



**Rental Rehabilitation and Reconstruction Policy
Manual**

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Version History and Version Policy

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

The State will publish a new version after making substantive changes that reflect a policy change. The updated policy manual will be assigned a new primary version number such as 2.0, 3.0, etc.

After making non-substantial changes, such as minor wording and editing or clarification of existing policy that do not affect the interpretation or applicability of the policy, the State will publish a version of the document with a sequential number increase behind the primary version number such as 2.1, 2.2, etc.

Amendments made to policy may go into effect on the date of the revision or may be applied retroactively, depending on the applicant pipeline and status of applicants in the program intake and recovery process. 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 Number	Date Revised	Key Revisions
1.0		Rental Rehabilitation and Reconstruction Policy Manual

1 Program Overview

1.1 Introduction

In alignment with the Commonwealth of Kentucky’s comprehensive approach to resilient recovery from 2021 Severe Storms, Flooding, Landslides, and Mudslides (DR-4595) and 2021 Severe Storms, Straight line Winds, Flooding and Tornadoes (DR-4630), the Commonwealth is launching the Rental Rehabilitation and Reconstruction Program to support communities in replacing and rebuilding rental housing units that were damaged or lost in the disaster events with a particular emphasis on providing affordable housing units to low income tenants.

In January 2023, the U.S. Department of Housing and Urban Development (HUD) announced that the Commonwealth of Kentucky would receive an additional \$48,983,000 in Community Development Block Grant–Disaster Recovery (CDBG-DR) funding via publication in the Federal Register (FR), Vol. 88, No. 11, January 18, 2023 (88 FR 3198). This allocation was made available through the Continuing Appropriations Act, 2023 (Public Law 117–180), approved September 30, 2022.

Community Development Block Grant-Disaster Recovery (CDBG-DR) are funds appropriated by Congress for recovery from 2021 Severe Storms, Flooding, Landslides, Straight-line winds, Mudslides and Tornadoes (DR-4595 and DR-4630) are the primary funding source for the Rental Rehabilitation Program. 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 sources.

1.2 Purpose of the Policy Manual

This policy manual provides policy guidelines for subrecipients and applicants in order to participate in the program. It includes information on important topics such as:

- Who is eligible to receive program assistance;
- What type of structures can be repaired, reconstructed or replaced;
- Types of eligible program costs and rebuilding or replacement requirements;
- Process compliance and documentation requirements to participate;
- How awards and benefits are calculated;
- What an approved participant must do before and after they get assistance from the program;
- How affordable rents are calculated and requirements for maintaining affordability;
- What additional resources are available to help applicants move forward with their application;
- How to appeal a program decision.

Please note that throughout this manual the term subrecipients refer to the UGLGs and their non-profit partners who will be applying to DLG (non-profits/for-profits who apply directly will also be referred to as subrecipients after consulting with DLG), applicants

refer to the Property Owners/property owners who will apply to the UGLG or non-profit entity to improve their properties, beneficiaries refer to the tenant households who will be residing in the affordable units.

Navigating the Manual: Users of this manual can jump from one section to another by clicking on the headers within the table of contents or by clicking on the side headers on the left-hand side of the document, which appear when clicking on the right-facing arrow.

DLG CDBG-DR subrecipient manual: Applicants to this program are instructed to also review the DLG CDBG-DR subrecipient manual in conjunction with this policy manual. Sections and chapters which are relevant to this program have been called out throughout this policy document. The subrecipient manual can be found here: [Kentucky DLG – DRP Grants](#).

1.3 Funding Sources

A disaster was presidentially declared in February 2022 for 2021 severe storms, flooding, landslides, and mudslides (DR-4595) and the 2021 severe storms, straight-line winds, flooding, and tornadoes (DR-4630). The U.S. Department of Housing and Urban Development (HUD) announced that the Commonwealth of Kentucky would receive \$74,953,000 funding to support long-term recovery and mitigation efforts following the 2021 severe storms (DR4595 and DR-4630) through publication in the Federal Register, Vol. 87, No. 100, May 24, 2022 (87 FR 6326).³ This allocation was made available through the Disaster Relief Supplemental Appropriations Act of 2022 (Pub. L. 117-43)⁴ and approved on September 30, 2021 (the Appropriations Act).

The funding for this program is provided through HUD's Community Development Block Grant Disaster Recovery (CDBG-DR) Program, as appropriated by Congress. Funding for 2021 disasters through the Kentucky Department of Local Government (DLG) funding 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), but 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

In January 2023, the U.S. Department of Housing and Urban Development (HUD) announced that the Commonwealth of Kentucky would receive an additional \$48,983,000 in CDBG-DR funding via publication in the Federal Register (FR) Vol. 88

No. 11, January 18, 2023 (88 FR 3198). This allocation was made available through the Continuing Appropriations Act, 2023 (Public Law 117-180), approved September 30, 2022. This additional allocation will supplement the initial application of \$74,953,000 of CDBG-DR funding announced by HUD in May 2022 via publication in the Federal Register Vol. 87 No. 100, May 24, 2022 (87 FR 6326). That allocation was made available through the Disaster Relief Supplemental Appropriations Act of 2022 (Public Law 117-43) and approved on September 30, 2021. In the future if HUD allocates additional funding for other disasters they will be subject to the terms of interchangeability of funds. HUD allows for CDBG-DR funds to be interchanged between grants received in separate allocations and under prior appropriations. Interchangeability means that those funds can be used without limitation for the same activities related to unmet recovery needs in the MID areas resulting from a major disaster identified in the Appropriations Act as CDBG-DR eligible or in prior or future appropriations acts, when the MID areas overlap and when the use of the funds will address the unmet recovery needs of major disasters identified in the Appropriations Act as CDBG-DR eligible or in any prior or future appropriations acts. DLG will receive additional funding from HUD for the 2022 disaster. Some communities have been affected by both the 2021 severe storms and the 2022 Kentucky flooding.

2 Program Description

The Rental Rehabilitation and Reconstruction program is intended to assist owners of rental properties to rehabilitate or reconstruct rental housing to provide safe, clean, and affordable rental housing to Low and Moderate Income households. The program will restore or reconstruct affordable rental units in disaster-impacted areas with the goal of ensuring that impacted counties do not lose the remaining rental units. It will work to alleviate blight in some of the areas that were hit hardest by the storm. Property Owners who participate in this program must agree to rent out 51% of their units to low/moderate income households for the period of affordability described in Section 4.3.

The program will provide assistance for activities necessary to restore storm-damaged rental units, including rehabilitation, reconstruction, elevation, and/or other mitigation activities. Mitigation activities include but are not limited to structural and utility retrofits or design modifications/retrofits to make the building more resistant to flood and wind damage such as, grading and slope stabilization, drainage improvements, and structural enhancements. Assistance may also be provided to make housing accessible for individuals living with disabilities. Substantial rehabilitation and reconstruction of properties with more than four rental units will include the installation of broadband infrastructure, where feasible.

Subrecipients to this program will be City, County, or Tribal governments and their non-profit partners, who will provide units of affordable housing. If a non-profit or for-profit entity would like to apply for these funds directly, they must contact DLG directly to gather more information about this process. Applicants will be allowed to apply with a capped number of 7 units to improve. These subrecipients will apply to DLG with an estimated number of units that would be improved with their program, and an estimated number of affordable units to be provided. DLG will provide awards to subrecipients for eligible projects. All subrecipients

will be responsible for monitoring construction, paying the contractor, and monitoring compliance with the requirements detailed within this policy document and the subrecipient manual. Property Owners will be responsible for soliciting their own contractors.

Subrecipients will be responsible for various requirements described in detail in this policy document as well as the CDBG-DR Subrecipient Manual. Examples of these requirements include:

- Landlord intake
- Income eligibility review for LMI households
- Duplication of Benefits Verification
- Per-unit repair/rehab calculation
- Appeals
- Inspections
- Environmental Review
- Lead-Based Paint Requirements
- Green Building Requirements
- Contractor Assistance
- Monitoring construction and post-construction rental compliance
- Contractor payments
- Construction grievances
- Compliance with all applicable cross-cutting federal requirements
- Construction closeout
- All projects will be monitored by DLG for compliance during construction and closeout.

2.1 Program/Project Maximum Assistance

The maximum award is \$75,000 per unit for any rehabilitation or reconstruction project. There may be instances where that award cap will be exceeded. Subrecipients will need to make that request to DLG and these requests will be reviewed by DLG on a case-by-case basis. Examples when this may occur include: increased costs of compliance associated with accessibility concerns, environmental mitigation, and other extenuating circumstances may warrant exceeding the maximum award amount.

2.2 Equity, Racial Justice, and Resilience to Future Disasters

The Commonwealth will work towards leading an equitable recovery from the 2021 storm events, by helping impacted residents, vulnerable populations, and members of underserved communities expedite their recovery by:

- Performing outreach and engagement to understand the needs of impacted participants and facilitating connections with vulnerable populations
- Coordinating with local organizations to ensure that refugee and immigrant populations are aware of and can access the assistance.

- Coordinating with local non-profit organizations that provide services to people with disabilities and historically underserved populations to ensure the promotion of the program and remove barriers to assistance.

2.3 Limited English Proficiency (LEP)

LEP is a designation for persons that are unable to communicate effectively in English because their primary language is not English. Recipients of federal funds awarded or drawn through DLG are required to ensure that meaningful access to services is assured for their LEP clients. Recipients must provide language assistance services that result in timely, accurate, and effective communication at no cost to LEP clients and/or their beneficiaries. Such language assistance services are to be provided in accordance with the guidelines set forth in the U.S. Department for Health and Human Services “Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.” DLG is available to assist Recipients in identifying and developing appropriate language assistance measures. If an application is funded, the local government or nonprofit agency will be required to conduct a four-factor analysis, develop a Language Access Plan (LAP), if necessary, and provide a description of outreach efforts during the Letter of Conditional Commitment stage.

2.3.1 Subrecipient Language Access Plan

DLG and subrecipients are required to ensure meaningful access to agency services, programs and activities for persons who have LEP. From intake to closeout, subrecipients must identify property owners or beneficiaries who have difficulty speaking or reading English and ensure that services are available to them in accordance with the [KY DLG Language Access Plan](#).

In order to determine if language assistance is required by recipients of federal funds through DLG, all Recipients are required to follow the measures outlined below:

1. Conduct the four-factor analysis prior to advertising for application public hearing.
2. If the four-factor analysis reveals there are 1,000 or more LEP persons, or 5 percent or more LEP persons in the eligible population in the jurisdiction or among current beneficiaries, the applicant will provide appropriate language assistance by:
 - a. Translating all vital documents;
 - b. Posting notices of application public hearings in areas frequented by LEP persons of the threshold population(s) in the language(s) spoken; and
 - c. Providing translation services at public hearings, if requested to do so by LEP persons.
3. If the four-factor analysis reveals there are less than 50 LEP persons but 5 percent or more LEP persons in the eligible population in the

jurisdiction or among current beneficiaries, the applicant will provide appropriate language assistance by:

- a. Posting notices of application public hearings in areas frequented by LEP persons of the threshold population(s) in the language(s) spoken; and
 - b. Providing translation services at public hearings, if requested to do so by LEP persons.
4. If the four-factor analysis reveals there are less than 50 LEP persons and less than 5 percent LEP persons in the eligible population in the jurisdiction or among current beneficiaries, the applicant will provide appropriate language assistance by providing translation services at public hearings, if requested to do so by LEP persons.

If a LAP is required, the Recipient's LAP will include certifications that LAP has been developed, adopted, and will be implemented for all CDBG-funded projects. The Recipient's LAP will include an identification of all LEP populations exceeding 1,000 or five percent of total jurisdiction population, whichever is less, the identification of materials to be made available to LEP persons, the means by which the materials will be made available to LEP persons, and the identification of any other translation services which may be necessary. Recipients will be monitored for implementation of their LAPs

All agencies receiving federal funds through DLG will report annually on services provided to LEP persons. Agencies will review their respective plans each year to evaluate their effectiveness and to make any needed changes. DLG will assist agencies in finding appropriate translation resources, and disseminate translated federal program notices, brochures, posters and other documents. DLG will monitor the delivery of any required language assistance on an ongoing basis. It will review the LAP, evaluate the effectiveness of its implementation, and update the LAP, on an annual basis, in order to ensure continued responsiveness to community needs. The LAP evaluation will consist of:

- Revision of the LAP, as necessary, by monitoring changes in demographics and services provided, updating available resources and tools, modifying methods of implementation and addressing any issues of concerns.
- Analysis of language assistance usage, including the amount of language service requests, surveying the languages most frequently encountered, identifying the primary modes of communication, and costs associated with services rendered.
- Assessment of response to requests by LEP individuals and Recipients regarding the delivery of language assistance services.

2.4 Reasonable Accommodations for Persons with Disabilities

The program will provide reasonable accommodations to persons with disabilities, including providing multiple options for how residents can submit applications, ensuring all website materials are Section 508 compliant, ensuring ADA accessibility to applicant centers, providing multiple paths for applicants to receive information from program staff (e.g. over the phone, online, in person, through mobile intake centers, etc.) and building in reasonable accessible design standards.

In addition, in the situation where tenants become displaced and qualify under the Uniform Relocation Act, the State will ensure that tenants with disabilities are relocated to units which meet their accessibility needs.

2.5 Fair Housing and Civil Rights

The Fair Housing Act requires all grantees, subrecipients, and/or developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from, participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status. DLG complies with and enforces the Civil Rights requirements of Title I of the Housing and Community Development Act and the Fair Housing Law.

DLG follows policies and procedures for compliance with Affirmatively Furthering Fair Housing (AFFH) during the design and implementation of all program activities. This includes an assessment of the demographics of the impacted residents, of proposed project areas, socioeconomic characteristics, environmental hazards or concerns, and other factors material to the AFFH determination.

Subrecipients are required to designate a fair housing and equal opportunity coordinator to be the prime liaison with DLG. This coordinator will review all plans and activities for compliance to suggest strategies and actions that can be undertaken to comply with the spirit and intent of the law. DLG requires communities with an open CDBG project to annually report on efforts undertaken to affirmatively further fair housing and equal opportunity.

Subrecipients must ensure that they annually submit reports to DLG for all beneficiaries residing in the CDBG-DR assisted units which includes data on the racial, ethnic, and gender characteristics (87 FR 31636). DLG will provide subrecipients with a form they can utilize in order to capture this information. Subrecipients should refer to the Subrecipient Manual Chapter 7-Fair Housing and Equal Opportunity for more information and Chapter 13-Amendments and Monitoring for the required tenant demographics form (Form 13-2).

2.5.1 Affirmative Fair Housing

To ensure compliance with 24 CFR 5.151, DLG, its designee or subrecipient will work with the landlord in order to take meaningful and specific actions to

affirmatively furthering fair housing. If a project contains five or more units DLG will ensure that the landlord develop a project-specific Affirmative Fair Housing Marketing Plan (AFHMP) and a tenant selection Plan. The AFHMP is a defined marketing and outreach plan which strategizes how targeted outreach to minority groups in the community that are least likely to apply for housing will be conducted. The AFHMP is required for projects which contain 5 or more units. HUD Handbook 8025.1 provides extensive guidance on AFHM plans and can be found at:

https://www.hud.gov/program_offices/administration/hudclips/handbooks/fheo/80251

2.6 Policy Changes

Revisions to program policies will be tracked in the Version History table at the beginning of this document and includes notes and dates of revisions. Substantial changes within this document that reflect a policy change will result in the issuance of a new version. Substantial changes that result in the publication of a new version of this manual will be indicated with a sequential upward movement in the primary version number.

All policy changes for the program are considered and reviewed by the program manager and leadership team.

3 CDBG-DR Requirements

3.1 CDBG-DR Eligible Activities

The Commonwealth will address unmet housing recovery needs by providing rehabilitation/reconstruction assistance to Property Owners to ensure the availability of safe, affordable housing for those impacted by the 2021 storm events. These activities are eligible under the Housing and Community Development Act of 1974 (HCDA): Rehabilitation, reconstruction, elevation; HCDA Section 105(a)1, 4, 5, 11, and 14; applicable waivers identified in the Allocation Announcement Notice and Consolidated Notice (87 FR 6326).

Only costs incurred after an award will be eligible for reimbursement. Reimbursement of pre-award costs is not allowed.

Eligible activities must be directly related to the recovery and resilience needs of eligible rental owners whose rental units were damaged or destroyed by the 2021 Severe Storms; Flooding, Landslides, and Mudslides (DR-4595).

The program provides awards necessary to rehabilitate or replace eligible damaged properties per program standards. Each award should be calculated using consistent program construction, energy efficiency, and award calculation standards, which are based on the type of project or the type or replacement unit (e.g. manufactured home, site-built, or modular homes). The maximum assistance that each subrecipient and beneficiary is eligible to receive will be determined using a consistent award calculation methodology.

The program may also fund activities necessary to address site-specific needs such as demolition and removal of the original structure, accessibility needs (e.g. ramps and lifts), environmental issues, on-site residential infrastructure repairs or replacement (e.g. septic tanks and wells), relocation assistance, resilience and mitigation measures, elevation requirements, and lead abatement (when required by federal regulations). Depending on the nature of the activity, the Property Owners project management plan, and the community's development plans, these activities may be carried out by the UGLG, or subrecipient on behalf of the applicant. All applicants to this program and all property owners who participate in this program will follow the requirements of the Fair Housing Act. The Fair Housing Act prohibits discrimination in housing based on race, color, national origin, or religion. The Kentucky General Assembly later broadened the law to prohibit discrimination in housing based on disability, gender, and familial status.

Property Owners who participate in the program will be required to ensure that they are both not violating the fair housing act and affirmatively marketing the units in a way that meets the requirements of the Fair Housing Act.

3.2 CDBG-DR Eligible Counties

The Counties that are eligible for CDBG-DR assistance are those areas of greatest impact from a disaster as determined by HUD or the State in making disaster funding allocations, using the best available data sources to calculate the amount of disaster damage.

HUD has identified the following MID areas for the 2021 KY disaster:

- Graves County
- Hopkins County
- Breathitt County (41339)
- 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.

In addition to HUD's identified MID's, Kentucky has identified the following counties as eligible for CDBG-DR funding:

Boyd County, Caldwell County, Christian County, Clark County, Clay County, Estill County, Floyd County, Fulton County, Greenup County, Hart County, Hickman County, Jackson County, Johnson County, Knott County, Laurel County, Lawrence County, Lee County, Leslie County, Letcher County, Lincoln County, Logan County, Lyon County, Madison County, Magoffin County, Marion County, Marshall County, Martin County, Morgan County, Muhlenburg County, Ohio County, Owsley County, Perry County, Powell County, Pulaski County, Rockcastle County, and Taylor County

3.3 Certified Grant Administrator Requirement

The Commonwealth of Kentucky requires that individuals administering CDBG-DR funds to be officially certified by DLG as CDBG-DR Administrators. Chapter 1: Project

Administration, Section 1-B provides more information on the requirements of the Certified Grant Administrator.

To be certified as a CDBG-DR Administrator, first time attendees must participate in the DLG-sponsored CDBG-DR Administrator Certification training. The training will occur in June 2023. Once administrators have been certified, DLG will maintain an updated list of certified CDBG-DR Administrators. The list will be frequently updated by DLG.

3.4 Ineligible Activities

Activities ineligible for assistance from the program include but are not limited to the following:

- Properties that are:
 - Foreclosed properties
 - Detached structures (for example, a shed or detached garage).
 - Properties located in a floodway
 - Properties located in areas where federal assistance is not permitted
 - Single family homes that have been converted for 100% exclusive business use and that is not the primary residence of the applicant(s).
 - Attached structures that would require fundamental alterations of shared structural elements (ex. foundation, roof, shared walls, etc.).
- Forced mortgage payoffs.
- Small Business Administration (SBA) home/business loan payoffs.
- Compensation payments (for example, a payment for the value of storm damage received).
- Assistance for applicants who previously received federal flood disaster assistance, that required obtaining and maintaining flood insurance and did not maintain the required flood insurance.
- Income payments, which are defined as grants to an individual or family that are used to provide basic levels of food, shelter (i.e., payment for rent, mortgage and/or utilities) or clothing;
- Luxury or non-standard items, such as swimming pools, Jacuzzis, high-end appliances, window air conditioners, washers and dryers, etc.; and

Labor time for sweat equity may not be paid out to recipients of rehabilitation assistance.

3.5 National Objectives

Before any project can be funded, the project must be deemed eligible under Title I of the Housing and Community Development Act of 1974, as amended. Additionally, activities must meet a national objective. Assistance provided under this program will meet the national objectives of benefiting LMI persons or households. The national objective will be met based on applicant's household income verified at the time of lease up and lease signing for the affordable units. Subrecipients must be aware of the national objective category and to document compliance accordingly.

Low-Mod Housing (LMH): All program assistance and activity delivery costs provided to or on behalf of low- and moderate-income households. A household is LMI if their household income is at or below 80% of the area median income (AMI).

Subrecipients must track all LMI beneficiaries per HUD requirements using the following income ranges and categories:

- 0% - 30% AMI Extremely Low
- 31%-50% AMI Very Low
- 51%-80% AMI Low

Beneficiaries for this program are the tenant households who reside in the affordable units improved with CDBG-DR funds, not the landlord.

Tenant household income will be determined based on the total number of persons in the household and total annual income of each household member 18 years and older. See Section 6.9 for additional information on the income verification process. Each rehabilitation project must have 51% or more of the units available for Low/Moderate income tenants and must provide the rent at an affordable rate.

4 Eligibility

4.1 Applicants

Subrecipient applicants will be City, county, and tribal governments and units of General Local Government (UGLG's) and their non-profit partners (non-development). If a Non-profit and for-profit entities would like to apply directly for these funds, they will need to reach out to DLG to discuss this process.

City, County, and Tribal Governments and Units of General Local Government and any non-profit partners as applicable will apply to DLG and assume the role of the responsible entity to operate the Small Rental Rehabilitation/Reconstruction Program at the local level. Non-profit and for-profits must discuss with DLG their roles and responsibilities if applying directly for these funds. These applicants must work with a certified grant administrator to assist with application development, grant administration, and activity delivery. DLG will allow these local entities to submit applications for rental housing projects with up to seven units.

Property Owners at the time of the disaster event whose rental properties sustained damage and who have been unable to fully recover may apply through their local jurisdiction for assistance to rehabilitate or reconstruct damaged rental units. These property owners must be in good standing with the Commonwealth and can be individuals, for-profit entities, or non-profit entities. An awarded jurisdiction or its implementation partner(s) running the rehabilitation program will establish local applications and program guidelines. If eligible, the jurisdiction will complete an inspection of the rental property to document structural damage and develop a cost estimate for repairs or reconstruction. Based on this cost estimate, the jurisdiction will conduct a duplication of benefits review with the owner applicant to ensure that no other funds were provided for the same repairs, including insurance or other federal assistance.

Beneficiaries are the renters who meet the income eligibility or disaster impact criteria including current residents of the project. The buildings once renovated must maintain affordability and the required ratio of LMI to non-LMI units for the affordability period detailed in section 4.3.1.

Entities applying to receive assistance must meet the following eligibility requirements:

- Unit of general local government (UGLG);
- Non-profit primarily engaged in community redevelopment activities that applies in partnership with their local UGLG;
- Community Housing Development Organizations (CHDOs);
- Must not appear on the Excluded Parties Listing System. The Excluded Parties List System (EPLS) is an electronic directory of individuals and organizations that are not permitted to receive federal contracts or assistance from the United States Government. Any company doing business-or hoping to do business-with the U.S. Government or federal agencies must assure that it has no affiliation with excluded parties. For search, please go to: [SAM.gov](https://www.sam.gov) | Exclusions.
- If a Non-profit and for-profit entities would like to apply directly for these funds, they will need to reach out to DLG to discuss this process.

4.2 Property Eligibility

Eligible properties are rental properties of one to seven units which are requiring rehabilitation of damage from the Storm. The properties must be designed as being long-term rental housing, second properties and/or vacation rental style properties are not eligible.

When a landlord submits an application to the subrecipients program it is preferred that the landlord does not rent any units identified on their application as vacant until construction is complete and the program verifies the income of potential tenants, Property Owners will be required to provide a move in notice to any tenants residing in the units anticipated to be improved with CDBG-DR funds. This form (Form 8-1 Notice to New Tenants) is found in Chapter 8 of the Subrecipient Manual: Relocation.

In the event that a landlord has rented any restricted unit(s) post-date of application and prior to completing construction and passing final inspection or after final inspection but prior to receiving program approval, the program will continue to process the final award under these conditions:

- It is determined that the tenant is income eligible for the unit using the DLG required income documentation and certification method.
- The landlord must supply the program with a move in notice prior to date of executed lease.
- Property Owners have provided a move in notice to all prospective tenants.

4.3 Rental Rehabilitation and Reconstruction

4.3.1 Eligibility Requirements

The program must maintain affordability periods in accordance with the HOME program standards at 24 CFR 92.252(e)(4). The following affordability time frames apply to the units that will be occupied by LMI households.

Rental Housing Activity of Existing Housing Per Unit Amount of CDBG-DR Funds	Minimum Period of Affordability in Years
Less than \$15,000	5
\$15,000-\$40,000	10
More than \$40,000 or rehabilitation involving refinancing	15
Rental Housing Activity of Existing Housing Per Unit Amount of CDBG-DR Funds	Minimum Period of Affordability in Years
New construction of acquisition of newly constructed housing	20

Units that are intended to meet the LMI national objective in a project must be rented to persons of verified LMI income and subject to the 65% HOME rent limits for the affordability period. Subrecipients must execute and record a deed restriction, a covenant running with the land and a restricted use agreement. These restrictive covenants must be recorded in accordance with State recordation laws. All subrecipients will be required to retain a copy in their project files. If a property owner sells the property during the period of affordability, the restrictive covenant will show up in a title search, which ensures that the property is transferred with the restrictions in place.

Note: templates for deed restrictions will be available on the DLG website.

4.3.2 Affordable Rents

DLG has adopted the HOME definition for affordable rents. The rent limits apply to the rent plus the utilities or utility allowance. The initial rents will be the maximum rents that conform to HOME rents as established in the Action Plan as the 65% HOME rent limits for the affordability period.

DLG or its designee or its subrecipients will review and approve the rents proposed by the landlord for the affordable units. The rents will be subject to the maximum rent limitations as defined in the Action Plan, and listed above. For all units subject to the maximum rent limitations for which the tenant is paying utilities and services, DLG, its designee, or subrecipient will ensure that the rents do not exceed the maximum rent minus the monthly allowances for utilities and services.

Properties must maintain a ratio of affordable/market rate units based on unit size. The required number of affordable units by property size are as follows:

Number of Total Units in Property	Number of Units that must be affordable to LMI Households
1	1
2	1
3	2
4	3
5	3
6	4
7	4

4.3.3 Recapture Policy

During the course of implementing and monitoring the Program, the subrecipient files may be identified for potential grant recovery during one of several reviews by program staff or auditors. Reasons for recapture of program funding include the following:

- An applicant is determined to have provided false or misleading information to the Program.
- A landlord withdraws from the Program prior to completion of the project.
- An applicant does not complete construction or environmental remediation activities.
- A property owner does not report receipt of additional insurance, SBA, FEMA, or other duplicative assistance.

Applicants identified for recapture of program funding will not be closed out of the Program until all funds have been repaid to the Program.

This provision will be enforced by including appropriate language in the written agreement with the landlord, all documents recorded on title, and lien documents. 51% of the units must remain affordable during the period of affordability.

In the event that the landlord transfers the property, either voluntarily or involuntarily, during the period of affordability the restrictive covenant will show up in a title search, ensuring that the property is transferred with the affordability restrictions. If the property is no longer used for affordable housing, 100% of the CDBG-DR funds used to rehabilitate or reconstruct the property will be required to be paid back to the subrecipient or DLG designee.

The assistance recaptured by DLG or its designee or the subrecipient will be the full amount of the total CDBG-DR funding used for the reconstruction/rehabilitation of the unit.

During the affordability period, noncompliance occurs when an owner (1) vacates the property or rents the property at a market rate (non-affordable), or (2) sells the property without DLG receiving recaptured funds due at the time of sale. DLG, its designee or subrecipient entities will monitor the restricted units annually to confirm that property owners continue to lease the units at an affordable rate. In the event of noncompliance, the owner is subject to repay the CDBG-DR funds invested in the property units.

4.3.4 Definition of Reconstruction

Reconstruction is defined by CDBG program roles as rebuilding of a structure on the same site in substantially the same manner. Funds may be used in this program for demolition and reconstruction. Reconstruction is the rebuilding of a structure on the same site in substantially the same foot print, and is considered a rehabilitation activity. The number of dwelling units on a site may not be increased; but, the number of rooms per unit may be increased or decreased. Subrecipients will be able to reconstruct on the same site for housing that is publicly or privately owned. Deviations from the original design (such as the addition of another room) may be permitted for reasons of safety, occupancy, zoning, etc. Note that adding rooms may constitute new construction. Any decrease in the number of units on a site may require compliance with the one-for-one replacement of low-income dwelling units at 24 CR 42.375. Reconstruction of residential structures also permits replacing an existing substandard unit of with a new or standard unit of housing, manufactured or otherwise. Substantial reconstruction of four or more units will include the installation of broadband infrastructure where feasible.

More information can be found about reconstruction awards in section 10.6.

4.3.5 Definition of Rehabilitation

Rehabilitation includes eligible activities necessary to restore storm-damaged properties. Activities should also include mitigation activities which include, but are not limited to, structural and utility retrofits to make the building more resilient to future storms. Assistance also may be provided to make housing accessible for individuals living with disabilities. Substantial rehabilitation with more than four rental units will include the installation of broadband infrastructure where feasible.

4.3.6 Definition of Substantial Rehabilitation

Substantial Rehabilitation is defined as damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred (44 CFR §59.1). For the purposes of defining substantial rehabilitation for broadband infrastructure, the definition of substantial rehabilitation at 24 §CFR 5.100 will be used. Substantial rehabilitation for this purpose is work

that involves significant work on the electrical system of the rental housing unit. Significant work means complete replacement of the electrical system or other work for which the pre-construction cost estimate is equal to or greater than 75 percent of the cost of replacing the entire electrical system. In the case of multifamily rental housing with multiple buildings with more than 4 units, “entire system” refers to the electrical system of the building undergoing rehabilitation; or rehabilitation of the multifamily rental housing in which the pre-construction estimated cost of the rehabilitation is equal to or greater than 75 percent of the total estimated cost of replacing the multifamily rental housing after the rehabilitation is complete. In the case of multifamily rental housing with multiple buildings with more than 4 units, the replacement cost must be the replacement cost of the building undergoing rehabilitation.

4.3.7 Maximum Award

The maximum award is \$100,000 per unit for any rehabilitation or reconstruction project. DLG will address situations where exceeding the maximum award may be necessary on a case by case basis. Situations where this may be necessary include but are not limited to: increased costs of compliance associated with accessibility concerns, environmental mitigation, and other extenuating circumstances.

4.4 Property Damage

Eligible properties must have sustained verifiable damages, as a direct result of the Federally Declared disasters. The program may use a damage assessment completed through the following methodologies to verify the property sustained damages:

- FEMA individual assistance inspection or verified real property or manufactured unit loss;
- SBA property loan inspection verified real property, or manufactured unit loss;
- Insurance adjuster estimate or property payout;
- Letter from local government, long term recovery group, or private non-profit demonstrating damages to the dwelling.

4.4.1 Property Damage Verification

If FEMA Individual Assistance records do not confirm the minimum level of damage, inspection data from the Small Business Administration (SBA) will be reviewed to determine if those records indicate an eligible level of damage. If data from these sources do not confirm the minimum level of damage, the applicant will have an opportunity to submit information from acceptable third-party sources such as those noted below. If not submitted, the applicant may be determined ineligible.

The following may be acceptable damage eligibility documentation:

- National Flood Insurance Program (NFIP);
- Insurance Adjuster Estimate (IAE); or

- Insurance documents demonstrating \$8,000 or greater in damage to the dwelling.

4.5 Eligible Property Types

Eligible structures for this program include:

- Modular Housing
 - Modular homes are built in sections at a factory, transported to the building site on truck beds, and then joined together by local contractors. Modular homes are built to conform to all state, local, or regional building codes at their destinations.
- Townhomes and condominiums
- Manufactured homes.
 - A manufactured home (also known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and has a vehicle identification number (VIN) and/or a still undercarriage.
 - The following types of Manufactured Housing Units will not be allowed to participate in the program:
 - Manufactured homes with a serial number different than that on the title documentation submitted to the Program and/or on inspection report photos.
 - Manufactured homes constructed prior to the enforcement of the Manufactured Home Construction and Safety Standards, effective June 15, 1976, are not eligible for rehabilitation and must be replaced.

Properties which served as second homes at the time of the disaster, or following the disaster, are not eligible for rehabilitation assistance. A second home is defined as a home that is not the primary residence of the owner, a tenant, or any occupant at the time of the disaster or at the time of application for CDBG-DR assistance. Verification for primary residence can be done by gathering the following documentation (included or not limited to): voter registration cards, tax returns, homestead exemptions, driver's licenses, and rental agreements.

Ineligible structures include RV's, campers, and houseboats.

4.6 Special Flood Hazard Requirements

Rental units located in the Special Flood Hazard Area (SFHA) are eligible for rehabilitation and reconstruction activities. If properties are assisted in the SFHA, the scope of work will be required to minimize harm to or within the floodplain, as described in the program guidelines. Rehabilitation activities in the SFHA that include rehabilitation of substantially damaged properties or rehabilitation resulting in substantial improvement of the structure as defined in the program guidelines will also be required to meet elevation standards, where feasible. Flood insurance requirements will be required for any use of CDBG-DR funding in the SFHA and will also be recorded

as a permanent restrictive covenant on the property to ensure that future owners understand the flood insurance requirements.

As part of the Rental Rehabilitation/Reconstruction program application process, it will also need to be determined if the home ever received other federal disaster recovery benefits that required the maintenance of flood insurance. If flood insurance was not obtained or maintained, then the applicant will not be eligible for CDBG-DR funding.

4.6.1 Communities in the Special Flood Hazard Area

Assistance for the rehabilitation or reconstruction of a property in the SFHA in communities that do not participate in the National Flood Insurance Program (NFIP) are not eligible for this Program because they are prohibited to receive federal assistance.

4.6.2 Flood Insurance Requirements for Property Owners receiving prior disaster assistance.

In accordance with the Stafford Act, property owners that have previously received disaster recovery assistance after September 14, 1994, are required to obtain and maintain adequate and necessary flood insurance coverage. Subrecipients who receive funding from this program will be required to verify if any Property Owners have received prior disaster recovery assistance and has maintained flood insurance. Property Owners will be asked as a part of their eligibility verification:

- If the property owner has received any flood event related assistance for damage to this property from any Federal source for any previous Presidentially declared disaster (occurring after September 14, 1994) that required the mandatory purchase of flood insurance pursuant to National Flood Insurance Program (NFIP) regulations.
- Which flood disaster event the property owner received federal funds for.
- The amount of federal assistance related to the flood that received.
- If the property owner carries flood insurance.
- If the insurance coverage is currently in effect.

If the property owner is determined to have received prior federal disaster recovery assistance, and has failed to maintain the adequate and necessary flood insurance, the property owner is ineligible for the Program.

4.7 Broadband Infrastructure

Federal Register notice FR-6326-N-01 Section II.B.2.d provides that any substantial rehabilitation as defined by 24 CFR 5.100 (work on the electrical system with estimated costs equal to or greater than 75% of the cost of replacing the entire electrical system, or when the estimated cost of the rehab is equal to greater than 75% of the total estimated cost of replacing the multifamily rental housing after the rehab is complete), or reconstruction of a building with more than four rental units must include installation of broadband infrastructure, except where the subrecipient can document that (i) The location of the new construction or substantial rehabilitation makes installation of

broadband infrastructure infeasible; (ii) the cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity, or an undue financial burden; or (iii) the structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

Broadband infrastructure is defined as cables, fiber optics, wiring or other permanent, including wireless, infrastructure in each dwelling unit meeting the Federal Communications Commission's definition.

5 Program Administration

5.1 Overview

City, county, and tribal governments will apply to DLG and assume the role of responsible entity to operate a rental rehabilitation and reconstruction program. Eligible applicants may work with qualified organizations or partners to help implement the projects. All applicants must work with a certified grant administrator to assist with application development, grant administration, and activity delivery. DLG is responsible for developing and amending the CDBG-DR Action Plan, program policies and procedures, ensuring program and other cross-cutting federal regulatory compliance, providing technical assistance to subrecipients, procurement oversight, and financial management.

Property Owners at the time of this disaster event whose rental properties sustained damage and who have been unable to fully recover will apply through their local jurisdiction for assistance to rehabilitate or reconstruct the damaged rental units. An awarded jurisdiction or its implementation partner(s) running the rehabilitation program will establish local applications and program guidelines which meet the requirements provided by DLG. If a rental property is found eligible, the jurisdiction will complete an inspection of the rental property to document structural damage and develop a cost estimate for repairs or reconstruction. Based on this cost estimate, the jurisdiction will conduct a duplication of benefits review with the property owner to ensure that no other funds were provided for the same repairs, including insurance or other federal assistance. The results of the duplication of benefits review will determine the maximum award amount.

This program policy document will outline the details of a maximum award, including how change orders or unanticipated scope increases will be addressed. Program guidelines will further detail eligible construction activities including but not limited to: exterior repairs, interior repairs, electrical, plumbing, mechanical, resilient mitigation, and lead abatement (when required by federal regulations). The jurisdiction will develop a detailed scope of work and bid the project. The jurisdiction will follow federal procurement requirements, verify contractor eligibility, select the contractor, and directly fund the contractor for completed work. The amount of CDBG-Funds utilized for rehabilitation/reconstruction will be based on the total award and will be secured through a lien with covenants and restrictions filed on the property.

5.2 Program Policies

5.2.1 URA

Tenants displaced by the rehabilitation or reconstruction activities are eligible for assistance under the Uniform Relocation Act (URA). The CDBG-DR Subrecipient Manual Chapter 8: Relocation under the URA and 104(d) provides detailed guidance that subrecipients must follow, including documents which must be provided by Property Owners to tenants regarding relocation under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and Section 104(d), as well as one-for-one unit replacement requirements.

5.2.2 Relocation Plan

If CDBG-DR funds will involve relocation, the subrecipient must develop written policies and procedures for managing the anticipated relocation caseload in the form of a “relocation plan.” The relocation plan must be submitted to DLG after the funding award as part of the evidentiary materials needed for the release of funds. Subrecipients are encouraged to contact DLG early in this process to consider the timing and project implications for projects potentially involving temporary or permanent relocation.

These procedures must be in compliance with all elements of the Final Rule implementing changes to the URA and the Residential Anti-displacement and Relocation Plan, previously developed as part of the application for CDBG assistance.

The plan must contain two components:

- A commitment to replace all low- and moderate-income dwelling units that are demolished or converted to a use other than low- and moderate-income housing as a direct result of the use of KCDBG funds, and
- A commitment to provide relocation assistance required under Section 104(d) of the Housing and Community Development Act.

The plan must be adopted by the local governing body.

A sample of this plan is included as an attachment in Chapter 8 of the Subrecipient Manual.

5.3 Method of Distribution

The Commonwealth will implement this program through subrecipients.

City, county, and tribal governments will apply to DLG and assume the role of the responsible entity to operate the Small Rental Rehabilitation/Reconstruction program. DLG will allow local entities to submit applications for rental housing projects with up to seven units. Existing Property Owners will apply to the awarded jurisdiction to

participate in the rehabilitation and reconstruction program. Beneficiaries will be documented as the existing or initial renters occupying the rehabilitated units.

This program is limited to reconstruction and rehabilitation if the unit is with the current owner who was owner at the time of the storm. New owners who purchased the unit after the storm will be eligible for participation in the program however DLG will prioritize original owners and will assess new owners on a case-by case basis.

Applicants must work with a certified grant administrator to assist with application development, grant administration, and activity delivery.

Eligible Property Owners: Current property owners of rental units must apply to the local jurisdiction for funding. They must be in good standing with the Commonwealth, and be licensed and in good standing within the local jurisdiction where the units are located. The property owners may be individuals, for-profit entities, Community Housing Development Organizations, or nonprofit entities.

Eligible Beneficiaries: The program's beneficiaries are renters who meet the income eligibility or disaster impact criteria including current residents of the project. The buildings once renovated must maintain the required ratio (51%) of LMI to non-LMI units for the affordability period.

5.3.1 Competitive Application

Applications for this program will open in May and remain open until all funds have been obligated. Application approval and associated funding decisions will be made through evaluation of the grant application and subject to funding availability. DLG will receive the applications and make funding decisions based on competitiveness and completeness of the application, justification for funding, and feasibility of the project. City, County, and tribal governments will apply to DLG to develop programs that will fund eligible Property Owners. For-profit entities will go through the necessary required application process with DLG.

For applications to be eligible, applicants must show that the project will:

- Respond to a demonstrated need
- Impact vulnerable communities
- Meet a national objective
- Qualify as a CDBG-DR eligible activity
- Be located in a declared disaster-affected area

DLG will establish a competitive scoring rubric for applications that will be based on the following criteria:

- The project is located in one of the HUD- or grantee-identified MIDs (priority will be given to projects located in the HUD-identified MID areas)
- The budget is comprehensive and reasonable for how many units they plan to assist

- The proposed review of landlord designs and plans will include consideration of mitigation of future hazards and meet a green building standard (either a standard or the green building checklist)
- The project scope takes into consideration the specific location of the unit(s) and will plan accordingly for the specific hazards and natural features that would affect or be affected by the project as feasible
- Energy-efficient appliances will be included in the units, if replaced
- Green building standards (either a standard or the green building checklist) as outlined in this policy have been acknowledged and will be followed during the construction process
- A potential outreach and marketing plan that Property Owners will use to advertise the units to disaster-impacted and vulnerable populations has been submitted
- Process is outlined by which the rental unit owners will be evaluated to ensure they are in good standing with the Commonwealth and have experience managing rental properties
- A proposed relocation plan outline has been submitted, including how the program responsible entity or administering entity will implement the plan once rental units are identified to ensure the plan meets URA requirements

5.3.2 Disbursement of Funds

There will be an open application window with deadlines and a competitive review process. DLG will receive the applications and make funding decisions based on the competitiveness and completeness of the application, justification for funding, and feasibility of the program.

DLG will encourage applicants to consider leveraging other funds or look for financing options to fully fund the projects.

Once awarded program funds from DLG, awarded jurisdictions will receive and review applications from Property Owners. Local jurisdictions must have clear and consistent program guidelines consistent with the State's program.

5.3.3 Reporting Requirements

Subrecipients must submit a Certification of Inspection and Contract Construction Payment Request form with each draw request (form 6-22). The form is located in Chapter 6 of the Subrecipient Manual. Included on this form is a location to report all activities taking place at each CDBG-DR assisted property address. Payment requests will not be processed without the form completed in its entirety.

It is important that the subrecipient fully document compliance with all applicable regulations. This is accomplished through maintaining comprehensive records and submitting all necessary reports. Subrecipients will also be responsible for coordinating with Property Owners to submit annually a list of tenants, rents

charged for the affordable units and a race and ethnicity reporting form which will be provided by DLG.

The filing system should be easy to use and provide a historic account of activities for examination and review by the State, auditors and local staff. For more information and details please refer to Chapter 1 of the Subrecipient Manual, Section 1-K. All Housing Project files should contain the following:

- Subrecipient Rehabilitation Guidelines and Council Resolution of Adoption
- Pending Applications and Disqualified Applicants, Work Write-ups and Cost Estimates
- Master Complaint File
- Rehab Contract File (for each job)
- Proof that landlord-recipient Received a Copy of the Grievance Procedures
- Landlord Rehabilitation Assistance Application
- Proof of Ownership
- Tenant Beneficiary Release for Verification of Income
- Tenant Household Verification of Income and Employment
- Proof of Current Property-owners insurance, including flood insurance endorsement
- Work Write-ups and Cost Estimates that Document Rehabilitation Activities and Cost Versus Lead-Based Paint Activities and Cost, if applicable
- Proof that landlord-applicant Initialed Each Page and Signed Last Page of the Work Write-up
- Lead-Based Paint Hazards Notification, as applicable
- Pamphlet – Protect Your Family From Lead In Your Home and proof that this was provided upon lease up to new beneficiary tenant households
- Disclosure Form for Target Housing Rental and Leases
- Lead Hazard Evaluation Notice
- Lead Hazard Presumption Notice
- Lead Hazard Reduction Notice
- Lead-Based Paint Inspection/Testing Report or Risk Assessment Report or Lead Hazard Screen Report
- Lead Hazard Clearance Test Report
- Certification of Safe Work Practices
- Certification of Inspectors, Risk Assessors and Supervisors
- Executed Loan/Grant Documents
- Executed Contract (with contractor) Documents
- Property Owner Authorization for Agency to Act as Agent, if applicable
- Bid Opening Minutes that includes names of all contractors present at the meeting, list of bids received, and amount of each bid
- Notice to Proceed
- Progress and Final Inspection Reports
- Progress Payments and Final Payment Documentation (including cancelled checks)
- Change Orders, if any
- Notice of Owner's Acceptance of Work

- General Contractor/Subcontractor/Material Affidavit, Warranties and Release of Liens
- Promissory Note, if applicable
- Follow-up Visit Inspection (within 60 days of job completion)
- Copies of Written Complaints, Resolution, and Correspondence (also include in Master Complaint File)
- Copies of Rent Restriction and Anti-Eviction Agreements
- Lease Addendum
- Restricted use covenant, deed restriction

Templates of applicable forms can be found on the [Kentucky DLG - DRP Grants Website](#).

5.4 Conflict of Interest

In accordance with federal requirements, the Program will adhere to the following conflict of interest provisions established for the CDBG-DR Program and has fully described in the DLG Conflict of Interest Policy in Chapter 1 of the Subrecipient Manual. For the Program, the following areas have been identified as potential areas of conflict:

- Program Staff/Property owner Applicant or Staff/General Contractor relationships
- Property owner applicant/general contractor relationships
- Evaluation and approval process

Efforts should be made to recognize and resolve potential conflicts in the application phase, as well as through implementation of the activity. DLG has outlined the following requirements and persons covered:

- State CDBG Regulations at 24 CFR 570.489;
- 2 CFR Parts 200, 215, 220, 225, and 230;
- KRS 45A.340 (covers what specifically constitutes a 'conflict of interest' pertaining to public officers and employees) for public municipalities that have adopted the Model Procurement Code;
- KRS 99.350(8)(covers public officers and employees that participate in the formulation of a development area and dictates what conflicts are prohibited) and;
- KRS 61.252 covers city employees, officers, and exceptions to conflicts of interest.

5.4.1 Conflicts Prohibited

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 sub-recipients that are receiving funds under this part who exercise or have exercised any functions or responsibilities with respect to CDBG 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-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. The conflicts of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the State, the unit of local government, or of any designated public agencies or subrecipients that are receiving CDBG funds. If any exceptions are to be considered, they will only be reviewed on a case by case basis and will only be considered after the local government has provided the following:

- A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
- A certification the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
- An opinion of the local government's attorney that the interest for which the exception is sought should not violate State or local law.

5.5 Complaints and Appeals

5.5.1 Section 504 Coordination Complaints and Grievances

Section 504 prohibits discrimination on the basis of disability in programs conducted by federal agencies, in programs receiving federal financial assistance, in federal employment and in the employment practices of federal contractors. Complaints regarding accessibility can be reported to the State Section 504 Coordinator. Plan publication efforts must meet the effective communications requirements of 24 Code of Federal Regulations (CFR) 8.6 and other fair housing and civil rights requirements, such as the effective communications requirements under the Americans with Disabilities Act. Chapter 7 of the CDBG guidebook contains more information regarding Section 504 and its requirements.

If any person who believes they have been denied opportunities or treated differently due to their race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion and/or familial status may file a complaint. Complaints can be made directly to DLG.

5.5.2 Grievances Received by Subrecipient Grantees

Occasionally subrecipient grantees receive complaints regarding their projects and activities; therefore, it is required under the citizen participation requirements that the Subrecipient grantee develop a procedure to respond to complaints and grievances.

Subrecipient Grantees must provide citizens with an address, phone number, and time period for submitting complaints and grievances. The grantee must respond to the complaint within 15 working days of receipt, where practical.

Each complaint and the resolution to the complaint should be well documented in the grantee's files and kept in a project complaint file for any project related complaints.

5.5.3 Grievances Received by DLG

Because complaints and grievances are best handled at the local level, DLG will forward any complaints it receives concerning projects to the grantee for response. The complainant will be notified that the complaint has been forwarded to the grantee for resolution. The grantee will follow their grievance procedures.

The grantee has to follow the same timeline of 15 working days from receipt from DLG (where practical). A copy of the letter of resolution must be submitted to DLG. If the grantee does not provide a resolution, DLG will work with the grantee and the complainant to resolve the complaint.

5.6 Program Appeals

5.6.1 Method of Submitting Appeals

Property Owners have the ability to appeal the following types of decisions made by the Program:

- Program eligibility
- Grant award calculation, prior to execution of the grant agreement
- Cost estimates, for repairs or reconstruction, limited to measurements of the unit and/or quantities of damaged materials only
- Duplication of benefits
- File closure

All appeals must be submitted in writing to the subrecipients within thirty (30) days of the decision (defined as either the date of notification by electronic means or the certified mail delivery date). Property owners may submit appeals via email, the Program's website, or U.S. mail.

5.6.2 Processing Appeals

The subrecipient will acknowledge receipt of appeals it receives within three (3) to five (5) business days of receipt. As part of its review, the program may request additional information from an outside party or from the applicant. In such cases, the program will provide a deadline by which the requested information must be provided (in most cases, one (1) to five (5) business days).

Regardless of the reason(s) a landlord, determines to file an appeal, the entire file will undergo a full review. Each appeal will be reviewed against Program policies and requirements, and applicable local, State, and Federal law. Subrecipients

should be aware that this full file review may result in positive or negative changes to the eligibility status or an increase or decrease from the previous award amount. Such variations in the final award are necessary to ensure that the units are properly repaired and that the Program only pays for work that is necessary, reasonable, and within Program guidelines. In any instance of a decrease in the actual cost of the repair, reconstruction, or full unit replacement, the grant award and disbursements will be reduced to reflect the reduction.

5.6.3 Responses to Appeals

The subrecipient will review the appeal, make a decision, and notify the applicant in writing of the decision within ten (10) business days of receipt. However, some cases may require additional time for review. In such cases, the Program will notify the applicant that the appeal decision will be delivered later than the 10 business day timeline. The Program will keep a record of each appeal that it receives in its system of record and copy the State on each written response.

6 City, County, or Tribal Government Subrecipient Application

6.1 City, County or Tribal Government Application Process

This section provides an overview of the application process. In this document, the term applicant refers to cities, counties, or tribal governments that will be subrecipients. Applicants will complete an initial reconnaissance of properties and potential beneficiaries in their jurisdiction eligible for rehabilitation and reconstruction prior to submitting an application to DLG. DLG will provide an application window to eligible subrecipients.

In order for these applications to be eligible, subrecipients must establish that their program responds to a demonstrated need, provides an impact to vulnerable communities, meets a national objective, qualifies as a CDBG-DR eligible activity and is located in a disaster-affected area.

6.2 Application Method

DLG will provide applications for all subrecipients. Applications will be accepted beginning with program opening until all grant funds are expended. Application information will be posted at the following website:
http://kydlgweb.ky.gov/FederalGrants/16_DRP.cfm. All attachments must be included and submitted to:

- Dlg.ofg@ky.gov; or
- Dlg.dr@ky.gov

DLG will conduct a threshold review and any applications that are submitted incomplete or missing attachments will be placed on hold. The program will make attempts to contact the applicant to assist with application completion.

6.3 Application Requirements

In order for applications to be eligible, subrecipients must establish that their project responds to a demonstrated need, provides an impact to vulnerable communities, meets a national objective, qualifies as a CDBG-DR eligible activity and is located in a disaster-affected area.

An application is considered complete if it includes the following components:

- A signed, dated, complete original copy of the Rental Rehabilitation and Reconstruction Project Application Form available on the Kentucky DLG - DRP Grants website.
- And all of the following:
 - Cost Summary- RR Cost Summary provided on website: [Kentucky DLG - DRP Grants](#)
 - Expenses
 - National Objective
- Detailed Housing Cost Estimate: template provided on [Kentucky DLG - DRP Grants](#)
- Property Owners List: template provided on website [Kentucky DLG - DRP Grants](#)
 - Preliminarily identified potential properties which can meet the 51% threshold for affordability
 - Potential properties located in a HUD or grantee-identified MID
 - Stand-by units
- Public Hearing documentation and other Citizen Participation requirements as found in Chapter 1 of the Subrecipient Manual
- Description of how project ties Back to the Disaster
- Title VI Form (7-2): more detail is provided in Chapter 1 of the Subrecipient Manual and the form is found in Chapter 7
- In addition to the above requirements, the following supporting documentation must be submitted as evidentiary material. All forms that need to be completed and submitted to DLG will be found at Chapter 1 of the subrecipient manual:
 - Project Area Map with boundaries
 - Grant Administration Plan: for more information refer to **Appendix A**
 - Includes the Subrecipients DOB Analysis Process
 - Includes Green Building Standards Requirements
 - Proposed Designs and Plans (Project Scope)
 - Authorizing Resolution to submit the application adopted by the community's governing body
 - All Funding Commitment Letters
 - Kentucky State eClearinghouse Endorsement
 - Letter of determination of eligibility for listing on the National Register of Historic Places from the Kentucky Heritage Council, and clearance from the State Historic Preservation Officer

- If project involves a non-profit organization, please provide proof of the non-profit organization's 501(c)(3) status to prove eligibility.
- Documentation to substantiate that conflict of interest provisions have been discussed with the governing body and possible recipients.
- DLG reserves the right to request additional documentations at any point through the application process.

6.4 Withdrawn Applications

Subrecipients will not be able to withdraw applications once they have submitted a program application. This policy will be specific to Property Owners who apply to the program and must be outlined in the program-specific guidelines at the local level. If a landlord applies to the local program and chooses to voluntarily withdraw or is administratively withdrawn from the program, they will be required to return ALL previously dispersed grant award funds back to the subrecipient.

6.4.1 Voluntary Withdrawals

Applications may be withdrawn by an applicant at any time. Applicants who wish to withdraw must clearly provide a written notice of their intent to voluntarily withdraw to the entity they originally applied to with a copy to DLG. The subrecipient will send the applicant a written notice of acknowledgement of voluntary withdrawal.

6.4.2 Administrative Withdrawals

Subrecipient applications may be administratively withdrawn by DLG for the following reasons:

- Required documentation or information is not submitted within the deadline provided in the application for participation in the program;
- DLG determines that there is a duplication of another valid application or conflicting program such as the Hazard Mitigation Grant Program (HMGP);
- Subrecipient becomes unresponsive.

Subrecipients are required to develop their own withdrawal policy which includes the following reasons for withdrawal from the program:

- Any applicants that fail to provide required documentation or information within the deadline described in the written request. Applicants will receive a notice giving them fifteen (15) days to provide the required information.
- The program confirms that an application is a duplication of another valid application or conflicting Program such as the Hazard Mitigation Grant Program (HMGP).
- An applicant is determined to have provided false or misleading information.
- An applicant becomes unresponsive.

- An applicant is aggressive and/or abusive as described in the definitions section to a DLG employee or any other representative or affiliate of the Program, including, but not limited to, Program Representatives.

6.5 Description of Competitive Scoring Rubric

DLG will establish a competitive scoring rubric for applications that will be based on the following criteria:

1. **Project Need:** The project must substantiate and address a need that is significant to the disaster-impacted housing needs of the community.
2. **Necessary and Reasonable Expenditure of CDBG-DR Funds:** The project must substantiate that CDBG-DR funding is necessary to meet the identified need(s), the impact of CDBG dollars is maximized and the use of CDBG funds is reasonable when compared with other funding sources. DLG will determine whether all other feasible public and private funding sources have been analyzed and/or applied to the project.
3. **Project Effectiveness:** The project must substantiate that project accomplishments would be significant given the need, amount of funds requested, local effort and program design.
4. The project is located in one of the HUD- or grantee-identified MIDs (priority will be given to projects located in the HUD-identified MID areas)
5. The budget is comprehensive and reasonable for how many units they plan to assist.

The UGLG or subrecipient will also be encouraged to establish a methodology for distribution of funds at their local programmatic level. DLG encourages an evaluation of the following criteria in local funding applications:

- The proposed review of landlord designs and plans will include consideration of mitigation of future hazards and meet a green building standard (either a green building standard or HUD checklist);
- The project scope takes into consideration the specific location of the unit(s) and will plan accordingly for the specific hazards and natural features that would affect or be affected by the project as feasible;
- Energy-efficient appliances will be included in the units, if replaced;
- Green building standards as outlined in the program guidelines have been acknowledged and will be followed during the construction process;
- A potential outreach and marketing plan that Property Owners will use to advertise the units to disaster-impacted and vulnerable populations has been submitted;
- Process is outlined by which the rental unit owners will be evaluated to ensure they are in good standing with the Commonwealth and have experience managing rental properties;

- A proposed relocation plan outline has been submitted, including how the program responsible entity or administering entity will implement the plan once rental units are identified to ensure the plan meets URA requirements.

A sample of the ranking criteria is available on the Disaster Website located here [Kentucky DLG - DRP Grants](#).

6.6 Subrecipient Award Notification

Applicants will be notified of an award directly from DLG. DLG will provide a preliminary approval letter which will provide the grant award with preliminary terms and conditions.

6.7 Subrecipient responsibilities

6.7.1 Rental Rehabilitation/Reconstruction Program Implementation Plan

Subrecipients are required to submit an implementation plan based upon the analysis or assessment of the local situation. It should identify the project area, rental vacancy rates, income levels of the target area, marketing strategies to affirmatively market the program, and interest of targeted beneficiaries. This would be submitted as a component of the subrecipient application.

6.7.2 Property Owner Application Intake

Once eligibility has been established, property owner application intake can begin. The following information should be included on all property owner applications:

- Name, address, phone number
- Number of rental units in property
- Household size of each rental unit
- Rental limits for all units owned by the property owner
- Tenant income limits for all affordable housing units
- Race, ethnicity, and disability status of property owner and all tenants in affordable units
- Length of ownership
- Mortgage or lien holders (if any)
- Insurance coverage
- Utility types and monthly costs per unit
- List of property damages and improvements needed.
- DOB forms should be completed upon property owner application intake. All DOB forms can be found in Chapter 10 of the CDBG-DR subrecipient manual.

Note: A Template for the Housing Rehabilitation Assistance Application can be found here: Kentucky DLG - DRP Grants

6.7.3 Non-profit partners

Subrecipients are eligible to partner with local, non-profit organizations in Kentucky to administer all or part of a CDBG-DR program, as documented in a legally binding agreement between the partner and the subrecipient. If a for-profit or non-profit entity would like to apply for these funds directly, they must contact DLG for more information about the application process.

6.8 Program Timeline

This program will begin in the Spring of 2023. The program will end when all funds have been expended and all eligible participants have completed closeout, or 6 years after execution of the grant agreement with HUD.

7 Rental Requirements

7.1 Occupancy Requirements

Repair projects must meet all local, state, and federal building codes, including the State Building Code. Properties must also meet the flood elevation requirements determined by FEMA, if applicable. Substantially flood-damaged structures must be brought up to code if the cost of repairs equals or exceeds 50 percent of the building's appraised value before it was storm damaged. An inspection of all repaired or reconstructed properties will be conducted prior to release of any funds to ensure that these construction standards are met.

51% of the rental units who receive assistance must be rented to a low-to moderate-income individual or family. Rent levels must be maintained as the affordable rate provided by DLG on an annual basis. Restricted rents in this program will be reviewed for upward annual adjustments with the new publications of AMI amounts by HUD annually. If a beneficiary applies to reside in a housing unit improved with these funds and are deemed ineligible due to the income qualifications to reside in the unit, they will need to be notified of ineligibility through mail or electronically.

The landlord will be required to submit information on the tenants and the rents for all affordable units on an annual basis to ensure continued compliance with the requirements of the program. If a landlord is found to be in violation of either the occupancy requirements or the period of affordability, or providing incomplete information to either the subrecipient, Kentucky Housing Corporation, or DLG they will be required to pay back the CDBG-DR funds spent on improving in the unit according to the recapture policy detailed in Section 3.3.3.

Tenants who remain in place beyond the term of their initial lease will not be required to submit income certifications in subsequent years. While Property Owners will never be forced to replace tenants whose incomes increase after their initial certification, all new tenants within the established affordability period will be required to complete an income certification.

Upon completion of rehabilitation or reconstruction, property owners must provide the subrecipient with copies of the leases for all tenants residing in the affordable units. All documents provided to the subrecipient must also be made available to DLG for review

at any point in time. The property owners must utilize a lease addendum which must receive prior approval from the program prior to execution. Once tenant income has been verified, then a property owner can execute a lease and a tenant can move-in.

7.2 Rental Amounts

51% of the rental units which receive assistance from the Rental rehabilitation program must be rented to low-to moderate income individuals or households. Rent levels will be calculated to be affordable to households at 80% and below of Area Median Income. The amount of rent charged to the tenant cannot exceed the amount established by the Rental rehab program. This follows the 65% HOME rent limits which DLG will provide to all subrecipients annually.

7.3 Lease addendum and prohibited lease terms

DLG will provide a lease addendum to all subrecipients participating in this program. This lease addendum will ensure that all of the provisions outlined at 24 CFR 92.253(b) are not included. The lease addendum must be signed upon lease up and upon tenant turnover. Subrecipients must retain a copy of these lease documents throughout the period of affordability.

7.4 Housing Counseling

Financial counseling services will be offered to owners of rental properties who will rent housing at affordable rates to income-qualified tenants, and tenants who may request assistance. They will receive training on fair housing requirements and compliance requirements for participating in affordable rental programs. Additionally, counseling will be made available for the following topics:

- Assisting beneficiaries and participants in overcoming barriers to receiving CDBG-DR assistance including:
 - Preparing documentation of recovery costs, household income, and other required information;
 - Overcoming duplication of benefits issues;
 - Financial analysis, budgeting and advice for applicants making CDBG-DR or other recovery-related financial decisions;
- Counseling services may also be made available for rental topics, including information about local, state, and federal rental assistance, fair housing, housing search assistance, landlord tenant laws, lease terms, and rent delinquency.
- Counseling for property owners receiving CDBG-DR housing assistance for rental units in small owner-occupied properties who wish to seek help with budgeting and financial analysis related to complying with program rental affordability periods.

7.5 Legal Aid

Legal aid is a separate service from housing counseling and will be provided by qualified legal services providers. These providers will be registered to do business in the State,

employ attorneys admitted to practice law in the State, and deliver services in accordance with Kentucky Court Rules. The legal aid will consist of recovery-related assistance, including but not limited to legal advice and/or limited representation in the following areas related to Rental Rehabilitation:

- Assistance for tenants with eviction-related and other housing issues;
- Assistance with insurance-related issues; and
- Resolving issues related to contractor scams, disputes, and fraud.

7.6 Restrictive Use Covenant

To ensure that projects are completed per program requirements, Property Owners must agree to a restrictive covenant being recorded on the property through the affordability terms. The affordability period will be documented through a personally guaranteed loan and restricted use covenant. Both will be in place and run with the land until the end of the affordability period or if the loan is paid in full prior to the completion of the affordability period.

7.7 Subordination Agreements

DLG will establish and provide to subrecipients a list of criteria for subordinations. This list of criteria will need to be established and maintained by the UGLG's and DLG and its designee as the lien holders. Requirements for subordination include but are not limited to the following:

- If the subordination request is for a line of credit, draws from the line of credit must be used for construction, maintenance, or management of the program property;
- The program property cannot be used to cross collateralize another loan for non-program property.

Lists of requirements for subordinations will be provided in the Standard Operating Procedures for the Rental Rehabilitation program. DLG will not serve as the lienholder, the subrecipient will serve as the lienholder for all documents recorded on title.

7.8 Tenant Selection

Property owners will screen and select their own tenants. Tenant selection must comply with the requirements of the Fair Housing Act (42 U.S.C. 3601-3620), which prohibits discrimination based on race, color, sex, religion, national origin, familial status, and disability. In accordance with the U.S. Department of Housing and Urban Development's criteria for race and ethnicity reporting, DLG will provide a Tenant Race and Ethnicity Reporting form to all active applicants to the program. The applicant will be required to provide the form to all existing and new tenants for the assisted rental units at closeout.

7.9 Beneficiary Income Verification

DLG requires that subrecipients work with the Property Owners to conduct an initial threshold determination for tenants residing in the affordable housing units. The income

determination must be conducted using the current fiscal year Section 8 Median Income Limits for the applicants' county. These limits will be posted on DLG's website (here). Once funds have been awarded, and before conducting rehabilitation work, the subrecipient must conduct a detailed income verification of all tenants residing in the affordable units. DLG will require all subrecipients to follow the Part 5 (Section 8) method of calculating household income.

The Part 5 definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period. Under the Part 5 definition of annual income, income from certain groups of people requires special consideration when calculating a household's annual income. These include:

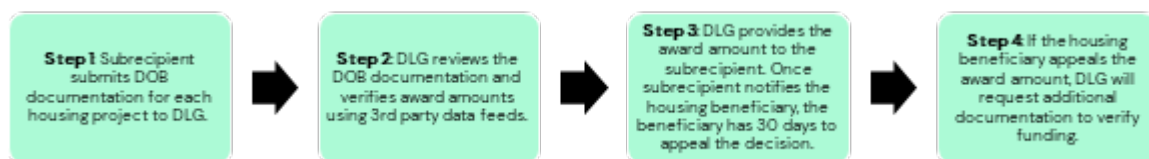
- Minors (age 17 and under)
- Live-in aides
- Temporarily absent family members
- Permanently absent family members
- Adult students living away from home

24 CFR Part 5 provides a comprehensive list of the types of income that are included and excluded from the calculation of annual gross income. Income from assets is also recognized as part of annual income under the Part 5 definition of income.

8 Duplication of Benefits

The Duplication of Benefits process is described in detail in chapter 10 of the CDBG-DR subrecipient manual.

Subrecipients are responsible for collecting all documentation pertaining to duplication of benefits that will be verified by DLG.



Property Owners must report all assistance they have been awarded or available to repair/reconstruct their units from third-party sources such as flood and property owner's insurance, Increased Cost of Compliance (ICC), Federal Emergency Management (FEMA) assistance, loans from the Small Business Administration (SBA), and any assistance from other government or private non-profit sources. Any funds received from these sources to repair or reconstruct the damaged dwelling must be considered when the amount of the grant is determined. Funds received from these sources for other purposes such as temporary housing are not considered a DOB. Personal funds or private mortgages used to repair the damaged dwelling are not considered in the DOB calculation.

9 Inspections and Environmental Review

9.1 Site Inspections

Once a property owner has been determined to be eligible, the property is now ready for a Site Inspection. A very thorough inspection of the property must be conducted to determine the type and cost of work necessary to bring the property into compliance with applicable code and regulations. After the inspection, the work to be done should be written down. This is termed a work write-up. At this stage, the items must be estimated in terms of cost, a process to produce a cost estimate. A Sample Work-Write up and Cost Estimate Form are provided with Chapter 6 of the Subrecipient Manual. The purpose of the Site Inspection (SI) is to confirm existing site conditions, to make property eligibility determinations, establish project feasibility and scope, and to confirm substantial damage conditions. Applicant and property information will be made available to the Inspector(s) performing the site visit. This section outlines the policy that the subrecipient will use when performing an SI and related work, including the development of cost estimates for work performed prior to the SI and work remaining, assessment of lead paint, asbestos, mold hazards, and program environmental reviews conducted on the property. The SI and related work may be conducted over several site visits.

The SI and related work are composed of the following:

Inspection and work write-up to determine the scope of work remaining in accordance with inspection protocols and program specifications. This inspection will result in a feasibility determination of either reconstruction, rehabilitation, and/or elevation.

Work in Place (WIP) completed by the applicant for use in the Duplication of Benefits determination. The inspector performing the site visit will determine the scope and quality of any eligible completed repairs. To verify the WIP, property owners will be required to provide copies of invoices, contracts and/or receipts.

Licensed lead inspectors and/or risk assessors are required to perform assessments for lead hazards.

Subrecipients will perform an environmental review.

9.2 Environmental Review

This section is intended to describe the approach to compliance with the National Environmental Policy Act (NEPA) for the Program. The Program is funded by Community Development Block Grant (CDBG) Disaster Recovery funds awarded to the State of Kentucky by the U.S. Department of Housing and Urban Development (HUD), thereby triggering the applicability of NEPA.

The NEPA process consists of an evaluation of the environmental effects of a federally proposed action and its alternatives. There are three levels of analysis: categorical exclusion, Environmental Assessment (EA), and Environmental Impact Statement (EIS).

Categorical Exclusion: An undertaking may be categorically excluded from a detailed environmental analysis if a federal agency has previously determined that the action typically has no significant environmental impact, and they have included the action in a list of exclusion categories in their NEPA implementing regulations. A list of activities identified by HUD as categorically excluded from detailed NEPA review can be found at 24 CFR Part 58.35.

EA: Environmental Assessment. The second level of analysis under NEPA is an EA, which is prepared to determine if a federal action would have a significant effect on the environment. If the answer is no, the agency issues a Finding of No Significant Impact (FONSI). The FONSI may include mitigation measures that are required to mitigate environmental impacts, so they are less than significant.

EIS: Environmental Impact Statement. An EIS is a more detailed evaluation of the potential environmental effects of the proposed action and alternatives. An EIS can be prepared following the completion of an EA or, if a federal agency anticipates that an undertaking may significantly impact the environment, they may choose to prepare an EIS without having to first prepare an EA. The decision document for the EIS is a Record of Decision (ROD), which states the agency's decision and how the findings of the EIS, including consideration of alternatives, mitigation measures, and agency and stakeholder input were incorporated into the agency's decision-making process.

Under 24 CFR Part 58, the term "Responsible Entity" (RE) means the grantee (unit of local government) under the CDBG-DR Program. DLG, for this process serves as the 'funding agency and has environmental oversight responsibilities. The Responsible Entity must complete the environmental review process. Environmental review responsibilities have both legal and financial ramifications. As a part of the assurances and agreements signed by the Responsible Entity, the Chief Executive Officer (CEO) of the Responsible Entity agrees to assume the role of "responsible federal official" under the provisions of the National Environmental Policy Act (NEPA). As a component of the Rental Rehab program includes Private entities these subrecipients must follow 24 CFR 58.4(b)(1), when a state carries out activities directly (including through subrecipients that are not units of general local government), the state must submit the Certification and Request for Release of Funds to HUD for approval. Non-profit entities will be required to partner with a UGLG who will serve as the RE for the environmental review process. If a non-profit or for-profit entity would like to apply directly to DLG for these funds, they must discuss environmental review responsibilities prior to completing their application. Please contact DLG for more information regarding environmental review procedures.

Please refer to the Subrecipient Manual: Chapter 2 for more details on the Environmental Review procedure and roles and responsibilities for Subrecipients.

9.2.1 Tiered Reviews

DLG will employ a tiered approach to NEPA compliance for the Program. With a tiered approach, the "action" is evaluated at various stages in the development process as more information is available for environmental assessment or review. This approach is consistent with and detailed in the "Environmental Review

Procedures for Entities Assuming HUD Environmental Responsibilities,” 24 CFR 58, specifically 24 CFR 58.15 (Tiering) and 24 CFR 58.32 (Project Aggregation).

As the first step, or Tier I level of review, the subrecipient will conduct an EA will be completed for their Program. Tier 2 environmental reviews will be conducted for each property being evaluated under the Program. The Tier 2 reviews will be conducted by the subrecipient. The Tier 2 reviews will identify sites with specific environmental issues requiring a site visit or additional agency consultation and will be documented in an Environmental Review Record (ERR). The Tier 2 reviews will be conducted by the subrecipient in a manner that satisfies the requirements of NEPA and HUD’s NEPA implementing regulations (24 CFR 58).

In addition, the reviews will address compliance with all other relevant Federal environmental laws, regulations, and Executive Orders (EO), such as the National Historic Preservation Act, EOs 11988 – Floodplain Management, EO 11990 – Protection of Wetlands, and EO 12898 – Environmental Justice. Relevant State regulations and permitting requirements will also be addressed, such as State Executive Order #215. DLG will also coordinate and facilitate any required environmental permitting. The environmental review may identify the need for environmental mitigation measures to be incorporated into the scope of work for the proposed action or for the action to be redesigned to avoid certain environmental impacts.

No reconstruction, rehabilitation, elevation, or mitigation work, or reimbursement can begin until the Tier 1 environmental reviews have been completed and Authorization to Use Grant Funds (AUGF) received, and the Tier 2 ERR has been completed and approved for the subject property. Construction activities must be performed in a manner that fully complies with any requirements identified in the Tier 2 review. DLG Monitoring Teams will ensure compliance.

9.3 Blackout Period/Stop-Work

“Blackout” or “stop-work” refers to the period of time from the application date through the completed environmental review where no work should be performed in relation to the home. Work performed during this period may not be eligible for reimbursement and/or may result in the project being ineligible to proceed within the Program.

Exceptions to the “stop-work requirement”, approvable only by DLG, may be allowed in the event an applicant entered a written contract with a contractor prior to applying to the Program. In such cases an applicant may not enter into new contracts, engage additional laborers, execute any change orders to existing contracts, or purchase materials after application to the Program and prior to completion of an environmental review.

Failure to comply with the “stop-work requirement” or eligible exceptions to the “stop-work requirement” may result in ineligibility for all or partial Program funding.

Subrecipients should consult with a DLG Program Representative prior to making any additional contract decisions during the mandatory blackout/stop-work period.

9.4 Lead-Based Paint

All units in a project assisted with CDBG-DR funds must comply with 24 CFR Part 35, which implements Title X of the Housing and Community Development Act of 1992, also referred to as the Lead Safe Housing Rule (LSHR). This regulation, effective since September 15, 2000, and Subpart J applies to rehabilitation projects. The applicability of the requirements for Subpart J depends on the level of assistance provided for a project. The levels of assistance and the applicable requirements are:

- <\$5,000. Paint testing of surfaces to be disturbed must be completed. Paint testing must be conducted by a certified paint inspector or risk assessor.
- \$5,000-\$25,000. A risk assessment must be performed of the entire unit. A risk assessment must be conducted by a certified risk assessor.
- >\$25,000. A risk assessment must be performed of the entire unit. A risk assessment must be conducted by a certified risk assessor.

More information and required forms are provided in the “Lead for Housing Projects” section of the Subrecipient Manual Chapter 2.

For each unit assisted, the subrecipient must ensure that the property owner provided the EPA pamphlet titled Protect Your Family From Lead in Your Property (Form 2-19).

If the risk assessment identifies the presence of lead-based paint or lead-based hazards then the rehabilitation specialist shall verify that the remediation of lead-based hazards are properly included into the scope of work for the property. The applicant and tenants who reside in the property shall be provided with a Notice of Lead Hazard Evaluation (Form 2-25) or Presumption (Form 2-26) pertaining to presence and location of lead-based paint hazards within fifteen (15) days of the evaluation. It is important to note that if lead is found in a tenant unit, and there is tenant turnover-the future tenant must be made aware of the presence of lead in the unit. Subrecipients also have the option to presume there is lead in the unit rather than paint testing or risk assessments. If the subrecipient utilizes the presumption of lead option, the scope of work must address all painted surfaces. Subrecipients should note that this approach may raise the cost of the work as non-lead surfaces will be required to be treated as if they contained lead. Also, if the presumption method is followed, a ‘Notice of Presumption’ must be provided to the tenant within 15 days of performing the initial inspection. DLG will provide a sample notice of presumption as requested.

Contractors performing work on structures built prior to 1978 or performing work on properties with lead-based paint hazards, must provide documentation of current EPA RRP certification as required in 40 CFR Part 745 Subpart E. Contractors will also be required to submit documentation which shows they are qualified to perform lead work such as: proof they attended a safe work practices training session (for jobs involving safe work practices), and copies of the Kentucky certification for abatement supervisor and workers (for jobs involving abatement). Contractors unable to provide this documentation will not be eligible to perform work funded by this program.

All firms performing, offering, or claiming to perform renovations, repairs, or rehabilitation or compensation on damaged properties constructed pre-January 1, 1978, must comply with the EPA's Renovation, Repair, and Painting rule and the EPA's Lead Pre-Renovation Education rule. This means that all general contractors performing rehabilitation on program properties that are pre-1978 housing must be an EPA-certified firm.

The subrecipient is responsible to provide a lead abatement contractor to DLG for validation, prior to performing any required lead hazard abatement work. Certified lead-based paint contractors may be found on the State of Kentucky's Health Department website at: <https://chfs.ky.gov/agencies/dph/Pages/default.aspx>. The program will monitor the lead abatement process and provide for an interim clearance report as necessary or required. At the conclusion of the abatement, the abatement contractor/applicant will coordinate with DLG to schedule a lead clearance examination.

A copy of the final lead hazard clearance report must be provided to all tenants who reside in program-assisted units within fifteen (15) days.

Finally, during the abatement process, no rehabilitation work should occur within, and no entry should be made into, the area for which clearance is requested until the clearance inspection occurs and clearance is achieved.

9.5 Asbestos-containing Materials

Asbestos is a mineral fiber that was commonly added to products to strengthen them, and to provide heat insulation and fire resistance. Asbestos is commonly found in older homes where it was used for pipe and furnace insulation, in asbestos shingles, millboard and transite siding, floor tiles, and a variety of other coating materials. The only way to determine whether a material is asbestos (containing more than 1% asbestos by volume) is through Polarized Light Microscopy.

The handling of asbestos-containing materials is regulated by the Environmental Protection Agency (EPA) under the National Emissions Standards for Hazardous Air Pollutants (NESHAP), 40 CFR Part 61, and the Occupational Safety and Health Administration (OSHA) under regulation delineated in 29 CFR 1926.1101.

All construction, demolition, and rehabilitation that is done in whole or in part with CDBG-DR funds must comply with state and federal asbestos removal requirements. It is the responsibility of the grantee, developers, owners, and contractors to know and comply with local, state, and federal construction standards.

9.6 Mold Assessment and Remediation

9.6.1 Mold Assessment and Testing

Demolition and/or Reconstruction Projects: Mold assessment and/or testing of the existing structure are not performed on reconstruction projects. Safety measures related to mold will be taken during any demolition process.

Rehabilitation Projects: All rehabilitation or repair projects require a visual assessment for mold by the damage assessor. If a visual inspection reveals the presence of mold, additional testing is not necessary unless recommended by the damage assessor.

9.6.2 Mold Remediation

Currently, no governing standards establish acceptable levels of mold spores in the indoor air or on surfaces. Mold is present everywhere in the environment. For all projects, identified moisture sources should be eliminated prior to further remediation. Post-remediation dehumidification may be necessary to completely dry the remaining structural framing materials prior to construction. In cases where this occurs, the damage assessor may incorporate this into the Damage Assessment and ECR. If incorporated, mold will be required to be remediated by a general contractor when it is or was identified either at time of the initial inspection or during the general contractor's walk-through or construction and materials harboring mold will be cleaned or replaced.

9.7 Radon

Radon is a radioactive gas that cannot be seen, smelled or tasted. Radon gas is a natural substance that can be found in the dirt and rocks beneath houses, in well water and in some building materials. It can enter homes through soil, crawlspaces, foundation cracks, floors and walls. Once inside, it can sometimes become trapped in your property. All homes have some radon gas. Breathing high levels of radon can put you at risk for lung cancer. Radon is measured in picoCuries per liter of air (pCi/L). Radon levels inside houses below 4 pCi/L are considered acceptable.

The Environmental Protection Agency (EPA) recommends mitigation for residences with radon concentrations at or above 4.0 picocuries per liter of air (pCi/L) 2. The best way to mitigate radon is to prevent it from entering a building in the first place. Radon generally poses the greatest risk to occupants living at or below ground level. Occupants on the lower levels of structures are not appropriately mitigated, or if they occupy new construction in areas with high radon that is not built using radon resistant construction methods.

Further information on mitigation strategies and maps of radon zones around the country can be found at <http://www.epa.gov/radon>.

9.8 Elevation Requirements

In accordance with HUD's Federal Register Notice governing this program (FR-6326-N-01 Section II.B.2.c) elevation requirements apply to all new construction, repair of substantial damage or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR §55.2(b)(1). All structures, defined at 44 CFR § 59.1, designed principally for residential use and located in the 100-year floodplain that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined at 24 CFR § 55.2(b)(10), must be elevated with the lowest floor, including the basement, at

least two feet above the one percent annual change floodplain elevation (base flood elevation of BFE). The definitions of “substantial damage” and substantial improvement are outlined in 44 CFR §59.1 as transcribed below:

- “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.”
- ‘Substantial improvement” means any reconstruction, rehabilitation, addition or other improvements to a structure, the total cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement.

Subrecipients will also be required to comply with all applicable state, local, and tribal codes and standards for elevation, setbacks, and cumulative substantial damage requirements.

Mandatory Elevation

- Properties located within the 100-year floodplain that are substantially damaged, will be substantially improved, or meets the Program reconstruction threshold and not yet elevated 2 ft. above base flood elevation (BFE) or 2 ft. above an interior high water mark.
 - Properties located within a Disaster Risk Reduction Area (DRRA) as formally adopted by DLG, within or outside of the 100-year floodplain must also meet this requirement. DRRA adoption is effective as of the date that the DRRA was finalized by DLG. Applicants who completed construction prior to the effective date of the DRRA, or applicants who are undergoing CDBG-DR funded construction (i.e. the contractor has been issued a notice to proceed) for rehabilitation, reconstruction, or MHU replacement prior to the date of DRRA adoption are not retroactively affected by the DRRA adoption.
 - Properties that are required to be elevated by local ordinance or by the local code enforcement officials within and outside of the 100-year floodplain.
- At a minimum, homes will be elevated to 2 ft. above the BFE as required by HUD or at least 2 ft. a the interior documented water marks as measured by the assessor, whichever document water level is highest and reasonable. The Program is unable to elevate structures that are situated on leased land unless the permission of the landowner is secured.

Optional Elevation

If program funds allow, elevation assistance may be offered to other program participants who are interested in elevating their property. These instances should be reviewed on a case-by-case basis.

9.9 Green Building Requirements

All subrecipients must meet the Green and Resilient Building Standards. These standards are different for different types of rehabilitation and reconstruction. Below are definitions as well as descriptions of the requirements. Chapter 11 of the subrecipient manual should be referenced for links to the standards and the compliance checklists associated with them. Chapter 11 will also include the method of implementing and monitoring compliance with the requirements both before and after construction.

For rehabilitation of substantially damaged properties and reconstruction:

- Reconstruction - demolishing a housing unit and rebuilding it on the same lot in substantially the same manner
- Rehabilitation of substantially damaged properties – rehabilitation activities of substantially damaged residential buildings, including changes to structural elements such as flooring systems, columns, or load-bearing interior or exterior walls.

The Green and Resilient Building Standard requires that construction assisted with CDBG-DR funds meet an industry-recognized standard which has achieved certification. Reference chapter 11 in the Subrecipient Manual for more information on the standards and the required form to submit to DLG about the selection of your chosen standard.

The selected standard and any additional documentation regarding compliance must be included within the project file. The subrecipient shall engage a reviewer or inspector who:

- Will review the proposed project plans and specifications to ensure that the approach is aligned with the selected standard(s),
- Will perform inspections throughout the construction process to ensure that the project adheres to the selected standard(s), and
- Will provide final certification at the conclusion of construction to ensure that the standards were met.

The reviewer or inspector shall use the selected standard's compliance checklist documentation when reviewing the file at each predetermined point.

For non-substantial rehabilitation – rehabilitation of non-substantially damaged units. Subrecipients must follow the guidelines specified in the HUD CPD Green Building Retrofit Checklist. Subrecipients must apply these guidelines to the extent applicable for the rehabilitation work undertaken. An example of this would be using mold resistant products when replacing surfaces such as drywall. Products and appliances replaced as a component of the rehabilitation work, must be ENERGY Star-labeled, Water Sense labeled, or Federal Energy Management Program (FEMP)

designated products or appliances. The HUD CPD Green Building Retrofit Checklist can be found in the forms section of Chapter 11.

10 Property Owner Grant Determination and Award

10.1 Cost Estimation

Each rehabilitated or reconstructed property is eligible for a maximum award of \$100,000 per property in the form of a forgivable loan. DLG will consider situations where exceeding the maximum award amount may be necessary. Situations where this may occur include, but are not limited to, costs of compliance with accessibility concerns, environmental mitigation, and other extenuating circumstances may warrant exceeding the maximum award amount. These requests will be reviewed by DLG on a case-by-case basis. KHC representatives are required to develop a scope of work including an estimate for the repair, replacement, and/or mitigation of the property to meet Program requirements.

10.2 Ineligible Costs

Costs incurred for the items listed below are ineligible. Costs for ineligible work are required to be estimated during the damage assessment and reflect program accepted costing principles.

Costs that are outside the CDBG-DR scope of work are not program eligible. Any upgrades to the materials or scope of work must be paid out of pocket by the property owner and directly to the contractor. CDBG-DR funds will not be issued until all ineligible expenses are paid. Ineligible items and activities include, but are not limited to, the following:

- Income payments, which are defined as grants to an individual or family that are used to provide basic levels of food, shelter (i.e. payment for rent, mortgage and/or utilities) or clothing;
- Luxury or non-standard items, such as swimming pools, Jacuzzis, high-end appliances, window air conditioners, washers and dryers, etc; and
- Labor time for sweat equity may not be paid out to recipients of rehabilitation assistance.

10.3 Accessibility

Assistance for accessibility improvements for disabled tenants shall be made available upon request from the property owner. In order for the tenant to make this request, they must submit the request to the landlord and the landlord will make the request to DLG. Any accessibility features that were present in the unit of a disabled person and destroyed or damaged by the storm event is required to be assessed for replacement. Specialty accessibility items which may be included within the scope of work or design include, but are not limited to, the following:

- Ramps
- Lifts
- Roll-in shower stalls

These additional components and costs may be included with appropriate documentation or evidence to support the applicant's need. Cost reasonableness evaluation may be performed using an estimating platform or through bid responses.

10.4 Upgrades

Property owners are discouraged from upgrading materials, appliances, and finishes. However, should the property owner elect to modify or deviate from the designs or scope of work, they must use their own personal funds to do so. The costs of these upgrades must be borne by the property owner. The Program will not allocate funding for payment of any upgrades.

Should a property owner elect to deviate from or modify the design and/or scope of work elements, the modifications will only be allowed for those items that have minimal impact on the footprint of the building and do not violate the floor plan of building envelope such as flooring, trim, wall tile, windows, doors, cabinets, hardware, countertops, paint, plumbing and lighting fixtures, site-built showers, roof shingles, HVAC SEER rating, and appliances. Further, should an item be delayed the property owner will be encouraged to select an alternative that is available and of comparable cost.

10.5 Rehabilitation Only

If the construction intent for the property is rehabilitation, the starting point for calculating the applicant's rehabilitation or repair award is the Estimated Cost of Repair, which includes the gross amount of eligible prospective repairs needed to complete the rehabilitation of the home. This amount is then reduced by any funding determined to be a duplication of benefit.

10.6 Reconstruction Awards

Program funds may be used to rebuild damaged or destroyed rental housing structures provided any of the following conditions apply:

- The property is declared a total loss;
- Repairs would exceed 50% of the cost of reconstruction;
- Repairs would exceed 50% of the pre-disaster fair market value

Subrecipients must contact DLG if reconstruction is planned. There are additional requirements for reconstruction projects including green building requirements as described in section 9.9.

Reconstruction shall be defined as the demolition, removal, and disposal of an existing residential unit and the replacement of that unit on the same lot within 200 square feet of the original structure footprint with a unit that complies with the

Kentucky Residential Code. For reconstruction, DLG requires the use of Kentucky Housing Corporation's (KHC) Specifications for New Homes (incorporating Minimum Design Standards and Universal Design Standards, if applicable). These specifications are found at <http://www.kyhousing.org>.

Reconstruction estimates are the only type of estimate performed when a property is unsafe to enter or has been demolished or partially demolished.

Cost estimates should be derived from a standard model house plan to establish the basis for the amount the property owner is eligible to receive to reconstruct the property. Note that this is not the same as the cost that the applicant would incur if they were to rebuild their existing property with the existing finishes. It is the allowable costs established to rebuild the home that will meet HUD standards and cost reasonableness limits. This may result in a property which has a differing square footage and/or lower grade finishes than the applicant's pre-storm property.

Reconstruction designs and estimates are based on the number of bedrooms and total eligible area as identified in the repair estimate or through the use of other data which yields the most accurate eligible square footage of the original structure.

The design will consider the original structure's unit and bedroom count in conjunction with the lot layout so as to present the property owner with a property that is compliant with site and Tier II requirements. The Program will not compensate for an increase in the number of bedrooms available to the property owner nor for an increase to the number of units on the lot. The replacement structure is designed to not exceed the general footprint of the original structure.

Any deviations from the original design (such as the addition of another room in a unit) may be permitted for reasons of safety, occupancy, zoning, etc. Note, however, that adding rooms may constitute new construction. Contact DLG for specific questions if reconstruction is anticipated. Reconstruction of residential structures would also permit replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing, or a 'stick-built- structure if manufactured housing is not allowed under existing zoning.

All reconstruction projects must meet Kentucky Residential Code. For reconstruction, DLG requires the use of Kentucky Housing Corporation's (KHC) Specifications for New Homes (incorporating Minimum Design Standards and Universal Design Standards, if applicable). These specifications are available on the [KHC website](#).

10.7 Award Notification

Once a property owner's award has been calculated, the subrecipient is required to notify the property owner in writing of the award.

An example award letter can be found in chapter 10 – duplication of benefits as form 10-10. It can be customized for housing projects.

The property owner then has the options to either:

- Accept the award;
- Seek consultation for further explanation;
- Appeal the award; or
- Reject the award.

If the property owner elects to appeal the award calculation, they must file a written appeal and should include documentation such as detailed insurance documents, contracts, or receipts to support their appeal. If the property owner decides to accept the award, they will let the subrecipient know their approval within fifteen (15) days in writing to confirm their acceptance.

10.8 Property Owner Grant Agreement

All property owners are required to sign a grant agreement to comply with Program requirements. Property owners must disclose all owners at the time of applying for funds.

Property owners must confirm the following in the Grant Agreement or upon grant agreement signing:

- Award Calculation, which explains how other resources determined to be a DOB were handled and how the grant was calculated.
- Confirm that they owned the units slated for rehab/reconstruction at the time of the qualifying event and still own the property. Further, they have not received notices of default or seizure related to taxes, mortgage, or title;
- Insurance Requirements, which informs the property owner of the requirement to obtain and maintain multi-peril and/or flood insurance and pass that obligation on to the subsequent owners.
- Confirm that they will rent out 51% of the improved units at an affordable rate approved by DLG;
- Confirm that they are lawfully present;
- Agree to flood insurance requirements;
- Agree to the subrogation requirements as detailed in Chapter 10 of the Subrecipient Manual;
- Execute other program documents as necessary.

All self-certified information may be investigated by the Program, HUD, or other entities at a later date. Property owners are under an obligation to comply with any Program request for verifying documentation that supports a self-certification, even after awards have been granted and the file has been closed.

In accordance with the Stafford Act, property owners that previously received disaster recovery assistance after September 14, 1994, are required to obtain and maintain adequate and necessary flood insurance coverage. The subrecipient is required to verify prior to executing a grant award that any property owner that has received prior disaster recovery assistance has maintained flood insurance. Property owners whose property is located within the

special flood hazard area are required to obtain and maintain flood insurance on their property if they previously received federal disaster assistance. Failure to maintain flood insurance on the property will result in the property being disqualified from receiving any future federal disaster recovery assistance.

If the property owner has a power of attorney, the original POA documents must be provided to the program in person or via certified mail.

10.9 Funds Disbursement

Once all required program agreements and contracts are fully executed, Program disbursements for rehabilitation and repair work are required to be made directly to the contractor. Payments should be made in prescribed draw intervals as construction on the property owner's project is completed and inspected. DLG reserves the right to have a 3rd party come and evaluate before a payment is released if there is a disagreement between the contractor and the property owner.

10.10 Lien Agreement

Awards will be provided to property owner's in the form of a forgivable loan. A forgivable loan represents a grant in that if the present property owner retains the property in the use it was applied for in the original application to the subrecipient/DLG. The property owner, must maintain the affordability of the units that they had agreed to for the period of time required based on the CDBG-DR funds put into the project. The landlord must also certify that they will take all measures required to market the units to all potentially low income tenants, and will maintain the unit as safe, and sanitary. The forgivable loan is instituted through the use of a Lien Agreement. Each year the owner retains ownership- following the initial 5-years, a certain percentage of the loan amount is forgiven as if it were a grant. Should the property owner maintain the 51% of units required as affordable until the term of the note expires, the property owner pays nothing and has no conditions on the disposition of the property. Should the property be brought to market rate, not meet the safe and sanitary conditions required by DLG, be vacated or sold, or its use is changed prior to the expiration of the note, the property owner owes the subrecipient/DLG whatever balance remains on the note.

The Lien Agreement is a promissory note which serves as the property owner's written promise to adhere to all the commitments made in the Lien Agreement and stipulates when and how all the terms of the loan are to be satisfied. Lien Agreements must be recorded at the County Clerk's Office.

DLG has a minimum affordability requirement for all property owners who choose to participate in this program. It is recommended that subrecipients have property owners sign a certification that the property is and will maintain affordable and list which units are affordable and the corresponding rental rate charged. This

timeframe for affordability will be clearly stated in the agreement between the subrecipient and property owner, as well as recorded in a lien or covenant.

The Lien Agreement should stipulate the following:

- Zero percent interest rate
- The amount of funds to be forgiven yearly
- The affordability requirements for each affordable unit and the period of affordability.

Note: A Mortgage Agreement and Promissory Note Template can be found here: [Kentucky DLG - DRP Grants](#)

11 Pre-Construction

The subrecipient should refer to the Subrecipient Manual for more specific guidance and requirements in addition to those specified within this manual. This manual is intended to identify activities and actions specific to the Program and not to supersede those requirements detailed within the Subrecipient Manual.

11.1 Inspections

The applicant and subrecipient shall review the proposed scope of work prior to procurement and project start to ensure that all applicable elements are included within the work scope. Should any work scope determined to be required be missing, it should immediately be brought to the attention of the inspector, and the issue will be reviewed to ensure that any incomplete or missing scope elements are included. A sample Certificate of Inspection is provided with Chapter 6 of the Subrecipient Manual.

DLG will require systematic and thorough inspections for each unit assisted by the program. DLG strongly recommends that the subrecipient engages an experienced construction and/or building inspector to provide quality inspections, ensuring that work performed is completed as prescribed. Inspections should be conducted frequently and should be documented formally in the project files. Periodic interim inspections of the progress will be made by the subrecipient throughout the period of performance. DLG may also conduct periodic inspections as needed and as requested by DLG.

Inspections are conducted in order to assure compliance with the contract standards for workmanship and materials, to detect any unauthorized deviations and to identify necessary changes to the contract work in its early stages. Interim inspection reports should be prepared and signed by the subrecipient representative, rehabilitation inspector, contractor and property owner. Inspection and approval of completed work must be conducted by the subrecipient prior to the contractor's request for partial or final payment. A sample Certificate of

Inspection and Contractor Payment Request is provided with Chapter 6 of the Subrecipient manual.

The property owner's approval of the work is also required when payment is requested. A sample Notice of Acceptance of Work is provided with Chapter 6 of the Subrecipient Manual. A final inspection of the work must be performed prior to the final payment to the contractor in order for the project to be considered complete. Subrecipients will be required to maintain Certification of Inspection and will make available to DLG upon request during program monitoring. Subrecipients must be aware that this final inspection of the work is not the last inspection of the project. DLG will require a follow-up inspection 60 days after project completion. A sample Certification of 60-Day Follow Up Inspection is provided with Chapter 6 of the Subrecipient Manual.

The subrecipient must perform a follow-up inspection of the property 60 days after job completion, refer to Subrecipient Manual Chapter 10: Housing for additional details. This inspection allows the grantee to see if there are any problems with the job. If problems have occurred, the grantee should assist the property owner to obtain corrective action according to the warranty.

11.2 Procurement Requirements

11.2.1 Contractor Procurement

Property owners are able to hire registered/licensed and insured builders of their choice to perform the reconstruction or rehabilitation. Property owners are precluded from acting as their own general contractors however the subrecipient may consult with DLG in the event that an exception may need to be considered. Subrecipients will be required to oversee this construction process and act as the property owner's agent.

The subrecipient will complete a thorough inspection of the property as described in Section 9.1 Site Inspections and will then complete the Work Write-up and Cost Estimate Form (6-18) found in Chapter 6 of the CDBG-DR subrecipient manual. This will be given to the property owner for use in soliciting contractors to perform the prescribed work.

The property owner will use the Work-Write up and Cost Estimate to solicit three quotes from different construction contractors. If the property owner is unable to solicit three independent bids, it must be demonstrated that the property owner took all reasonable measures to acquire three independent bids. Potential bidders should be made aware of Program policies, Federal or State requirements, and in particular, the Green Building Requirements described in Section 9.9 Green Building Requirements.

Upon selection of an eligible contractor which has provided a quote for the scope of work, the subrecipient will verify that costs are necessary and reasonable as compared to the estimated cost of repairs. If not selecting the lowest reasonable bidder, the subrecipient will need to provide supporting evidence as to why this

selection was made. If the contractor's quote is outside of the estimated cost of repairs, additional steps will be taken to justify the costs, the property owner may select a different contractor, or the property owner will pay for costs above those deemed necessary and reasonable.

The subrecipient will also verify that the contractor:

- Is properly licensed and/or registered building contractors in the area of performance as applicable and carry all required insurance(s),
- Must not be on HUD or State debarred lists or subcontract to entities on HUD or State debarred lists,
- Must comply with all required State and Federal regulations applicable to the Program, and
- Must provide a project completion plan detailing the work and timeframe for completion.

Awards shall not be made to any part excluded from participating in any federally funded program and should also ensure that the contractor hires only eligible subcontractors to perform work under the agreement.

11.3 Construction Contract

The contract between the property owner and the contractor should include the following:

- Parties to the agreement;
- Project location;
- Scope of services;
- Financial commitments;
- Starting and ending dates;
- Performance schedule and milestones;
- Contract representatives (grantee, contractor, subcontractor(s));
- Conflict of interest;
- Reporting requirements;
- Suspension clause;
- Incorporation of attached requirements;
- Payment schedule and contract cost;
- Signatures; and
- CDBG-DR General Conditions and any other General Conditions pertinent to the contract.

The subrecipient will facilitate an agreement between the applicant and the contractor which includes the items noted above and any additional terms and conditions as specified in the Subrecipient Manual. The contractor must identify subcontractors which will be utilized during construction and provide their license and insurance information which agrees with the requirements set forth by the Kentucky Department of Housing, Building, and Construction.

Neither the cost-plus-a-percentage nor percentage-of-construction cost methods of contracting are allowed.

Note: A Sample Housing Contract Package is available here: [Kentucky DLG - DRP Grants](#).

11.4 Bonding Requirements

Bonds are negotiable instruments required by federal and state law from construction contractors as a form of insurance. The bonds are available to contractors from surety companies, which are then turned over to the subrecipient to protect against situations that may arise.

State law requires that, for project contracts over \$100,000, contractors must secure a performance bond for 100 percent of the contract price as it may be increased and a payment bond for 100 percent of the original contract price. Refer to KRS 45A.430. Federal bonding requirements are also triggered when contracts exceed \$100,000 in value, per 2 CFR 200.325.

The Program may require additional bonding such as a payment bond for larger projects, the subrecipient is encouraged to contact their Program representative for further guidance.

11.5 Pre-Construction Conference

Prior to the start of construction, the subrecipient will hold a pre-construction conference with the applicant and the contractor(s) awarded the contract(s). At the pre-construction conference, the final work write-up(s) (project specifications) will be reviewed by all parties, line item by line item, to ensure a thorough understanding of the work to be accomplished. The contractor is encouraged to have any required subcontractors present. Should any program eligible additions or deletions be required, the applicant may request that the Program review and modify the scope of work. A sample Pre-Construction Checklist (6-20) is provided with Chapter 6 of the Subrecipient Manual.

Additional topics to be discussed at the pre-construction contract include, but are not limited to:

- Timing and coordination of the sequence of the work (especially when and where lead hazard reduction activity or rehabilitation work that disturbs painted surfaces, known or presumed to be lead based paint, are to be accomplished, and/or if the project entails multiple contracts covering various components of the entire project);
- Temporary relocation, limited access to living areas, and coordination of household schedule with lead-based paint work activity issues, as applicable (i.e., conveyance of the details of the community's temporary relocation offering and options, responsibilities, timing and coordination, packing and moving, storage, secured property owner non-access to

work area(s) during interior lead hazard reduction work, specialized cleaning, clearance testing and final visual assessment, and the community's authorization of re-occupancy following completion and successful clearance testing); and

- Safe work practices and OSHA requirements, as applicable. Additionally, the responsibilities of all parties to the contract(s) need to be thoroughly discussed. The various processes and procedures involved in completing the project also needs to be covered (e.g., change order procedures, contractor payment processes, various lead hazard reduction requirements, grievance / dispute resolution procedures, etc.).
- Green Building Retrofit or Green and Resilient Building Standard requirements. The specific requirements of the selected standard(s) and compliance activities should be reviewed.

11.6 General Contractor Responsibilities

The general contractor is responsible for ensuring that the project is completed and that work is performed to industry standard as well as HUD and programmatic standard. The general contractor is required to provide to the applicant and subrecipient any and all:

- Permits
- Inspections
- Reports
- Clearances
- Certificates of Completion or Occupancy
- Any other relevant construction documents

The general contractor is required to abide by State contracting law including, but not limited to, the Kentucky Fairness in Construction Act of 2007.

11.7 Property Owner Responsibilities

The applicant is responsible for actively participating in the construction process, making themselves available to issue decisions related to the project. Decisions may include finish selection, color selection, placement, etc. The applicant is discouraged from deviating from the established and agreed upon scope of work as doing so may cause the project to exceed specified time frames and budgets. Further, the applicant must not hinder or impede the work progress by attempting to make changes and/or modifications to work in the field without prior authorization from the subrecipient.

Should the subrecipient find it necessary to materially deviate from the established work scope, the DLG or designated agency representatives must be contacted for discussion and authorization.

11.8 Grievances

Subrecipients should refer to the Subrecipient Manual Chapter 01: Project Administration for additional specifics regarding program and/or project related grievances. Occasionally grantees receive complaints regarding their projects and activities; therefore, it is required under the citizen participation requirements that the grantee develop a procedure to respond to complaints and grievances.

Subrecipients must provide citizens with an address, phone number, and time period for submitting complaints and grievances. The grantee must respond to the complaint within 15 working days of receipt, where practical.

Each complaint and the resolution to the complaint should be well documented in the grantee's files and kept in a project complaint file for any project related complaints.

11.9 Construction Warranties

General contractors are responsible for providing a warranty. The Program does not provide warranty services. The contractor must present warranty documents to the applicant which detail the length and method of claim request. The program requires eligible contractors to provide a warranty of:

Reconstruction/New Construction projects must have a 1-year fit and finish warranty period, a 2- year mechanical, electrical and plumbing (MEP) warranty period, and a 10-year structural warranty period.

Rehabilitation projects must have a 1-year warranty period for all activities performed under the agreed upon scope of work (SOW).

All warranty claims are between the landlord and the contractor. Instructions on how to file a warranty claim and a copy of a claim form must be provided to the applicant by the contractor at the final inspection along with the final acceptance form.

11.10 Section 3

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain HUD investments, to the greatest extent feasible, are directed to low-and very low-income persons and to business concerns which provide economic opportunities to low-and very-low income persons. The goal is to keep dollars local and help foster local economic development, neighborhood economic improvement, and individual self-sufficiency. Section 3 applies to recipients of \$200,000 or more in CDBG-DR assistance. The types of projects that are covered by Section 3 are housing construction, demolition, rehabilitation, or other public construction (e.g, infrastructure or community facilities). Section 3 applies to the entire project even when the CDBG-DR funds are only a portion of the total funding. Compliance can be met in two ways:

- Qualitative goals:

- 25% or more of all labor hours must be worked by Section 3 workers
- 5% or more of all labor hours must be worked by targeted Section 3 workers or;
- Qualitative goals:
 - If a subrecipient has not met the quantitative goals, they can still be considered to in compliance if they can provide evidence of a number of qualitative efforts to assist low and very low-income persons with employment and training opportunities
 - CDBG Section 3 Guide provides a list of qualitative efforts CDBG-DR subrecipients may undertake to document the project made qualitative efforts to assist low and very low-income persons with employment and training opportunities.

Defining Section 3 Workers:

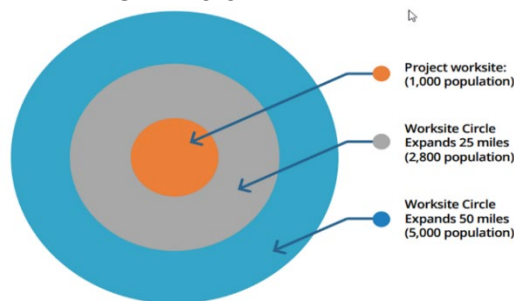
A Section 3 worker is any worked who currently fits, or when hired within the past five years for, at least one of the following categories as documents:

- A low or very low-income worker
- Employed by a Section 3 business concern
- A Youthbuild participant

Defining Targeted Section 3 Worker:

- Employed by a Section business concern
- Currently fits or when hired for at least one of the following categories as documented within the past five years:
 - Living within the service area or the neighborhood of the project, as defined in 24 CFR 75.5 and qualifies as a low or very low-income worker
 - A Youthbuild participant.

Service Area as Defined in 24 CFR 75.5:



- Service Area = an area within one mile of the Section 3 project
- OR
- If > 5,000 people live within one mile of Section 3 project, then, Service Area = an area within a circle centered around the Section 3 project site that encompasses 5,000 people.

Subrecipients will be required to have an adequate plan to satisfy the Section 3 requirements, a subrecipient must develop and implement a Section 3 Action Plan which outlines how it will achieve these goals. The plan will state the subrecipient's commitment to Section 3 and outline steps to implement it. DLG Section 3 Guide provides a step-by-step plan to implement the Section 3 requirements and establish the needed files to document compliance. CDBG-DR

subrecipients will need to maintain records of Section 3 compliance and will report their Section 3 efforts and accomplishments at the closeout of their grant. Contractors or subcontractors for all rehabilitation and reconstruction triggering Section 3 are required to comply with the Section 3 regulations. Please see the DLG Section 3 Guide for more information.

12 Construction

The subrecipient should refer to the CDBG-DR Subrecipient Manual chapter 6 section 6-J for more specific guidance and forms.

Additionally, the project must follow the selected Green Building Retrofit or Green and Resilient Building Standard requirements. Refer to Chapter 11 of the Subrecipient Manual.

The following are the applicable building codes currently adopted by Kentucky and referenced at

https://dhbc.ky.gov/Documents/DHBC_CodesCurrentlyAdopedbyKentucky.pdf

- 2018 Kentucky Building Code (Based on the 2015 International Building Code)
- 2018 Kentucky Residential Code (Based on the 2015 International Residential Code)
- 2015 International Mechanical Code
- 2015 International Fire Code (New construction projects, only when specifically referenced by the body of KBC)
- 2012 International Energy Conservation Code (for use with commercial buildings only)
- 2009 International Energy Conservation Code (for use with residential buildings only- see definition in IECC)
- 2009 ICC/ANSI A117.1 Accessible and Usable Buildings and Facilities
- Kentucky State Plumbing Law, Regulations & Code (815 KAR Chapter 20) State Boiler Regulation (KRS 236, 815 KAR 15)
- 2013 NFPA 13 - Installation of Sprinkler Systems
- 2013 NFPA 13D - Installation of Sprinkler Systems in One-and Two-Family Dwellings and Manufactured Homes
- 2013 NFPA 13R – Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height
- 2013 NFPA 14 – Installation of Standpipe and Hose Systems
- 2012 NFPA 54 - National Fuel Gas Code
- 2017 NFPA 70 - National Electrical Code (effective October 1, 2014)
- 2013 NFPA 72 - National Fire Alarm and Signaling Code 2012 NFPA 101 - Life Safety Code (Health Care Facilities)
- 2015 International Existing Building Code

The above is for reference only and is only representative of the many codes and standards currently used in Kentucky. For specific applications not listed above, refer to Chapter 35 of the KBC and IBC.

12.1 Notice to Proceed

Following execution of the contract documents and completion of the pre-construction conference, subrecipient shall issue a Notice to Proceed to each prime contractor to begin performance of the work. The Notice to Proceed must establish the construction start date, the scheduled completion date, and provide the basis for assessing liquidated damages. The Notice to Proceed must include the name of the contractor and the amount of the contract. The construction period and basis for assessing liquidated damages must be consistent with those sections of the contract documents. A sample Notice to Proceed (6-19) is provided with Chapter 6 of the Subrecipient Manual.

The Notice to Proceed must also be sent to DLG following execution. If date of issuance and/or expected completion date changes, it will be memorialized in a change order and provided to DLG. DLG recommends eighteen (18) months from the date of the Notice to Proceed to be identified as the completion date.

If required for construction, the tenants must vacate their units in a manner which meets URA requirements. Failure to vacate and allow for construction activities to occur may result in the grant being rescinded. Refer to Subrecipient Manual Chapter 08: Relocation Under the URA and 104(d) for further guidance.

12.2 Construction Monitoring

The subrecipient is responsible for monitoring the progress of construction projects, maintaining all records related to permits, environmental remediation, clearances, and any other documents related to the progress and project milestones identified.

Throughout the term of construction on all individual projects, the subrecipient will oversee the work of the contractor(s) and any subcontractors doing the work. Construction supervision should be accomplished primarily through periodic and frequent work-in-progress inspections by the subrecipient's staff. Inspections relating to contractor payment requests, any community required (e.g. building or housing code required) inspections, and any inspections relating to change order requests shall all occur as necessary.

Inspections related to Green Building Retrofit or Green and Resilient Building Standard requirements should occur as described in Section 9.9 Green Building Requirements.

All inspections performed, and their respective outcomes, must be documented and added to the individual project file. The subrecipient must ensure that the work scope is being performed in a workman like manner and completed to industry and program standard.

Additionally, DLG or its representatives may make scheduled or unscheduled site visits to ascertain extent of completion and adherence to expected standards.

12.3 Payments

Upon agreement as to quantities of work completed, a contractor may submit requests for partial or progress payments. Written inspection reports must accompany the contractor's requests for partial payment. Inspection reports, copies of field measurement notes, photos, and test results used to verify contractor's periodic pay estimate for partial payment should be attached to and filed with the periodic estimate for partial payment.

If labor standards apply to the project, upon receipt of certificates for partial payment and necessary documentation and for projects where applicable, the subrecipient must check equal opportunity and labor standards compliance files to ensure that:

- All weekly payrolls and Statements of Compliance have been received, reviewed, and any discrepancies resolved; and
- Employee interviews have been conducted as necessary, checked against payrolls and the wage rate decisions, and all discrepancies corrected.

The subrecipient will request the draw inspection(s) from DLG or its designated representatives and, upon successful completion of the draw inspection, will then submit the pay request to DLG. The subrecipient will submit the Certificate of Inspection and Contractor Payment Request form (6-22) found in the forms section of the CDBG-DR subrecipient management guide. DLG will review the pay application for completeness and accuracy and release funds as per the agreement.

12.4 Retainage

As per Kentucky Revised Statutes 371.410, a ten (10) percent retainage shall be withheld from partial payments, this percentage can be reduced to five (5) percent at fifty (50) percent completion. The retainage is withheld until after final inspection and receipt of any/all documentation required to be submitted, in case of any unresolved problems. See below for information on how retainage is addressed in the final payment.

12.5 Final Inspections

DLG expects the subrecipients to define in their rehabilitation guidelines the property standard that units must meet after rehabilitation is complete. All properties rehabbed must meet all local housing codes and occupancy standards for their rehabilitation program. At a minimum, the subrecipient must adopt the International Code Council (ICC) Property Maintenance Code. All new construction and reconstruction projects must meet Kentucky Residential Code. Green Building Retrofit or Green and Resilient Building Standard final compliance inspection and documentation should also be finalized.

All projects must receive a final inspection and Certificate of Occupancy (if applicable) from the local jurisdiction prior to close out of the activity.

12.6 Change Orders

Any and all changes to the contract work write-up require a fully executed change order signed by all parties to the contract. Change orders are needed for any and all substitutions that are made to the project, even if the dollar value of that work item remains unaffected, as well as for time extensions to a rehabilitation construction contract.

Change orders must be prepared by the construction inspector and/or architect/engineer. The change order must be executed by the owner and the contractor and approved by the Program inspector and the Subrecipient. A sample Change Order Request is provided in Chapter 6 of the Subrecipient Manual. Change orders are permissible where the cumulative cost of all such orders do not exceed 20 percent of the original contract price and these changes do not constitute a major alteration of the original scope of work. If the proposed change orders will cumulatively constitute a major alteration of the original scope of work or if proposed change orders will cumulatively exceed 20 percent of the original contract, the subrecipient must contact DLG for prior approval.

Each change order must be accompanied by a supporting statement that describes why the change is necessary, additional time requested to perform the work, itemized cost estimates (credit, debit, or no change), and any needed plans, specifications, or supporting imagery. The subrecipient must verify to the satisfaction of the Program that the change order is cost reasonable and approve and authorize change orders before they are given to the contractor.

Change orders should be kept to an absolute minimum and cannot be issued after final payment. Change orders need to be contained in individual project files and those which do not conform to the above requirements may ultimately not be funded by DLG.

12.7 Final Payment

When construction work has been completed, the contractor must certify completion of work and submit a final request for payment. A sample of the General Contractor's Affidavit of Completion and Release of Lien Waiver for is provided in Chapter 6 of the Subrecipient manual. The subrecipient or the architect/engineer should make the final inspection and prepare a written report of the inspection prior to requesting a final inspection be performed by the Program. Before making a final payment (less retainage), the subrecipient must ensure that:

- All weekly payrolls and Statements of Compliance have been received, reviewed, and discrepancies have been resolved, if applicable;
- Any underpayments of wages and/or liquidated damages have been appropriately handled and documented if applicable;

- All discrepancies identified through job site interviews have been resolved if applicable;
- All other required equal opportunity and labor standards provisions have been satisfied if applicable;
- All contract submissions have been received;
- All claims and disputes involving the contractor have been resolved;
- All files are complete; and
- As-built plans have been filed.

The subrecipient must ensure that all relevant items noted in Chapter 6 of the Subrecipient Manual are present. If the inspection is satisfactory, the grantee can then issue acceptance of work and final payment, less retainage.

12.7.1 Retainage from Final Payment

Within 30 days from the filing of the acceptance of the work and upon submission of a clear lien certificate by the contractor, along with any other required documents, the subrecipient should release the retainage that has been withheld from each progress and final payment to the contractor (at the subrecipient's option).

If any claims or liens remain after the 30-day period, the subrecipient must take appropriate action for disposition of the retainage and all claims against the bonds in accordance with state law.

12.8 General Contractor Performance Review

The subrecipient should establish a method by which the contractor's work performance is reviewed and periodically perform these reviews. A contractor which fails to meet performance measures should be disallowed from performing additional work under this program.

The performance review should include an assessment of the general contractor's overall performance, from communication and organization to quality of work and resource management. It should also take into account any specific requirements of the job and the contractor's ability to meet those requirements. Additionally, the review should consider the contractor's safety record, adherence to code and industry regulations, and any other relevant criteria.

The performance review should also include the contractor's ability to meet timelines and budget requirements, as well as their ability to work with other team members and stakeholders. Communication is key to any successful project, and the performance review should assess how well the contractor is able to communicate effectively, both internally and externally.

The Program may withhold funding in the event that the contractor's performance is determined to be inconsistent with Program standards and guidelines.

12.9 Construction Closeout

Construction closeout is the final stage of a construction project and is an essential part of the process. It is the process of completing all the remaining tasks necessary to close out the project and prepare it for occupancy. Construction closeout typically involves several steps, including final quality checks, completion of all paperwork, and payment of all contractors and suppliers. It is important to ensure that all construction closeout tasks are completed in a timely manner so that the final product can be delivered on schedule.

Submission of all paperwork, such as the contractor's lien waiver, any subcontractor affidavits, certificate of occupancy or completion, and warranty documents. This paperwork must be provided to the applicant and subrecipient and added to the project file before the project can be considered complete.

Grantees should have the contractor sign an affidavit for Contract Termination and Release of Lien Form and provide warranty documents, and subcontractors release of lien waivers before final payout. After which, the Notice of Acceptance of Work may be issued to the contractor. A Project Benefit Profile by Person and by Household must also be completed.

Finally, the construction closeout process requires the collection and submission of all as-built documents, such as drawings, photographs, and specifications. These documents are important for the project's future maintenance and should be stored in a secure location. Once all of these steps have been completed, the project can be considered complete and ready for occupancy.

13 Compliance and Monitoring

13.1 Program Monitoring

DLG will conduct monitoring for all subrecipients to ensure compliance occurs, DLG will also provide ongoing technical assistance (TA) and training to ensure that subrecipients comply with applicable state and federal requirements and implement their project activities in a timely manner. Chapter 13: Amendments and Monitoring of the subrecipient manual describes the monitoring and technical assistance process. The main goals of carrying out a monitoring review is to ensure that all projects are approved and carried out in a timely manner, activities and certifications are conducted in accordance with the requirements laid out by DLG, and that all subrecipients show a continuing capacity to carry out approved activities in a timely manner.

Additional unit affordability monitoring will be conducted throughout the timeframe the units will be required to be in compliance with the period of affordability.

13.2 Compliance

Subrecipients are required to keep annual occupancy for all CDBG-DR improved units. This report will provide the unit number, the tenant household profile, the tenant household income, the rental amount charged and the move in date. DLG will also reserve the right to review any lease documents and income certification forms as well as annual HQS inspection reports.

Units that have been improved with CDBG-DR fundings will be required to maintain compliance with the terms and requirements of the program for the entire period of affordability. Any recipients of the funding, regardless of type of recipient will be required to maintain affordability and the safe and sanitary units for the entire period required based on the CDBG-DR funds used for rehabilitating/reconstructing the property. Tenants will have the ability to notify DLG if the subrecipient if the unit falls out of compliance and DLG will follow-up accordingly.

Subrecipients are also required to maintain compliance with Fair Housing, accessibility and Nondiscrimination throughout the lifetime of the period of affordability.

14 Complaints

14.1 Program Complaints

If a subrecipient receives a complaint regarding this rental rehabilitation program, it is required under the citizen participation requirements that the subrecipient follow their procedure to respond to complaints and grievances. Each subrecipient must make available an address, phone number, and time period for accepting complaints and grievances. Subrecipients are required to respond to the complaint within 15 working days of the receipt, where practical. Each complaint, and the resolution to the complaint must be well documented in the subrecipient files and kept in a project complaint file for DLG review. If a complaint is received by DLG, they will forward any complaints it receives concerning their projects to the subrecipient for a response.

14.2 Section 504 Coordination Complaints and Grievances

All subrecipients will be required to be in compliance with accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 (Section 504). Collectively, the accessibility laws and implementing regulations prohibit discrimination based on disability and establish requirements for physical accessibility in connection with federally-funded housing activities.

Section 504 provides that no otherwise qualified individual shall, solely by reason of their disability, be excluded from participation in, denied program benefits, or subjected to discrimination under any program or activity receiving federal

funding assistance. Section 504 imposes requirements related to Program Accessibility, Communications, Accessible design and construction for housing activities, and review of subrecipient policies and procedures. Chapter 7 of the CDBG guidebook contains more information regarding Section 504 and its requirements.

Specific to the rental rehabilitation program, CDBG-DR funded housing will be subject to the accessibility requirements of both Section 504 and the Fair Housing Act, as amended. An accessible dwelling unit is defined as being on an accessible route and having accessible features inside the unit. If any person would like to make a complaint, they will make the complaint to DLG and DLG will follow their grievance procedure for complaints and respond within 15 days. Additionally, if any person who believes they have been denied opportunities or treated differently due to their race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion and/or familial status may file a complaint. Complaints can be made directly to DLG.

15 Program Closeout

15.1 Program Closeout

As CDBG-DR grant funds are fully spent and the project is completed, the subrecipient must begin the process of closing out a project. CDBG-DR regulations require that the grant between DLG and HUD be closed within 6 years. Therefore, timely closeout with subrecipients is a key factor in DLG meeting that deadline. Chapter 14: Project Closeout of the subrecipient manual describes in detail the steps subrecipients must take in order to close out the program.

15.2 Project Closeout

In addition to the Construction Closeout documentation submitted by the general contractor, Program representatives will work with property owners to collect all closeout documentation for their file in accordance with the Subrecipient Chapter on Project Closeout. Landlord files will be closed out in the Project once all documentation, including income documentation for tenant households.

15.3 Flood Insurance Requirements

If the applicant's property, reconstructed units, or replacement units are located in a Special Flood Hazard Area, the 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 NFIP or a successor program.

Failure to maintain insurance may result in a property owner being ineligible for future disaster relief. Upon sale or transfer of the property, the property owner

will, on or before the date of such transfer and as part of the documents evidencing such transfer, notify all transferees in writing of the continuing obligation to maintain flood insurance on the property.

Evidence that the property (or reconstructed property) is covered by flood insurance must be provided before closeout, if flood insurance is required due to previous federal disaster received. If flood coverage is required but not available due to the disrepair of the property, the property owner must submit a declination letter from the insurer at the time of contract execution. The property owner must also provide proof that he or she obtained flood insurance once construction has been completed.

15.4 Duplication of Benefits (DOB) Due Diligence and Monitoring

Upon the closeout of the property owner's project, the subrecipient will monitor DOB compliance by contacting the various agencies noted above or listed in the original DOB calculation, and by contacting the recipient of CDBG-DR funds. The property owner must repay any assistance later received for the same purpose as those awarded through CDBG-DR funds. For more information, refer to HUD's *Duplication of Benefits Policy Guidance* at 87 FR 31636 and Chapter 10 of the Subrecipient Manual.

16 Records Management

Subrecipients are required to keep annual occupancy for all CDBG-DR improved units. This report will provide the unit number, the tenant household income, the rental amount charged and the move in date. DLG will also reserve the right to review any lease documents and income certification forms as well as annual HQS inspection reports.

It is required that the subrecipient fully document compliance with all applicable CDBG-DR regulations. In order to accomplish this, subrecipients must maintain comprehensive records and submitting all necessary reports to DLG. Subrecipients will be required to retain all records pertaining to the project for a minimum of five years from the closeout of the project.

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

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

- Auditor of Public Accounts.

These entities must have access to any pertinent books, records, accounts, documents, papers, and all properties improved with the funds and relevant to the grant. Certain records must be made available to the public as well. Files should, to the extent possible, be maintained in a central location. The subrecipient will be required to maintain records for at least five years after final project close-out. The following list identifies major file categories, and materials which should be maintained in each file. DLG maintains this list, and although it is not all-inclusive, subrecipients should refer to applicable laws and regulations as well as the DLG CDBG handbook.

16.1 National Objectives

Subrecipients must maintain records that funded activities meet the LMI national objective. Documentation for all LMI beneficiaries must be kept on file for five years including supporting documentation in order to verify income eligibility.

16.2 Subrecipient application

Subrecipients are required to keep their application to the program, amendments and revisions to the application-if any, and all correspondence related to the application should all be kept on file and available for review for five years by DLG as necessary.

16.3 Grant agreement

Subrecipients will be required to maintain the following records for five years following project closeout: Preliminary approval letter, grant agreement, records/correspondence concerning evidentiary materials, amendments and documentation, performance measures information. Subrecipients are also required to maintain records regarding the affordability of all the units available to LMI tenants, including rental records, and income supporting documentation. If a tenant moves out during the course of the year, subrecipients are responsible to submit updated documentation for the new tenants in order to certify that they are income qualified, and that the rental amounts are at the rate sent by DLG.

16.4 Audit

Subrecipients must provide their financial audits for DLG review at the end of each subrecipient fiscal year. If an audit identifies any findings or deficiencies related to the management of CDBG or CDBG-DR funds all documentation that these findings and any questioned costs have been cleared must be maintained.

16.5 Citizen Participation

Subrecipients must provide reasonable opportunities for citizen participation through hearings and access to information regarding this program. DLG requires that subrecipients conduct at least two public hearings during the course of the grant to elicit citizen feedback on the following: 1) Needs assessment to

solicit input on rental housing needs which will take place prior to application submission, and 2) Review of performance which will review the use of funds and program performance. This hearing must be held prior to grant close out. Subrecipients are expected to take whatever actions are appropriate to encourage the participation of all its citizens, including minorities and non-English speaking persons, as well as persons with disabilities. Subrecipients will be required to follow the Citizen Participation requirements detailed in the Subrecipient Manual Chapter 1-Project Administration.

16.6 Program-specific housing information

The following documents must be maintained:

- Program guidelines
- Local rehabilitation polices and procedures
- Applications for assistance
- Rehabilitation Household Survey
- Income verifications
- Rehabilitation contract file for each job
- Lead-Based Paint Hazard Notification, documentation that the appropriate pamphlet was provided, and notification of any hazard reduction activity and clearance results
- Lead-Based Paint Testing Report, Assessment and/or Screening report
 - For projects where the level of assistance provided is under \$5,000-a clearance report
 - For projects where the level of assistance provided is \$5,000-\$25,000-a clearance report
 - For projects where the level of assistance provided is over \$25,000-an abatement report.
- Work write-ups and cost estimates (including lead-based paint work calculations if necessary)
- Evidence of systematic and thorough inspections
- Notice of Acceptance of work signed by the property owner for each payment made for the work performed
- Documentation of any change orders-including DLG approval notice
- Evidence and certification of Safe Work Practices and Occupant Protection (including any relocation performed, if necessary)
- Documentation of exemptions when relocation was not required
- Written agreements
- Certificate of Inspection, at project completion
- Executed loan documents including deed documents
- Proof of ownership
- Proof of current insurance
- Documentation that the rents for the LMI units do not exceed the rental limits posted by DLG for the area (by bedroom size)

- Documentation of a local system that monitors rents charged (or to be charged) after rehab, for each dwelling unit in each rehabilitated structure.
- Estimated number of units rehabilitated in each structure and the percent of units that will be occupied by low-and moderate-income households.
- Pending applications and disqualified applicants; and
- Evidence of contractor participation.

16.7 Personally Identifiable Information (PII)

Personally Identifiable Information (PII) is information that can be used to distinguish or trace individual's identities. Examples of PII include names, addresses, income verification documents, disability status, employment status, etc. which can be linked or is linkable to a specific applicant and/or beneficiary of the program. As this program will require subrecipients to gather income qualifying information which contains PII, subrecipients must keep all PII information for the duration of the project, in the system of record. If records containing PII are subject to Freedom of Information Act requests, such records shall only be released in accordance with state and federal law. PII records are only stored as long as necessary, in accordance with record retention requirements at 2 CFR part 200.333 and 24 CFR part 570.502(a)(7).

16.8 Beneficiary Files

Subrecipients must maintain records for each tenant which resides in one of the units improved with CDBG-DR funding. These projects are required to track the income, race, and ethnicity as categorized by HUD, as well as female head-of household (occupied by one or more children under the age of 18), elderly household (62 years of age or older), and disabled household. Subrecipients are advised that additional information may be required for the Program to properly calculate an applicant's grant amount and determine eligibility, and that subrecipient should maintain all records, receipts, invoices and other documentation related to any repairs, construction or clean-up of the property for no less than five years from the date that they close out with the program.

16.9 Davis Bacon

CDBG-DR funded construction/reconstruction/rehabilitation projects require that certain procedures be followed in order to comply fully with applicable federal and state requirements. Labor Standards and Construction Management requirements apply and requires that recipients and contractors meet and document compliance with certain rules associated with the employment and payment of workers on construction projects. These requirements include bid preparation, compliance with labor standards, pre-construction meetings and inspection and approval procedures. Davis Bacon wage determination applies if a subrecipient expects to rehabilitate a structure with eight or more units. These units are not limited to a specific building and is defined as one or more buildings on an undivided lot or on contiguous lots or parcels, which are commonly-owned and operated as one rental, cooperative or condominium project. If subrecipients

are unclear on how to implement Davis Bacon requirements, they are advised to contact DLG very early for guidance. If any subrecipients are planning on putting any component of the project out to bid there are a number of preplanning documents which must be completed and reviewed before going to bid and entering into a contract. Subrecipient Manual Chapter 6: Labor Standards and Construction Management for details and required documentation for this program.

17 Definitions

AMI: The median (middle point) household income for an area adjusted for household size as published annually by HUD.

Appeal: A written request from a participant for a review and change to an unfavorable determination made by the program.

Award Notice: The written notice provided to a participant(s) to inform them regarding their zero or positive grant award calculation.

Beneficiary: A tenant household who has gone through the income qualification and is able to reside in one of the affordable units improved with CDBG-DR funds.

CDBG-DR: Community Development Block Grant – Disaster Recovery.

Damage Assessment: The process utilized to verify that damage at a property can reasonably be attributed to 2020 Wildfires or Straight-line Winds.

Damaged Property: The housing unit that was directly damaged by the disaster.

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

Disability: For the purpose 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, as amended, 42 U.S.C. § 12102(1)-(3), and in accordance with HUD regulations at 24 CFR § 5.403 and 891.505.

Duplication of Benefits: Refers to the provision under the *Robert T. Stafford Disaster Assistance and Emergency Relief Act* (Stafford Act) that prohibits any person, business concern, or other entity from receiving financial assistance from federal disaster funds with respect to any part of a loss resulting from a major disaster as to which that person or entity has already received financial assistance under any other program, insurance, or another source.

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

Electronic Execution: The process by which all required signatories of grant agreements and associated documents execute any and all documents via electronic means. Electronic means may include the transmittal of document signatures by scanning original signed documents and transmitting those executed copies back to the Program via email, DocuSign, or other method approved by DLG.

Estimated Cost of Repair: A document estimate, line item by line item, of the damages observed during damage assessment of a participant's property that quantifies the materials and labor necessary to repair observed damages.

Family: A household composed of two or more related persons. The term family also includes one or more eligible persons living with another person or persons who are determined to be important to their care or well-being.

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 receiving federal assistance and 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). If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

Floodplain: Also known as the "Base Flood," as defined at 44 CFR Part 59, this is the low, flat, periodically flooded lands adjacent to rivers, lakes and oceans and subject to geomorphic (land-shaping) and hydrologic (water flow) process. The 100-year floodplain is the land that is predicted to flood during a 100- year storm, which has a 1% chance of occurring in any given year. Areas within the 100-year floodplain may flood in much smaller storms as well. The 100-year floodplain is used by FEMA to administer the federal flood insurance program.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as defined by 44 CFR § 59.1

General Contractor: an individual or entity that is licensed in the State of Kentucky to perform construction services as a general contractor.

Grant Agreement and Associated Documents: All documents required by the Program for execution prior to initiating any funds disbursement or issuing a Notice to Proceed (NTP) to a construction contractor. These documents shall at a minimum include: a grant agreement, subrogation agreement, and any other document required to disburse program funding to an applicant.

Green Building Standards: All rehabilitation (meets the definition of substantial improvement), reconstruction, or new construction must meet an industry-recognized standard that has achieved LEED certification .

Head of Household: The adult member of the family who is the head of the household for the purposes of determining income eligibility and rent. [24 CFR § 5.504]

Household: All persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the low-to-moderate-income objective is based on the income of the household.

HUD: United States Department of Housing and Urban Development.

HUD Housing Quality Standards: HUD's standard for decent, safe, and sanitary housing conditions as defined by 24 CFR § 982.401.

Limited English Proficiency (LEP): A designation for person that are unable to communicate effectively in English because their primary language is not English, and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. 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.

- Extremely low: Household's annual income is up to 30% of the area median family income, as determined by HUD, adjusted for family size;
 - Very Low: Household's annual income is between 31% and 50% of the area median family income, as determined by HUD, adjusted for family size; and
 - Low: Household's annual income is between 51% and 80% of the area median family income, as determined by HUD, adjusted for family size.

Manufactured Housing: A dwelling unit composed of one or more components substantially assembled in a manufacturing plant and transported to a building site. See Mobile Home and Modular Home.

Mobile Home: A dwelling unit composed of one or more components substantially assembled in a manufacturing plant and designed to be transported to a building site on its own chassis for placement on a supporting structure. A mobile home is constructed in accordance with the standards established in the U.S. Department of Housing and Urban Development's building code for manufactured housing. A mobile home is not constructed in accordance with the standards established in the state and local building codes that are applicable to site-built homes.

Modular Home: A dwelling unit composed of two or more components substantially assembled in a manufacturing plant and transported to a building site by truck for final assemble on a permanent foundation. A modular home must be constructed in accordance with the standards established in the state and local building codes that are applicable to site-built homes. Modular homes do not include mobile homes.

Most Impacted and Distressed (MID) Areas: Areas of greatest impact from a disaster as determined by HUD or the State in making disaster funding allocations, using the best available data sources to calculate the amount of disaster damage.

New Construction: A replacement home that substantially exceeds the original footprint on the existing lot (if permitted) or the construction of a new home in a new location.

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.

Ownership: Applicants must have had and maintained a present, freehold, possessory estate in the surface of the land.

Part 5 Definition of Income: The Part 5 definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period.

Power of Attorney (POA): An authorization to act on someone else's behalf in a legal or business matter.

Property Casualty Insurance: Insurance that covers structural repairs to a home as a result of wind, fire, hail, wind-driven rain, tornado, hurricane, or natural disaster, other than flood.

Qualifying Event: Also Qualifying Disaster. Refers to which disaster impacted the damaged property and which CDBG-DR allocation is funding the recovery.

Reconstruction: Demolition and re-building of a housing unit on the same lot in substantially the same footprint and manner. The number of units on the lot may not increase and the total square footage of the original, principal residence structure to be reconstructed may not be substantially exceeded; however, the number of rooms in a unit may be increased or decreased. If the relative percentage of an applicant's repair is equal to or exceeds 80% of the Program-determined reconstruction amount, the reconstruction estimate is used to calculate the cost of reconstruction of the damaged structure.

Reconstruction Threshold: A sufficient amount of damage inflicted on a structure whereby the Program deems it necessary to reconstruct rather than rehabilitate. The current threshold is damage exceeding 80% of the reconstruction value of the structure as determined by the formula

- $\text{Estimated Cost of Repair} / (\text{Repair Estimate Eligible Square Footage} \times \text{Reconstruction Multiplier}) \times 100 = \text{Damage Percentage}$.

Rehabilitation: Repair or restoration of housing units in the disaster-impacted areas to applicable construction codes and standards. If the relative percentage of repair to the applicant's stick-built home is less than 80% of the pre-storm tax assessed value, the repair estimate is used for calculating the cost of rehabilitation of the damaged structure regardless of the value of unforeseen construction conditions requiring a change order.

Replacement: Demolition, removal, and replacement of a damaged manufactured home with a new home in substantially the same footprint, or at a new location if the original damaged unit was on leased land and the owner must relocate to a new property.

Second Home: A home that is not the primary residence of the owner, a tenant, or any occupant at the time of the storm or at the time of application for assistance. Properties that served as second homes at the time of the disaster, or following the disaster, are not eligible for rehabilitation assistance or housing incentives. HUD has established an alternative requirement for second homes that may allow assistance in limited circumstances coordinated with HUD.

Sub-recipient: 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, as memorialized in a grant agreement between the sub-recipient and DLG.

Subrogation: Subrogation is a legal doctrine that allows one entity to take on the rights of another. In the context of disaster recovery grants, a subrecipient must enter into a subrogation agreement in which the funding agency (DLG) obtains the right to collect any additional disaster recovery payments the entity obtains for the same purpose after the entity has received disaster recovery benefits.

Subrogation Agreement: An agreement executed by the beneficiary agreeing to repay any duplicative assistance if the beneficiary later receives other disaster assistance for the same purpose as disaster recovery funds already received.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred (44 CFR § 59.1). Local jurisdictions determine substantial damage.

Substantial Improvement: Any repair, reconstruction, modernization or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement determinations are made by local code enforcement, permitting, building and/or floodplain officials. The Program will abide by these determinations. [24 CFR § 55.2(b)(10)]

Tenant: An individual or family renting or occupying an assisted dwelling unit. [24 CFR § 5.504]

Total Household Income: The total income of all individuals over the age of 18 that are residing in a damaged property.

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.) 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.

APPENDIX A: GRANT ADMINISTRATION PLAN

The Grant Administration Plan is a required supporting document to all application submittals. It stipulates the roles and responsibilities of all the individuals involved in the project and sets forth when and how all activities will be implemented. The Plan must include at least the following components:

- The identity, roles and responsibilities of all persons involved in the implementation of the project;
- The identity of target dates for completion of key tasks;
- The method by which the chief executive and grant manager will oversee and monitor all aspects of the project to assure timely and effective implementation;
- The identity of specific project benchmarks by which the administration and implementation of the project will be tracked and analyzed. Benchmarks should be specific dates by which tasks and subtasks will be completed;
- The method for design and construction contract administration including surveying and additional engineering, plan review, bidding, change order approval, and local government inspection and oversight;
- An identification of potential problems and complexities inherent in the project, and an analysis of how these will be anticipated and mitigated;
- The method by which local government officials, including the chief administrator of the locality, will be kept informed of the status of the project;
- The process for review, approval and payment of invoices related to all project expenditures; and
- A timetable for expenditure of administrative funds based on benchmark accomplishments.
- Green and Resilient Building Standards: DLG requires that the subrecipient select and adhere to the Green and Resilient Building Standard for new construction and reconstruction of housing as required by HUD. The subrecipient must meet this standard for all residential new construction, reconstruction, and rehabilitation of substantially damaged buildings. For more information refer to Chapter 11 of the Subrecipient Manual.
- Duplication of Benefits (DOB) Process: Subrecipients are responsible for the analysis of Disaster Recovery assistance and benefits from all sources to ensure no duplication occurs. As part of this plan Subrecipients must develop a process for reviewing and documenting DOB.

The Grant Administration Team must identify the following:

- The tasks to be completed so that the project activities stay on track;
- Assignment of responsibility to one individual for each task that is identified and the assignment of a support individual for each task (responsibility may not be shared by two individuals); and
- Sequencing and timing of the completion of tasks so that the project can be completed within the framework of the Grant Agreement.

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