



CDBG-DR

**Public Infrastructure and
Storm Water Management**

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1 VERSION HISTORY AND POLICY

The version history of the policy manual is tracked in the table below, with notes for each change. The dates of each publication also are tracked in the table.

The Commonwealth of Kentucky will publish updated versions of this policy manual as needed, which will include all substantial and non-substantial changes made. Substantial changes are major policy changes that affect grant management, project implementation, and responsibilities. Non-substantial changes are minor editing or clarifications of existing policy that do not affect the interpretation or applicability of the policy.

Substantial changes will be summarized in a policy memo to grantees on an annual basis. The updated policy manual will be assigned a new primary version number, such as 2.0, 3.0, and so forth.

Amendments made to policy may go into effect on the date of the revision or may be applied retroactively. Whether a policy will be applied proactively or retroactively will be detailed in the version history below and/or within the relevant program sections.

Version No.	Date Revised	Key Revisions
1.0	March 2023	Original Kentucky CDBG-DR Infrastructure and Storm Water Management Policy Manual

2 PROGRAM OVERVIEW

2.1 Introduction

In alignment with the Commonwealth of Kentucky’s comprehensive approach to resilient recovery from 2021 Severe Storms, Flooding, Landslides, and Mudslides (DR-4595)¹ and 2021 Severe Storms, Straight-line Winds, Flooding, and Tornadoes (DR-4630),² the Commonwealth is launching the Community Development Block Grant–Disaster Recovery (CDBG-DR) Public Infrastructure and Stormwater Management Program (PISM) to support communities in replacing and rebuilding what was damaged or lost during the disaster events, as well as implement mitigation measures. PISM will award competitive grants to impacted jurisdictions throughout the Commonwealth to complete recovery activities, including improvements to community water and sewer systems and mitigation activities, such as stormwater management systems, both engineered and nature-based.

CDBG-DR funds appropriated by the United States Congress for recovery from DR-4595 and DR-4630 are the primary funding source for PISM. CDBG-DR grants are allocated to States and local jurisdictions by the U.S. Department of Housing and Urban Development (HUD) and are intended to address “unmet needs” not satisfied by other federal and local recovery resources.

The purpose of this policy manual is to provide the overall objectives and process by which the Department of Local Government (DLG) will award CDBG-DR funds to eligible local government entities to prioritize projects that provide the essential public infrastructure in low- to moderate-income (LMI) and socially vulnerable communities; protect life and property; and address the needs of members of protected classes, HUD-identified vulnerable populations, and historically underserved communities.

2.2 Program Description

The Public Infrastructure and Stormwater Management Program is a competitive grant program that provides funding for unmet recovery and mitigation needs for public infrastructure projects that will help eligible impacted jurisdictions within HUD-identified and State-identified “most impacted and distressed” (MID) areas become more resilient to current and future flood-related natural hazards. Eligible applicants will be responsible for the implementation, operation, and maintenance of awarded projects and will be funded on a cost reimbursement basis.

¹ Federal Emergency Management Agency. (2021). DR-4595: Kentucky Severe, Storms, Flooding, Landslides, and Mudslides. Retrieved from <https://www.fema.gov/disaster/4595>

² Federal Emergency Management Agency. (2021). DR-4630: Kentucky Severe Storms, Straight-line Winds, Flooding, and Tornadoes. Retrieved from <https://www.fema.gov/disaster/4630>

The goal of PISM is to provide a resilient recovery by:

- Reducing or eliminating long-term risk of loss of life, injury, and damage from future events.
- Recovering from the impacts of disasters.
- Protecting publicly funded recovery investments in impacted communities.

Applications will be accepted during the established application window. After the deadline, applications will be reviewed and selected by the Commonwealth. Proposals not awarded funds through the initial round may have an opportunity to reapply for a subsequent round, pending availability. HUD guidelines require that all CDBG-DR funding allocated through this grant is disbursed within 6 years unless HUD grants an extension. To ensure that projects funded through PISM are completed in a timely manner, applicants must propose projects that can be completed within a 3-year period of performance. Proposals must include a detailed project timeline demonstrating completion within the 3-year timeframe.

2.3 Program Objectives

This program is designed to promote sound, sustainable long-term recovery and projects that account for the unique hazards, opportunities, and land use restrictions; underserved communities; and disaster impacts within Kentucky's impacted communities.

Approved projects will consider how to mitigate, eliminate, or reduce loss of life or property with respect to the natural hazards identified in the Mitigation Needs Assessment. Applicants will be asked to describe how the proposed project aligns with local or regional hazard mitigation plans and strategies. DLG seeks to fund projects that meet most or all of the following criteria:

- The project addresses a disaster-related impact, particularly recovery from a disaster that incorporates features that mitigate future disaster risk.
- The project can be feasibly implemented as designed.
- The project protects and benefits the public, members of protected classes, HUD-identified vulnerable populations, and historically underserved communities from hazard risks.
- The project mitigates natural hazard risks to critical structures, facilities, and systems, particularly community lifelines, including safety and security; food, water, and shelter; health and medical; energy; communications; transportation; and hazardous materials.
- The project incorporates nature-based solutions.
- The applicant can demonstrate the ability to operate and maintain the project throughout the course of its anticipated useful life.
- The project promotes resiliency through ancillary benefits (social, environmental, and economic benefits).
- The project considers climate change and future conditions.
- The project leverages federal, State, and local partnerships and funding sources.
- The project proposal was developed through engagement with affected communities.
- The cost of the project is reasonable.

2.4 Funding Sources

A disaster was presidentially declared in February 2022 for the 2021 severe storms, flooding, landslides, and mudslides (DR-4595) and the 2021 severe storms, straight-line winds, flooding, and tornadoes (DR-4630). HUD announced that the Commonwealth of Kentucky would receive \$74,953,000 to support long-term recovery and mitigation efforts following the 2021 severe storms (DR-4595 and DR-4630) through publication in the Federal Register (FR) (87 FR 6326, May 24, 2022).³ This allocation was made available through the Disaster Relief Supplemental Appropriations Act of 2022 (the Appropriations Act; Public Law 117-43)⁴ approved on September 30, 2021.

In January 2023, HUD announced that the Commonwealth of Kentucky would receive an additional \$48,983,000 in CDBG-DR funding through publication in 88 FR 3198 (January 18, 2023)⁵ to support long-term recovery and mitigation efforts following the 2021 severe storms. This allocation was made available through the Continuing Appropriations Act, 2023 (the 2023 Appropriations Act; Public Law 117-180) approved on September 30, 2022.⁶

Funding for the Public Infrastructure and Stormwater Management Program is provided through HUD's CDBG-DR Program, as appropriated by Congress. Funding for the 2021 disasters through the Kentucky DLG is designed to address the needs that remain after all other assistance has been exhausted.

2021 Severe Storms, Flooding, Landslides, and Mudslides (DR-4595)

A disaster was presidentially declared on April 23, 2021 (DR-4595); however, the 2021 severe storms, flooding, landslides, and mudslides impacted the Commonwealth from February 27, 2021 through March 14, 2021.

2021 Severe Storms, Straight-line Winds, Flooding, and Tornadoes (DR-4630)

A disaster was presidentially declared on December 12, 2021, (DR-4630) for the 2021 severe storms, straight-line winds, flooding, and tornadoes that impacted the Commonwealth from December 10, 2021 through December 11, 2021.

³ U.S. Department of Housing and Urban Development. (2022, May 24). Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG-DR Consolidated Waivers and Alternative Requirements Notice. Federal Register, Vol. 87, No. 100. Retrieved from <https://www.govinfo.gov/content/pkg/FR-2022-05-24/pdf/2022-10969.pdf>

⁴ 117th United States Congress. (2021, September 30). Extending Government Funding and Delivering Emergency Assistance Act. Public Law 117-43. Retrieved from <https://www.congress.gov/117/plaws/publ43/PLAW-117publ43.pdf>

⁵ U.S. Department of Housing and Urban Development. (2022, January 18). Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG-DR Consolidated Waivers and Alternative Requirements Notice. Federal Register, Vol. 88, No. 11. Retrieved from <https://www.govinfo.gov/content/pkg/FR-2023-01-18/pdf/2023-00721.pdf>

⁶ 117th United States Congress. (2022, September 30). The Continuing Appropriations Act, 2023. Public Law 117-180. Retrieved from <https://www.congress.gov/117/plaws/publ180/PLAW-117publ180.pdf>

2.5 Grant Requirements

2.5.1 National Objectives

Each activity funded through this program must meet one of HUD's national objectives:

- Benefit to LMI persons or
- Urgent need

Per 87 FR 31636, States must comply with an overall LMI benefit minimum, which requires that at least 70% of the allocation for this program (less planning and administration costs) must be used for activities that benefit low- or moderate-income persons. To meet this requirement, the Commonwealth will conduct an analysis of how projects can meet the LMI threshold and award preference points to projects that provide benefits to Low/Mod service areas. The urgent need national objective will only be used when an LMI national objective cannot be achieved through the project; however, the project has demonstrable recovery or mitigation benefits within the HUD- or Commonwealth-identified MID areas. For approved projects meeting the urgent need national objective, awardees must describe the urgency, type, scale, and location of the disaster-related impact that will be addressed through the project. A detailed description of criteria for meeting a national objective and the mechanism for providing this preference are described in Section 3.4.5 and Section 3.5

2.5.2 Mitigation Set-Aside Activities

The Appropriations Act requires HUD to include in any allocation of CDBG-DR funds for unmet needs an additional amount of 15% for mitigation activities. Unlike recovery activities that “tie-back” to the specific disaster and address a specific unmet recovery need for which the CDBG-DR funds were appropriated, activities funded by the CDBG-DR mitigation set-aside do not require such a tie-back to the specific qualified disaster that has served as the basis for the Commonwealth's allocation.

Such mitigation set-aside activities must:

- Meet HUD's definition of *mitigation activities*.
- Address the current and future risks as identified in the Mitigation Needs Assessment.
- Be CDBG-eligible activities under Title I of the Housing and Community Development Act (HCDA) or otherwise eligible pursuant to a waiver or alternative requirement.
- Meet a national objective.

The Commonwealth is encouraging applicants to propose projects that meet HUD's mitigation set-aside criteria and will award preference points to proposed projects that do so. As such, PISM projects may address unmet recovery and mitigation needs in HUD-identified and State-identified MIDs related to the 2021 Severe Storms or may choose to propose mitigation activities responding to other types of natural hazards identified in the Mitigation Needs Assessment. Funding from the 2021 Severe Storms CDBG-DR grant also must address unmet recovery and mitigation needs tied to the impacts from the 2021 Severe Storms. There is an

opportunity to consider strategic flood management solutions and building resilient shelters and facilities for use during emergencies, as well as focusing on roads and critical infrastructure that have a higher probability of flooding. A detailed description of this preference score is described in Section 3.5.

2.5.3 Disaster Tie-Back and Mitigation Activities

HUD permits the Commonwealth to fund eligible mitigation activities that address the impacts of the disaster, as well as mitigation activities that respond solely to the Mitigation Needs Assessment. As such, PISM projects may address unmet recovery and mitigation needs in HUD-identified and State-identified MIDs related to the disasters or may choose to propose mitigation activities responding to other types of natural hazards identified in the Mitigation Needs Assessment. Applicants to the program must state whether proposed projects respond directly to disaster-related risks and impacts or projected hazard risks unrelated to the disaster. Disaster-related impacts also will be part of the competitive application review criteria. A detailed description of this preference score is described in Section 3.5.

2.5.4 HUD and State MIDs

HUD requires funds to be used for costs related to unmet needs in the MID areas resulting from qualifying disasters. The Commonwealth of Kentucky is required to spend at least 80% of all CDBG-DR funds to benefit the HUD-identified MID areas. HUD provided Kentucky with the HUD-identified MID areas in the Allocation Announcement Notice.

The Consolidated Notice allows the Commonwealth to determine where to use up to 20% of the remaining amount of the CDBG-DR grant. The funds must be used to address unmet needs within areas that received a presidential disaster declaration. In addition to HUD's identified MIDs, Kentucky has identified the other counties that will receive CDBG-DR funding. Projects funded through this program must take place within the following counties:

MID Areas		
HUD-Identified MID Areas	Graves County	Hopkins County
	Breathitt County (41339)*	Warren County (42101)*
Grantee-Identified MID Areas	Boyd County	Letcher County
	Caldwell County	Lincoln County
	Christian County	Logan County
	Clark County	Lyon County
	Clay County	Madison County
	Estill County	Magoffin County
	Floyd County	Marion County
	Fulton County	Marshall County
	Greenup County	Martin County
	Hart County	Morgan County
	Hickman County	Muhlenburg County
	Jackson County	Ohio County
	Johnson County	Owsley County
	Knott County	Perry County
	Laurel County	Pulaski County
	Lawrence County	Rockcastle County
	Lee County	Taylor County
	Leslie County	

* Kentucky has decided to expand the HUD-identified MID areas in ZIP codes 41339 and 42101 to include the entire counties of Breathitt and Warren.

In order to meet HUD's requirement to allocate 80% of funds to HUD-identified MID areas, this program will provide a selection preference to projects that benefit HUD-identified MID areas. A detailed description of this preference score is described in Section 3.5.

3 PROGRAM PRIORITIES AND THE APPLICATION PROCESS

3.1 Administrative Framework

DLG will be responsible for collecting, reviewing, and approving all Public Infrastructure and Stormwater Program applications. Applicants who are awarded funds are subrecipients of the Commonwealth's CDBG-DR grant and are responsible for the implementation and timely completion of the projects. Subrecipients must adhere to the federal, State, and local requirements applicable to these grant funds. DLG will provide training and technical assistance to approved applicants. Throughout the project, DLG will monitor approved projects and provide oversight to maintain compliance and ensure their successful completion.

3.2 Application Process

Eligible applicants are invited to submit applications during the application window (Section 3.2.2). Responses will be evaluated to ensure that the proposed projects meet the minimum criteria as outlined in the Commonwealth of Kentucky's Severe Storms 2021 Action Plan and the criteria outlined in this Policy Manual. Responses will first be reviewed for eligibility (Section 3.4) and must meet minimum threshold criteria before moving to a technical evaluation. Applications will then be evaluated according to the technical scoring criteria listed in Section 3.5. A review panel composed of impartial State employees with relevant skill sets will be tasked with developing objective and independent scores. Review panels will receive training and guidance on the scoring criteria prior to review.

The review panel will generate consensus scores for each application and provide technical score ranking and a recommendation to DLG leadership. Should additional and/or clarifying information be needed to determine eligibility and scores, the applicants who submitted complete grant applications will be given additional time to respond at DLG's discretion. DLG leadership will present grant applications to the review committee for approval. The review committee will then take proposed selected applications to the Office of the Governor for final approval. DLG will identify awardees and notify selected and non-selected applicants in writing. Selected awardees will then enter a grant term negotiation phase during which DLG and the awardees will negotiate the conditions of the grant, including project scope, budget amount, timeline, resilience performance measures, and subrecipients. Applicants not selected will have an opportunity to apply in subsequent rounds of the Public Infrastructure and Stormwater Program if funds remain available. Additional information about application intake, review, scoring, and ranking can be found in Section 4.

All applicants will be asked to describe the project scope, budget, and timeline for the proposed project and how it will mitigate risk from one or more natural hazards. Complete submission requirements are detailed in Section 4.1.

Applications will be reviewed by DLG for applicant eligibility and project eligibility and will be scored based on the criteria set forth in Section 3.5, Scoring Criteria.

3.2.1 Competition Outreach and Program Promotion

DLG will release a public notice announcing the program and funds available, and a request for applications through the following platforms:

- Email notifications to subscription listservs
- Social media
- Website
- Other public channels

DLG will host trainings regarding CDBG-DR PISM to provide an overview of the program goals and objectives, the application and scoring process, and required documentation, and to offer a forum for questions.

Applicants will have an opportunity to ask questions and/or discuss issues specific to their project and the application process, including specific federal and State regulations and requirements specific to this grant program.

Applicants will have an opportunity to attend a one-on-one meeting with DLG staff to discuss their project and the application requirements prior to submittal.

Throughout the entire application cycle, technical assistance also is available by sending inquiries to Jennifer Peters at jennifer.peters@ky.gov. DLG will respond to all inquiries in a timely manner.

3.2.2 Application Window

DLG will announce the application timeframe before making applications available. Once the application window opens, the application form and guidance materials will be made available on the DLG website. The guidance will provide additional details about the application process. The application window will be open for no less than 6 weeks. Specific timelines will be announced when the program application window launches. Applications must be completed and submitted before the deadline in order to be considered for funding.

3.2.3 Public Notice Requirement

Applicants are required to solicit public feedback on the projects for which they are applying for funding prior to the grant agreement. The Commonwealth requires units of local government to provide reasonable opportunities for citizen participation, hearings, and access to information with regard to local community development programs. Applicants must solicit feedback through both of the following mechanisms.

Public Posted Information: Applicants planning an infrastructure project must post detailed information about the project on the entity's public website and at public locations and offer for a 15-day public comment period, allowing comments through a range of channels, including mail, email, and phone. Posted information should include the following:

- The type(s) of project(s) to be undertaken and the goals
- Description of the geography to be impacted, directly or indirectly, and how
- Source of funds (i.e., CDBG-DR funds)
- The amount of project funding being requested
- The estimated amount of CDBG funds proposed for activities benefiting persons of low and moderate income
- Records on past use of CDBG funds
- The date by which comments must be made
- A contact person from whom to obtain a copy of the proposed application
- Accommodations for non-English-speaking citizens*

* All information posted will need to be translated into Spanish, unless less than 5% or 1,000 people (whichever is less) of the applicant's area of benefit population speaks Spanish.

Public Hearing: Applicants who are planning a project also must host a virtual or in-person public meeting with municipality, county, and tribal governments. The hearing will review the proposed application and discuss the social impacts, economic impacts, environmental impacts, and project alternatives, as well as solicit public improvements. Information about the project should be posted for review no less than 7 days prior to the hearing. Following the hearing, the applicant must allow a 15-day public comment period, which must be completed prior to submission of the application. If awarded, applicants will be required to host an additional public hearing before closing out the project.

Applicants should supply the same documentation that would normally be required to demonstrate that a meeting was held, including the following:

- A public meeting notice, posted at least 7 days prior to the meeting
- A sign-in sheet
- Meeting minutes, including comments and responses

The meeting notice should be posted in a newspaper of general circulation and to the applicant's website and must include the following:

- The type(s) of project(s) to be undertaken
- The source of funds (e.g., CDBG-Mitigation funds)
- The amount of funding being requested
- The date by which comments must be made
- A contact person from whom to obtain a copy of the proposed application
- Accommodations for non-English-speaking citizens*

* All information posted will need to be translated into Spanish, unless less than 5% or 1,000 people (whichever is less) of the applicant's area of benefit population speaks Spanish.

In both cases, documentation of public engagement, solicitation of feedback, and any public comments received must be submitted with the application and will factor into the application's final score.

Applicants awarded funds through this competition enter into a grant agreement as a subrecipient of the Commonwealth's CDBG-DR grant and, therefore, must adhere to all requirements for public notification and engagement regarding the funded project, especially if the project is modified or triggers amendments to the Action Plan. More information about these requirements can be found in the Subrecipient Manual, Chapter 1: Project Administration, and 87 FR 6326 (Vol. 87, No. 100, May 24, 2022).

3.3 Summary of the Application Requirements

The following is a brief summary of the elements required within the application to PISM. More information about specific sections and criteria is included within the application guidance materials.

3.3.1 Project Description/Service Area

Applications must include descriptions of the proposed project, including the objective of the activity, the anticipated service area and populations benefiting from the improvements, and an explanation of whether and how the project responds to disaster-related impacts. The description should explain whether and how the project mitigates the natural hazard risks identified in the State's Mitigation Needs Assessment listed in the CDBG-DR Action Plan. Applicants will be asked to describe how the proposed project aligns with local or regional hazard mitigation plans and strategies. The description must address how and why the project needs to be created, updated, or integrated to mitigate the risks attributable to threats.

The description also should summarize how the project responds to the program priorities, including the following:

- Specific locale
- How the project responds to disaster-related impacts
- Feasibility
- How the project protects and benefits the public, especially vulnerable populations and protected classes
- Mitigation of natural hazard risks to critical structures, facilities, and systems
- Incorporation of nature-based solutions
- The applicant's ability to operate and maintain the project
- Promotion of ancillary benefits
- How the design accommodates climate change projections and future conditions
- How the project leverages federal, State, and local partnerships and funding sources
- Community engagement
- Cost-reasonableness of the project

3.3.2 Disadvantaged Communities

This program prioritizes projects that benefit the most at-risk and vulnerable populations. To facilitate this, the scoring criteria provides preference to projects serving communities with high proportions of vulnerable populations as measured by Centers for Disease Control and Prevention's Social Vulnerability Index (SVI). Applications must address the extent to which the project benefits such populations and include documentation of an SVI of the area served.

3.3.3 Public Notice and Community Outreach

Applications must include evidence of meeting the Public Notice requirement, as outlined in Section 3.2.3 and the application guidance materials. Furthermore, applicants must discuss the community engagement and other outreach activities in which it engaged to capture the community's values and priorities.

3.3.4 Budget

Submissions must include a proposed project budget with a detailed description of anticipated costs by category, including support services, program management, and administration. Explanations of how funding request amounts were determined must be included. The budget also will show the anticipated sources of funding. Applicants should develop a feasible budget that includes PISM funds, local funds, and any committed sources outside of PISM. The commitments of the funding sources should be documented and included with the application. This program will provide preference to applications that leverage outside sources beyond PISM funds.

3.3.5 Partnerships

Responses may include proposed subrecipient partnerships to deliver PISM projects. Leveraging partners allows applicant communities to access complementary strengths from neighboring communities, States, the Federal Government, and nonprofit and private partners. If an applicant intends to utilize a partnership to complete a project, it must identify the partner(s) in the application.

3.3.6 Cost-Effectiveness

The program places a high priority on funding projects that are cost-effective. PISM project applications will be scored based, in part, on cost-effectiveness demonstrated through a benefit-cost analysis outlined in the application guidance. All cost-effectiveness analyses will be reviewed by DLG or its designee.

3.3.7 Implementation and Timeline

Applicants must provide evidence of management capacity and a plan to implement the project within budget and on time. Proper implementation requires that an applicant understands what is expected of them, ensures that the human capital and financial resources needed to complete

the project are in place, and develops a realistic timetable. Each application must include information demonstrating their capacity and the projected timeline for completion by 2028. Projects funded through the 2021 Severe Storms CDBG-DR appropriations are required to complete the project within 3 years of grant execution.

3.3.8 Operations and Maintenance

Applicants will be required to demonstrate how the projects will be operated and maintained beyond the life of the CDBG-DR grant, including incorporating technologies to prevent early failures of the project. This should include identification of a responsible entity for operating and maintaining the project and a description of dedicated funding sources.

3.4 Eligibility

3.4.1 Eligible Applicants

Cities, townships, counties, and federally recognized tribal governments that were declared a most-impacted and distressed county by HUD under the 2021 Severe Storms CDBG-DR appropriations, as specified in Section 2.4.2, or are wholly within one or more of these counties, are eligible to apply to PISM.

Each eligible applicant can submit only one application for PISM funding. A distinct application is required for each proposed project. Applications can be submitted via email to DLG.DR@ky.gov.

Nongovernmental owners and operators of infrastructure or public facilities cannot apply directly to PISM; however, they may partner with one of the eligible entities with jurisdiction over the impacted area to assist in developing an application that reflects their leveraged project. Such application partners may contribute to cost sharing, as applicable, and assist with application development subject to administrative requirements, particularly as they relate to conflicts of interest, set forth in 2 Code of Federal Regulations (CFR) Part 200.

3.4.2 MID Areas

HUD requires that the funds be used for costs related to unmet needs in the MID areas resulting from qualifying disasters. The Commonwealth is required to spend at least 80% of all CDBG-DR funds to benefit the HUD-identified MID areas. HUD provided Kentucky with the HUD-identified MID areas in the Allocation Announcement Notice. The Consolidated Notice allows Kentucky to determine where to use the remaining 20% of the CDBG-DR grant. (Refer to Section 2.5.4 to see eligible HUD and MID areas.)

3.4.3 Eligible Activities

Eligible activities include only projects that will demonstrably increase community resilience. This might include acquisition, construction, reconstruction, or installation of public works,

facilities, and site or other improvements. In the case of replacement or rehabilitation of infrastructure in response to the impact of a disaster, applicants should demonstrate that the design incorporates features that will mitigate future disaster risk. The Action Plan defines eligible activities as those identified within HCDA Section 105(a)1, 2, 4, 9, and 14; as amended by applicable waivers identified in the Allocation Announcement Notice and Consolidated Notice (87 FR 31636); and other applicable waivers or alternative requirements.

Projects funded through this program must result in infrastructure, public facilities, or site improvements within the proposed scope of work. Infrastructure improvements also can include improvements intended for flood protection, drainage improvement, and hazard mitigation. Types of eligible projects include the following:

- Improvement or rehabilitation of existing infrastructure, such as community water and sewer systems
- New or enhanced stormwater management practices

Additionally, activities required for the delivery of the infrastructure, such as site planning, developing the scope of the project, cost analysis, engineering, environmental review, and developing the application, are eligible expenses under this program.

Funds cannot be used to cover the cost of maintenance or operations, comprehensive or land use planning, the purchase of construction equipment, or buildings used by government entities. Private utilities cannot be funded with CDBG-DR funds.

3.4.4 Definition of Mitigation – Risk Reduction Benefits

Projects funded under PISM must meet the definition of *mitigation* as specified in 87 FR 31636, which is “those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.” (Refer to Section 2.5.2, Mitigation Set-Aside Activities, and Section 2.5.3, Disaster Tie-Back and Mitigation Activities.)

3.4.5 National Objectives

Submissions must include a description of the nature of the activity and specific area served by the proposed project so that DLG can determine the national objective. (Refer to Section 2.5.1 for more information about specific national objectives.)

3.4.6 Minimum and Maximum Awards

The maximum award will be \$3 million. The PISM award may comprise up to 100% of the total project cost; however, applicants who wish to contribute additional funds to increase the project cost beyond \$3 million may do so at their discretion.

3.5 Scoring Criteria

The following technical scoring criteria will be used to evaluate projects from eligible applicants. A more detailed scoring rubric describing maximum scores and criteria is included within the application requirements.

3.5.1 LMI

A project will meet this objective if 51% of the persons benefiting from the activity have low to moderate income. LMI levels are defined in the Housing Act as HUD-determined calculations based on median family income. Income data for each county or area and additional information on how an activity may meet this test can be obtained from DLG. Information on meeting this test also is available from the application guidance materials.

3.5.2 Response to the Disaster

A project will meet this objective if it addresses unmet recovery and mitigation needs for public infrastructure in HUD-identified and grantee-identified MID. Disaster-related impacts also will be part of the competitive application review criteria.

3.5.3 Project within a HUD MID

A project will meet this objective within a HUD MID location since the Commonwealth is required to use funds for costs related to unmet needs in the MID areas resulting from qualifying disasters. The Commonwealth is required to spend at least 80% of all CDBG-DR funds to benefit the HUD-identified MID areas. HUD provided the Commonwealth with the following HUD-identified MID areas in the Allocation Announcement Notice: Graves County, Hopkins County, Breathitt County (41339), and Warren County (42101). Kentucky has decided to expand the HUD-identified MID areas in ZIP codes 41339 and 42101 to include the entire counties of Breathitt and Warren.

3.5.4 Meeting Mitigation Set-Aside Criteria

A project will meet this objective if the activities (1) meet HUD's definition of *mitigation activities*, (2) address the current and future risks as identified in the Mitigation Needs Assessment, (3) are CDBG-eligible activities under Title I of the HCDA or otherwise eligible pursuant to a waiver or alternative requirement, and (4) meet a national objective.

The Commonwealth is encouraging applicants to propose projects that meet HUD's mitigation set-aside criteria and will award preference points to proposed projects that do so. As such, PISM projects may address unmet recovery and mitigation needs in HUD-identified and State-identified MIDs related to the 2021 Severe Storms or may choose to propose mitigation activities in response to other types of natural hazards identified in the Mitigation Needs Assessment. Funding sources from the 2021 Severe Storm CDBG-DR grant must also address unmet recovery and mitigation needs tied to the impacts from the 2021 Severe Storms. There is

an opportunity to consider strategic flood management solutions and building resilient shelters and facilities for use during emergencies, as well as focusing on roads and critical infrastructure that have a higher probability of flooding.

3.5.5 Operations and Maintenance

A project will meet this objective depending upon the applicant's ability to describe the data and/or planning analysis they will use in their evaluation of hazard risk, including climate-related natural hazards. Applicants also will be required to demonstrate how the projects will be operated and maintained beyond the life of the CDBG-DR grant, including incorporating technologies to prevent early failures of the project.

3.5.6 Ancillary Benefits (Environmental, Social, and Economic)

A project will meet this objective depending upon how well the application describes specific community-wide benefits beyond hazard risk reduction and resilience effectiveness, focusing on other community priorities, specifically environmental, social, and economic outcomes.

Environmental factors may fall into the following categories:

- Ecosystem and biodiversity effects (e.g., from wetlands restoration or reforestation)
- Reduced energy use
- Noise levels
- Carbon footprint—reduced greenhouse gas emissions
- Air quality—reduced criteria pollutants
- Water quality—reduced stormwater runoff
- Reduced urban heat-island effect

Social factors may fall into the following categories:

- Improvement to human health and wellness
- Benefit to disadvantaged or vulnerable populations
- Improvements to living environment, blighted areas, recreation and park space, and cultural and historical amenities
- Improved social cohesion
- Increased housing affordability

Economic revitalization benefits may fall into the following categories:

- Direct effects on local or regional economy
- External effects on other sectors' or industries' revenue
- Economic competitiveness (human capital and education)
- Value of property
- Mobility/transportation, access

3.5.7 Cost-Effectiveness/Cost-Reasonableness

Applications will be evaluated to determine the mitigation value and cost-effectiveness of the proposed project. Applicants will be required to conduct a benefit-cost analysis of the project. More information about the method for conducting this analysis will be included within the application guidance materials.

3.5.8 Climate Change and Other Future Conditions

Future conditions can be difficult to predict; however, it would be a mistake to not acknowledge potential climate change impacts when designing a project. The score received for this criterion will depend upon how well the application details how the project will (1) enhance climate adaption; (2) respond to the effects of climate change; (3) respond to the effects of other future conditions (e.g., population, demographic, land use); and (4) cite data sources, assumptions, and models. Potential data sources include the National Aeronautics and Space Administration and the U.S. Environmental Protection Agency.

3.5.9 Risk Reduction/Resilience Effectiveness

Resilience is the ability to prepare for anticipated hazards, adapt to changing conditions, and withstand and recover rapidly from disruption. The score received for this criterion will depend upon how well the application details the following elements: (1) effective risk reduction, (2) effective increase in community resilience, and (3) the leveraging of innovation.

3.5.10 Incorporation of Nature-Based Solutions

To receive the point allotment for this criterion, the application must describe how the project incorporates one or more nature-based solutions, including those designed to reduce carbon emissions, which are sustainable environmental management practices that restore, mimic, and/or enhance nature and natural systems or processes and support natural hazard risk mitigation, as well as economic, environmental, and social resilience efforts. Nature-based solutions use approaches that include, but are not limited to, the restoration of grasslands, rivers, floodplains, wetlands, dunes, and reefs; living shorelines; soil stabilization; aquifer storage and recovery; and bioretention systems.

3.5.11 Population Impacted

While the intensity of a hazard is important, of equal or greater importance is the identification of the population impacted, many of whose demographic or socioeconomic characteristics may place its members at greater risk of harm before, during, and after a disaster. The score received for this criterion will depend upon how well the application describes (1) community-wide benefits; (2) the proportion of the population that will be impacted, including a description of the disadvantaged communities as referenced in Executive Order 14008; (3) how the project was selected and designed to maximize the positive impacts and minimize the negative impacts on any disadvantaged populations as referenced in Executive Order 14008; and (4) how the

proposed project clearly benefits a disadvantaged community. A disadvantaged community may be characterized by variables including, but not limited to, low income, high and/or persistent poverty, high unemployment and underemployment, racial and ethnic segregation, linguistic isolation, a high housing cost burden and substandard housing, distressed neighborhoods, a high transportation cost burden and/or low transportation access, a disproportionate environmental burden and high cumulative impacts, limited water and sanitation access and affordability, disproportionate climate impacts, and a high energy cost burden and low energy access, as well as all geographic areas within tribal jurisdictions. Applicants are encouraged to indicate whether their community has a Centers for Disease Control and Prevention SVI of 0.6 or higher.

3.5.12 Community Engagement

Community engagement and other outreach activities that capture a community's values and priorities are likely to result in a project having greater legitimacy and support, leading to greater success in implementation. The score received for this criterion will depend upon how well the application describes (1) the outreach strategy and supporting activities appropriate to the project and the community; (2) the types of partners the project leverages; (3) how input from a diverse range of stakeholders, including people from disadvantaged communities, was gathered and incorporated into project conception and design; and (4) how community planning and stakeholder input will continue to be used to help direct project execution.

3.5.13 Feasibility/Implementation Measures/Subrecipient Capacity

Proper implementation requires that applicants understand what is expected of them, ensure that the human capital and financial resources needed to complete the project are in place, and develop a realistic timetable. The score received for this criterion will depend upon how well the application describes (1) how the costs will be managed; (2) how the schedule will be managed; (3) how the project will be successfully implemented and how innovative techniques to facilitate implementation will be incorporated; (4) in its scope of work, the technical and managerial staff and resources available to successfully implement this project; and (5) whether and how strong labor standards are incorporated to ensure high-quality work, avert disruptive and costly delays, and promote efficiency.

3.5.14 Leveraging Partners

Leveraging partners allows applicants to access complementary strengths from neighboring communities, nonprofit organizations, and private partners. This potentially helps the applicant on a cost basis and serves the local community's greater good. The score received for this criterion will depend upon how well the application incorporates (1) partnerships (e.g., private, district, local community) that will ensure the project meets community needs, (2) an explanation of how these partnerships benefit disadvantaged communities, and (3) an explanation of the anticipated outcome of these partnerships (e.g., leveraging resources such as financial, material, and educational resources; coordinating multi-jurisdictional projects; a heightened focus on equity-related issues).

4 REVIEW AND SELECTION PROCESS

4.1 Application

Applicants will apply for the program by completing the application located on the DLG website. DLG is committed to ensuring a straightforward application process. To facilitate this goal, applicants will be provided with several resources during the application cycle, including application guidance and instructions. DLG will offer applicant training prior to application availability. Additionally, DLG will offer information and guidance on the PISM application process and requirements prior to the submission deadline upon request.

Applicants have until the PISM deadline to submit all required application materials. Only completed applications, including all required supporting documentation, will be considered for funding. Applications will only be accepted during the published application window.

4.2 Threshold Criteria

The receipt of applications will be followed by an application evaluation (threshold criteria) that will determine whether the application is complete and the applicant and project are eligible for funding. These criteria are listed below.

This phase is unscored. DLG will further review only the applications that meet the threshold review criteria.

Threshold Criteria

- Application was submitted on time.
- Application is signed and complete.
- Applying entity is an eligible city, township, county, or federally recognized tribal government.
- Applicant's project benefits HUD and/or grantee-identified MID areas.
- Applicant meets either the LMI or the urgent need national objective.
- Applicant submitted evidence of compliance with the Public Notice requirement.

4.3 Technical Review

Applications will be reviewed by DLG, who will bring in independent specialists, as necessary, to aid in the review as part of a technical scoring process. The review panel will generate individual scores using the established scoring criteria. The panel will meet regularly during the scoring process to discuss any widely divergent scores. Ultimately, the average of the scores will become the official composite score for each application. Only the application itself (including the requested attachments) will be scored. Any documents submitted with the application that were not requested will not be scored. Each element of the scoring criteria has a value associated with it.

All scores and justification will be documented and provided to the applicants upon request to ensure transparency in the award process. A detailed description of the scoring rubric and point scale is provided in the application guidance materials.

4.4 Clarifications

During the application review process, applicants are required to respond in a timely manner to any DLG requests for information/materials to complete the evaluation process. Any request for additional information will include a definitive due date for return of the requested information. If the applicant needs an extension, clarification, or assistance, the applicant may make its request within the allotted response timeframe. If an applicant fails to provide the requested information/materials or fails to ask for an extension or assistance, the application will be scored accordingly and there will be no additional opportunity to submit the requested materials.

4.5 Scoring, Ranking, and Selection

DLG will rank applications based on the composite score generated by the review panel. The Commonwealth will use the scores, in part, to rank projects, but reserves the right to allocate funds to projects that meet the Commonwealth's ultimate program objectives. Program requirements, such as the Low/Mod area benefit, the benefit to HUD MID counties, and meeting mitigation set-aside criteria, are prioritized through scoring criteria and will factor into final funding determinations. A review panel will provide reports to the review committee designated by the agency lead. The committee will meet to evaluate projects based on the review criteria and staff comments. The committee will make a determination of approval, rejection, or deferral. In the event that demand exceeds the amount of funds available, those projects with the greatest need and effectiveness will be recommended for funding. Top applicants will be recommended for funding by the project review committee, with the Office of the Governor ultimately approving the awards.

4.6 Negotiation

DLG reserves the right to negotiate funding amounts and payment schedules with selected applicants. Negotiations may be appropriate for, but not limited to, situations such as the demand exceeding the amount of funds available, the existence of project readiness issues, and discrete project components meeting program objectives or grant requirements, such as the LMI benefit. Such negotiations may result in the award of a planning or pre-construction grant with a conditional commitment of construction financing in future program years.

4.7 Notice of Award

Once award amounts are determined, DLG will send a Notification of Award to successful applicants, which is a preliminary offer to enter into a grant agreement. Execution of a grant is contingent upon both parties' agreement regarding the terms and conditions, including the project scope, budget (e.g., State and federal construction and financial rules and regulations), and timeliness, among others, and described in greater detail in this policy. Awards will be considered final upon receipt of a signed grant agreement between DLG and the applicant.

4.8 Appeals

All appeal requests related to program activities are processed and reviewed by DLG. Initial review of the appeal will be conducted by a panel made up of DLG staff. This staff is independent from the group that originally made the decision being appealed. Each appeal will be reviewed against program policies and requirements. The panel will make a recommendation to DLG Leadership, and then to the Governor's office, which will approve the final selection.

Appeal requests to DLG must be postmarked within 10 calendar days of the date of service on the original correspondence communicating the decision to be appealed. Appeals must be submitted in writing to:

Department for Local Government
100 Airport Road, 3rd Floor
Frankfort, KY 40601
ATTN: DR Appeals

The applicant's written request should contain the following information:

- Applicant's name
- Applicant's mailing address
- Applicant's telephone number
- Email address (if available)
- The reason(s) the decision or action is being appealed
- Documentation that supports the request to overturn the decision
- Application number

If appropriate, the Office of Legal and Regulatory Affairs may contact the applicant to allow the applicant to provide additional documents to address any deficiency or incomplete information, or to be interviewed to determine the merits of the applicant's appeal. If the action or decision is overturned, notification will specify the corrective action to be taken. The applicant shall be notified of the final determination in writing via certified mail.

5 GRANT AWARD AND FINANCING

5.1 Responsible Entity

The Kentucky Department for Local Government is responsible for implementing the Infrastructure and Stormwater Management Program, including key roles in the execution of awards, managing subrecipients, managing payments, program and financial oversight, and compliance monitoring.

Program subrecipients will work with a certified grant administrator and be responsible for application development, grant administration, managing project activities, timely reporting on financial and project progress, contracting, contractor management, and maintaining project records.

5.2 Funding Method

Funding will be provided as a grant to subrecipients on a cost reimbursement basis according to the terms identified in the grant agreement. Subrecipients must verify all costs before submitting invoices to DLG for reimbursement and provide all required reporting and supporting documentation (e.g., invoices, grant agreements, contracts and procurement files, program files) requested by DLG.

5.3 Budget

Awards will be granted in accordance with the program's assessment of reasonable and necessary work, which may equal the budgets submitted by subrecipients during the application process. The subrecipient's budget must provide an overview of sources for various funds going into the project. For sources of funds, subrecipients should identify the requested PISM funds, local funds for the project, and any other committed sources being leveraged for the project.

5.4 Eligible and Ineligible Costs

5.4.1 Eligible Costs

This program is intended to fund water management infrastructure and facilities. Eligible activities through the Infrastructure and Stormwater Management Program include, but are not limited to, acquisition, disposition, public facilities and improvements, clearance and remediation, and public services. The full list of eligible activities, including those not previously mentioned, is available at 24 CFR § 570.201–507.206.⁷

⁷ Federal Regulations. Title 24: Housing and Urban Development. 570.201-206: Basic Eligible Activities. [eCFR :: 24 CFR 570.201 -- Basic eligible activities](#).

The costs associated with activity delivery are eligible expenses. This includes expenses required to start and complete the infrastructure project, such as project design, site planning, developing the scope of project, cost analysis, engineering, and environmental review, and developing the PISM application. Such activities are eligible activity delivery expenses provided that the work ultimately results in the construction of infrastructure funded as part of the awarded scope of work.

Beyond eligible activities, the program will make use of 2 CFR Part 200, Subpart E⁸ (Cost Principles), to understand what costs can be incurred through the CDBG-DR grant. Each cost should adhere to accounting principles, be necessary and reasonable for the performance of the grant award, be consistent with policies and procedures, and be adequately documented.

5.4.2 Pre-Award Expenses

Project expenses incurred before the effective date of the grant agreement are eligible for reimbursement on a case-by-case basis. Eligibility for reimbursement is contingent upon the costs being otherwise eligible expenses of this program that are in compliance with all applicable requirements (including procurement and environmental review requirements) and with the statutory and regulatory requirements in effect at the time that the costs are charged.

5.4.3 Ineligible Costs

Costs associated with activities not outlined in 24 CFR §§ 570.201–507.206 are generally considered to be ineligible for CDBG funds. The following activities are specifically stated in the Code of Federal Regulations to be ineligible and cannot be assisted with CDBG-DR funds:

- Buildings, or portions thereof, used for the general conduct of government
- General government expenses
- Political activities

The following activities are generally ineligible unless authorized specifically under the special provisions of 24 CFR § 570.203:

- Purchase of equipment
- Operations and maintenance expenses
- Income payments

A fully detailed list of ineligible activities and their descriptions can be found at 24 CFR § 570.207 and is applicable to this manual.

⁸ Federal Regulations. Title 2: Grants and Agreements. 200 Subpart E: Cost Principles. [eCFR :: 2 CFR Part 200 Subpart E -- Cost Principles](#).

Specific to PISM, the following activities are ineligible:

- Upgrades beyond those determined to be necessary
- Costs not directly attributable to the project's construction
- Cost of supplies, equipment, or labor beyond the market rate or otherwise required
- Change in scope beyond the availability of funding

If specific costs are not allowable according to 2 CFR Part 200, Subpart E, those costs should not be charged to the CDBG-DR grant.

5.5 Duplication of Benefits Review

Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act prohibits any person, business, or other entity from receiving duplicative financial assistance for the same disaster recovery purpose from multiple sources of federal and other support (42 United States Code [U.S.C.] 5155(a) and (c)). Duplication occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular disaster recovery purpose. The amount of the duplication is the amount of assistance provided in excess of need.

Per CDBG-DR regulations, the program's subrecipients are required to disclose all other benefits (e.g., cash, in-kind, grants, loans) received, or which will be received for the proposed project to ensure that federal funds do not duplicate funds received from other sources. The prohibition includes using funds to supplant city or county funding already budgeted for the project. Typical sources of duplicated benefits for infrastructure can include, but are not limited to, the following:

- Federal Emergency Management Agency (FEMA) Public Assistance
- FEMA Hazard Mitigation Grant Program
- FEMA National Flood Insurance Program
- FEMA Increased Cost of Compliance Benefits
- U.S. Army Corps of Engineers
- Commercial insurance
- Insurance and personal property replacement
- Forced mortgage payoffs
- Philanthropic cash assistance
- Some subsidized loans

Subrecipients will be offered training on the duplication of benefits (DOB) requirements during the disaster recovery training and following grant execution. A complete description of DOB policies under DLG can be found in the Subrecipient Manual, Chapter 10: Duplication of Benefits.

5.6 Cost Reasonableness Evaluation

Projects funded under PISM must be considered necessary and reasonable. Costs are considered reasonable if, in their nature and amount, they do not exceed that which would be incurred by a prudent person in the conduct of competitive business. Analytical techniques and procedures may be used to ensure that final costs are fair and reasonable, such as a cost analysis detailing the individual cost elements of projects to certify elements such as necessity, pricing, and consistency.

5.7 Subrogation

Applicants must agree to subrogate (commit to DLG) any future payments that they may receive after the award amount is determined from sources that represent a potential DOB. The subrogation agreement requires the applicant to notify DLG if additional funds are received. The applicant will provide DLG with a completed DOB analysis. DLG will verify the completed DOB analysis to determine whether the funds received are duplicative. If the funds received are deemed duplicative, the applicant is required to return the funds to DLG.

5.8 Grant Agreement Terms and Conditions

A written grant agreement will be provided to the subrecipient before any disbursement of CDBG-DR funds. At a minimum, the agreement will include a statement of work, schedule of activities and milestones, budget, record and reporting requirements, recapture of funds guidance, and so forth. Prior to the execution of the grant agreement, recipients will have a period of time to review the terms and conditions for their project(s).

5.9 Execution of the Grant Agreement

Applicants must sign the grant agreement before any grant funds are released. The grant agreement requires the applicant to certify that they understand and agree to all of the terms. DLG reserves the right to amend grant agreements to ensure project completion and that funds are being utilized compliantly.

5.10 Timely Expenditures and Project Completion

To ensure that projects are completed within the required CDBG-DR grant timeline, DLG will impose a period of performance of up to 3 years for projects funded under PISM. For smaller projects, DLG may impose a 2-year timeline. Applicants will be required to submit a project schedule that details specific milestones and spending timelines. On a quarterly basis, DLG will require applicants to provide a status report on whether the project is on schedule and identify any risks, if applicable.

The period of performance will commence upon execution of a grant agreement between DLG and the subrecipient. Applicants will have the opportunity to apply in subsequent rounds of the Public Infrastructure and Stormwater Program if funds remain available, so DLG may impose a shorter period of performance for those grants as a result. DLG also may approve extensions to the period of performance, contingent upon the overall grant timeline and HUD approval, provided the subrecipient demonstrates that good cause exists. Should a project's timeline exceed the overall grant expenditure deadline, extension of the period of performance will be subject to HUD approval. HUD may extend the period of performance administratively if good cause for such an extension exists at that time, as requested by DLG, and approved by HUD.

5.11 Reporting Requirements

In order to meet the HUD requirement for submitting the Disaster Recovery Grant Reporting System (DRGR) Quarterly Performance Report, DLG will require subrecipients to provide quarterly progress update reports. This performance report shall be submitted to HUD within 30 days after the close of the quarterly reporting period. These reports will provide updates on various elements of the award, including, but not limited to, the following:

1. Detailed grant progress narratives
2. Current expenditure of federal funds and any other funds being utilized
3. Progress on performance metrics
 - a. Section 3: All contractors are required to maintain documentation demonstrating compliance with the Section 3 Final Rule established in 24 CFR 75. DLG will request Section 3 information either as part of the quarterly progress update reports or during monitoring. Documentation should report Section 3 labor hour requirements for the number of total labor hours, number of Section 3 labor hours, and the number of targeted Section 3 labor hours for all applicable construction activities.

5.12 Resilience Performance Metrics

HUD requires the Commonwealth to establish resilience performance metrics for each activity that constructs, reconstructs, or rehabilitates residential or non-residential structures. As part of the grant agreement process, PISM subrecipients will work with DLG to develop resilience performance metrics for each activity for which this requirement applies.

The resilience performance metrics will include a description of the projected risk from natural hazards to the project/service area, identification of the mitigation measure that will address the risk, and an assessment of the quantifiable benefit of the project's resilience measures through verifiable data. Tracking and reporting resilience performance metrics will be a required activity included within the terms of the grant agreement. The benefit of each activity should be a quantifiable metric that illustrates how the resilience measure is expected to improve outcomes compared with conditions if the activity were not implemented. Awardees will work with DLG to ensure that the metrics selected are feasible and meet HUD requirements.

5.13 Grant Agreement Modifications and Extensions

Subrecipients may request a grant amendment to extend the period of performance, for scope changes, or for budget changes that affect the CDBG-DR grant award. DLG will review the submission and determine whether a grant amendment is warranted. Subrecipients must submit the request for a grant amendment as soon as the need is identified. Requests can be submitted at any time, but no later than 90 days prior to the termination date of the grant agreement.

The following modifications will be identified as a substantial modification and will trigger a requirement for the subrecipient to request a grant agreement modification from DLG and hold a public hearing to notify the community about changes to the project:

- A modification to the budget of the project that is \$100,000 or greater
- Changes in the location of the project
- Changes to the purpose of the project
- Changes to those benefiting from the project
- Changes to those directly impacted by the project

5.14 Program Draw Request Monitoring and Reconciliation

DLG will develop a comprehensive review structure to monitor draw requests and reconcile any issues that may arise as a result. The quality assurance/quality control process will involve the following:

- Documentation reviews and data collection during the draw review process
- Program monitoring to ensure that operations are within program guidelines
- Program expenditure and draw request review for eligibility based on applicable laws, CDBG-DR requirements, and CDBG regulations
- Follow-ups regarding identified compliance issues, initiation of corrective actions, and implementation of program controls, as necessary

5.15 Request for Payments

Subrecipients will be responsible for billing DLG for invoiced costs; DLG will subsequently pay vendors directly. Before the submission of costs to DLG, subrecipients must verify that vendor invoices are accurate and complete, the activities and costs were incurred during the period of performance, and all required support documentation is included in the payment package. Payments are described in greater detail within the Subrecipient Manual, Chapter 3: Financial Management.

5.16 Program Income

DLG does not anticipate the generation of any program income. However, any program income received must be used prior to requesting funding through the program or returned to DLG, subject to the applicable terms and conditions within the grant agreement and managed by DLG. Management of revenue from projects funded with PISM must comply with the program income requirements described within the Subrecipient Manual, Chapter 3: Financial Management.

5.17 Recapture of Funds

The review of program expenditures may identify a situation that would require the recapture of grant funds. Under the circumstances listed below, applicants may be required to repay all or a portion of the assistance received from PISM. The reasons for grant recapture include, but are not limited to, the following scenarios:

- An applicant is determined to have provided false or misleading information to the program.
- An applicant withdraws from the program prior to completion of the project. (Withdrawal from the program must be in writing or via email.)
- The project is not completed due to non-cooperation by the applicant.
- The applicant did not comply with the approved scope of work in a manner that made the project eligible.
- The applicant failed to report the receipt of any additional funds received after a DOB analysis was conducted.

All applicants who have been identified for the recapture of program funding will not be able to close out of the program until all funds have been repaid to the program.

6 CDBG-DR REQUIREMENTS

6.1 Procurement Requirements

All procurements funded, in whole or in part, with CDBG-DR funds must comply with the CDBG-DR procurement policy as found in the appendix to the Subrecipient Manual, Chapter 4: Procurement. The CDBG-DR procurement policy complies with the requirements of 24 CFR 570.489(g),⁹ which allow States to establish procurement requirements based on full and open competition. DLG has modeled these CDBG-DR procurement requirements on 2 CFR Part 200 (referred to as the Omni Circular, previously known as the U.S. Office of Management and Budget Super Circular).

Each subrecipient of PISM shall adopt and abide by the CDBG-DR Procurement Code included within the Subrecipient Manual, which shall apply only to procurements funded with CDBG-DR dollars. The CDBG-DR Procurement Code follows the Kentucky Model Procurement Code (KRS Chapter 45A), except where the Model Procurement Code conflicts with federal procurement standards and where DLG has stricter requirements. The CDBG-DR Procurement Code includes the following:

- A code of conduct to govern the performance of the subrecipient's officers, employees, or agents in contracting with CDBG-DR funds and to ensure adherence to the conflict of interest and disclosure requirements (outlined in Chapter 1: Project Administration)
- A requirement that positive efforts be made to use small, minority, female, low-income, and/or locally owned businesses
- A requirement that contracts be awarded, to the greatest extent feasible, to businesses that provide economic opportunities for low- and very-low-income persons residing in the project area

6.2 Contractor Standards

Contractors must comply with the Contract Work Hours and Safety Standards Act (CWHSSA) and the Copeland Anti-Kickback Act (the Copeland Act). CWHSSA requires that for any federally assisted construction contract over \$100,000 subject to Davis-Bacon and Related Acts wage standards where the Federal Government is not a direct party, contractors and subcontractors must pay laborers and mechanics, including watchmen and guards, employed in the performance of covered contracts one-and-a-half times their normal hourly rate for any hours worked in excess of 40 hours weekly, based on a work week of 7 consecutive days.

The Copeland Act applies to contractors and subcontractors that perform work on contracts for the construction, prosecution, repair, or completion of public buildings, public works, or works that are financed in whole or in part by loans or grants from the Federal Government. The Act prohibits any person from inducing a worker on a federally funded project to give up any part of

⁹ Federal Regulations. Title 24: Housing and Urban Development. 570.489: Program Administration Requirements. [eCFR :: 24 CFR 570.489 -- Program administrative requirements](https://www.ecfr.gov/current/title-24--housing-and-urban-development/chapter-III--public-housing-program-administration/subchapter-B--general-administrative-requirements/part-570--general-administrative-requirements/section-570.489--program-administrative-requirements).

the compensation to which the worker is entitled. No payroll deductions are permitted that are not specifically listed in the Copeland Act unless the contractor has obtained written permission from the employee as specified in 29 CFR 3.5¹⁰ for otherwise permissible payroll deductions.

6.3 Construction Regulations

6.3.1 Elevation of Non-Residential Structures

Non-residential structures, including infrastructure, assisted with PISM funds must be elevated or floodproofed in accordance with FEMA floodproofing standards at 44 CFR 60.3I(3)(ii),¹¹ or a successor standard, up to at least 2 feet above the 100-year (or 1% annual chance) floodplain.

All critical actions funded through PISM, as defined at 24 CFR 55.2(b)(3),¹² within the 500-year (or 0.2% annual chance) floodplain must be elevated or floodproofed (in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(2)–(3) or a successor standard) to the higher of the 500-year floodplain elevation or 3 feet above the 100-year floodplain elevation. If the 500-year floodplain elevation is unavailable and the critical action is in the 100-year floodplain, then the structure must be elevated or floodproofed to at least 3 feet above the 100-year floodplain elevation. Activities subject to elevation requirements must comply with applicable federal accessibility mandates. *Critical actions* are defined as “any activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons or damage to property.” For example, critical actions include hospitals, nursing homes, emergency shelters, police stations, fire stations, and principal utility lines.

For this program, applicants must certify that they will not use CDBG-DR funds for any activity in an area identified as flood-prone for land use or hazard mitigation planning purposes by the State, local, or tribal government or delineated as a Special Flood Hazard Area (or 100-year floodplain) in FEMA’s most current flood advisory maps, unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain, in accordance with Executive Order 11988¹³ and 24 CFR 55.

6.3.2 Flood Insurance: Prohibition on assisting properties that failed to comply

[Section 582 of the National Flood Insurance Reform Act of 1994](#), as amended (42 U.S.C. 5154a), prohibits flood disaster assistance under certain circumstances. Subrecipients in a flood disaster area must comply with the requirements to obtain and maintain flood insurance as

¹⁰ Federal Regulations. Title 29: Labor. 3.5: Payroll Deductions Permissible without Application to or Approval of the Secretary of Labor. [eCFR :: 29 CFR 3.5 -- Payroll deductions permissible without application to or approval of the Secretary of Labor](#).

¹¹ Federal Regulations. Title 44: Emergency Management and Assistance. 60.3: Flood Plain Management Criteria for Flood-Prone Areas. [eCFR :: 44 CFR 60.3 -- Flood plain management criteria for flood-prone areas](#).

¹² Federal Regulations. Title 24: Housing and Urban Development. 55.2: Terminology. [eCFR :: 24 CFR 55.2 -- Terminology](#).

¹³ Executive Order 11988. [Floodplain Management](#). U.S. Environmental Protection Agency.

required under applicable federal law in order to be eligible for assistance. A grantee or subrecipient receiving CDBG-DR funds must notify property owners about their responsibility to obtain and maintain flood insurance under Section 582 of the National Flood Insurance Reform Act of 1994, as amended (42 U.S.C. 5154a).

Subrecipient who do not comply with these requirements may have penalties assessed against their total allocations by FEMA. These penalties cannot be paid with CDBG-DR funding.

6.3.3 Flood Insurance: Requirement to purchase and maintain flood insurance

Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires property owners located within a Special Flood Hazard Area who are assisted with CDBG-DR funds to purchase and maintain flood insurance for any HUD-assisted property. The requirement for purchasing flood insurance will be stated within the grant agreement and proof of compliance will be included within closeout procedures. Subrecipients must develop and implement a process to ensure that property owners adhere to this requirement.

6.3.4 Flood Insurance: Responsibility to inform property owners

Title V – National Flood Insurance Reform, [Section 582](#), mandates that property owners receiving disaster assistance triggering the flood insurance purchase requirement have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance. A *transferee* is defined as an entity receiving ownership of a property from the transferor. Once ownership has changed, the transferee is now required to maintain written documents evidencing the transfer of the property and that the transferor may be liable if he or she fails to do so. A grantee or subrecipient receiving CDBG-DR funds must notify property owners of their responsibility to obtain and maintain flood insurance.

6.3.5 Requirements for Flood Control Structures

Grantees and subrecipients that use CDBG-DR funds to assist with flood control structures (i.e., dams and levees) are prohibited from using CDBG-DR funds to enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event without obtaining pre-approval from HUD and any federal agencies that HUD determines are necessary based on their involvement or potential involvement with the levee or dam.

Should DLG approve of projects that fund levees and dams, it must seek approval from HUD prior to execution of the grant agreement and is subsequently required to:

1. Register and maintain entries regarding such structures with the United States Army Corps of Engineers (USACE) National Levee Database or National Inventory of Dams.
2. Ensure that the structure is admitted to the USACE Levee Rehabilitation and Inspection Program under Public Law 84-99.
3. Ensure that the structure is accredited under the FEMA National Flood Insurance Program.
4. Enter the exact location of the structure and the area served and protected by the structure into the DRGR system.

5. Maintain file documentation demonstrating that the grantee has conducted a risk assessment before funding the flood control structure and documentation that the investment includes risk reduction measures.
DLG and the subrecipient will coordinate with the Kentucky Division of Water to comply with all applicable State and federal regulations related to dams and levees.

6.3.6 Infrastructure Planning and Design

All newly constructed infrastructure that is assisted with CDBG-DR funds must be designed and constructed to withstand extreme weather events and the impacts of climate change. To satisfy this requirement, DLG must identify and implement resilience performance metrics that will protect the public, including members of protected classes, vulnerable populations, and underserved communities, from any risks identified in the Action Plan. DLG will review non-federal match projects to determine which metrics are suitable for reporting to HUD through the DRGR system. Examples of resilience performance metrics include the following:

- Number of non-residential buildings constructed
- Number of public facilities
- Number of fewer outages of critical facilities and utilities
- Number of linear feet of public improvement
- Number of properties with access above the 100-year or 500-year flood level
- Number of residents protected from future flooding

For the purposes of this requirement, an infrastructure activity includes any activity or group of activities (including the acquisition of the site or other improvements), whether carried out on public or private land, which assists with the development of physical assets that are designed to provide or support services to the general public in the following sectors:

- Water resources projects
- Energy production and generation, including from renewable and hydro sources
- Electricity transmission
- Pipelines
- Stormwater and sewer infrastructure
- Drinking water infrastructure
- Other sectors as may be determined by the [Federal Permitting Improvement Steering Council](#)

For purposes of this requirement, an activity that falls within this definition is an infrastructure activity regardless of whether it is carried out under sections 105(a)(2), 105(a)(4), 105(a)(14), another section of the HCDA, or a waiver or alternative requirement established by HUD.

6.4 Section 3

Section 3 provides that economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low-income persons and contracting opportunities should be directed to Section 3 businesses that employ these individuals, are involved in housing rehabilitation or housing construction, or other public construction with federal housing and community development funding in excess of \$200,000. Infrastructure is considered “other public construction” and thus triggers Section 3. Subrecipients will be required to follow the DLG Section 3 requirements to further the goals of the Section 3 regulations.

Under CDBG-DR, DLG is required to report Section 3 labor hour requirements for the number of total labor hours, number of Section 3 labor hours, and the number of targeted Section 3 labor hours for all applicable construction activities. HUD staff will review the data reported to analyze DLG’s progress toward meeting Section 3 requirements and to inform on-site and remote monitoring engagements.

6.5 Davis-Bacon Labor Standards

Under Section 110(a) of the Housing and Community Development Act of 1974, laborers and mechanics employed by contractors and subcontractors on construction work “financed in whole or in part” with CDBG-DR assistance must be paid not less than wages determined to be prevailing on similar construction work in the locality by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 3141 et seq.). The Davis-Bacon prevailing wage requirements do not apply to the rehabilitation, reconstruction, and demolition of residential property containing fewer than eight units; prime contracts of \$2,000 or less; bona fide volunteers where the procedures and requirements of [24 CFR 70](#) are met; or demolition that is not followed by construction.

For activities that are subject to the Davis-Bacon requirements, DLG will carry out the implementation, monitoring, enforcement, and reporting activities that are specified in [HUD Handbook 1344.1 Rev. 3, Chapter 1, Section 1-5.B](#).

6.6 Environmental Review and Historic Preservation

All subrecipients must complete environmental and historic preservation compliance reviews before committing funds or beginning recovery activities. CDBG-DR appropriation acts prohibit HUD from waiving these requirements.

CDBG-DR subrecipients of the program are considered responsible entities and must complete an environmental review and obtain authorization to use grant funds from DLG for all project activities prior to obligating any project funds.

The HUD rules and regulations that govern the environmental review process can be found at 24 CFR Part 58. The provisions of the National Environmental Policy Act (NEPA) and the

Council on Environmental Quality regulations in 40 CFR Parts 1500 through 1508, as well as myriad other State and federal laws and regulations (some of which are enforced by State agencies), also may apply, depending upon the type of project and the level of review required. These laws and authorities are referenced in the HUD and NEPA regulations and are listed in the Subrecipient Manual, Chapter 2: Environmental Review. The subrecipient and the environmental certifying officer are responsible for referring to and complying with all federal, State, and local environmental rules and regulations.

6.7 Uniform Relocation Assistance

The Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended (the URA), and its implementing regulations at 49 CFR 42 establish minimum standards for federally funded programs and projects requiring the acquisition of real property or displacing persons from their homes or businesses. The URA applies broadly to all planned or intended federally funded projects, funded in part or in whole, where acquisition, rehabilitation, or demolition occurs during any phase.

DLG must consider all acquisition of property, including easements, along with the potential impacts on the tenants.¹⁴ If an identified project results in tenants leaving their homes involuntarily (being displaced), the tenants may be eligible for tenant relocation assistance under the URA. These requirements apply to the relocation of any *displaced person* as defined at 49 CFR § 24.2(a)(9).¹⁵ Displaced persons, under this definition, must be fully informed of their rights and entitlement to relocation assistance and payments provided by the URA and its implementing regulations. For more information, refer to 49 CFR 24, Subpart C.

6.8 Financial Management

6.8.1 Responsibilities of the DLG

As per this program policy and other documentation, DLG will ensure that it has the policies and procedures for expending and accounting for all CDBG-DR funds received and maintaining adequate source documentation to demonstrate that CDBG-DR funds are used in compliance with all the terms and conditions of the CDBG-DR award, only spent for reasonable and necessary costs, and not used for general expenses to carry out other responsibilities of State and local governments. DLG's financial policies also will ensure that the following are met:

1. DLG will charge to the CDBG-DR award only allowable, reasonable, and allocable costs incurred during the period of performance and any authorized pre-award costs.
2. DLG will minimize the time elapsed between the receipt of funds from the Federal Government and the reimbursement of funds to the subrecipients.

¹⁴ U.S. Department of Housing and Urban Development. [Tenant Assistance, Relocation and Real Property Acquisition Handbook](#) (1378.0).

¹⁵ Federal Register. Title 49: Transportation. 24.2: Definitions and Acronyms. [eCFR :: 49 CFR 24.2 -- Definitions and acronyms](#).

3. If applicable, DLG will disburse funds available from program income before requesting additional grant funding.
4. For any changes made to the approved budget, scope, or objectives, DLG will notify HUD about the changes and any substantial changes will be approved by HUD.
5. DLG will submit to HUD mandatory quarterly progress reports for HUD's review of program progress.

6.8.2 Subrecipient Responsibilities

The subrecipient is responsible for administering the program grant award and requires a sound financial management system. With CDBG-DR funding comes certain administrative and financial management requirements. Financial management is the constant process of tracking progress toward financial objectives and safeguarding the financial assets of an organization. The key principles of financial management are common to all types of organizations and include sound financial management systems, internal controls, allowability of costs, use and tracking of program income, and audits.

The CDBG regulations, which also are applicable to CDBG-DR funding, require subrecipients who are governmental entities or public agencies to adhere to certain administrative and financial management requirements. In addition to the CDBG regulations at 24 CFR 570.489, which contain the basic program administrative requirements, Federal Register Notice 87-31636 (May 24, 2022) also contains the specific waivers and alternative requirements for the use of the disaster recovery funds. Additionally, 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which was adopted by HUD at 2 CFR 2400 and clarified applicability at 24 CFR 570.502, also applies.

The requirements found at 2 CFR Part 200 establish principles and standards for determining allowable costs under federal grants. It also includes requirements for audits, such as the type and level of audit required, reports issued by auditors, and audit review and resolution, as well as requirements for financial management systems, reports, records, and grant closeouts for recipients of federal grant funding. The financial management requirements are described in greater detail within the Subrecipient Manual, Chapter 3: Financial Management.

6.9 Conflict of Interest

No persons who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part who exercise or have exercised any functions or responsibilities with respect to CDBG-DR activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-DR-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-DR-assisted activity, or with respect to the proceeds of the CDBG-DR-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for 1 year thereafter.

6.10 Equal Opportunity

Through the use of CDBG-DR funding, no person should be excluded, denied benefits, or subjected to discrimination on the basis of their race, color, national origin, sex, disability, or age. DLG and its subrecipients may not discriminate in any of the following areas: deciding who will be admitted or have access to any CDBG-DR-funded program or activity; providing opportunities in or treating any person with regard to such a program or activity; or making employment decisions in the administration of or in connection with such a program or activity.

DLG and the subrecipients must administer and fund programs that are in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–3619), and implementing regulations, and will affirmatively further fair housing.

Program homeowners and renters will be informed that if they believe their rights may have been violated, they can [file a complaint with the Office of Fair Housing and Equal Opportunity](#) via online submission, email, phone, or mail.

HUD Form 903 [Online Complaint](#)
Atlanta Regional Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
Five Points Plaza
40 Marietta Street, 16th Floor
Atlanta, GA 30303-2806
Phone: 678-732-2493
Email: ComplaintsOffice04@hud.gov

7 COMPLIANCE AND MONITORING PROTOCOLS

7.1 Program Monitoring and Oversight

All subrecipients must implement strategies to closely monitor operations in order to increase efficiency, be compliant with applicable rules and regulations, and improve the overall quality of services and the use of funds. For more details on monitoring requirements and procedures, refer to the Subrecipient Manual, Chapter 13: Monitoring.

7.2 Training and Certification

The Commonwealth of Kentucky requires that individuals administering CDBG-DR funds be officially certified by DLG as CDBG-DR Grant Administrators. To be certified as a CDBG-DR Grant Administrator, first-time attendees must participate in the DLG-sponsored CDBG Administrator Certification training and pass a test, which is administered at the culmination of the training. They must then attend the DR-specific training to be held after the CDBG certification training. Upon completion of the training, individuals will be informed within 60 days whether they have successfully completed the test and received certification.

It is important to note that it is the individual who attended the training and passed the test who receives the certification, not the firm that employs the individual. Therefore, if an individual leaves the organization, the certification goes with the individual. Refer to the Subrecipient Manual, Chapter 1: Project Administration, for more details.

7.3 Development of Internal Controls and Reporting

Internal controls refer to the combination of policies, procedures, defined job responsibilities, personnel, and records that allow an organization (or an agency) to maintain adequate oversight and control of its cash, property, and other assets.

The soundness of any subrecipient's financial management structure is determined by its system of internal controls. Specifically, internal controls refer to the following:

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and regulations

With a sound internal control system, a subrecipient can ensure that:

- Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations, and policies.
- Resources are protected against waste, mismanagement, or loss.
- Information on the source, amount, and use of funds is reliable, secured, and up-to-date, and this information is disclosed in the appropriate reports and records.

As part of an effective internal control system, one person should be designated as the primary person at the subrecipient organization responsible for the financial management of a CDBG-DR project. This person should be familiar with their organization's accounting system and how the accounting of CDBG-DR funds is integrated into the subrecipient's existing system. Refer to 2 CFR 200.303 for more information.

7.4 Audit Requirements

In procuring auditing services, subrecipients should follow the applicable procurement standards and Kentucky Statute KRS 91A.040. The subrecipient should ensure that the auditor is knowledgeable about the specific accounting requirements that apply to local government.

All audits must be conducted in accordance with 2 CFR Part 200 and must be performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) (see 2 CFR 200.514(a)). According to GAGAS, a financial audit should determine whether:

- Financial information is presented in accordance with the established or stated criteria.
- The entity has adhered to specific financial compliance requirements.
- The entity's internal control structure over financial reporting and/or safeguarding assets is suitably designed and implemented to achieve control objectives.

In conducting an audit, the subrecipient **must** supply the following information to the auditor at the beginning of each audit:

- A copy of the grant information sheet received with the grant agreement
- A copy of the grant agreement
- A copy of all draw requests processed during the fiscal year
- A copy of the monitoring letter if one was issued during or affecting the fiscal year being audited
- A copy of the community's most recent budget, which includes the CDBG-DR funds for the fiscal year
- The location of CDBG-DR project records and the name and phone number for a contact person

More information about audit requirements can be found in the Subrecipient Manual, Chapter 3: Financial Management.

7.5 Prevention of Fraud, Waste, and Abuse

Infrastructure and Storm Water Management program funds will be monitored periodically by the Kentucky DLG to ensure compliance with all federal and State requirements. A subrecipient must agree to return all unexpended funds and improper payments to DLG in the event of fraud, waste, or mismanagement and/or substantial noncompliance with the guidelines. Complaints alleging violation of Fair Housing Act laws will be directed to HUD for immediate review. Complaints regarding fraud, waste, or abuse of funds will be forwarded to the HUD Office of the

Inspector General Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov). DLG's fraud, waste, and abuse policy will be available on the CDBG-DR website.

DLG will provide information on reporting contractor fraud or illegal activities in their applicable program guidelines. The Attorney General of Kentucky has set up multiple ways by which to file a report:

- Citizens can call 502-696-5485 to report any suspected fraud.
- Suspected price gouging can be reported to [Complaint Form](#)
- Scams can be reported to [Scam Form](#)
- The Attorney General's Consumer Protection Hotline remains active and can be reached by calling 1-888-432-9257.

The Office of the Attorney General also has a list of natural disaster scams with tips on how to avoid these common scams.

7.6 Files, Record, and Reporting Requirements

It is important that the grantee fully document compliance with all applicable regulations. This is accomplished through maintaining comprehensive records and submitting all necessary reports.

The filing system should be easy to use and should provide a historic account of activities for examination and review by the State, auditors, and local staff. All records must be available to the following entities upon request:

- Comptroller General of the United States
- General Accounting Office
- Kentucky Department for Local Government
- Kentucky Legislative Research Commission
- Kentucky Auditor of Public Accounts
- The Inspector General
- U.S. Department of Housing and Urban Development

These entities must have access to any pertinent books, records, accounts, documents, papers, and other property that is relevant to the grant. Certain records must be available to the public as well. However, grantees must keep files that contain personal information, such as social security numbers, in a secure place.

8 CLOSEOUT

8.1 Closeout Procedure and Documents

When executing closeout procedures, the subrecipient must hold a public hearing to discuss the program closeout as the funds are depleted. The Project Completion Report and back-up documentation must be completed, the national objective must be met, there cannot be any outstanding compliance review findings on the project, and all required audits must be approved.

The project will be ready for closeout when the following conditions are met:

- All eligible activities are completed in accordance with the scope of work agreed upon within the signed grant agreement, as modified and as certified by an engineer.
- All funds are expended in full or the remaining funds are intended to be returned to HUD.
- All reporting requirements (e.g., Quarterly Performance Reports, HUD Monthly Status Reports, HUD Contract Reports, other internal reporting) are completed.
- Any special conditions of the program are met.
- All audit and monitoring issues are resolved.

More information about the closeout procedure can be found in the Subrecipient Manual, Chapter 14: Project Closeout.

Program representatives will work with cities, townships, counties, special districts, and federally recognized tribal governments to collect all closeout documentation for their files in accordance with the Subrecipient Manual, Chapter 14: Project Closeout. A final closeout file review will be required to ensure that all documentation required in each step of the process is completed and is compliant. Subrecipients are required to submit the following to DLG to complete the closeout:

- The final request for funds
- Documentation reporting the grant accomplishments and expenditures of each project to the residents of the jurisdiction, including that the HUD national objective was met
- Documentation that funds were expended in full or certification of the return of the remaining funds
- Documentation describing the resolution of any outstanding audit or monitoring issues
- Duplication of benefits form
- Certification of completion from an engineer
- Flood insurance documentation, where applicable
- Final inspection and documentation

8.2 Flood Insurance

The requirement for purchasing flood insurance for applicable properties will be stated within the grant agreement; failure to maintain insurance may result in being ineligible for future disaster relief. Evidence that the property has flood insurance must be provided before closeout if flood insurance is required due to previous federal disaster assistance received. If flood coverage is required but not available due to the state of disrepair of the property, a declination letter from the insurer must be submitted at the time of contract execution.

If the applicant's property is in a Special Flood Hazard Area, insurable property shall be insured under a policy of flood insurance in the amount of the lesser of the following at all times:

- The value of the federal award or
- The maximum amount available for the structure under the National Flood Insurance Program or a successor program.

At the time of application, applicants must declare whether the property was covered by a private flood insurance policy and all amounts that were received for structural loss and additional living expenses that were paid under the policy are related to the severe storms, flooding, landslides, and mudslides from the disaster (DR-4595) that occurred between February and March 2021 or the severe storms, straight-line winds, flooding, and tornadoes from DR-4630. The subrecipient then verifies that the declared amounts are correct by contacting individual private flood insurance companies.

8.3 Duplication of Benefits

A final duplication of benefits review will be completed by the subrecipient and verified by DLG as part of the closeout. Prohibition of duplication of benefits is described in Section 5.5 of this policy manual and Chapter 10 of the Subrecipient Manual.

9 Appendix

9.1 Abbreviations and Definitions

Action Plan—The Commonwealth of Kentucky Action Plan for Disaster Recovery submitted to and approved by HUD in fulfillment of the CDBG-DR Program requirements.

Appeal—A written request from an applicant submitted for review to change an unfavorable determination made by the program.

Applicant—Any entity that submits an application to the program.

CDBG-DR—Community Development Block Grant – Disaster Recovery

Contractor—A company under contract to provide professional services to DCA and/or a subrecipient that is directly responsible for management of the State's Homeowner Assistance and Recovery Program.

Demolition—Clearance and proper disposal of dilapidated buildings and improvements.

Disability—For the purposes of the program, "disability" is consistent with federal law under the Social Security Act, as amended, 42 U.S.C. § 423(d), The Americans with Disabilities Act of 1990, 6 as amended, 42 U.S.C. § 12102(1)-(3), and in accordance with HUD regulations at 24 CFR §§ 5.403 and 891.505.

Department for Local Government (DLG)—The agency within the Commonwealth of Kentucky that administers the State CDBG Program and the CDBG-DR program. The Department for Local Government (DLG), under the Office of the Governor, provides financial help in the way of grant and loan assistance, as well as advising local governments in matters of budget, personnel, and other issues relevant to those entities.

DRGR—The Disaster Recovery Grant Reporting System (DRGR) was developed by the Housing & Urban Development's (HUD) Office of Community Planning and Development (CPD) for the Disaster Recovery Community Development Block Grant (CDBG) program and other special appropriations. It is primarily used by grantees to access grant funds and report performance accomplishments for grant-funded activities.

Duplication of Benefits—The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG Disaster Recovery funding with respect to any part of a loss resulting from a major disaster and financial assistance where other sources have been provided (insurance, any other program, etc.)

Elderly—A person at least 62 years of age [24 CFR § 5.100].

Environmental Clearance—A clearance given by DLG to indicate a Subrecipient has met the CDBG-DR environmental procedures and sufficient documentation and certification have been provided.

Environmental Review (ER)—The technical process of identifying and evaluating the potential environmental effects of a specific project within each impact category and as a whole.

Environmental Review Record (ERR) —Documentation of the environmental review process including all assessments or environmental impact statements, published notices, notifications and correspondence relating to a specific project.

Federal Register (FR) —A daily publication of the U.S. federal government that issues proposed and final administrative regulations of federal agencies.

Flood Disaster Protection Act of 1973 and Sec. 582(a) of the National Flood Insurance Reform Act of 1994—Compliance with the legal requirements of Section 582(a) mandates that HUD flood disaster assistance that is made available in Special Flood Hazard Areas (SFHAs) may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for flood damage to any personal, residential, or commercial property if 1) the person had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and 2) that person failed to obtain and maintain flood insurance as required under applicable federal law on such property.

Flood Insurance—The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP) following the receipt of federal assistance. To be able to purchase flood insurance, the community must participate in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

Floodway—FEMA designation for the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Hazardous Materials—Means and includes any pollutant, contaminant, or hazardous, toxic, or dangerous waste, substance, or material (including without limitation petroleum products, asbestos-containing materials and lead), the generation, handling, storage, transportation, disposal, treatment, release, discharge or emission of which is subject to any Environmental Law.

HUD—United States Department of Housing and Urban Development.

Limited English Proficiency (LEP)—A designation for persons who are unable to communicate effectively in English because their primary language is not English, and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. An LEP person benefits from an interpreter who translates to and from the person's primary language. An LEP person may also need

documents written in English translated into his or her primary language so that person can understand important documents related to health and human services.

LMI National Objective—One of three national objectives that any CDBG activity must meet. Activities that meet the LMI objective must 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, shall be used to verify the income eligibility of each household applying for assistance at the time assistance is provided.

Low to Moderate Income (LMI) Household—A household with income (including income derived from assets) at or below 80 percent (80%) of an area's median income. All income is based on the Area Median Income limits set annually by HUD for each county or metropolitan statistical area.

Management Information System (MIS) —Program Representatives workflow, record storage, and interface tool.

Mitigation—Activity to protect the home from future storm damage (e.g.; elevation, shutters, elevated HVAC, strengthen doors, soil stabilization, roof-ties, etc.).

Monitoring—A routine review of projects during and after federal assistance has been provided to the Subrecipient

NFIP—National Flood Insurance Program. When the program refers to NFIP in the context of eligibility or duplication of benefits, the program is referring to private and public flood insurance programs that cover structural repairs resulting from flood damages.

PISM-Public Infrastructure and Storm Water Management Program—Created to provide funding for resilient water management infrastructure activities designed to fortify Kentucky communities against severe weather events and flooding damage.

Program Income—Gross income received by the Subrecipient that was generated from the use of CDBG-DR funds.

Public Notification—Process of publicizing information about CDBG-DR projects. This is attained through the use of newspapers, newsletters, periodicals, radio and television, community organizations, grassroot and special needs directories, brochures, and pamphlets.

Scope of Work (SOW)—Description of activities to be performed by the subrecipient/contractor.

Regulations—Refers to the implementing requirements that are developed and issued by the agency responsible for a certain program or requirement. In the case of CDBG, the regulations are issued by HUD and can be found at 24 CFR Part 570.

Responsible Entity (RE)—Term used to refer to the entity responsible for completing and certifying an environmental review record, as required under 24 CFR Part 58. In the case of CDBG-DR funds, Subrecipients (that are local governments) are the responsible entity.

Section 3—That portion of Section 3 of the HUD Act of 1968 related to the hiring of local low and very low-income populations to perform work on contracts that use federal funds. The State of New Jersey is reviewing and adopting a Section 3 Plan for this program. At a minimum, it will require general contractors in the qualified contractor pool to meet the Section 3 policy to the “greatest extent feasible.” The term greatest extent feasible means that general contractors will make substantial efforts to comply with the regulatory requirements of Section 3.

Section 504 of the [Rehabilitation Act](#) of 1973—A national law that protects qualified individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any federal department or agency, including the U.S. Department of Health and Human Services (DHHS). These organizations and employers include many hospitals, nursing homes, mental health centers and human service programs.

Special Flood Hazard Area (SFHA)—An area having special flood, mudflow, or flood-related erosion hazards and shown on a Flood Hazard Boundary Map (FHBM) or a Flood Insurance Rate Map (FIRM) Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE or V. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

Subrecipient—A non-federal entity, unit of general local government, or a nonprofit organization in Kentucky that administers all or a portion of a CDBG-DR funded program.

System for Award Management (SAM)—An information system tool that streamlines the federal acquisition business processes by acting as a single authoritative data source for vendor, contract award, and reporting information.

Underserved Communities—The term refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life. Underserved communities that were economically distressed before the disaster include, but are not limited to, those areas that were designated as a Promise Zone, Opportunity Zone, a Neighborhood Revitalization Strategy Area, a tribal area, or those areas that meet at least one of the distress criteria established for the designation of an investment area of Community Development Financial Institution at 12 CFR 1805.201(b)(3)(ii)(D). Underserved communities with both protected classes and vulnerable populations and are the result of historic and systemic patterns regarding the lack of engagement, mistreatment, and barriers to participation.

URA—The Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended (Title 49 CFR Part 24) (42 U.S.C. 4601 et. seq.) See New Jersey URA Policy. Applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted program or projects. URA's objective is to provide uniform, fair, and equitable treatment

of persons whose real property is acquired or who are displaced in connection with federally funded projects. For the purposes of these guidelines, URA mostly applies to residential displacements in involuntary (49 CFR Subpart B) acquisition or multifamily damaged/occupied activities that require the relocation of the tenants.

Urgent Need National Objective (UN)—An urgent need that exists because conditions pose serious and immediate threat to health/welfare of community, the existing conditions are recent or recently became urgent, and the recipient of funds cannot finance the activities on its own because other funding sources are not available. Documentation must be maintained on how each program and/or activity funded under this category responds to a disaster-related impact.

Vulnerable Populations—The intersectionality of characteristics that can make people vulnerable varies locally and regionally by geography, markets, prevalent housing stock and tenure, history, prejudice, or policy.