (case-by-case basis)

Ineligible costs include but not limited to:

- Pre-application costs and application development costs
- Facility operating or maintenance expenses.
- Offsite Improvements

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

2.6 Form of Assistance

The form of assistance from DCCED to the Subrecipient shall be a cost reimbursable grant. The form of assistance from the Subrecipient to Project Developers shall be a grant, or loan, or both. Other forms of assistance from the Subrecipient to Project Developers may be approved by DCCED on a case-by-case basis concurrent with plan review and approval. Selected Project activities will be funded to address a financial gap, not to exceed 40% of total Project cost, up to the allocation amounts by Subrecipient listed in Section 2.9 below. If the project is a Scattered Site Project, it may receive assistance in excess of 40% of total Project cost, as long as the per unit subsidy is equal to or lower than the HOME per unit subsidy limit, as published by HUD.

Payments will be made on a reimbursement basis via a Subrecipient Agreement and Notice to Proceed between DCCED and the Subrecipient. Specific payment terms and conditions are outlined in the Subrecipient Agreement. The Subrecipient Agreement will define financial and property management requirements as well as remedies to correct deficient or non-compliant Projects. Subrecipient Agreements will 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. (See Section 4 for additional information on the Subrecipient Agreement).

Procedures:

After approving proposed eligible Projects:

1. DCCED commits the approved Project funds, not exceeding 40% of total Project cost, from the Subrecipient’s allocation (Refer to Section 4.1B). Scattered Site Projects may exceed 40% of total Project cost, as long as the per unit subsidy does not exceed the HOME per unit subsidy limit, as published by Alaska Housing Finance Corporation.
2. All sources of funding required to develop and operate the Project with positive cashflow for the duration of the affordability period must be identified, documented as committed, and accessible prior to the DCCED issuing a firm commitment letter and Notice to Proceed.
3. The proposed Project 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
4. Subrecipient submits eligible Project costs for reimbursement to DCCED (Refer to Section 4.4).
5. DCCED makes payments on a reimbursement basis via a Subrecipient Agreement (Refer to Section 4.4).
6. DCCED monitors construction agreements between the Subrecipient and the developer to ensure that proper financial controls and safeguards are in place to protect CDBG-DR funds (Refer to Section 4.10).

2.7 Calculating Duplication of Benefits (DOB)

In accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5207) (Stafford Act) and Federal Register Notice published June 20, 2019 ([84 FR 28836 and 84 FR 28848](#)), all activities funded with CDBG-DR must undergo a Duplication of Benefits (DOB) review and calculation prior to Project award and prior to close out. DOB occurs when a program beneficiary receives disaster assistance from multiple sources for the same recovery purpose, and the total assistance received for that purpose is more than the total need. Most multi-family projects may have multiple funding sources for the same purpose, but underwriting will address whether or not additional subsidy from DR is needed and why, not to confuse layered financing. This includes all benefits available to a person or entity for the same recovery purpose, including cash and other resources such as insurance proceeds, grants, FEMA assistance, SBA loans, other local, state, or Federal program funds, and private or nonprofit organization funds.

DCCED’s CDBG-DR-MHP will only provide assistance 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 Project plan must document all funds obtained from any source from the date of the disaster until the date of the assistance. Additionally, DCCED, in coordination with the Subrecipient, will perform a check for Duplication of Benefit (DOB) prior to issuing an award and pre-project closeout to ensure that duplicative assistance is not provided for multifamily projects.

DCCED 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 throughout the course of the project. To address any potential duplication of benefits, the Subrecipient Agreement includes provisions requiring repayment of any assistance later received for the same purpose as the CDBG–DR funds. The Subrecipient Agreement include the following language: “Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C 3729”

Please reference DCCED’s [CDBG-DR Subrecipient Introductory Handbook](#) for additional guidance on DOB including potential sources, calculation and verification.

2.8 Verifying Program Income

DCCED manages Program Income (PI) through the provisions in the Subrecipient Agreement, which all Subrecipients must sign to receive funding from DCCED. If PI is generated, Subrecipients must report the PI to DCCED through a request for payment and must expend PI prior to additional grant funds being drawn. PI may only be used for eligible project or activity delivery costs related to the awarded project. Subrecipients must provide monthly reports to DCCED on PI generated and retained. Per [83 FRN 5853](#), DCCED must report all PI to HUD through the DRGR Quarterly Performance Report (QPR). PI remaining at the end of each quarter and at the expiration of the Subrecipient Agreement in excess of \$35,000.00 must be remitted to DCCED.

Any PI remaining at the end of a Subrecipient Agreement, in excess of \$35,000.00, is remitted to DCCED during closeout where it is tracked and reported as revenue until it is obligated through a new Subrecipient Agreement. PI held by DCCED and awarded is tracked through the Grant Management System similarly to HUD grant funds.

2.9 Allocation Methodology

Funding included in the Action Plan for Subrecipients is based on HUD defined “most impacted and distressed” jurisdiction including a proportionate share of the total program allocation.

2.10 Applying Construction Standards/Requirements

All residential construction Projects must comply with housing construction codes of State of Alaska. All units developed under DR-MHP must meet Alaska Housing Finance Corporation building codes and standards for new construction or rehab as well as any locally adopted codes and ordinances. Housing construction codes for building in Alaska follow federal and state laws, regulations, and adaptations for construction of single family and multifamily units.

- A. Labor Standards: as required by Section 110 of the Housing and Community Development Act, and as outlined in [HUD Handbook 1344.1](#), Federal Labor Standards Requirements in HUD Programs, Subrecipients are responsible for ensuring compliance with Davis-Bacon (DBA) requirements as well as the Copeland Anti-Kickback Act, the 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). In general, DBRA requires payment of prevailing wages to laborers and mechanics on contracts, financed in whole or in part with CDBG-DR funds, that involve construction work valued in excess of \$2,000 and on residential Projects that include eight (8) or more units. Advertising for bids, bid solicitation and contracts are to incorporate Davis Bacon Labor Standards and wage determinations, “Attention of Bidders” paragraph and CDBG-DR Compliance Provisions

for Construction Contracts.

Required reporting during contract to be provided by every Contractor and Subcontractor:

For the purposes of this requirement "construction work" includes, but is not limited to rehabilitation, alteration, demolition, installation, or repair done under contract and paid for, in whole or in part, through this Agreement. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements. Where the Contract will be between the Subrecipient and a licensed building contractor, the Subrecipient shall serve as the "awarding body". Where the Subrecipient will provide funds to a third party that will enter into the Contract with a licensed building contractor, the third party shall serve as the "awarding body."

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

- B. Minority and Women Business Enterprise (M/WBE): Per [2 CFR 200.321](https://www.ecfr.gov/current/title-2/chapter-I/subchapter-B/part-200/subpart-200.321), Subrecipients, contractors, and/or Developers must take all necessary affirmative steps to ensure that minority business, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps include:
1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists
 2. Assuring that small and minority businesses, and women's business enterprises 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 and minority businesses, and women's business enterprises.
 4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
 5. Using the services and assistance, as appropriate, of such organizations as the SBA and the Minority Business Development Agency of the Department of Commerce
 6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) above.

Subrecipient will be required to collect information from all contractors and Developers and report all contracts and subcontracts awarded to minority businesses, women's business enterprises and labor surplus area firms to DCCED on monthly or drawdown basis.

- C. Section 3 of the HUD Act of 1968: Section 3 is a provision of the HUD Act of 1968 (implementing regulation at [24 CFR Part 75](https://www.ecfr.gov/current/title-24/chapter-I/subchapter-B/part-75)) that helps foster local economic development, neighborhood economic development, and individual self-sufficiency. Section 3 requires recipients of HUD housing and community development financial assistance 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. Projects assisted with DR-MHP funds more than \$200,000 trigger Section 3 requirements. When triggered, best efforts must be made to extend Section 3 opportunities to verified Section 3 residents and business concerns to meet these minimum numeric goals: (1)

Twenty-five percent (25%) of the total hours worked on a Section 3 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 the Subrecipient's Contractors and Developers shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), 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 requirements 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 Developer's/Contractor's Project Close out 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.

- 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 multifamily units.
- E. Green Building Standards: Subrecipients, contractors, and/or Developers must adopt AHFC green building standards (Energy Star) and/or local requirements. A standard must be adopted for DR funds.
- F. Green Requirements: DCCED follows Building Energy Efficiency Standards (BEES) [Alaska Housing Finance Corporation :: Building Energy Efficiency Standard \(ahfc.us\)](#) along with guidance located in [83 FR 5861](#) Notice concerning green building codes. AHFC has set the standards for Alaska with Green addendum's [Alaska Housing Finance Corporation :: Green Addendum \(ahfc.us\)](#) specifically used when executing new construction or replacement of substantially damaged residential buildings and design. Specific green building technique or approach used will be

recorded. DCCED will require subrecipients to monitor construction results to ensure the safety of residents and the quality of homes assisted through the program.

- G. Sustainability Requirements: Any standards for greater energy efficiency or utility savings help with affordability and operating costs of the building and should be allowed when costs are reasonable. All rehabilitation, reconstruction, and new construction must be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of 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: Subrecipients and Developers must comply with the national floodplain elevation standards for new construction, repair of substantially damaged structures, or substantial improvements to residential structures in flood hazard areas. All structures designed for residential use within a 100-year (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](#) as well as Executive Order 11988 and [24 CFR Part 55](#). Additionally, Developers with Projects approved to build within a 100-year floodplain must obtain and maintain flood insurance in perpetuity, per part [24 CFR Part 58.6](#), as a condition of federal assistance.
- I. Broadband Infrastructure. Per [83 FRN 40314](#), any Substantial Rehabilitation or new construction of a building with more than four rental units must include installation of broadband infrastructure, except where the Subrecipient documents that: 1) The location of the new construction or Substantial Rehabilitation makes installation of broadband infrastructure infeasible; 2) The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or 3) The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible. 4) Broadband is required where feasible. If not within broadband territory, consider landline or other alternatives to achieve internet.
- 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 a project 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 will not be impacted by the HUD assisted activity. Section 104(d). The one for one-replacement provisions of Section 104(d) of the Housing and Community Project Act of 1974 as amended are not applicable. The remaining requirements of Section 104(d) are applicable.
- K. Additional Requirement. If a Project site is occupied at the time the CDBG-DR plan is made, the plan must include an exhibit explaining either that no relocation of tenants will result, or that such relocation will be temporary (supported by an adequately documented estimate of relocation costs). Subrecipients may request a waiver of this requirement on a case-by-case basis where permanent relocation may be necessary to otherwise meet the program requirements.
- L. Prohibition Against Eminent Domain. Per the Federal Register Notice, no funds allocated to a Subrecipient 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 only for a public use as defined in [83 FRN 40314](#).

M. Equal Opportunity Requirements and Responsibilities

- Title VI of the Civil Rights Act of 1964: This act provides that 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): This act prohibits discrimination in housing based on race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing.
- Restoration Act of 1987: This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives federal financial assistance is prohibited from discriminating based on race, color, national origin, religion, sex, Disability or age in a program or activity which does not directly benefit from such assistance.
- Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 53091]: This Section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to 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: This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.
- The Age Discrimination Act of 1975: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic.
- Section 504 of the Rehabilitation Act of 1973: It is unlawful to discriminate based on Disability in federally assisted programs. This Section 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 subjected to discrimination under any program or activity receiving federal funding 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): This act 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.

- Executive Order 11063: This executive order provides that no person shall be discriminated against based on race, color, religion, sex, or national origin in housing and related facilities provided with federal assistance and lending practices with respect to residential property when such practices relate to loans insured or guaranteed by the federal government.
 - Executive Order 11259: This executive order provides that the administration of all federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.
 - The Equal Employment Opportunity Act: This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. 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: This manual 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, licensing, and certification boards in complying with the requirements of federal laws prohibiting discriminatory employment.
 - The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002): This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.
 - Executive Order 11246: This executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against based on race.
- N. Lead Based Paint Hazards: Activity(ies) performed with assistance provided by DCCED are subject to lead-based paint hazard regulations contained in 24 CFR, Part 35 (Lead Disclosure). Any grants or loans made by the Subrecipient with assistance provided under this program shall be made subject to the provisions for the elimination or mitigation of lead-based paint hazards under these regulations. The Subrecipient shall be responsible for the notifications, inspections, and clearance certifications required under these regulations.

2.11 Minimizing Land Acquisition/Relocation

If acquisition and/or relocation is required, Subrecipients shall make every effort to minimize displacement of families from their home and/or neighborhood, according to [Residential Anti-displacement and Relocation Assistance Plan](#). (RARAP) Additionally, compliance with Federal Acquisition and Relocation laws will be required. Please reference the state's CDBG-DR reference DCCED's [CDBG-DR Subrecipient 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 and must commit to the affordability periods of 15 and 20 years according to the Project type. Subrecipients helping to administer multifamily housing Projects need to follow the Residential Anti-displacement and Relocation Assistance Plan (RARAP) to minimize displacement or develop

its own plan with the state's and public's approval.

Subrecipients and Developers must comply with all applicable federal, state, and local relocation law. Pursuant to relocation law, a Developer must have a relocation plan prior to proceeding with any phase of a project or other activity that will result in the displacement of persons, businesses or farm operations. To ensure that displaced persons and entities do not suffer a disproportionate impact because of projects which benefit the public, all notices to vacate and relocation services must be provided to them in accordance with applicable law. In addition, before the CDBG-DR Project funds will be disbursed, the approved project must have a DCCED approved relocation plan. Where the Developer's activities will or may result in displacement, the Developer's development budget shall include enough funds to pay all costs of relocation benefits and assistance. Any modifications to the foregoing process requirements must be approved in advance by DCCED in writing.

2.12 Affirmative Marketing Plan

Developers advertise Projects and units to fill vacant units or to 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 involves special outreach and advertising efforts designed to communicate the availability of DR-MHP assisted housing to those groups or individuals who might otherwise be unlikely to apply. Those groups are identified through analysis of local housing market area demographics using statistics readily available from the U.S. Census Bureau and determining appropriate advertising and outreach efforts to be followed by Developers to reach out to those least likely to apply for the housing opportunity. Affirmative marketing efforts must begin at least 90 days prior to initial or renewed occupancy for new construction and Substantial Rehabilitation Projects, respectively.

Procedures:

1. Developers shall download [Form HUD-935.2A](#).
2. Review the form and its instructions.
3. Identify the Census Tract where the housing is located.
4. Determine the Census Tract(s) that comprise the Housing Market Area (generally multiple Census Tracts). Develop a map to represent this market area.
5. Determine the Census Tract(s) that comprise the Expanded Housing Market Area (generally multiple Census Tracts that extend beyond jurisdictional boundaries).
6. Using U.S. Census Bureau data, complete Form HUD-935.A Worksheet 1, listing the number of residents in each category (existing Project residents if applicable, Project wait list applicant data if applicable, residents of the Census Tract, residents of the designated Housing Market Area, and finally residents of the Expanded Housing Market Area).
7. Based on the data evaluation in Worksheet 1, to identify any under- representation of certain demographic groups in terms of race, color, national origin, religion, sex, familial status, or Disability. If there is significant under- representation of any demographic group among Project residents or current applicants (for existing housing) in relation to the housing/expanded housing market area, then targeted outreach and marketing should be directed towards these individuals least likely to apply. To identify underrepresented groups least likely to apply for housing in newly constructed Projects that do not currently have existing occupants or waitlists, evaluate the Census Tract data against the Housing Market Area and the Expanded Housing Market Area to identify underrepresented groups in the

Census Tract. Note that individuals and families that were impacted by the disasters and Section 8 Housing Choice Voucher holders shall be considered among those who are under-represented and least likely to apply.

8. Worksheet 2 shall not be used. Residency Preference Areas shall not be established for DR-MHP Projects.
9. Complete Worksheet 3 to identify each targeted underrepresented population and the specific community contacts to be consulted for the purpose of effectuating Affirmative Marketing. To reach out to individuals and families that were impacted by the disasters and to Section 8 Housing Choice Voucher holders, the AFHMP shall, to the extent feasible, identify non-profit caseworkers who were on the ground during the disaster, contact area public housing agencies, advertise through TV/Radio/Newspapers/Billboards/211 system. Within the interest list and application, data shall be collected to determine if a prospective applicant was impacted by the disasters or is a Section 8 Housing Choice Voucher holder.
10. Complete Worksheet 4 to identify appropriate advertising methods (publications, outlets) for each targeted population.
11. Review and update the AFHMP every five years, or when there are significant changes to the demographics of the Project or the local housing market area.

Applications shall also demonstrate that the proposed Projects will affirmatively further fair housing and adequate tenant market, which are likely 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

In accordance with [24 CFR 570.208](#), all CDBG-DR funded activities must satisfy a national objective. For DR-MHP, all Projects must meet the low to moderate income housing (LMH) national objective, which requires that 51% of units are designated an LMH. Proposed Projects that do not have more than 51% of units as LMI may only be funded for the proportional amount of assisted units, however, pursuant to [24 CFR 570.483\(b\)\(3\)](#), if the project is a rehabilitation project or a senior new construction project, the project must include at least 51% of units as LMI-occupied, or a waiver must be requested. All waiver requests must document legal and justifiable good cause. While proposed Projects may be mixed-income units, CDBG-DR funds are limited to the Affordable Units for occupancy by Low- to Moderate-Income Households in accordance with the policies in Section 2.6.

2.14 Completing Environmental Review

An environmental review must be performed on the Project prior to federal funds being committed or disbursed by DCCED and Subrecipients. The environmental review shall document compliance with [24 CFR Part 58](#), NEPA, and all related laws, authorities, and executive orders. For DR-MHP, DCCED is the Responsible Entity unless funds are awarded to a unit of General Local Government (UGLG), in which case the UGLG is the responsible entity. UGLG will submit complete Environmental Review Records (ERR) to DCCED to grant the authority to use funds. DCCED will retain all record and responsibility for ERRs and completing projects with a non-UGLG subrecipient. DCCED will follow Part 50 and coordinate ERR when working with a Housing Authority as the developer (see details of subrecipient agreement).

A project for rehabilitation that is documented as Categorically Excluded, Subject to Part 58.5

review, has the possibility of converting to Exempt. The conversion to Exempt must be documented and documentation must be submitted to DCCED as part of the ERR. Pursuant to [83 FRN 40314](#), DCCED may accept another federal agency’s environmental review. The DR-MHP will not reconstruct or rehabilitate housing units that have been determined to have a Finding of Significant Impact (FOSI).

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. If any of the project total development costs are using federal funds these requirements apply. Any effort by developers to break up a certain project into phases to circumvent these requirements are not allowed. Subsequent to submission of an application by a Developer to a Subrecipient for the use of DR-MHP funds, 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 environmental clearance letter issued by DCCED. The concept of prohibiting “choice-limiting” actions is to prevent the Developer 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 Developer/owner (or any subsidiary of the Developer), construction, demolition of buildings, or rehabilitation or reconstruction of buildings. 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 the Developer/owner to HUD for the amount expended, or suspension of the disbursement of funds for the affected activity.

Procedures:

To process the environmental review for each Project:

1. Subrecipients must submit all [Environmental Review Records](#) (ERRs) and request for release of funds (RROF), if applicable, to DCCED for review at submission of the project application (if available) or following conditional project approval by DCCED. Additional information can be found on [HUD guidance on Environmental Reviews](#).
2. Upon receipt, review and approval of a completed ERR, DCCED will provide Subrecipient with an AUGF, if applicable or environmental clearance letter.
3. Upon receipt of the AUGF or environmental clearance letter and Notice to Proceed, Subrecipient may incur Project costs and drawdown funds.

Section 3. Project Selection

3.1 Project Selection

For the for the use of Community Development Block Grant – Disaster Recovery (CDBG-DR) funds, DCCED conducts an unmet needs assessment of the designated jurisdictions identified by the Federal Register Notice.

The unmet needs assessment is to evaluate the core areas of recovery – housing, infrastructure, and economic revitalization and plan disaster relief, recovery, and mitigation activities within the CDBG-DR eligible jurisdictions.

Section 4. Program Operation

4.1 Legal Documents

- A. DCCED shall enter a Subrecipient-Agreement with the Subrecipient constituting a conditional commitment of funds. This agreement will define financial and property management requirements as well as remedies to correct deficient or non-compliant Projects. The agreement will 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 Subrecipient Agreement shall contain, but not be limited to, the following:

- A description of the Subrecipient's scope of work.
 - The amount and terms of the funding.
 - 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 budgets.
 - Manner, timing, and conditions for disbursement of Project funds.
 - Reporting and recordkeeping requirements, defining the specific reports and the reporting dates, along with the records and the timeline for maintaining them to assist DCCED 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 tenant relocation if applicable.
 - Provisions regarding the recapture of funds.
 - Other provisions necessary to ensure compliance with the requirements of the DR-MHP.
- B. Upon DCCED approval of individual Projects and clearance of any closing conditions (if applicable), DCCED will issue a Notice to Proceed to the Subrecipient.

Key criteria for a notice to proceed may include, at a minimum:

- Developer providing a copy of insurance certification page.
- Zoning and permits approvals.
- Insurance bonding when applicable.
- Updated and approved list of subcontractors (Also applies to Section 3 and Davis Bacon)
- Environmental clearances and remediation in place

The Notice to Proceed is a binding document, approved as to form as a component of the Subrecipient Agreement, that amends the allocation agreement between the Subrecipient and DCCED by committing funds to a specific Project. The Notice to Proceed 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.
 - Total number of units, Affordable Units and DR-MHP Assisted Units.
 - The approved schedule of the project, including land acquisition, if any, commencement and completion of construction or rehabilitation work, and occupancy by eligible households
 - Performance milestones; and
 - Performance penalties.
- C. Upon issuance of the Notice to Proceed, the Subrecipient will provide an executed copy of the DR-MHP Rider to Development Agreement between the Subrecipient and Developer. The Rider to Development Agreement includes HUD, CDBG-DR and DCCED requirements for Developers. Additionally, the Subrecipient will provide a Statement of Assurance of Site Control that must be recorded against each property in first lien position that will enforce requirements on affordability periods, restricted units, income targeting, rents, property standards, and records and reports.

4.2 Agreements with Developers, Contractors, or Other Parties

- A. Per [2 CFR 200.214](#), Subrecipient shall not enter into any agreement, written or oral, with any Contractor, Developer or other party without the prior determination that the Contractor, Developer or other party is eligible to receive federal funds and is not listed on the government-wide exclusions in the System for Award Management (SAM). 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, Developer 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 [HUD Handbook1344.1](#)
 - Perform the project activities in accordance with federal, state, and local housing and building codes, as applicable.
 - 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 DCCED,

as determined by the particulars of each individual project will be required.

- B. Subrecipient 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 Subrecipient until receipt and approval by DCCED of all required and approved Project closeout documents identified in the subrecipient and/or developer agreement.

4.3 Procurement

Subrecipients are required to adopt procurement procedures as required in [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 Subrecipients maintain records sufficient to detail the significant history of each procurement.

All contracts and agreements procured by the Subrecipient for use under the DR-MHP program must be reviewed and approved by DCCED. For new contracts, the DCCED approval should occur prior to execution. For previously procured contracts that are active, the Subrecipient must provide the procurement file to DCCED for review and verification of compliant procurement that conforms to the minimum requirements found at [2 CFR 200.318](#) – 327 prior to expending DR-MHP Funds under said contract. DCCED’s approval of the procurement and contract shall be issued in writing.

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

4.4 Disbursement of Funds

Payments will be made directly to Subrecipients as reimbursements based on the monthly documented and satisfactory completion of Project work, as outlined in the Subrecipient Agreement and Notice to Proceed. Reimbursement-based means that activity delivery and Project costs must be incurred by the Subrecipient and/or Developer and documented as required by the terms of the Subrecipient Agreement for payment of invoices. Reimbursement requests (Financial Reports) submitted by the Subrecipient on a monthly basis must include the following supporting documentation, at minimum:

- Cover letter on jurisdiction letterhead signed by the person authorized to sign Financial Reports in the signatory authority form provided for the Subrecipient.
- Documentation showing the subrecipient/developer/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 Subrecipient showing the funds were expended.
 - Cancelled checks matching the invoices paid by the Subrecipient.

To accompany the financial reimbursement, the subrecipient is required to submit narrative reports and progress photos (if applicable). Please see the DCCED’s [CDBG-DR Subrecipient Introductory Handbook](#) for additional financial management procedures and requirements.

4.5 Recapture of Funds

A Subrecipient and/or Developer 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:

- A Subrecipient does not comply with the terms of the Subrecipient agreement.
- A Subrecipient and/or Developer withdraws from the Program prior to completion of the Project and fails to meet a national objective.
- A Developer does not meet the affordability requirements for the period specified in Section 2.3 above.
- A Subrecipient and/or Developer is found to have used program funds for an ineligible activity or cost.
- A 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 are remaining after the Project is completed, the expenditure deadline has passed, or the Subrecipient 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 will be consistent with [2 CFR part 200](#) or other applicable cost principles. Complete recapture provisions will be included in the standard agreement with the Subrecipient and must also be included in any agreements between the Subrecipient and Developer.

4.6 Project Management

Developers will operate the approved multifamily housing Project(s) in accordance with local requirements, the Disaster Recovery Multifamily Housing Program Policies and Procedures Manual, and as set forth in the Subrecipient Agreement between DCCED and the Subrecipient. The Subrecipient's role 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 Subrecipient can open solicitations to qualified Developers, defined as within the past ten years, a minimum three years of successful multi-family development experience. For projects, two years of this experience must involve projects using the requested sources or projects of a nature sufficiently like the project being proposed. Within the past ten years, a minimum three years of successful multi-family property management experience. For projects, two years of this experience must involve multi-family rental properties with the requested funding sources of a nature sufficiently like the project being proposed.

Multifamily Projects funded under this CDBG-DR grant will adhere to requirements set by DCCED to ensure compliance, as well as specific requirements set by the governing federal income limits. DCCED will provide technical assistance to Subrecipients to ensure compliance with CDBG-DR requirements and consistency with the Disaster Recovery Multifamily Housing Program Policies and Procedures Manual. In addition, regular monitoring of the Subrecipient and specific Projects will be conducted to test compliance and ensure timely Project completion. Subrecipients shall ensure their Developers are in compliance with CDBG-DR requirements and shall perform ongoing monitoring of the Developer as well.

- A. The Developer shall be responsible for all management functions of the multifamily housing development including construction, rehabilitation, maintenance, selection of the tenants, annual recertification of Household income and size, and managing the units in accordance with program requirements.
- B. The Developer is responsible for all repair and maintenance functions of the multifamily housing development, including ordinary maintenance and replacement of capital items. The Developer shall ensure maintenance of 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 that the Multifamily Housing Development is managed by an entity approved by Subrecipient that is actively in the business of managing affordable housing. Any management contract entered for this purpose shall be subject to Subrecipient approval and contain a provision allowing the Developer to terminate the contract upon 30-days' notice. The Developer shall terminate said contract as directed by Subrecipient upon determination that management does not comply with program requirements.
- D. The Developer shall develop a management plan subject to Subrecipient approval prior to the start of construction. Any change to the plan shall be subject to the approval of Subrecipient. The plan shall be consistent with program requirements and should include the following:
- The role and responsibility of the Developer and its delegation of authority.
 - Personnel policy and staffing arrangements.
 - Plans and procedures for affirmatively marketing all housing units in a manner that ensures equal access to all persons in any category protected by federal, state, or local laws governing discrimination, and without regard to any arbitrary factor, and achieving early and continued occupancy.
 - Procedures for determining tenant eligibility and selecting tenants as well as notifying applicants of eligibility and availability of a DR-MHP Assisted Unit and for certifying and annually recertifying Household income and size. With guidance from [26 USC 42: Low-income housing credit](#) and HUD [Home Rent Limits](#).
 - Procedures for notifying ineligible applicants of the reason for their ineligibility.
 - Procedures for maintaining a waiting list of eligible applicants.
 - Plans for carrying out an effective maintenance and repair program.
 - Rent collection policies and procedures.
 - A program for maintaining adequate accounting records and handling necessary forms and vouchers.
 - Plans for enhancing tenant-management relations.
 - The management agreement, if any.
 - Provisions for periodic update of the management plan.
 - Appeal and grievance procedures.

- Plans for collections for tenant-caused damages, processing evictions and terminations; and
- A final supportive services plan for Projects serving Special Needs Populations, including Supportive Housing and/or providing Supportive Services to the general tenant population.

4.7 Performance Goals

- A. Specific performance goals and performance penalties for Subrecipients will be outlined in the Subrecipient Agreement.
- B. Specific performance goals and performance penalties for the Developer will be outlined in the Notice to Proceed on a Project-by-Project basis.

4.8 Reporting Requirements

- A. Subrecipients will be required to submit reports at times indicated in the Subrecipient Agreement, in accordance with HUD reporting requirements. At a minimum, during the term of the Subrecipient Agreement, on a monthly basis the Subrecipient shall submit to DCCED a progress report which addresses the following topics:
 - A description of the current status of the Project activity and demographics of Households assisted (beneficiaries).
 - 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.
 - A description of actions taken to achieve Project expenditure deadlines.
 - A summary of Project fiscal status, including:
 - Award amount,
 - Funds drawn, and,
 - Remaining balance.
- B. At any time during the term of the Subrecipient Agreement, DCCED may perform or cause to be performed an independent financial audit of any and all phases of the Subrecipient's Project(s). At DCCED's request, the Subrecipient shall provide, at its own expense, a financial audit prepared by a certified public accountant.
- C. Subrecipient shall require each Developer to provide an annual audit of the Project prepared by an independent certified public accountant. Subrecipient 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 Subrecipients and vendors throughout the program from initial award to Subrecipient Agreement closeout. The objective of technical assistance is to develop a strong partnership with subrecipients and support the implementation of a successful program across all levels. TA also assists Subrecipients to maintain their day-to-day compliance with federal and state regulations and program requirements as they administer relevant programs. Initially, TA to the Subrecipient and vendors focuses on

development of a clear understanding of the program requirements and support in establishing effective and compliant program policies and procedures.

In addition, DCCED performs a risk assessment to determine a Subrecipient's capacity and to identify deficiencies in complying with HUD requirements. According to the risk assessment results, DCCED provides TA, monitoring, and helpful information to Subrecipients to improve their performance, develop or increase capacity, and augment management and technical skills. Some examples of TA include:

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

In addition, Subrecipients should contact DCCED if assistance is needed when providing technical assistance to their Developers/Contractors.

Under a separate planning activity, DCCED has also allocated CDBG-DR funds to support needed capacity building efforts and long-term recovery planning at the county and city level. DCCED will provide technical assistance planning services to the local jurisdictions to increase capacity and create knowledge transfer via a separate CDBG-DR award.

4.10 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\(b\)](#) and Office of Management and Budget (OMB) Uniform guidance at [2 CFR 200](#). Therefore, DCCED monitors all DR-MHP implementation activities. DCCED is required to ensure that its Subrecipients comply with all regulations governing administrative, financial, and programmatic operations, and that they achieve performance objectives on time and within budget. Monitoring enables DCCED to verify compliance with both regulatory and performance requirements.

- A. Subrecipients: Subrecipients are responsible for carrying out their projects to meet compliance requirements, including monitoring their Developers, Contractors and subcontractors, and routine inspections of the DR-MHP Projects. Monitoring of Subrecipients may include on-site visits to the Subrecipient's offices or desk monitoring at DCCED. Please see DCCED's CDBG-DR Subrecipient Introductory Handbook for additional monitoring and compliance procedures and requirements.
- B. Developers. The Subrecipient shall establish a project monitoring schedule to ensure that physical property, program, and financial compliance.
 - 1. Physical Monitoring
Physical inspections should include the inspection of the exteriors of all buildings and common areas, and the inspection of the interiors of income restricted units to ensure compliance with HUD Housing Quality Standards (HQS).

2. Program Monitoring

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

1. Initial Affordable Rents and subsequent rents during the period of affordability
2. Initial and annual certification of tenant income
3. LMI housing benefit (minimum 4 or 30% Affordable units)
4. Affirmative Marketing requirements
5. Fair Housing requirements

3. Financial Monitoring

Subrecipients 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 development phase of the Project (application through project completion) shall be retained for a minimum period of five (5) years after the DCCED notifies the Subrecipient that the grant agreement between HUD and the State of Alaska has been closed.

After closeout of the grant agreement between HUD and the State of Alaska, 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. All records must be maintained in such a manner as to ensure that the records are reasonably protected from destruction or tampering. All records shall be subject to inspection and audit by the Subrecipient, DCCED, HUD, or its representative.

4.11 Over-Income Tenants at Recertification

Consistent with rules for other funding programs, including the HOME Investment Partnerships (HOME) program at [24 CFR 92.252\(h\)](#), if, at the time of tenant recertification, the income of a household occupying a DR-MHP Assisted Unit exceeds the income level applicable to new tenants for Affordable Units, the Developer may not evict the tenant, and 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
- If, within the Development, another unit that is not assisted with DR-MHP funds becomes available, designate the next available comparable unit as a DR-MHP Assisted Unit at the income level originally applicable to the household until the Unit mix required by the Subrecipient Agreement is achieved. A Unit shall be deemed "comparable" if it has the same number of bedrooms, the same or similar features, and is similar in size to the original Unit.

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

Subrecipients are required to retain all books and records pertaining to the CDBG-DR Projects for at least five (5) years after DCCED notifies the Subrecipient that the grant agreement between HUD and the State of Alaska DCCED has been closed. See Section 4.10 above for Developer's records retention requirements.