

SOUTHWEST VIRGINIA

IMPLEMENTATION MANUAL

Community Development Block Grant – Disaster Recovery
(CDBG-DR)



Contents

Terms and Definitions	5
INTRODUCTION	8
1 Federal Register Notices	8
1.1 Explicit Federal Register Citations	10
1.2 Commonwealth of Virginia/DHCD Administrative Policies	12
1.3 U.S. Citizenship or Lawful Permanent Resident/Presence	12
2 CDBG-DR Program Administration	12
2.1 Action Plan	13
CDBG-DR PROGRAMMATIC REQUIREMENTS	16
3 National Objectives	16
4 Program Allocations	17
5 Reallocation of Funds	18
6 Program Income	19
7 Mitigation Requirements	20
8 Fraudulent Application	21
9 Recapture	21
10 Monitoring	22
11 Reporting and Recordkeeping Requirements	22
11.1 Recordkeeping	22
11.2 Protection of Personally Identifiable Information	24
11.3 Reporting	24
12 Closeout	25
FEDERAL CROSS CUTTING REQUIREMENTS	27
13 Duplication of Benefits	27
13.1 Duplication of Benefits Gap in Homeowner Programs	29
13.2 Subrogation and Grant Agreements	30
13.3 Repayment of Duplicative Assistance	31
14 Procurement Policies and Procedures	31
15 Financial Management	34
15.1 Projecting Expenditures	34
15.2 Reallocating Funds	35

15.3	Pre-Award Costs	35
15.4	Eligible and Ineligible Costs	35
15.5	Indirect Costs	36
16	Environmental Review	36
16.1	Environmental Review Procedures	37
16.2	Tiered Environmental Review	38
17	Floodplain and Flood Insurance	38
18	Fair Housing and Civil Rights	39
18.1	Section 504	40
18.2	Section 3 of the HUD Act of 1968 (Compliance Requirements)	40
19	Citizen Participation	41
19.1	Accessible Communication	42
19.2	Maintaining a Comprehensive Website	42
20	Conflict of Interest	42
21	Displacement of Persons and or Entities	43
22	Complaints	44
23	Appeals	44
24	Labor Standards and Davis-Bacon	45
25	Force Account Labor	46
26	Audit Requirements	47
27	Fraud, Waste and Abuse	48
27.1	Fraud	48
27.2	Waste	48
27.3	Abuse	48
27.4	Detection	49
27.5	Verifying the Accuracy of Applicant Information	49
27.6	Evaluating the Capacity of Potential Subrecipients	50
27.7	Reporting Fraud	50
27.8	Investigating Fraud	51
28	Excessive Force Policy	52
29	Uniform Relocation Act (URA) and Section 104(d)	53
30	Exceptions to Program Policies	54

CHANGE LOG

Version history is tracked in the table below, with notes regarding version changes. Substantive changes in this document that reflect a policy change will result in the issuance of a new version of the document. Non-substantive changes such as minor wording and editing or clarification of existing policy that do not affect interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number (i.e., Version 2.1, Version 2.2, etc.).

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1.0	3/27/2026	Original Version

Terms and Definitions

Action Plan – A document prepared by DHCD outlining the goals, activities, and funding of a grant program. It must be approved by HUD.

Affirmatively Furthering Fair Housing (AFFH) – AFFH is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination.

Affordability or Compliance Period – The period of time during which a property must comply with CDBG-DR program rules and regulations, including primary residency, income, and rent restrictions as applicable.

AGI – Adjusted Gross Income

Allocation Announcement Notice (AAN) – An official communication issued by the U.S. Department of Housing and Urban Development (HUD) or a designated local agency that informs stakeholders about the availability of funding under specific programs, such as the Community Development Block Grant - Disaster Recovery (CDBG-DR). The AAN typically includes critical information regarding the amount of funding allocated, eligible activities, application procedures, deadlines, and any specific requirements or priorities for funding distribution. This notice serves to guide potential applicants, subrecipients, and local governments in understanding how to access the available funds and implement eligible recovery activities following a disaster.

Applicant – Any individual, business, city, county, or non-profit who submits an application for assistance or funding to DHCD's CDBG-DR Program.

Area Median Income (AMI) – The median (middle point) household income for an area adjusted for household size as published and annually updated by the United States Department of Housing and Urban Development (HUD). Once household income is determined, it is compared to HUD's income limit for that household size.

Benefit Low- to Moderate-Income Persons (LMI) – Activities that provide assistance or services to individuals and households whose income does not exceed 80% of the area median income (AMI), as defined by HUD. These activities must be designed to meet the needs of LMI persons and can include housing, community development, and economic development initiatives.

Centralized Application and Management System (CAMS) – The system or platform used by DHCD to track, manage, and/or document program administration and compliance activities, including required closeout submissions such as final audits, as applicable under Program procedures.

CDBG-DR – Community Development Block Grant-Disaster Recovery: A federal program administered by the U.S. Department of Housing and Urban Development (HUD) that provides funding to state and local governments for recovery efforts following a major disaster. The CDBG-DR program is designed to help

communities rebuild and recover by addressing housing, infrastructure, and economic needs in areas affected by disasters. Funds can be used for a variety of activities, including the repair and rehabilitation of damaged housing, infrastructure improvements, and support for economic development initiatives. The program requires compliance with federal regulations, including those related to fair housing, environmental review, and the prevention of duplication of benefits.

Closeout – The final steps in managing a project or grant, including completing reports, settling costs, and ensuring all terms have been met.

DHCD – The Department of Housing and Community Development is a state agency within the Commonwealth of Virginia, and responsible for the management of Virginia’s CDBG-DR Program and allocation.

Disaster Recovery Grant Reporting (DRGR) – The online system developed by the U.S. Department of Housing and Urban Development (HUD) for managing and reporting on disaster recovery grant programs, particularly those related to the Community Development Block Grant Disaster Recovery (CDBG-DR) program.

Duplication of Benefits (DOB) – A Duplication of Benefits will occur if the CDBG-DR Program provides assistance to an applicant for the same purpose (repair, replacement, or reconstruction) as any previous financial or in-kind assistance provided to a property owner for the repair, replacement, or reconstruction of his or her home. DHCD is prohibited from creating a Duplication of Benefits. This prohibition comes from the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) and therefore, these other sources of funds must be deducted from any potential award.

Environmental Review – All qualified projects must undergo an environmental review process. This process ensures that the activities comply with the National Environmental Policy Act (NEPA) and other applicable state and federal laws.

Federal Register – The official journal of the Federal government of the United States that contains government agency rules, proposed rules, and public notices. It is published daily, except on Federal holidays. A Federal Register Notice (FRN) is issued for each CDBG-DR funded disaster. The FRN outlines the rules that apply to each allocation of disaster funding.

Grant award – The official document that specifies the terms, conditions, and funding amount for a grant project.

HUD – United States Department of Housing and Urban Development.

Low- to Moderate-Income (LMI) National Objective – Activities that benefit households whose total annual gross income does not exceed 80% of Area Median Income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance with HUD Guidance. The most current income limits, published annually by HUD, will be used to verify the income eligibility of each household applying for assistance at the time assistance is provided.

Very Low – Household’s annual income is up to 30% of the area median family income, as determined by HUD, adjusted for family size.

Low – Household’s annual income is between 31% and 50% of the area median family income, as determined by HUD, adjusted for family size.

Moderate – Household’s annual income is between 51% and 80% of the area median family income, as determined by HUD, adjusted for family size.

Monitoring – The process of reviewing and assessing how grant funds are being used and whether projects are meeting their objectives.

Most Impacted and Distressed (MID) Areas – Areas of most impact as determined by HUD and DHCD using the best available data sources to calculate the amount of disaster damage.

Office of Management and Budget (OMB) – A government office that oversees the performance of federal agencies, evaluates the effectiveness of federal programs, and administers the federal budget.

Overall Benefit – DHCD must certify that, in the aggregate, not less than 70 percent of the CDBG-DR funds received by the Commonwealth during a period specified will be used for activities that benefit LMI households.

Slum or Blight – A term used to describe areas or properties that are in a state of deterioration or disrepair, which adversely affects the health, safety, and welfare of the community. "Slum" typically refers to neighborhoods characterized by inadequate housing, overcrowding, and lack of basic services, while "blight" refers to physical decay, vacant or abandoned properties, and conditions that harm the visual and functional quality of the area. Both slum and blight conditions can lead to decreased property values, increased crime, and reduced quality of life for residents, prompting the need for intervention and revitalization efforts.

Subrecipient – A unit of general local government, quasi-governmental agency, state agency, non-federal, public or private nonprofit agency, authority, or organization, or a for-profit entity receiving CDBG-DR funds from DHCD or another subrecipient to undertake eligible activities.

Universal Notice – A single, unified rule for the CDBG-DR program, providing a standardized process, consistent requirements, and flexible waivers for communities recovering from disasters. Published in January 2025 (90 FR 1754), its purpose is to increase transparency, accelerate the allocation of funds, and streamline the grant management process by outlining uniform procedures and alternative requirements for the three key phases of the CDBG-DR lifecycle: Action Plan development, financial certification, and grant implementation.

Urgent Need (UN) National Objective – An urgent need that exists because the home’s condition poses serious and immediate threat to the health or welfare of the household; the existing conditions are recent or recently became urgent; and the household cannot finance the activities on its own because other funding sources are not available.

INTRODUCTION

The Community Development Block Grant – Disaster Recovery (CDBG-DR) program is an essential federal resource managed by the U.S. Department of Housing and Urban Development (HUD). It is authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*), as amended and, in the event of a Presidentially declared disaster, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S. 5121 *et seq.*), provides the vehicle through which Congress may appropriate funding to aid disaster impacted areas in the recovery process. The CDBG-DR program assists communities in recovering from disasters declared by the president and in mitigating risks from future hazards. They promote long-term recovery, housing development and renovation, infrastructure repair, economic revitalization, and strategies aimed at enhancing resilience to future disasters.

The Commonwealth of Virginia, through the Department of Housing and Community Development (DHCD), is responsible for the administration of CDBG-DR funds within the Commonwealth. HUD is the awarding agency; DHCD serves as the CDBG-DR Grantee and may fund subrecipients to carry out specific activities under a written agreement, while DHCD retains responsibility for compliance and monitoring. DHCD is dedicated to assisting the Commonwealth and its subrecipients in implementing effective, transparent, and meaningful recovery and mitigation programs. This CDBG-DR Implementation Manual (Manual) aims to foster consistency, accountability, and compliance, ensuring that all activities funded by CDBG-DR adhere to HUD and local requirements while addressing the specific needs of Southwest Virginian communities impacted by disaster.

This manual is designed to guide entities using CDBG-DR funding in the effective and compliant administration of CDBG-DR funds. It outlines the core requirements, procedures, and best practices that must be followed throughout the grant lifecycle—from project planning and environmental review to procurement, financial management, construction, and closeout. The Manual reflects federal regulations, including the HUD Universal Notice and 2 CFR Part 200 (Uniform Administrative Requirements), program-specific HUD guidance, and applicable state laws and policies.

It is the responsibility of each recipient of CDBG-DR funds to understand the federal and local requirements that apply to these funds and to adhere to them. It is important to thoroughly read this manual and the referenced regulations, Federal Registers, Action Plans, and guidance documents prior to implementing a program or applying for funding. Subrecipients must carry out proper and efficient grant administrative practices. Each federal register notice has its own unique set of rules; therefore, it is imperative to ensure that each recipient and subrecipient adhere to the Action Plan for the specific allocation.

1 Federal Register Notices

Virginia experienced unprecedented flooding in 2024, suffering severe impacts from Tropical Storm Helene (DR-4831). These events resulted in significant unmet needs across the core recovery areas of Housing, Infrastructure, Economic Revitalization, and Planning. HUD declared Washington and Giles Counties as Most Impacted and Distressed (MID) due to widespread damage. The effects of the storm

varied across the greater southwest Virginia region, with both individual towns and entire counties facing unique challenges.

In January 2025, the U.S. Department of Housing and Urban Development (HUD) announced a direct allocation of \$46.67 million in Community Development Block Grant-Disaster Recovery (CDBG-DR) funds to Virginia in a Federal Notice (Table 1).

Table 1 Disaster Overview

Disaster Summary	
Qualifying Disaster:	Helene (DR-4831)
HUD-identified MID Areas:	Washington County, Giles County; 90 FR 4759 (Docket No. FR-6512-N-01)
DHCD-Identified MID Areas:	Counties: Bedford, Bland, Buchanan, Carroll, Craig, Dickenson, Grayson, Montgomery, Pittsylvania, Pulaski, Russell, Scott, Smyth, Tazewell, Wise, Wythe. Cities: Bristol, Covington, Danville, Galax, Norton, Radford.

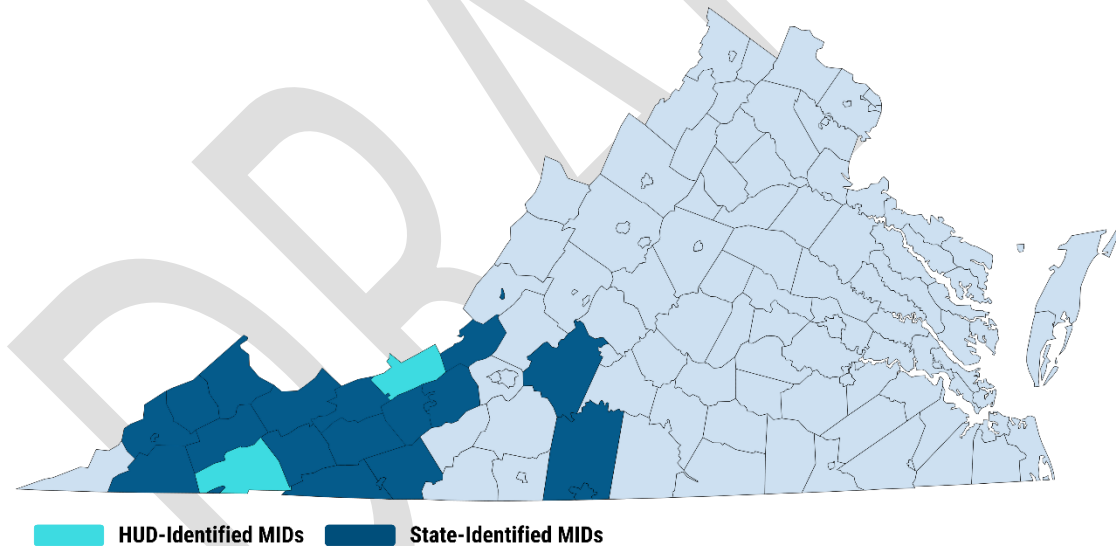


Figure 1: Map indicating HUD and State-MID localities.

Each HUD CDBG-DR allocation has its own rules, waivers, and alternative requirements published in Federal Register Notices. This Manual and the associated program guidelines were developed to serve as a basis for Virginia’s CDBG-DR program and to provide guidance on program implementation that follows HUD standards and best practices. This document may also serve as a reference for subrecipients, applicants, and other interested parties who want to understand how the Virginia CDBG-DR program will operate.

1.1 Explicit Federal Register Citations

All CDBG-DR program activities and references within this manual shall cite items in **Table 2**. DHCD shall administer all CDBG-DR activities in compliance with the Universal Notice and local laws. The Universal Notice includes waivers and alternative requirements, relevant regulatory requirements, the grant award process, criteria for action plan approval, and eligible disaster recovery activities.

Table 2: Governing Documents

Document Title	Publication Citation /Date	Subject / Application
HUD Universal Notice	90 FR 1754 - Jan 8, 2025	Describes the processes, procedures, timelines, waivers, and alternative requirements for CDBG-DR funding
Allocations for CDBG-DR and Implementation of the CDBG-DR Consolidated Waivers and Alternative Requirements Notice	90 FR 4759 - Jan 16, 2025	Implements CDBG-DR allocations and authorizes waivers for 2023-2024 disasters
HUD Memorandum 2025-02	Mar 19, 2025	Amends Universal Notice sections and submission timelines
HUD Memorandum 2025-03	Mar 31, 2025 (eff. Apr 2025)	Adds clarifications to expenditure rules and corrective actions
24 CFR Part 570 and 58	Current Edition	Regulatory foundation for CDBG and environmental review
2 CFR Part 200	Current Edition	Regulatory guidance for administrative requirements, cost principles, and audit requirements

Program policies are tailored to incorporate Universal Notice requirements, waivers, and alternatives including but not limited to:

- Duplication-of-Benefits methodology under Section 312 of the Stafford Act and clarifications under 2 CFR 200;
- Waiver of Public Comment Timing (7-day minimum period).
- Certification of Urgent Need National Objective.
- National Objective Compliance Flexibility for 70% LMI benefit.
- Resilient design and mitigation integration under Section V C 2 of the Universal Notice;
- Streamlined environmental review (Tiered) procedures under 24 CFR Part 58; and
- Expenditure Deadline Requirements (six-year period with HUD extension).

- Cost reasonableness standards under 2 CFR 200 Subpart E.

These tailored policies ensure all activities are eligible, documented, and compliant with both federal and state requirements. Under the Universal Notice, DHCD may undertake expanded housing activities, including:

- New construction of disaster-replacement or infill affordable housing;
- Acquisition and site development for LMI housing;
- Multifamily or small-rental development benefiting LMI households; and
- All new-construction activities shall demonstrate a tie-to-disaster, meet the [Virginia Uniform Statewide Building Code](#) (USBC) standards and local ordinances, and maintain required affordability periods.

1.1.1 HUD Memoranda Acknowledgment

This manual incorporates the amendments made by:

- HUD Memorandum 2025-02 (March 19, 2025), and
- HUD Memorandum 2025-03 (March 31, 2025, effective April 5, 2025).

These memoranda modify the Universal Notice (90 FR 1754) and Allocations Notice (90 FR 4759) to update program expenditure rules, corrective-action procedures, and deadline extensions. All program procedures shall be implemented consistent with these memoranda and future HUD Community Planning and Development (CPD) guidance.

Per HUD Memoranda 2025-02 and 2025-03, grantees are authorized for a 60-day extension for required submissions (Action Plans, certifications, and financial controls). These extensions apply only to grantees receiving allocations under the January 16, 2025, notice (90 FR 4759). DHCD shall document and retain HUD approval for all deadline adjustments.

All CDBG-DR funds must be expended within six (6) years of the execution of the HUD grant agreement unless HUD approves an extension. Pursuant to HUD Memo 25-03 (§ II.C), grantees must implement internal tracking systems and quarterly performance reporting to demonstrate timely use of funds. Extensions must be requested no later than 90 days before the deadline.

In accordance with HUD Memo 25-03 (§ III.F.2.a), DHCD will comply with HUD's updated corrective action procedures for grantees found to be noncompliant with Universal Notice requirements. Remedial actions may include repayment of funds, suspension of drawdowns, or corrective performance plans. Program managers must retain documentation of all HUD correspondence and corrective steps taken.

This manual shall automatically incorporate all future HUD memoranda, technical corrections, or Federal Register amendments affecting the Universal Notice or Allocations Notice. DHCD will update this manual within 30 days of any HUD publication to ensure continued compliance with CDBG-DR program requirements.

Any future waivers issued by HUD shall be incorporated through formal amendment to this manual.

1.2 Commonwealth of Virginia/DHCD Administrative Policies

As a recipient of CDBG-DR funds, there are several policies, procedures, and regulations which apply to all programs, projects, and initiatives undertaken as part of Virginia's CDBG-DR grant. These policies and procedures are outlined in the Southwest Virginia CDBG-DR Implementation Manual. This Manual covers topics such as financial management, fair housing, conflicts of interest, recordkeeping, and others. The requirements described in the Southwest Virginia CDBG-DR Implementation Manual apply to all programs outlined in the Virginia Action Plan for Disaster Recovery and any amendments thereto.

1.3 U.S. Citizenship or Lawful Permanent Resident/Presence

The CDBG-DR program will comply with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) in determining eligibility for assistance and the SAVE Act (H.R. 22). U.S. Citizens or Lawful Permanent Residents/Presence are eligible to receive benefits under this program. For applicants, at least one person on the application with an ownership interest in-part or in-whole on the property or business, must be able to demonstrate U.S. Citizenship or Lawful Permanent Residency/Presence to ensure program eligibility. Landlord-applicants must be able to demonstrate U.S. Citizenship or Lawful Permanent Residency/Lawful Presence to ensure program eligibility. For public services applications, program beneficiary must be able to demonstrate U.S. Citizenship or Lawful Permanent Residency/Presence to ensure program eligibility.

The documentation needed to verify U.S. Citizenship or Lawful Permanent Residency/Lawful Presence may include, but is not limited to the following:

- A valid REAL ID compliant Driver's License or REAL ID compliant Identification Card
- In the event a REAL ID compliant Driver's License or Identification Card is not available, the following may be accepted:
 - › The applicant's confirmed assistance via FEMA or SBA awards for property assistance can be considered as both FEMA and SBA validate legal residency as part of their application process.
 - › Program or applicant may also use the U.S. Citizenship and Immigration Services' SAVE online services (available to registered federal, state, territorial, tribal, and local government agencies) to verify immigration status and U.S. citizenship of applicants seeking benefits.
 - › Applicants without a REAL ID compliant Driver's License, REAL ID compliant Identification Card, FEMA IA, or SBA assistance or SAVE documentation, must submit one of the following:
 - Resident Alien Card
 - U.S. Birth Certificate (verified against government-issued photo ID)
 - U.S. Passport or Certificate of Naturalization

2 CDBG-DR Program Administration

DHCD is responsible for, at a minimum, the following tasks related to the administration of CDBG-DR funds:

- Pre-Award Technical Assistance for subrecipients,
- Development of policy and procedures,
- Application for funding/assistance development and review,
- Subrecipient agreement development and execution,
- Day-to-day program management,
- Building performance milestones into contracts,
- Subrecipient monitoring,
- Internal audit function,
- Compliance and monitoring activities,
- Quality control activities,
- Vendor/contractor management,
- Disaster Recovery Grant Reporting (DRGR) reporting,
- Beneficiary data documentation and accuracy,
- Record keeping and retaining all records for three years after grant closeout by HUD,
- Ongoing Technical Assistance and Training, and
- Maintain open communication at all times.

DHCD will monitor program activities for compliance with program requirements, approved Action Plans and Amendments, and applicable statutes and regulations. Implementing the guidance above will ensure efficient program operation and less disruptive monitoring sessions for the Commonwealth, applicants and subrecipients.

2.1 Action Plan

The Commonwealth of Virginia CDBG-DR Action Plan includes requirements for eligibility and how the use of these funds will address long-term recovery and restoration of housing, infrastructure, planning, and economic development in areas affected by the disaster. The development criteria are defined under the Federal Register and will detail the proposed use of all funds. As the state receives additional funding, allocates funds, or changes activities, amendments to the Action Plan are submitted for public comment and HUD approval. Subrecipients must become familiar with the HUD approved Action Plan and all applicable amendments.

Action Plans consist of, at a minimum, the following components:

- Disaster impact;
- Citizen engagement;
- Assessment of unmet and mitigation needs
- Narrative on eligible activities, applicants, and allocations; and

- Public comments and responses.

In addition, citizen participation requirements as outlined in the applicable Federal Register and action plan(s) must be followed for approval of long-term disaster recovery plans.

In January 2025, the U.S. Department of Housing and Urban Development (HUD) announced a direct allocation of \$46.67 million in Community Development Block Grant-Disaster Recovery (CDBG-DR) funds to the Commonwealth of Virginia.¹ The Commonwealth was directed to prepare a CDBG-DR Action Plan. **Table 3** provides an overview of the CDBG-DR allocation in the Action Plan. The Commonwealth must expend these funds within six (6) years of the grant agreement.²

Table 3 CDBG-DR Allocation Overview

CDBG-DR Allocation Overview:	
CDBG-DR Allocation	\$40,583,000
CDBG-DR Mitigation Set Aside³	\$6,087,000
Total Allocation	\$46,670,000

Any substantial amendment to the Action Plan must comply with the public participation requirements outlined in the Universal Notice, which includes a minimum 30-day public comment period and appropriate notice of available documents. Public participation and timely notification procedures for Action Plan amendments, including the timeframe for public comment, are implemented in accordance with the specific guidelines set forth in the Universal Notice and any subsequent Allocation Announcement Notices (AANs).

DHCD is dedicated to carrying out long-term disaster recovery efforts that replenish lost housing stock for eligible households and improve critical infrastructure, using at least 70 percent of funds to serve Low to Moderate Income (LMI) households. The remainder of the funds may be used to serve Urgent Need households. DHCD will administer the CDBG-DR program using the support of outside parties (vendors, subrecipients and contractors).

2.1.1 Program Guidelines

DHCD will publish Program Guidelines to the CDBG-DR website. These guidelines provide a blueprint for designing, implementing, and monitoring of CDBG-DR activities. The Program Guidelines will contain specific policies for planning, housing, infrastructure, and economic revitalization programs consistent with the Universal Notice⁴. Individual program guidelines will be developed for the following eligible activities as described in the Commonwealth of Virginia CDBG-DR Action Plan:

¹Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG-DR Consolidated Waivers and Alternative Requirements [Docket No. FR-6512-N-01]

² As required in FR 90-5 § IV.B

³ The CDBG-DR Mitigation allocation represents 15% of the Unmet Needs Allocation (\$40,583,000.), as required under Public Law 118-158 (90 FR 4761)

⁴ HUD Universal Notice - 90 FR 1754 - Jan 8, 2025

- Housing Recovery Programs
- Infrastructure Program
- Planning Program
- Economic Revitalization

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

CDBG-DR PROGRAMMATIC REQUIREMENTS

3 National Objectives

The primary goal of the CDBG-DR Program is the recovery and development of viable urban communities, by providing decent housing and a suitable living environment, and expanding economic opportunities, principally for persons of low and moderate income. This goal is functionally implemented and monitored through the alignment of program activities with National Objectives set by Congress in the 1974 Housing and Community Development Act (42 U.S.C. § 5301 et seq.). With the exclusion of planning and administrative activities, CDBG-DR funds must be used to carry out activities that will meet at least one of these three (3) National Objectives 24 CFR 570.483.⁵

1. Benefit Low- and Moderate-Income Persons (LMI)
2. Aid in the prevention or elimination of slums or blight (SB), or
3. Meet community development needs having a particular urgency (urgent need or UN).

At least 70 percent of the total CDBG-DR funds expended must be used for activities that benefit low- and moderate-income persons, over a three-year period (selected by the DHCD). National Objectives were identified in the Allocations for CDBG-DR and Implementation of CDBG-DR Consolidated Waivers and Alternative Requirements Notice as published in the Federal Register.⁶ The Commonwealth must apply National Objectives to all projects, and all project applications must document how they will meet National Objectives.

An activity will be considered to meet a National Objective when it meets one or more of the following criteria for each objective:

1. **Benefits Low- to Moderate-Income Persons (LMI)**
 - Low- and Moderate-Income Area Benefit (LMA) is an activity which is available to benefit all the residents of an area which is primarily residential and where at least 51% of the residents are low- to moderate-income persons or a HUD defined presumed benefit low- to moderate-income persons (including but not limited to abused children, homeless persons, and elderly [62 years or greater]).
 - Low- and Moderate-Income Limited Clientele is an activity which provides benefits to a specific group of persons rather than everyone in an area generally and where at least 51% of those served are low- to moderate-income persons.
 - Low- and Moderate-Income Jobs is an activity which creates or retains permanent jobs, at least 51% of which, on a full time equivalent (FTE) basis, are either held by low- to moderate-income persons or considered to be available to L/M income persons.

⁵ <https://www.ecfr.gov/current/title-24/section-570.483>

⁶ 90 FR 4759 Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG-DR Consolidated Waivers and Alternative Requirements

- Low- and Moderate-Income Housing (LMH) benefits low- to moderate-income persons by acquiring, rehabilitating, or improving property to provide housing that, upon completion, will be occupied by an LMI household.
 - Low to Moderate Housing Incentive (LMHI) benefits low- to moderate-income persons by providing or improving residential structures that, upon completion, will be occupied by an LMI household.
2. **Meet an Urgent Need (UN)** by providing housing assistance to individuals who have an income that is more than 80 percent of the area median income (AMI).
 3. **Elimination of Slum or Blight (SB) by providing services that eliminate structures that are a detriment to public health and safety.**
 - The Housing and Community Development (HCD) Act of 1974 as amended created the CDBG program and drives many of its objectives. The primary objective of the HCD Act is the “development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income” (42 U.S.C. 5301(c)). To carry out this objective, the statute requires that not less than 70 percent of the aggregate CDBG program funds be used to support activities benefitting low- and moderate-income persons. Subrecipients are required, absent a waiver from HUD, to meet this goal in carrying out their own activities.
 - The National Objective is not considered met until the project is completed (units occupied or infrastructure constructed and operatable), funds have been expended, and final monitoring documentation has been completed.

4 Program Allocations

Virginia’s CDBG-DR funds will be distributed across six (6) sectors: Housing, Infrastructure, Economic Revitalization, Mitigation, Planning, and Administration (see **Table 4**).

Table 4 Summary of Program Allocations

SUMMARY OF ALLOCATIONS			
Administration			\$2,333,500.00
PROGRAM:	<i>N/A - Funds for Administrative Costs</i>	\$2,333,500.00	5.00%
Planning			\$3,720,000.00
PROGRAM:	<i>Strategic Recovery Planning</i>	\$3,720,000.00	7.97%
Housing			\$18,296,300.00
PROGRAM:	<i>Housing Recovery</i>	\$18,296,300.00	39.20%
Economic Revitalization			\$4,058,300.00
PROGRAM:	<i>Economic Revitalization Recovery</i>	\$4,058,300.00	8.70%
Infrastructure			\$12,174,900.00
PROGRAM:	<i>Infrastructure Recovery</i>	\$12,174,900.00	26.09%
Mitigation			\$6,087,000.00
PROGRAM:	<i>N/A - Funds split 50/50 between Housing and Infrastructure</i>		13.04%
		TOTAL CDBG-DR ALLOCATION	\$46,670,000.00

Percent of Total Allocation

Virginia’s CDBG-DR investments will repair homes and infrastructure, support economic recovery, and strengthen resilience. All programs prioritize low- and moderate-income residents and are designed to ensure timely, compliant, and transparent recovery. Each program will establish assistance maximums and minimums in their Program Guidelines.

The Commonwealth will utilize 5% of the total grant award for administration, plus 5% of any program income. This is the maximum amount permissible for administrative costs, as outlined in the Universal Notice. Eligible costs include staff time, administrative expenses, and other costs related to developing, managing, and overseeing the Action Plan, CDBG-DR grant setup, and resilience and recovery programs. This includes financial certifications, unmet needs analysis, capacity assessment, technical assistance, monitoring, environmental reviews, grant reporting including DRGR, quarterly reports and other activities per 24 CFR 570.206.

5 Reallocation of Funds

Both DHCD and Subrecipient awards are subject to reallocation to other projects, activities, grantees or Subrecipients, if any of the following occurs:

- Expenditure rates do not meet, or are not anticipated to meet, quarterly goals, projections, or performance metrics.
- Project or activity does not meet a milestone or timeline expectation (project is stalled).
- Anticipated outcomes of a project or activity change.
- Unmet needs change.
- Information that conflicts with funding caps or criteria is introduced.

DHCD Program Managers will meet monthly to review project and activity reports and identify if any of the above factors are occurring. DHCD may prepare and submit Action Plan amendments to re-program funding after any of the above factors occur. Amendments will be prepared per the amendment process outlined in Virginia's CDBG-DR Action Plan.

6 Program Income

Program income is defined by HUD as "gross income generated from the use of CDBG-DR funds" that is received by DHCD or its Subrecipients.

Program income includes, but is not limited to, the following examples:

- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG-DR funds.
- Proceeds from the disposition of equipment purchased with CDBG-DR funds.
- Gross income from the use or rental of real or personal property acquired by DHCD or its subrecipients, with CDBG-DR funds, less costs incidental to the generation of the income.
- Gross income from the use or rental of real property owned by the DHCD or its subrecipients that was constructed or improved with CDBG-DR funds, less costs incidental to the generation of the income.
- Payments of principal and interest on loans made using CDBG-DR funds, including interest paid by borrowers on loans made from a revolving fund, as defined in section III.B.13.
- Proceeds from the sale of loans made with CDBG-DR funds.
- Proceeds from the sale of obligations secured by loans made with CDBG-DR funds.
- Interest earned on program income pending disposition of the income, including interest earned on funds held in a revolving fund, as defined in section III.B.13.
- Interest earned on lump sum drawdowns for financing of property rehabilitation activities as described in 24 CFR 570.513.
- Funds collected through special assessments made against non-residential properties and properties owned and occupied by non-LMI households, where the special assessments are used to recover all or part of the CDBG-DR portion of a public improvement.
- Gross income paid to DHCD or its subrecipients from the ownership interest in a for-profit entity, where the income is in return for the provision of CDBG-DR assistance.
- Any income received by DHCD, related to the CDBG-DR grant after closeout, including income received by subrecipients after closeout.

Program income does *not* include:

- The total amount of funds that is less than \$35,000 received over the life of the grant and retained by the DHCD or its subrecipients. Once DHCD or its subrecipients, meet or exceed the \$35,000 threshold, any funds over the threshold are considered program income and are subject to the requirements of the Universal Notice.

- Amounts generated by activities eligible under section 105(a)(15) of the HCDA (42 U.S.C. 5305(a)(15) and carried out by an entity under the authority of section 105(a)(15) of the HCDA.
- Income (except for interest described in 24 CFR 570.513) earned on grant advances from the U.S. Treasury; this income must be remitted to HUD for transmittal to the U.S. Treasury.

Activities funded with CDBG-DR resources are not expected to generate program income.

Reporting, Tracking, and Expending Program Income

Although specific procedures of DHCD's CDBG-DR programs are still being developed, DHCD is prepared in the event CDBG-DR funded projects or activities generate program income. Any program income generated as a result of CDBG-DR funding will be subject to Federal Register notice (90 FR 1754). DHCD will apply program income received from CDBG-DR projects or activities in accordance with its action plan, with the final determination of end use made by DHCD and Commonwealth leadership.

To the maximum extent feasible, HUD requires that program income shall be used or distributed before additional withdrawals from the U.S. Treasury are made. DHCD will use program income before drawing additional grant funds and program income retained by one subrecipient will not affect grant draw requests from other subrecipients.

In accordance with 24 CFR 570.503, each written agreement between DHCD and its subrecipients will specify that the subrecipient will be required to report and remit to DHCD all program income (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for section 108 security needs). All program income generated by activities carried out with CDBG-DR funds will be remitted to DHCD from the subrecipient prior to contract closeout. DHCD will then allocate and utilize the program income in compliance with its action plan and Federal Register notice (90 FR 1754).

DHCD will use unique account codes within its accounting system, *[insert accounting system name?]*, to internally track program income from both DHCD and subrecipient projects or activities. DHCD will use DRGR to report program income receipts, disbursements, and revolving loan funds (if applicable) from both DHCD and subrecipient projects or activities.

IN THE EVENT THAT CDBG-DR PROGRAMS HAVE GENERATED PROGRAM INCOME THAT CANNOT BE USED PRIOR TO GRANT CLOSEOUT, DHCD WILL TRANSFER THE UNUSED PROGRAM INCOME TO ITS ANNUAL CDBG FUNDED ACTIVITIES IN ACCORDANCE WITH THE REQUIREMENTS OF 2 CFR 200.

7 Mitigation Requirements

Mitigation activities produce the reduction or elimination of long-term risk of injury, suffering, hardship, loss of life and damage or loss of property. In lessening these impacts, mitigation gives rise to greater community resilience in the face of future disasters. DHCD will integrate mitigation activities into each program, as applicable. Examples of mitigation activities may include but are not limited to:

- Incorporating resilient construction standards.

- Using resilient building materials and technology.
- Elevating homes and facilities above the Base Flood Elevation (BFE).
- Buyout/Acquisition of properties in high-risk areas.
- Provide aid to relocate residents or businesses to lower-risk areas.
- Restoration of trees in the urban landscapes.
- Use of more renewable energy technologies.
- Utilization of backup power for critical facilities.

Each program-specific Policy Manual will address the following requirements on mitigation and resilience:

- How mitigation measures and strategies to reduce natural hazard risks will be integrated into the construction, reconstruction, or rehabilitation of residential or non-residential buildings;
- How CDBG-DR investments will be designed and constructed to withstand chronic stresses and extreme events related to a changing climate by identifying and implementing resilience performance measures in DRGR.

8 Fraudulent Application

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.

If an applicant knowingly misstates or omits information in any document related to their request for assistance, DHCD may pursue civil and criminal prosecution and demand immediate repayment of any funds disbursed.

9 Recapture

Rare instances may arise where a beneficiary or Subrecipient must return all or part of the awarded funding to DHCD, who is responsible for recapturing duplicative funds from Subrecipients or beneficiaries who become non-compliant. All applicant files will be reviewed and reconciled for accuracy to ensure Duplication of Benefits (DOB) did not occur and that applicants are in compliance with CDBG-DR requirements and federal guidelines.

DOB will be recalculated to ensure an increase in funding received is in fact duplicative, and that the applicant does not have additional needs unbeknownst to the program. If an applicant has been identified as receiving a potential overpayment, the amount and basis for the repayment will be documented in written notification.

Applicants who disagree with the repayment amount determined by DHCD may appeal the determination within **thirty (30) days** of receipt of the Repayment Notification. If the applicant's request is denied or there is failure on the part of the applicant to contest within the allotted timeframe, DHCD will proceed with collecting the repayment amount. If the applicant's request results in a revision of the award amount or eligibility, the applicant will sign a revised beneficiary agreement which will outline the requirements related to such changes and the requirements for repaying the remaining overdue amount, if any.

Once it has been determined that the applicant must return funds to the CDBG-DR grant fund, the applicant must repay their funds in a timely manner. All repayments shall be expected to be repaid in full as one lump sum amount, although limited accommodations may be made for applicants submitting claims of financial hardship. All funds recovered because of this policy will be tracked in the Disaster Recovery Grant Reporting system (DRGR) and returned to the CDBG-DR account or U.S. Treasury if the CDBG-DR grant has been closed out.

10 Monitoring

Monitoring will be conducted to identify and take action on any anomalies, performance issues, fraud, waste, abuse, or mismanagement. DHCD will follow its monitoring procedures and Fraud, Waste, and Abuse policy for the administration and implementation of CDBG-DR programs.

DHCD will monitor CDBG-DR programs and implementation consultants, subrecipients and contractors. Subrecipients may be required, by contract agreement, to assist with monitoring. DHCD will maintain the ultimate review and approval authority for monitoring reports, contract compliance, addressing findings and concerns, and establishing corrective action plans. Monitoring of contractors will include an evaluation of fraud, waste, and abuse safeguards.

All subrecipients with active projects will be monitored at least once per annum, as required by CDBG-DR and Uniform Guidance 2 CFR 200.332(d), 2 CFR 200.208(a), 2 CFR 200.206(b), 2 CFR 200.329, 2 CFR 200.339(a). Monitoring may result in documenting subrecipient risk related deficiencies, required risk mitigation and corrective actions, and recommendations. The monitoring will document the areas for financial, performance, reporting, and significant developments.

DHCD will design each of its CDBG-DR program policies to account for any potential DOB relevant to the specific recovery activity. As recovery programs become operational, DHCD will conduct periodic performance monitoring of program activities for potential DOB.

Although the frequency and duration of these reviews may vary depending on the specific program, all applicants awarded CDBG-DR funding will be reviewed for potential DOB at least once per year.

Each monitoring review will incorporate an evaluation of the pre-award DOB analysis and any new information. Each applicant's file will be updated to include new documentation and/or relevant notes.

If additional funds received are determined to be duplicative, repayment shall be required in accordance with the agreement language.

11 Reporting and Recordkeeping Requirements

11.1 Recordkeeping

Accurate recordkeeping is crucial to the successful management of CDBG-DR funded activities. Insufficient documentation could lead to monitoring findings and repayment of funds. All required documentation associated with a project or activity should tell a complete story of project eligibility, from application to closeout. DHCD has a system of record to manage its procurement proposals and individual applications

in a manner that ensures files' security, accessibility, and reliability. Subrecipients and program staff will report all required data into CAMS as instructed. Subrecipients and program staff must also maintain a full and current set of all program-related documents at their primary office location and available upon request.

THE RECORD RETENTION PERIOD FOR CDBG-DR PROGRAMS AND SUBRECIPIENT AGREEMENTS IS FIVE (5) YEARS AFTER DHCD CLOSES THE CONTRACT WITH HUD. THE RECORD RETENTION PERIOD FOR SUBRECIPIENT AGREEMENTS DOES NOT BEGIN WHEN THE SUBRECIPIENT AGREEMENT BETWEEN THE SUBRECIPIENT AND DHCD IS CLOSED OUT.

Possible exceptions that potentially require maintaining record longer than the five-year period include but are not limited to:

- If any litigation, public information request, claim, or audit is started before the expiration of the record retention period, the records must be kept until the action has been fully resolved.
- Relocation files must be maintained for five years after final project closeout or after the relocation payments, whichever is later per 49 CFR 24.9. If this time is after the State's closeout of their grant with HUD, records must be maintained through the compliance period.
- Files for property and equipment acquired with CDBG-DR funds must be retained for five years after final disposition per 2 CFR 200.334(c). If this time is after the State's closeout of their grant with HUD, records must be maintained through the compliance period.
- Files for loan repayments or affordability compliance periods are required to be maintained per the applicable program policy.
- Property management files and national objective compliance files for real property acquired or improved with CDBG-DR funds over \$25,000 must be maintained at least five years after the expiration of the CEA per 24 CFR 570.503(b)(7). If the intended use of real property changes within the five-year compliance period, citizen participation files must be maintained showing their agreement per 24 CFR 570.489(j).
- Program and subrecipient files must be easy to use while providing a historical account of activities for examination and review by DHCD, auditors, and subrecipient staff. The CDBG-DR records are subject to the Freedom of Information Act and relevant state laws regarding public availability.
- During the retention period, the CDBG-DR programs and subrecipients will retain file in a secure location either in locker file cabinets for hardcopies or a secured server. Upon completion of the retention period, DHCD shall destroy data provided under the HUD Data Sharing Agreement and all PII gathered to provide assistance through the CDBG-DR program. Hard copy data will be manually shredded and a record of document disposition will be completed to keep a record of the general type and size of records that have been destroyed. Shredding may be completed by DHCD staff or a contracted vendor to provide confidential document destruction services. All electronic records will be deleted from DHCD, contractor, subcontractor and subrecipient systems. Contractors, subcontractors and subrecipients will notify DHCD in writing of the records disposition.

11.2 Protection of Personally Identifiable Information

For the purposes of this policy, personally identifiable information (PII) refers to information which can be used to distinguish or trace an individual's identity, such as their full name, social security number (including only the last-4 digits), biometric data, policy numbers, award amounts, income, bank account information, etc. DHCD, CDBG-DR programs, contractors and subrecipients must implement reasonable measures to safeguard Personally Identifiable Information (PII) and other sensitive data. These measures should form part of internal control framework to ensure compliance with federal regulations. DHCD, CDBG-DR programs, contractors and subrecipients are responsible for maintaining appropriate safeguards to prevent unauthorized access, use, or disclosure of such information, consistent with cybersecurity best practices and the applicable federal, state, and local laws governing data protection.

Basic components of this policy are to establish proper protocols to:

- Storing hard copy documentation and files in secure locations, within locked file cabinets or locking storage rooms.
- Securing hard copy PII in applicant files or documents that are being actively reviewed or worked.
- Establishing parameters related to the use of applicant data transmitted and maintained in electronic media.
- Notifying DHCD immediately should a breach of data occur during the administration of the CDBG-DR Programs

11.3 Reporting

CDBG-DR programs and subrecipients are required to submit a regular Status Report as detailed in any MOU, Subrecipient Agreement or by the request of the DHCD grant manager. Reports should be submitted to DHCD in a timely manner as requested by DHCD or by the requirements established in the MOU or Subrecipient's Agreement.

DHCD must enter financial information, project summaries, monitoring reports, and technical assistance reports into Disaster Recovery Grant Reporting (DRGR) system. For direct benefit activities, DHCD must report the property address, the total number of household members with disabilities, the age of all household members, the household's familial status, the total number of Limited English Proficiency (LEP) household members, the total number of LMI household members, the race of all household members, and the ethnicity of all household members in DRGR. DHCD must also enter mitigation performance measures (e.g., when a structure constructed in the floodplain is elevated) into the DRGR system.

11.3.1 Quarterly Performance Reports

DHCD will enter information into DRGR and produce Quarterly Performance Reports (QPR) to HUD and the public. DHCD will also submit required Quarterly Performance Reports within 30 days following the conclusion of each quarter. These reports will be posted online once approved by HUD and will continue until all funds are spent and projects are closed.

These reports will be used to:

- Ensure transparency.

- Monitor for anomalies or performance problems that suggest fraud, abuse, waste, or the duplication of benefits.
- Reconcile budgets, actuals, obligations, and funding draws.
- Calculate expenditures to determine compliance with applicable funding caps and the overall percentage of funds that benefit low-and moderate-income persons.
- Analyze the risk of subrecipient projects to determine monitoring priorities and opportunities to provide technical assistance.

DHCD will establish performance metrics for Commonwealth and subrecipient administered projects to ensure quarterly goals can be met – these will be established in each CDBG-DR program’s specific procedures.

12 Closeout

The CDBG-DR contract closeout process is designed to ensure all CDBG-DR activities are completed and funds are expended in accordance with the Subrecipient Agreement, program rules, and state and federal requirements. This means any financial, administrative, and performance issues related to the CDBG-DR Subrecipient Agreement and stipulated as part of the Subrecipient Agreement have been resolved to the satisfaction of DHCD, HUD, and the subrecipient. The closeout process also certifies that the persons benefiting from the activities, described in the Subrecipient Agreement, are receiving services or a benefit from the use of the new or improved project, facilities and/or activities.

A SIMILAR PROCESS WILL BE FOLLOWED FOR DHCD- LED PROGRAMS, WHERE A SUBRECIPIENT AGREEMENT DOES NOT EXIST.

The closeout process begins when all the following are complete:

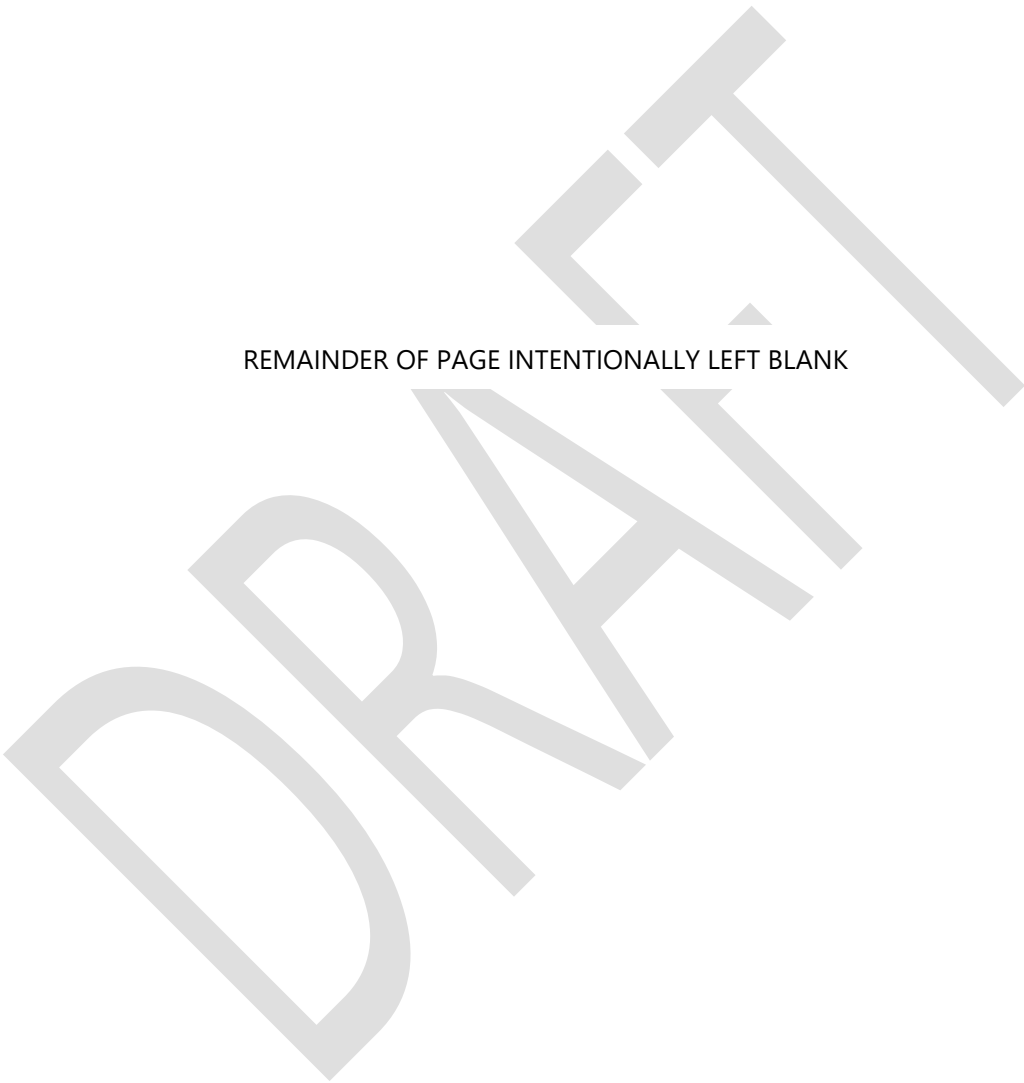
- All costs to be paid with CDBG-DR funds have been expended and payment requests submitted, with the exception of closeout costs (final administrative and audit costs), and other costs approved in writing by DHCD.
- The work described in any approved Performance Statement or Scope of Work has been completed, and;
- The subrecipient other responsibilities under the agreement with DHCD have been met.

Program Partners and subrecipients must notify DHCD when they have completed all work under a specific program even if grant funds under that program have not been fully expended.

The CDBG-DR closeout process consists of a thorough review and final approval of a Grant Closeout Report (GCR) and the required supporting documentation identified. Other information may be required and requested by DHCD. The GCR must be submitted within sixty (60) calendar days after the Subrecipient Agreement end date. If all activities are completed prior to the Subrecipient Agreement end date, then the GCR due date is sixty (60) calendar days after activities are completed.

The Subrecipient Agreement will not be considered Administratively Complete until any pending issues are resolved with accurate documentation submitted to DHCD, and the beneficiaries have been confirmed.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK



FEDERAL CROSS CUTTING REQUIREMENTS

13 Duplication of Benefits

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, 42 U.S.C. §5121 et seq., prohibits any person, business concern, or other entity from receiving federal funds for any part of such loss as to which they have received financial assistance under any other program, from FEMA, SBA, private insurance, charitable assistance, or any other source. A duplication of benefits (DOB) occurs when a person, household, business, or other entity 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. The amount of the DOB is the amount received in excess of the total need for the same purpose.

A household's Duplication of Benefits (DOB) amount is calculated by subtracting the total spent on home repairs, replacement, or reconstruction from the disaster assistance the household has already received for those purposes. A DOB will occur if, for example, the DHCD's Housing Recovery Program (HRP) were to provide assistance to a homeowner for the same purpose (repair, replacement, or reconstruction) as any previous financial or in-kind assistance provided to a property owner for the repair, replacement, or reconstruction of their home.

For example, if a family's home had \$150,000 of damage and the homeowner received insurance proceeds of \$50,000 to repair the damage, the homeowner would **only** be eligible to receive \$100,000 in CDBG-DR funds to repair the home. If the homeowner received additional funding for repairs that have already been paid for by another source, it would be a DOB.

DHCD is responsible for determining all disaster assistance received by, and available to, applicants of CDBG-DR programs before committing funds or awarding assistance. During the application process, the applicant must report any and all assistance received from other sources for the same purpose as defined in the application.

Each of DHCD's CDBG-DR program policies will establish standards to address the specific types of DOB and related analysis for that area. For example, verifying FEMA Individual Assistance data for housing applicants, or FEMA Public Assistance data for public infrastructure projects. While each program will emphasize the verification of data most associated with its activities, DHCD recognizes that *all* applicants and potential projects must undergo a DOB analysis before any funds are committed.

To meet this requirement, DHCD will use the best and most recent available data from disaster assistance sources, to include, but not be limited to:

- FEMA
- Small Business Administration (SBA)
- National Flood Insurance Program (NFIP)
- United States Army Corp of Engineers (USACE)
- Insurance companies

- Private and non-profit organizations
- Any other local, state, or federal sources of funding

Applicants will be required to provide supporting documentation, including award letters, denial letters and other documentation supporting the amount, sources and uses of funding received/declined to assist in the completion of the project that was provided in the recovery and/or mitigation from the covered disaster. DHCD staff and/or implementation vendor will be made available to provide applicants with technical assistance throughout the application process.

In addition to identifying disaster assistance funding that has been received, DHCD is also committed to ensuring that CDBG-DR funds are the payer of last resort for eligible activities. To do this, DHCD will verify that CDBG-DR funds are not used for activities reimbursable by, or for which funds are made available by insurance, FEMA, USACE, or other funding sources. If FEMA or the USACE are accepting applications for a project that is being considered for CDBG-DR funding, DHCD will seek assistance from those sources before using CDBG-DR. If FEMA or the USACE funding is received after the use of CDBG-DR to pay for the same costs, CDBG-DR funds will be recaptured in the amount that duplicates assistance received from FEMA or the USACE. If an applicable insurance claim has not been made, the applicant must file a claim with their insurance carrier. DHCD staff and/or implementation vendor will work with applicants to determine that all other funding options have been exhausted.

The CDBG-DR programs will follow Duplication of Benefits Procedure as noted in Appendix C in the Universal Notice.

It is to be noted that HUD has provided, under its DOB cancellation policy, an LMI exemption for duplicative Federal assistance received after CDBG-DR assistance by an LMI beneficiary⁷. An LMI beneficiary is exempt when it duplicates another subsequent Federal award for the same purpose, which, if received before the CDBG-DR assistance, would have reduced the amount of the beneficiary's CDBG-DR award. Under this policy, it is not in the best interest of HUD to seek repayment of these funds. HUD's policy caps this exemption at \$27,000.

HUD has also, under its DOB cancellation policy, expanded its policy on Death, Foreclosure, or Bankruptcy to include all CDBG-DR applicants (LMI and non-LMI) where a subsequent change in a beneficiary's circumstances can affect that beneficiary's remaining unmet need for assistance. Remaining unmet need means that the need was not met by CDBG-DR and other sources of assistance. Oftentimes, unmet need does not become apparent until after CDBG-DR assistance has been provided. Duplicative assistance received by beneficiaries falls under this exemption when, after receiving CDBG-DR assistance, they are subsequently determined to be:

- A. Deceased;
- B. Subject to a foreclosure action on a residential or non-residential property, including commercial properties rehabilitated, constructed, or reconstructed with CDBG-DR funds; or
- C. A debtor in a bankruptcy proceeding or who exited bankruptcy proceeding after the DOB was provided (or similar proceeding for insolvent debtors under state law, such as an assignment for

⁷ CDBG-DR Policy Bulletin 2025-01: HUD's Duplication of Benefits Collection Policy

the benefit of creditors). To qualify for this exemption, the beneficiary must successfully have their debts discharged.

When a beneficiary has died, a home has been foreclosed upon, or a beneficiary is in bankruptcy, the original disaster recovery need may not have been fully met or was exacerbated by factors beyond the control of the beneficiary or the beneficiary’s heirs. Therefore, in these specific circumstances, it is not in the best interest of the Federal government to collect a duplication of benefits.

13.1 Duplication of Benefits Gap in Homeowner Programs

A DOB Gap is identified when the DOB review shows the household has countable disaster assistance available for the same recovery purpose as the proposed housing award (repair, rehabilitation, reconstruction, or replacement). Countable assistance means assistance that must be included in the DOB calculation because it can be used to cover the same eligible costs after any allowable exclusions are applied. If the remaining duplicative amount is greater than \$0.00, the DOB gap must be satisfied (reduced to zero) before the Homeowner Grant Agreement can be executed.

Figure 2 - Example of Award Calculation based on previously received benefits (“Potentially Duplicative Assistance”) and any DOB Gap (“Assistance Determined to be Duplicative”)

CALCULATION OF ELIGIBLE AWARD	
1. Identify Applicant's Total Need Prior to Any Assistance (e.g. Recon Cost, Acquisition payoff amount)	\$ 50,627.74
2. Identify All Potentially Duplicative Assistance	\$ -
a. FEMA Housing Repair	\$ -
b. SBA	\$ -
c. Insurance	\$ 90,152.00
d. Other (ex: nonprofit, charity, PREPS, etc.). Please provide funding source:	
Received Assistance Total	\$ 90,152.00
3. Expenditures (Receipts/Support Documentation)	\$ -
a. Receipts or confirmation of repairs with Inspection Report	\$ 85,733.60
b. Forced Mortgage Payoff	\$ -
c. Contractor Fraud	\$ -
Expenditure Total	\$ 85,733.60
4. Deduct Assistance Determined to be Duplicative (Received Assistance Total Minus Expenditure Total)	\$ 4,418.40
5. Funding Adjustments	\$ -
a. Applicant Provided Funding	\$ 4,418.40
Total Adjustments	\$ 4,418.40
6. Maximum Eligible Award (Item 1 minus Item 4 plus Item 5)	\$ 50,627.74

The DOB Gap may be satisfied by the applicant in one or a combination of the following ways:

- **Payment of Gap**

The applicant shall pay DHCD the DOB Gap amount. DHCD will deposit the funds in the DOB Gap funding Account. If the applicant receives additional countable assistance before the Homeowner Grant Agreement is executed, the applicant shall also pay DHCD that amount, and it will be deposited into the same account.

- **Scope Reduction**

If the applicant qualifies for a reconstruction or renovation award, the DOB Gap may be satisfied through a scope reduction. A scope reduction means the approved scope of work is reduced, lowering program-funded costs by the amount of the DOB gap. Scope reductions must still meet all program minimum standards and requirements described below. Repair/Rehabilitation awards are not eligible for scope reduction.

Notice, Appeal, & Timeframe

Applicants will be notified in writing if a DOB Gap is identified. Applicants will have thirty (30) days from the date of notice to appeal the DOB gap determination and/or satisfy the DOB gap by paying DHCD the required amount, accepting an eligible scope reduction, or both. If the DOB gap is not satisfied within thirty (30) days, the applicant's case will be closed.

13.2 Subrogation and Grant Agreements

When an applicant receives benefits from federal disaster assistance sources, non-profits or their insurance after the award determination is made, these funds may be owed by the applicant to DHCD. Applicant awardees will be required to sign a Subrogation Agreement as part of their grant agreement with DHCD stating they understand this requirement and will comply. Applicants must report additional funds received for the purpose of completing activities funded for the same purposes by CDBG-DR. DHCD and/or its Subrecipients will perform a Duplication of Benefits analysis and inform the applicant if any funds must be repaid. CDBG-DR funding must be funding of last resort. For example, if additional funds are paid to applicant awardees for repair, reconstruction, and/or elevation of a damaged structure after HRP has provided completed repair, reconstruction, or replacement of the damaged structure, those funds constitute a duplication of benefit and therefore must be returned to DHCD.

All agreements with subrecipients, contractors, or beneficiaries will make it clear that awardees are expected to be honest and forthright in their disclosure of potential DOB. Agreement language will include the following statement:

Warning: Any person who knowingly makes a false claim or statement to HUD or causes another to do so may be subject to civil or criminal penalties under 18 U.S.C. 2, 287, 1001 and 31 U.S.C. 3729.

Additionally, all applicants will be required to sign, at the time of application, an affidavit as follows:

PENALTY FOR FALSE OR FRAUDULENT STATEMENT: U.S.C. Title 18, Sec. 1001, provides: "Whoever, in any matter, within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies . . . or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

13.3 Repayment of Duplicative Assistance

All agreements with beneficiaries, organizations, or subrecipients will require that they repay any DOB assistance that is received after an award has been granted, if it is for the same purpose of the CDBG-DR funding. This is in direct compliance with the Stafford Act that permits the payment of assistance to someone who is or may be entitled to future payments from insurance or another source, "if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance." Agreement language will include the following statement:

"I/We agree to notify DHCD within five (5) business days of any additional or new payments, loans, grants, or awards by HUD, FEMA, the Small Business Administration, the state, or any other entity I/we have not specifically disclosed in this application. Further, I/we understand and acknowledge DHCD or its subrecipient's right and responsibility to enforce this requirement by recapturing all or a portion of the CDBG-DR award if the funds I/we receive are determined to be a duplication of the CDBG-DR benefit I/we are applying for with this application."

If a DOB is discovered, the beneficiary or organization will be required to pay back the CDBG-DR Assistance received within 30 days of receipt of the identified duplicative payment – or as specified in the specific CDBG-DR program policies and procedures.

14 Procurement Policies and Procedures

DHCD's procurement processes are outlined in the [Virginia Public Procurement Act](#). The Act provides a standard outline of the principles, policies, and practices to be used in performing all purchasing procedures as subrecipients of DHCD to ensure compliance with all local, state, and federal laws related to government procurement. In addition to compliance, the Act promotes the ideals of cost effectiveness and open competition. DHCD is committed to maintaining proficient procurement processes that are consistent with the applicable procurement standards identified at 2 CFR 200.318 through 200.327, and 2 CFR 200.214.

When property or services are purchased using funds derived from a Federal grant or agreement (whether direct to the State or "pass-through" from another entity), DHCD is required to and will follow the Federal procurement standards in the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 C.F.R. Sections 200.214 and 200.318 through 200.327.

All DHCD procurement policies as described in this Act apply to Federal purchases as long as they do not conflict with the Federal procurement standards. In the event of a conflict in procurement, DHCD should always follow the more stringent of the requirements based upon Federal, State, and local guidance.

DHCD will ensure that Federal grant requirements do not prohibit the use of previously awarded vendors.

The following additional policies shall apply:

- Independent Cost Estimate (ICE) - The Uniform Guidance requires DHCD (and any subrecipients, where applicable) to prepare an independent cost estimate (ICE) before receiving bids or proposals for any procurements in excess of the simplified acquisition threshold. The ICE supports acquisition planning, comparison of proposed costs/prices, and determination of price reasonableness. There

is no single required format; DHCD and subrecipients must consider the specific facts of each procurement when selecting the method and level of analysis. Records of ICE must be maintained in the procurement/grant file in accordance with applicable record-retention requirements. Reference 2 CFR 200.324. Completion of the ICE form is the responsibility of DHCD and, where applicable, its subrecipients, and it should be retained with other required documents (e.g., Solicitation checklists, Exception forms).

- Equipment - Management and disposition of equipment purchased with funds deriving from Federal grants shall be in accordance with 2 CFR. Section 200.313. Subrecipients seeking to use their CDBG-DR funding to purchase equipment must obtain prior authorization from DHCD. All property acquired must be used for federally authorized purposes until project funding ceases or until the property is no longer needed for the project and shall not be encumbered without approval of the federal awarding agency. Property will be managed and disposed of as follows:
- Property records will be maintained that include a description of all federally funded equipment, a serial number, the source of funding including the Federal Award Identification Number (FAIN), record of title, the date of acquisition, the cost, the percentage of Federal participation in the purchase, the property location, use and condition, and the ultimate disposition of the property. A physical inventory of the property will be taken, and the results reconciled once every two (2) years.
 - DHCD's existing property control system will be utilized to insure against loss, damage, or theft. Provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by non - Federal entities. 2 CFR 200.310.
 - Property authorized for sale shall be sold in a manner ensuring the highest possible return.
 - Surplus property no longer needed for its original purpose may be used for other federally supported activities.
 - DHCD may sell or otherwise dispose of federally funded equipment with a current fair market value under \$5,000 in accordance with its customary surplus property processes.
 - DHCD will request permission from the Federal granting entity prior to disposal of equipment with a current fair market value over \$5,000.
- Suspension and Debarment - DHCD is subject to the debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. Part 180 per 2 CFR 200.213. DHCD may not enter into an agreement for property or services with an entity or person who has been disqualified (suspended or debarred) from participation in Federal programs or activities unless the Federal granting agency grants an exception. DHCD shall take reasonable steps to determine whether any vendor, contractor or consultant is or has been excluded or disqualified from participating in such transaction.

Prior to awarding any bid, DHCD shall check with the System for Award Management (SAM) to ensure that the bidder or subcontractors, if applicable, are not disbarred or suspended from working with federally funded contracts. DHCD shall include a provision in all agreements requiring contractors, vendors, or consultants to comply with Part 180 when entering covered transactions with subcontractors, sub vendors and subconsultants, etc.

- Small Businesses, Veteran- and Minority- and Women- Owned Businesses, and Labor Surplus Area Firms - DHCD does not discriminate on any basis within its procurement and contracting process and encourages the participation of small businesses, veteran-owned businesses, minority owned businesses, women-owned businesses, and labor surplus area firms. DHCD will take constitutionally permissible steps to ensure that these types of businesses and firms are considered.
- Contract Provisions - All contracts or Purchase Orders must contain the applicable provisions required pursuant to Appendix II to Part 200 of the Code of Federal Regulations.

- **Evaluating the Capacity of Potential Subrecipients**

All potential subrecipient capacity will be assessed during the application process. Each applicant will be required to submit the following information to demonstrate adequate capacity to administer CDBG-DR funds:

- A narrative description of their experience administering federal grant funds.
- A narrative explanation of the capacity of the organization to administer the project(s) and oversee all compliance requirements.
- A list of past projects of similar scope and size.
- An organizational chart of key project staff, including a description of their duties and qualifications.
- A copy of the organization's overall budget, including other services, funding sources, general management, and oversight.

Prior to the finalization of any written agreement with a subrecipient, DHCD staff will conduct a risk assessment to evaluate the capacity of potential subrecipients. The risk assessment includes review of the subrecipients most recent independent financial audit completed in accordance with the Generally Accepted Government Auditing Standards (GAGAS).

14.1.1 Procurement When Using CDBG-DR as Non-Federal Match

DHCD will ensure that any potential project requesting CDBG-DR funds as non-federal match will meet the requirements below:

- Project meets a HUD national objective
- Project meets applicable CDBG-DR funding requirements
- CDBG-DR funds are used for the actual costs incurred for the assisted project
- Costs incurred are eligible uses

Any alternative procurement policies and procedures that would be considered for consistency or efficiency would be vetted to ensure the requirements above are still met. If DHCD moves forward with any alternative procurement provisions to accommodate another agency, a written statement justifying the decision for consistency or efficiency will be documented. The written statement will include a verification that all CDBG-DR requirements are still being adhered to.

15 Financial Management

Financial management touches on nearly all phases and aspects of CDBG-DR programs. All costs charged by DHCD, a subrecipient, or contractor must be necessary, reasonable, allowable, and allocable to the CDBG-DR.

Per Universal Notice section III.F.1, Virginia must expend all of its CDBG-DR allocation within six (6) years of the date HUD signs the grant agreement. Virginia will comply with this timeline by using effective accounting, budgeting, and projection procedures. DHCD is tasked with the responsibility of oversight, tracking, and reporting of CDBG-DR obligation and expenditure rates on a monthly and quarterly basis. DHCD will also be responsible for using the DRGR system to track program income receipts, disbursements, and upload of performance reports to the Commonwealth's CDBG-DR webpage.

DHCD has existing financial management procedures and software that includes processes for financial reporting, recordkeeping, accounting systems, payment procedures, and audit requirements. Federal and state grant awards received and administered through DHCD are tracked and managed in the Consolidated Application Management System (CAMS). DHCD currently processes transactions for existing federal programs within CAMS and then submits reimbursement requests. Financial transactions will continue to be managed using CAMS, with the addition of DRGR for tracking and reporting considerations. Unique account codes have been established for handling CDBG-DR funds and expenditure categories, and additional account codes will be added as necessary.

DHCD is responsible for tracking all CDBG-DR expenditures, including activities carried out by DHCD and any subrecipients. Expenditures will be analyzed through a combination of the following methods:

- Comparing budget to actuals
- Tracking timeline milestones and tasks
- Conducting status meetings
- Providing technical assistance
- Reviewing reports from CAMS
- Reviewing reports from the Disaster Recovery Grant Reporting System (DRGR)
- Producing reports for leadership awareness

The specific staff responsible for analyzing grant performance and tracking expenditures will depend on each CDBG-DR program, but accounting protocols have been set up to ensure the segregation of duties and approvals. To provide an appropriate level of management review, DHCD will produce a monthly budget report for CDBG-DR funds.

15.1 Projecting Expenditures

Virginia's Action Plan outlines how its overall CDBG-DR allocation is spread across each expenditure category and planned program. Projections will be developed to ensure that all CDBG-DR funding will be spent within six (6) years of HUD signing the grant agreement. The basis for these initial projections will be a combination of planned programs' start and end dates, application timelines, execution timelines, closeout timelines, input from program managers and subject matter experts, anticipated milestones, and

anticipated costs. DHCD intends on utilizing DRGR's QPRs to actively update projections based on actual spending versus projected spending. Projections will be posted on the DHCD's CDBG-DR webpage to enable HUD and the public to track 'proposed versus actual' performance of each program. DHCD may prepare and submit Action Plan amendments to re-program funding based on evolving projections. All amendments will be prepared per the process outlined in the Action Plan.

15.2 Reallocating Funds

Both DHCD and subrecipient projects or activities are subject to reallocation to other projects, activities, or subrecipients, if any of the following occurs:

- Expenditure rates do not meet, or are not anticipated to meet, quarterly goals, projections, or performance metrics
- Project or activity does not meet a milestone or timeline expectation (project is stalled)
- Anticipated outcomes of a project or activity change
- Unmet needs change
- Information that conflicts with funding caps or criteria is introduced

DHCD program managers will meet monthly to review project and activity reports and identify if any of the above factors are occurring. DHCD may prepare and submit Action Plan amendments to re-program funding after any of the above factors occur. Amendments will be prepared per the process outlined in the Action Plan.

15.3 Pre-Award Costs

"Pre-award costs" are expenses that DHCD may have incurred before the official approval of the CDBG-DR Action Plan and the signing of the grant agreement, which are related to getting the disaster recovery program up and running. HUD allows grantees to be reimbursed for certain eligible costs that happened in this pre-award period, if they are for CDBG-DR eligible activities and the proper procedures are followed. DHCD does not intend to seek reimbursement for pre-award activities.

DHCD does not expect to utilize pre-award cost reimbursement for subrecipients, but we review requests by subrecipients on a case-by-case basis and ensure they conform to Federal requirements.

15.4 Eligible and Ineligible Costs

Refer to 2 CFR 200 Subpart E—Cost Principles for the basic guidelines on eligible costs. The following, not intended to be comprehensive list, are examples of ineligible cost:

- Individuals, homes, or projects not approved as beneficiaries or projects in DHCD's CDBG-DR application;
- Projects that have not received environmental clearance;
- Funds to benefit political campaigns; and
- Funds for costs associated with conduct of government.

If the subrecipient is incurring any special or unusual costs, the subrecipient should seek prior written approval from DHCD. Payments made for costs determined to be unallowable by HUD, DHCD, auditors, the subrecipient's cognizant agency for indirect costs, or any other oversight entity, either as direct or indirect costs, must be refunded (including applicable interest) to the CDBG-DR Program.

Each Program Guideline lists eligible and ineligible costs.

15.5 Indirect Costs

There is no universal rule for classifying certain costs as either direct or indirect under every accounting system⁸. A cost may be direct with respect to some specific service or function, but indirect with respect to the federal award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect (F&A) cost in order to avoid possible double charging of federal awards.

Pursuant to 2 CFR 200.332(a)(4), DHCD will honor an indirect cost rate that has been negotiated between the subrecipient and the federal government, subject to program caps and budget constraints. This established rate is applicable through the end of the grant term in 2031.

Requirements for the development and approval of cost allocation plans and indirect cost proposals are complex. A subrecipient that does not receive more than \$35 million in direct federal funding in a fiscal year may elect to charge a de minimis rate of 10 percent of modified total direct costs (MTDC) which may then be used indefinitely.

MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each Subrecipient Agreement executed by a subrecipient of DHCD (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

Costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both. If a de minimis rate is chosen, this methodology once elected must be used consistently for all federal awards until such time as the subrecipient chooses to or is required to negotiate for a rate.

16 Environmental Review

Environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. Every project undertaken with Federal funds, and all activities associated with such project, are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §4231 et seq., as well as to the HUD environmental review regulations at 24 C.F.R. § 58 on Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities. Per *Universal Notice § VI.C* and *HUD Memo 25-02*

⁸ See Classification of Costs: Direct and Indirect under 2 CFR 200.412

clarifications, DHCD adopts tiered environmental review procedures under 24 CFR Part 58 for similar project types.

16.1 Environmental Review Procedures

Virginia's CDBG-DR conducts an environmental review on every project, prior to issuing a program award to ensure that the proposed activities do not negatively impact the surrounding environment and that the project itself will not have an adverse environmental or health effect on end users. Specifically, 24 C.F.R. § 58.22 limitations on activities pending clearance, prohibits the commitment or expenditure of federal or non-federal funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environmental review. Virginia's CDBG-DR environmental review is subject to guidance outlined in the following:

- Protection of Historic Properties (36 C.F.R. § 800);
- Floodplain Management and Protection of Wetlands (24 C.F.R. § 55, Executive Order 11988 and Executive Order 11990);
- Sections 307 (c) and (d) of the Coastal Zone Management Act of 1972 (CZMA), as amended, (16 U.S.C. § 1456);
- Sole Source Aquifers (40 C.F.R. § 149);
- Interagency Cooperation - Endangered Species Act of 1973, as amended (50 C.F.R. § 402);
- Section 7 (b)(c) of the Wild and Scenic Rivers Act of 1968 (WSRA), as amended, (16 U.S.C. § 1278 - Restrictions on Water Resources Projects);
- Air quality provisions as found in Sections 176 (c) and (d) of the Clean Air Act, as amended, (42 U.S.C. § 7506) and in Title 40 of the Code of Federal Regulations (40 C.F.R. Parts 6, 51, and 93);
- Farmland Protection Policy Act (FPPA) (7 U.S.C. § 4201 et seq., implementing regulations 7 C.F.R. Part 658, of the Agriculture and Food Act of 1981, as amended)
- Noise Abatement and Control (24 C.F.R. §§ 51.100 - 51.106)
- Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature (24 C.F.R. §§ 51.200 - 51.208)
- Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields (24 C.F.R. § 51 §§ 51.300- 51.305)
- Toxic/Hazardous Materials (24 C.F.R. § 58.5(i)(2)(i));
- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Executive Order 12898 signed on 1994).

Environmental clearance must be obtained for each project prior to the commitment of federal or non-federal funds. A violation of this requirement may disallow all costs that were incurred before completion of the environmental review.

Issues identified during the environmental review may be mitigated before or after the construction process, if feasible. Eligible environmental mitigation measures, such as lead based paint, or asbestos abatement may be paid for through HRP. If a condition discovered during the environmental review cannot be cleared within program award caps or schedule constraints, the property may be ineligible for assistance.

During the environmental review, DHCD or its Subrecipients may determine that, due to extraordinary environmental conditions, the site is not feasible for rehabilitation, demolition, or reconstruction. In these cases, the property may be determined ineligible for assistance.

16.2 Tiered Environmental Review

A tiered approach to environmental compliance is used in CDBG-DR. The tiered approach has two (2) parts: the broad environmental review that focuses on a targeted geographic area (the Tier I), and the site-specific review (the Tier II).

Prior to launch of program activities, Tier I reviews will be conducted and analyze and address environmental impacts related to rehabilitation, replacement, reconstruction, and elevation of single-family homes, or other infrastructure and economic development projects throughout eligible areas. A Tier II review will be conducted after the award type is determined for each project, but prior to award signing. The Tier II review will identify those environmental impacts that will vary by site and may only be observed when specific project locations are known, such as but not limited to historic preservation, hazardous materials, noise abatement, asbestos removal, etc.

17 Floodplain and Flood Insurance

Section 582 of the National Flood Insurance Reform Act of 1994, as amended, *supra*, on prohibited flood disaster assistance, prohibits flood disaster assistance in certain circumstances. In general, it provides that no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for rehabilitation, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property. **This means that DHCD may not provide disaster assistance for the repair, replacement, or restoration to a person who has failed to meet these requirements.**

To ensure compliance with Section 582(a) program staff must (1) check to determine whether the applicant at any time received Federal flood disaster assistance that required the applicant to obtain and maintain flood insurance protection for the assisted property in accordance with the requirements of the Federal flood disaster assistance, but failed to do so; and if (1) occurred, (2) that no CDBG-DR funds are used to make a payment (including any loan assistance payment) to the applicant for repair, replacement, or restoration for flood damage to the assisted property in (1). Section 582 of the National Flood Insurance Reform Act mandates that DHCD must inform property owners receiving disaster assistance that triggers the flood insurance purchase requirement that they have a statutory responsibility to notify

any transferee of the requirement to obtain and maintain flood insurance, and that the transferring owner may be liable if he or she fails to do so. The requirement to maintain flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property. A Covenant Agreement shall be executed with DHCD enforcing this requirement prior to receiving disaster assistance. Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) mandates that flood insurance must be purchased for any HUD-assisted property within a Special Flood Hazard Area. Therefore, assisted applicants with structures located in a Special Flood Hazard Area must obtain and maintain flood insurance in the amount and duration prescribed by FEMA's National Flood Insurance Program.

Applicants assisted properties located within a 100-year floodplain must submit proof of flood insurance prior to receiving keys to the assisted property. CDBG-DR activities will also comply with elevation requirements by the floodplain manager for substantial damage/substantial improvement requirements.

DHCD's CDBG-DR programs will follow HUD guidance to ensure all structures, as defined in 44 CFR 59.1, designed principally for residential use, and located in the 1% annual (or 100-year) floodplain, that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined at 24 CFR 55.2(b) (11) and 24 CFR 55.2(b) (5), will be elevated with the lowest floor, including the basement, at least two (2) feet above the Base Flood Elevation (BFE). Elevation certificates will be ordered for construction projects where necessary to comply with HUD's guidance. CDBG-DR will not fund elevation activities as a standalone measure that is not connected to repairing the damage caused by Tropical Storm Helene.

18 Fair Housing and Civil Rights

Subrecipients are required to comply with the requirements of Title 1 Housing and Community Development Act, to include Title VI (Civil Rights Act) and Title VIII (Fair Housing Act). CDBG-DR programs or subrecipients must demonstrate no person is being denied benefit, excluded, or subjected to discrimination under any program funded in whole or in part by federal funds. Program participation must not be based on:

- Race,
- National Origin,
- Religion,
- Color,
- Sex,
- Age,
- Disability (mental and physical), or
- Familiar Status

Civil Rights laws applicable to CDBG-DR program which must adhere to are set forth, but not limited to, the statutes and Executive Orders:

- Title VI of the Civil Rights Act of 1964

- Title VIII of the Civil Rights Acts of 1968, as amended (Fair Housing Act)
- Section 3, of the Housing and Urban Development Act of 1968, as amended
- Section 504 of the Rehabilitation Act of 1973, as amended and Section 508
- The Age Discrimination Act of 1975, as amended
- Equal Access to Housing in HUD programs § 5.105 (a)(2) (i-ii)
- Americans with Disabilities Act (ADA)
- Architectural Barriers Act of 1968

CDBG-DR programs and subrecipients must assure all CDBG-DR funded activities are conducted in a manner that ensures equal opportunity and access to all persons in accordance with civil rights, equal opportunity, and affirmative action laws, regulations, and requirements. Programs and Subrecipient must also have written policies in place to promote fair and equal access to housing and employment opportunities for Section 3 residents, minority, and female-owned businesses. Documentation must be available to ensure Historically Underutilized Businesses (HUBs) are informed of contract opportunities whenever they are a potential resource.

Individual CDBG-DR Program and Subrecipients must publish notices regarding Complaint Procedures, Section 504, AFFH and all rights and responsibilities associated with federal grant funding received.

Initial Civil Rights notices should be provided to DHCD at project start-up once the executed Subrecipient Contract with DHCD is received. The subrecipient must publicize in one of three ways:

- Newspaper advertisement* (documented with tear sheet/full-page advertisement/photocopy with publisher's identification and date/publisher's affidavit),
- Public posting at both the city hall/courthouse and at least one location within the target area (documented with affidavit of posting and copy of the notice), or
- Public posting in courthouse/city hall and on subrecipient's website during the term of the contract (documented with affidavit of posting and copy of the notice as well as screen shots of the posting).

18.1 Section 504

Programs and Subrecipients must operate their CDBG-DR activities in compliance with Section 504 requirements (24 CFR 8.50(a)). Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in federally assisted programs based on disability and imposes requirements to ensure that qualified individuals with disabilities have access to programs and activities that receive federal funds.

18.2 Section 3 of the HUD Act of 1968 (Compliance Requirements)

Section 3 of the Housing and Urban Development Act of 1968, as amended, requires subrecipient to ensure that training, employment, and other economic opportunities generated by certain HUD financial assistance shall be directed, to the greatest extent feasible, and consistent with existing federal, state and local laws and regulations, to low- and very low-income persons. Section 3 regulations do not mean

subrecipients or contractors are required to hire Section 3 residents or award contracts to Section 3 businesses. Subrecipients must comply with statutory requirements on procurement and competitive bidding.

Section 3 compliance is applicable when CDBG-DR assistance exceeds \$200,000 for projects that involve the construction or rehabilitation of housing or other public construction, such as street repair, sewage line repair or installation, and updates to building facades. Covered projects include:

- Housing Rehabilitation (to include reduction of lead-based paint hazards, and demolition);
- Housing Construction (to include reduction of lead-based paint hazards and demolition);
- Public Infrastructure (e.g., street repair, sewage line repair or installation, updates to building facades, etc.); and
- Public Facilities and Park Improvements.

Subrecipient and contractors may demonstrate compliance with Section 3 by meeting HUD's numeric benchmarks for labor hours, or by reporting qualitative efforts showing their attempts at encouraging Section 3 participation. DHCD staff will examine the subrecipient's efforts and provide technical assistance as necessary.

The numeric benchmarks for 24 CFR 75 are:

- 25% of all labor hours reported for each project are performed by Section 3 workers
- 5% of all labor hours reported for each project are performed by Targeted Section 3 workers

If the subrecipient or contractor does not meet these numerical benchmarks, they must demonstrate and provide evidence of the qualitative efforts they have made to achieve them.

Subrecipients are required to maintain documentation and report labor hours and any qualitative efforts attempted to the GLO-CDR on a quarterly basis.

The following employment items are required to be reported to show Section 3 compliance (24 CFR 75):

- Total labor hours worked during reporting period.
- Total labor hours worked by Section 3 workers during reporting period.
- Total labor hours worked by Targeted Section 3 workers during reporting period.

19 Citizen Participation

The requirements with respect to citizen participation have been waived for disaster assistance and replaced with alternate requirements. Refer to the relevant Federal Register Notice for information about the applicable waivers as discuss in the Federal Register Notices section of this document, as well as 24 CFR 91.115 or 91.105 (except as provided for in waivers and alternative requirements). The citizen participation waiver and alternative requirements permit a more streamlined public process, but one that still provides for reasonable public notice, appraisal, examination, and comment on the activities proposed for the use of CDBG-DR project funds.

DHCD has determined applicable citizen participation requirements for programs and/or projects through its Citizen Participation Plan. This plan satisfies the requirements of 24 CFR 570.486 (except as provided for in waivers and alternative requirements). Subrecipients should reference DHCD's Citizen Participation Plan, individual program NOFAs and/or program guidelines, policies and procedures for further guidance.

19.1 Accessible Communication

As prescribed by the Americans with Disabilities Act (ADA), DHCD and its Subrecipients will provide accommodations during outreach, intake, and applications processes for persons with disabilities such as holding meetings in accessible buildings, providing a sign language or language interpreter, and/or providing special devices for the visually impaired, when requested. Every effort will be made to assist such applicants during the entirety of their program participation. DHCD will offer all outreach materials in English, as well as other languages prevailing in the region in accordance with Title VI of the Civil Rights Act of 1964 and other fair housing and civil rights requirements (e.g., the effective communication requirements under the ADA, codified at 24 CFR §8.6.). DHCD will include the Fair Housing logo on all marketing materials.

19.2 Maintaining a Comprehensive Website

DHCD created and maintains a separate webpage dedicated to its disaster recovery activities assisted with CDBG-DR funds. The link to the webpage can be found here: <https://www.dhcd.virginia.gov/cdbg-dr>.

To ensure the webpage can be easily accessed, there are also several links on DHCD's Home Page directing users to the CDBG-DR site.

20 Conflict of Interest

DHCD will carry out CDBG-DR activities and programs in compliance with 24 CFR 570.611 and 2 CFR 200.318 regarding conflict of interest. No DHCD employee shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his/her duties in the public interest (per [Virginia State and Local Conflict of Interest Act](#)). It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office is not used for private gain other than the remuneration provided by law (per Virginia Code § 2.2-3103. Prohibited conduct).

A conflict of interest is a situation in which any person who is a public servant, employee, agent, consultant, officer, or elected official or appointed official of DHCD, or of any designated public agencies, or of subrecipients that are receiving funds under the CDBG-DR Program (collectively, "Public Servant") may obtain a financial or personal interest or benefit that is or could be reasonably incompatible with the public interest, either for themselves or a member of their family during their tenure. CDBG-DR programs must avoid, neutralize, or mitigate actual or potential conflicts of interest to prevent an unfair competitive advantage or the existence of conflicting roles that might impair the performance of the Subrecipient Agreement or impact the integrity of the procurement process.

For purposes of this section, “family” is defined to include parents (including mother-in-law and father-in-law), grandparents, siblings (including sister-in-law and brother-in-law), and children of an official covered under the CDBG conflict of interest regulations at 24.CFR.570.489(h).

No public servant shall intervene, either directly or indirectly, in any matter in which they have a conflict of interest that may result in their benefit. No public servant shall intervene, directly or indirectly, in any matter in which any member of their family unit, relative, partner or housemate has a conflict of interest that may result in benefit for any of the aforementioned.

The above conflict of interest statement does not necessarily preclude DHCD or its Program officials/subrecipients, their employees, agents and/or designees, or family members from receiving CDBG-DR assistance. On a case-by-case basis, DHCD or its subrecipients, their employees, agents and/or designees, or family members may still be eligible to apply and to receive CDBG-DR assistance if the applicant meets all Program eligibility criteria as stated in these guidelines and it is determined that a conflict of interest does not exist.

For the procurement of goods and services, no employee, officer, or agent of subrecipients may participate in the selection, award, or administration of a vendor contract supported by a federal award if he/she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, agent, any member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in a tangible personal benefit from a firm considered for a vendor contract⁹.

Applicants must disclose their relationship with any public servant(s) at the time of their application, if applicable. Any relationship reported between an applicant and public servant will be evaluated by DHCD to determine if said relationship constitutes a conflict of interest as outlined in HUD conflict of interest requirements to determine if the relationship between the applicant and the public servant(s) constitutes a conflict of interest, the applicant may not receive benefit under the CDBG-DR program.

21 Displacement of Persons and or Entities

Displaced people, regardless of income, can receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“URA” or “Uniform Relocation Act”). URA applies to both temporary (during construction activities) and permanent (one year or greater) displacement. However, displacement due to the Virginia’s CDBG-DR HRP will always be temporary in nature.

Subrecipients must minimize the displacement of individuals, families, businesses, organizations, and farms to the greatest extent possible. This includes direct displacement resulting from real property rehabilitation, demolition or conversion, and any indirect displacement. Subrecipients must certify that displacement will be minimized while using CDBG-DR funds and that a Residential Anti-Displacement and Relocation Assistance Plan, which includes a one-for-one replacement provision, will be followed. This assistance must be provided on an equitable basis.

⁹ Per 24 CFR 570.489(g) and 2 CFR 200.318(c)(1))

22 Complaints

Any subrecipients must have a clear process for receiving complaints. This process must be posted online and included in program materials. Citizens may submit a complaint to the subrecipient or DHCD at any time. In accordance with guidance outlined in the Universal Notice, DHCD CDBG-DR or subrecipient staff will provide a timely written response to every written citizen complaint. Complaints will be addressed within fifteen (15) working days of receipt when practicable. If a complaint cannot be addressed within fifteen (15) working days, Program staff will notify the complainant of the need for additional time and an estimated resolution/response timeframe.

Although formal complaints must be submitted in writing, informal complaints may also be received verbally and by other means necessary, as applicable, when it is determined that the citizen’s particular circumstances do not allow the complainant to submit a written complaint.

Persons who wish to submit complaints related to any of the CDBG-DR funded programs may do so through any of the following avenues:

Table 5: Complaint Categories and Submission Procedures

Complaint Type	Submit to:
Formal Written Complaint	Email: cdbg-dr@dhcd.virginia.gov OR Address: CDBG-DR Program 600 E. Main Street, Suite 300 Richmond, VA 23219
Informal Verbal Complaint	Telephone: (804) 371-7000 OR In Person: CDBG-DR Program 600 E. Main Street, Suite 300 Richmond, VA 23219

23 Appeals

Applicants who wish to contest a determination may request an initial appeal directly with the Program by submitting a written request via electronic or postal mail within thirty (30) calendar days from the date of the determination being contested. Any DHCD subrecipients must provide applicants with information on how to appeal a determination at the time of application.

Applicants may request an appeal to contest any of the following:

- Eligibility determination
- Duplication of Benefits Gap determination
- Award Type Determination

- Program Scope of Work
- Recapture Amount

Person applying through a DHCD subrecipient must submit their initial appeal through the subrecipient. Persons who wish to request an initial appeal related to CDBG-DR funding may do so through any of the following avenues:

- The subrecipient – entity that you applied to.
- Via Email: cdbg-dr@dhcd.virginia.gov
- In Writing:

CDBG-DR Program
600 E. Main Street Ste. 300
Richmond, VA 23219

Appellants are encouraged to provide individual facts or circumstances, as well as supporting documents to justify their petition. In adjudication of the appeal, DHCD and/or its Subrecipients will only review facts and information already included in an Applicant's file, unless the Applicant submits new documentation. DHCD and/or its Subrecipients has the discretion to accept or reject new documentation based upon its relevance to the appeal.

DHCD or subrecipient staff will conduct an initial review and make a determination using the request and supporting information submitted by the applicant.

When practicable, the determination will be made within **fifteen (15)** business days. Appellants will be notified in writing through electronic or postal mail of the determination made on their initial appeal via an Initial Appeal Determination Notification.

Program requirements dictated by law and or required by HUD may not be waived or abrogated.

24 Labor Standards and Davis-Bacon

The Office of Davis-Bacon and Labor Standards (DBLS) is responsible for HUD's overall compliance with the federal prevailing wage requirements applicable to HUD funded CDBG programs. Title I of the Housing and Community Development Act of 1974 requires the payment of local prevailing wage rates (which are determined by the U.S. Department of Labor) to all workers on **CDBG funded construction projects in excess of \$2,000**. (42 USC §5310; 40 USC 3142(d)). Davis-Bacon also applies to residential construction which consists of projects to construction, alteration, or repair **involving eight or more separate, contiguous single-family houses** operated by a single entity as a single project or eight or more units in a single structure.

Activities financed by CDBG-DR that are not "construction work" do not trigger Davis-Bacon requirements. However, Davis-Bacon requirements do apply to the **entire** construction contract, even if CDBG funds finance only a **portion** of a construction contract.

By executing the CDBG-DR Subrecipient Agreement, a subrecipient agrees to administer and enforce all Davis-Bacon labor standards requirements.

DHCD will follow its Labor Standards and Davis-Bacon policies and procedures in the administration of the CDBG-DR program.

25 Force Account Labor

Force account labor is defined by the Internal Revenue Service as labor classified as professional services, construction, rehabilitation, repair, or demolition performed by municipal or DHCD employees.

Force account occurs when DHCD or a subrecipient (e.g. city or county) decides to perform specific duties using its own employees or equipment to perform CDBG-DR project related work, as opposed to using a contractor or vendor to complete those services. Force account may be used for services including construction, inspection, administration, project delivery, engineering, or other professional services. For example, a locality may procure a contractor to replace storm-damaged sewer lines but may choose to make the necessary post-construction street repairs using force account labor and equipment.

If eligible and properly documented, force account work may be reimbursable from DHCD or subrecipient city's CDBG-DR project budget. The proposed use of force account labor is usually identified during the application or program design phase. If a decision to use force account is made after the application phase, the subrecipient city must notify the DHCD grant manager in writing before associated activities are underway. DHCD may request additional documentation to ensure the use of force account is aligned with the approved budget, schedule, and scope of work.

To be eligible for force account reimbursement, DHCD or subrecipient city must document that the employee is on DHCD or subrecipient city's payroll records as either a regular or temporary employee. Status may also be documented through W-2 Wage and tax statements.

When using local employees, DHCD or subrecipient must assure, at a minimum, the following:

- There are written personnel and employment policies that include specifically prohibited discriminatory practices;
- Conflict of Interest provisions are in place and enforced;
- EEO guidelines are followed in advertising for new employees; and
- All contract provisions are in compliance with Fair Labor Standards.

A cost-benefit analysis should be conducted to determine if the type of labor, the proposed scope of work, and the project description is better accomplished by procuring an outside, dedicated labor force. The completed cost-benefit analysis must be maintained in the local project file.

In addition to force account construction work, subrecipient may utilize local employees to administer and/or engineer their CDBG-DR funded projects. A cost benefit analysis should also be completed for these job duties before proceeding with using force account labor to complete these activities and be available in the local file for review upon request by DHCD.

Force account work is not subject to Davis-Bacon and Related Acts wage requirements. Governmental agencies and states or their political subdivisions are not considered "contractors" or "subcontractors" within the meaning of the Davis-Bacon and Related Acts. Subrecipient must continue to pay the

employees their regular wages and benefits [HUD Handbook 1344.1]. Documentation of accurate payrolls is required for CDBG-DR reimbursement. However, any part of the work not performed using force account labor but contracted out may be subject to Davis-Bacon and Related Acts (DBRA) and Contract Work Hours and Safety Standards Act (CWHSSA).

CFR Part 200, Subpart E, establishes the Cost Principles for federally funded or federally assisted projects. Only actual expenditures incurred by the subrecipient as a result of the CDBG-DR project are considered allowable costs. This applies whether these costs are being reimbursed with CDBG-DR funds or paid by other funds. These costs may include labor, materials, equipment, and other services required to implement the CDBG-DR award.

THE SUBRECIPIENT MUST MAINTAIN DOCUMENTATION IN THE LOCAL FILES TO SUPPORT FORCE ACCOUNT COSTS. EXAMPLES OF SUPPORTING DOCUMENTATION INCLUDE TIMESHEETS, PAYROLL DATA, AND GLO PERSONNEL AND EQUIPMENT COST CALCULATION FORMS.

26 Audit Requirements

One of the primary financial management requirements implicit with the use of federal funds pertains to audits. There are both federal and state requirements for audits. Subpart F of 2 CFR 200 provide the federal requirements for audits of governmental entities and nonprofit organizations. Failure to comply with both audit requirements can jeopardize the subrecipient's ability to draw grant funds and to receive future grants.

As defined in 2 CFR 200 Subpart F any non-federal entity expending \$1,000,000 or more in federal Awards for audits of fiscal years beginning on or after October 1, 2024, must have a single audit conducted annually. Single audits must be conducted in accordance with 2 CFR 200.514 unless it elects to have a program-specific audit. It is the responsibility of each subrecipient to ensure that a Single Audit or Program Specific Audit, if required, is uploaded to the Federal Audit Clearinghouse (FAC) database as detailed in 2 CFR 200.512 and provided to DHCD. The FAC is operated on behalf of the Office of Management and Budget and can be accessed through the following website: <https://www.fac.gov/>.

Audit information is required to be submitted annually to DHCD due within 60 days after the end of the fiscal year during which the subrecipient has an open Subrecipient Agreement. If additional clarification is needed by DHCD from the subrecipient a written request may be sent to the subrecipient and its representatives requesting additional information. DHCD reserves the right to take action and impose remedies for noncompliance related to delinquent submissions as allowed in 2 CFR 200.339, "Remedies for Noncompliance." Delinquent audit items can cause delays with draws, closeout, and other requests at DHCD's discretion.

27 Fraud, Waste and Abuse

DHCD is committed to the responsible management of CDBG-DR funds by being a good advocate of resources while maintaining a comprehensive policy for preventing, detecting, reporting, and rectifying fraud, waste, abuse, or mismanagement.

Pursuant to Universal Notice, DHCD implements adequate measures to create awareness and prevent fraud, waste, abuse, or mismanagement among other irregularities in all programs administered with CDBG-DR funds as well as encourages any individual who is aware or suspects any kind of conduct or activity that may be considered an act of fraud, waste, abuse, or mismanagement, regarding the CDBG-DR Program, to report such acts to the Virginia [State Fraud Waste and Abuse Hotline](#), directly to the Office of Inspector General (OIG) at HUD, or any local or federal law enforcement agency.

27.1 Fraud

Fraud is the intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him/herself or some other person. Examples include, but are not limited to, the following:

- Falsification of information in applications, contracts, or procurement processes.
- Billing for services not rendered.
- Duplication of payments.
- Alteration of documents or forgery.
- Impropriety with respect to reporting financial transactions.
- Destruction or concealment of records or assets.
- Concealing access to duplicate funding.

27.2 Waste

Waste is the thoughtless or careless expenditure and/or mishandling of resources to the detriment of the CDBG-DR Program and Virginian communities. Examples include, but are not limited to, the following:

- Purchasing unnecessary goods or services.
- Purchasing a good or service without regard to cost.
- Incurring unnecessary costs due to inefficient processes.
- Incurring unnecessary costs due to ineffective practices.

27.3 Abuse

Abuse is the excessive or improper use of resources. Examples include, but are not limited to, the following:

- Making procurement decisions that are contrary to the Purchasing Policies and Procedures Manual.

- Using one's position for personal gain or to take advantage over another individual.
- Creating unnecessary overtime or the falsification of hours.
- Receiving favor for awarding contracts to certain vendors.
- Using funding for things other than intended.

27.4 Detection

DHCD will periodically evaluate the exposure to risk or threat of fraud to be able to identify schemes or events that need to be prevented to mitigate the risks. As projects and activities are developed risk or threat of fraud may be studied through various mechanisms such as but not limited to conducting interviews with key employees (i.e., those who have access or custody of documents and sensitive information), surveys, anonymous feedback mechanisms, among other qualitative and quantitative factors.

27.5 Verifying the Accuracy of Applicant Information

Program area policies will establish standards for the management of information and documents, including standards for verifying the accuracy of information provided by applicants. However, all program area policies will gather eligibility documentation from third parties whenever possible. As applicable, depending on the program being applied for, DHCD will pursue verification documentation from applicants, which may include, but is not limited to, documentation from:

- Employers
- Social Security Administration
- Banks
- Property Appraiser
- Insurance Companies
- FEMA
- Small Business Administration (SBA)
- National Flood Insurance Program (NFIP)
- Private and nonprofit organizations

At a minimum, each applicant file must include signed certification and fraud acknowledgements, completed file checklists documenting items required and submitted, and detailed case notes. The workflow of each program area will be designed in such a manner that one individual's roles and responsibilities serve as a check and balance of another individual's work. DHCD will review the quality and effectiveness of the processes implemented in each program area. Compliance reviews will assess adequate separation of duties, correct any documentation deficiencies or data mismatches, and ensure that all agreements with applicants, beneficiaries, or contractors include the following statement:

"Warning: Any person who knowingly makes a false claim or statement to HUD or causes another to do so may be subject to civil or criminal penalties under 18 U.S.C. 2, 287, 1001 and 31 U.S.C. 3729."

Additionally, all applicants will be required to sign, at the time of application, an affidavit as follows:

“PENALTY FOR FALSE OR FRAUDULENT STATEMENT: U.S.C. Title 18, Sec. 1001, provides:

"Whoever, in any matter, within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies . . . or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

The effectiveness of internal controls will also help DHCD in its evaluation and detection of possible inherent risks of fraud and its probability of occurrence. Maintaining effective internal controls help to identify individuals or divisions that are at higher risk for acts of fraud, waste, abuse, or mismanagement and which methods are most likely to be used to perform such illegal activities.

27.6 Evaluating the Capacity of Potential Subrecipients

All potential subrecipient capacity will be assessed during the application process (typically in the form of a *Notice of Funding Availability*). Each subrecipient applicant will be required to submit the following information to demonstrate adequate capacity to administer CDBG-DR funds:

- A narrative description of their experience administering federal grant funds.
- A narrative explanation of the capacity of the organization to administer the project(s) and oversee all compliance requirements.
- A list of past projects of similar scope and size.
- An organizational chart of key project staff, including a description of their duties and qualifications.
- A copy of the organization’s overall budget, including other services, funding sources, general management, and oversight.

Prior to the finalization of any written agreement with a subrecipient, DHCD staff will conduct a risk assessment to evaluate the capacity of potential subrecipients. The risk assessment includes review of the subrecipients most recent independent financial audit completed in accordance with the Generally Accepted Government Auditing Standards (GAGAS).

27.7 Reporting Fraud

Any allegations of fraud, waste, abuse, or mismanagement related to CDBG-DR funds or resources must be reported to [DHCD Department?], directly to the Office of the Inspector General (OIG) at HUD, or any local or federal law enforcement agency. DHCD will forward all substantiated cases of fraud, waste, or abuse of CDBG-DR funding to HUD OIG.

While reporting acts of fraud, waste, abuse, or mismanagement, the complainant may choose to remain anonymous or request that their contact information remains confidential pursuant to the [Fraud and Abuse Whistle Blower Protection Act](#). Any person, including any employee of the CDBG-DR Program, who suspects, witnesses, or discovers any fraud, waste, abuse, or mismanagement, relating to the CDBG-DR

Program, should report it immediately to the Office of the State Inspector General by any of the following means:

REPORTING FRAUD, WASTE AND ABUSE

Mail: Office of the State Inspector General

James Monroe Building

P.O. Box 1151

Richmond, VA 23218

Phone: (800) 723-1615

Online Submission: <https://www.osig.virginia.gov/complaint-forms/hotline-complaint-form/>

Allegations of fraud, waste or abuse can also be reported directly to the HUD OIG by any of the following means:

REPORTING FRAUD, WASTE AND ABUSE

HUD OIG Hotline: 1-800-347-3735 (Toll-Free); 787-766-5868 (Spanish)

Mail: HUD Office of Inspector General (OIG) Hotline 451 7th Street SW, Washington, D.C. 20410

Email: HOTLINE@hudoig.gov

Internet: <https://www.hudoig.gov/hotline>

27.8 Investigating Fraud

An investigation will be conducted if the allegations are made in connection with the services provided by program or subrecipients using CDBG-DR funds. Upon receiving an allegation of fraud, waste, abuse, or mismanagement through any of the reporting means stated previously in this document, DHCD will analyze the complaint in conjunction with the CDBG-DR Internal Audit Office. DHCD will immediately:

- Notify the subrecipient or program manager of the allegation and advise that DHCD will conduct an investigation and issue a report; or
- Advise the subrecipient or program manager that it must conduct a preliminary investigation and submit a written report within seven (7) working days from the date of notification.

The report must include:

- › Nature of the allegation, dollar amount involved, whether a fidelity bond exists and its dollar coverage;
- › Who is involved (e.g., individual(s) accused of fraud), subrecipient's name, names of the subrecipient's council/commission, and the subrecipient's chief elected officer;
- › When the allegations were made;
- › Time period involved;
- › Where the incident occurred; and
- › How the alleged incident occurred.

DHCD compliance staff will review the report and make a determination as to whether further investigation is warranted. If it is determined that further investigation is warranted, DHCD will conduct a full investigation of the allegations and may recommend withholding payments to the subrecipient, pending completion of the investigation. The scope of the investigation will be determined by the facts surrounding the incident.

Upon completion of the investigation DHCD will, at a minimum, complete the following tasks:

- Prepare an Incident Report that includes all findings and any initial corrective action taken to date;
- Prepare a plan for corrective action, debt collection, and a plan for prosecution, if applicable;
- Cause a claim against the fidelity bond to be filed, if applicable;
- Proceed with the resolution process on any costs which are questioned as a result of the investigation;
- Conduct a follow-up visit to ensure that corrective action has been implemented; and
- Initiate debt collection procedures with the subrecipient, as applicable.

If allegations arise in connection with statements provided by an applicant homeowner using CDBG-DR funds, DHCD will immediately place the individual application on "hold" until an investigation is completed.

For CDBG-DR funded programs it is important that eligible beneficiaries are assisted, even if they have experienced contractor or other fraud. Program staff will evaluate each beneficiary's unmet need and determine the most appropriate amount of assistance to be provided. If the beneficiary is eligible for additional assistance as a result of fraudulent activity and the creation of remaining unmet need, the file will be documented accordingly, and the correct amount of assistance will be provided. Program area procedures will document the specific process, funding caps, and eligibility criteria to assist a CDBG-DR beneficiary if the beneficiary has experienced contractor or other fraud.

28 Excessive Force Policy

In its CDBG-DR Action Plan, DHCD certified that it has adopted and is enforcing the following policies. In addition, State grantees must certify that they will require local governments that receive their grant funds to certify that they have adopted and are enforcing:

- 1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and
- 2) A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

Subrecipients utilizing CDBG-DR funding must also adopt an excessive force policy that prohibits the use of excessive force against non-violent civil rights demonstrations. When subrecipients sign their Subrecipient Contract, they certify that they will pass and enforce such policies.

29 Uniform Relocation Act (URA) and Section 104(d)

As a HUD-assisted program, and in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (**URA**), 42 U.S.C. § 4601 et seq., and the government wide implementing regulations found at 49 C.F.R. part 24, all programs in the DHCD CDBG-DR recovery portfolio are subject to URA regulations.

The purpose of the URA is:

- To ensure owners of real property acquired for federal and federally assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in federal and federally assisted land acquisition programs;
- To ensure persons displaced as a direct result of federal or federally assisted projects are treated fairly, consistently, and equitably and do not suffer disproportionate injuries as a result of projects that benefit the public; and
- To ensure acquiring/condemning authorities implement these regulations in an efficient and cost-effective manner.

The URA is triggered when real property acquisition is contemplated, or persons are displaced as a direct result of acquisition, demolition, and rehabilitation at any phase of a federally funded project. Specifically, 24 CFR 570.606(e) requires that acquisition of real property for a CDBG-DR funded activity or series of activities (including CDBG-DR funded acquisition itself) must comply with the URA real property acquisition requirements at 49 CFR Part 24, Subpart B. Additionally, persons displaced because of the acquisition may become eligible to receive relocation assistance.

Owner/Occupant-Applicants who must relocate from their hurricane-impacted property temporarily for construction activities associated with acceptance of a repair, reconstruction or replacement award are not considered displaced persons, (see 49 C.F.R § 24.2(a)(9)(ii)(E) or (H)) and as such, are not entitled to relocation assistance benefits under URA.

However, lawful tenants of program-assisted properties who must relocate due to program-sponsored construction activities may be considered displaced persons by URA regulations and may be eligible for URA relocation assistance benefits.

The Section 104(d) One-for-One Replacement of lower-income dwelling units are waived under CDBG-DR for owner-occupied lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. This waiver does not apply to tenant-occupied and vacant occupiable lower-income dwelling units demolished or converted to another use other than lower-income housing in connection with a CDBG-DR assisted activity, which are generally subject to one-for-one replacement requirements. Under Section 104(d) eligible displaced persons may choose either section 104(d) relocation assistance or URA relocation assistance. A waiver for CDBG-DR eliminates the persons' choice and limits the available relocation assistance to the amounts and types of assistance for displaced persons under the URA, as may be modified by the waivers and alternative requirements.

Acquisition of real property may be necessary as an activity within an infrastructure program, economic revitalization or a housing program. DHCD has guidelines for each of these programs that will outline the requirements for acquisition and relocation.

29.1.1 Displacement of Persons and or Entities

Displaced people, regardless of income, can receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“URA” or “Uniform Relocation Act”). URA applies to both temporary (during construction activities) and permanent (one year or greater) displacement. However, displacement due to the DHCD’s CDBG-DR program should be temporary in nature. DHCD will keep records for each displaced person or entity by the CDBG-DR program.

DHCD established a Residential Anti-displacement and Relocation Assistance Plan (RARAP) to minimize displacement, provide assistance to displaced individuals, and help meet the disability-related needs of the displaced. The RARAP emphasizes DHCD’s commitment to planning construction activities that allow tenants to remain in their dwellings as long as possible, prioritizing the rehabilitation of empty units or buildings, and prioritizing the rehabilitation of housing rather than demolition to avoid displacement.

For additional information on DHCD’s Uniform Relocation Act policies and procedures, see the CDBG-DR Program Relocation Procedure.

30 Exceptions to Program Policies

The Program Guidelines set forth the policy governing the CDBG-DR program and approved Standard Operating Procedures (SOP) set forth the procedures by which policy will be enacted. The Guidelines and the SOPs are intended to guide program activities and enforce compliance with applicable federal regulations. While Program Guidelines and SOPs govern the CDBG-DR program, neither should be considered exhaustive instructions for every potential scenario that may be encountered. At times, exception to program policies and/or procedures may be warranted. All exception requests are reviewed and adjudicated on a case-by-case basis as need arises, at the sole discretion of DHCD. Exceptions may be granted to program policy or process. However, exceptions to federal regulations, laws, or statutes shall not be authorized.