



**Single-Family New Construction
Homebuyer Policy**

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Version History and Version Policy

The table shown below tracks the version history and publication date of the policy manual, with notes for each change.

The State will publish an updated 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 or 3.0.

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 or 2.2.

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.

Date Revised	Version Number	Key Revisions
07.17.2025	Homebuyer Policy v.1.0	

1 Overview

The Department for Local Government (DLG) is implementing the Single-Family New Construction Program (the Program) funded by Community Developer Block Grant-Disaster Recovery (CDBG-DR) designated high-ground and other sites. The Program provides funding for construction of new single-family, owner-occupied housing and homebuyer assistance to ensure affordability for buyers. This policy provides guidance to developers and potential homebuyers on the process for the sale of units constructed under the Program and must be used in conjunction with the 2021 and 2022 Single-Family New Construction policy.

All assistance must fulfill the national objective of benefiting low- and moderate-income (LMI) households, defined as households with incomes at or below 80% of the Area Median Income (AMI). The homes must be the homebuyer's primary residence; using the homes for rental or a second home is prohibited.

1.1 Eligible Areas

Eligible homes must be newly constructed within the Most Impacted and Distressed (MID) areas shown below. Additionally, a minimum of 80% of the Program's funds must be allocated to MID areas.

2022 Geographic Eligibility:

HUD has identified the following MID areas:

- Breathitt County
- Knott County
- Lecher County
- Perry County
- Pike County (41572)

*Kentucky has decided to expand the HUD-identified MID areas in ZIP code 41572 to include the entire county of Pike.

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

Casey County, Clay County, Cumberland County, Floyd County, Harlan County, Johnson County, Lee County, Leslie County, Lincoln County, Magoffin County, Martin County, Owsley County, Powell County, Whitley County, and Wolfe County.

2021 Geographic Eligibility:

HUD has identified the following MID areas:

- 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 MIDs, 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.

Construction is expected to begin in 2025. The homes will include a mix of unit sizes to accommodate families with children, individuals with disabilities, and senior citizens.

1.2 Eligible Applicants

The Program will provide a subsidy to eligible LMI households to purchase newly constructed single-family homes. The subsidy will reduce the buyer's mortgage to an affordable level. To qualify, households must meet the following requirements:

- Qualify as LMI by having a household income at or below 80% of the statewide or county Area Median Income (AMI), whichever is higher.
- Complete a homeowner education/housing counseling course through a HUD-certified housing counseling agency and submit a certification of completion.
- Meet the underwriting requirements outlined in Section 4 of this policy, which include:
 - Providing commitment(s) for primary mortgage and any other purchase funding. Developer (or FAHE as designated) will evaluate the primary mortgage (and any additional funding) to ensure it is non-predatory, reasonable, and sustainable.
 - Satisfying the Front-End Ratio requirement to confirm housing costs are affordable relative to the gross monthly income.
 - Satisfying the Back-End Ratio requirement to ensure total debt obligations, including housing costs, are manageable.
 - Maintaining assets, excluding the value of the primary residence, valued at no more than \$50,000 prior to closing. There is no further review of assets once the purchase of the home is complete.
 - Contribute a minimum of \$250 toward the home purchase.

Applicants will be evaluated for eligibility in accordance with the guidelines outlined in this document and prioritized based on the Program's criteria. Developer (or FAHE as designated) will utilize the KCDBG-DR Underwriting Tool for Assisted Homebuyers form to determine the level of assistance provided, and to ensure that the support is tailored to homebuyers' specific needs and that the home remains affordable.

1.3 Eligible Structures

Eligible units are limited to newly constructed single-family homes that received CDBG-DR funding under the Program and are located at high ground areas or other locations designated by DLG.

2 Roles and Responsibilities

2.1 DLG Responsibilities

As the CDBG-DR grantee, DLG is responsible for oversight and compliance with HUD requirements. Additionally, DLG will:

- Review homebuyers' Duplication of Benefits (DOB) form and ensure no DOB exists.
- Review homebuyers' KCDBG-Underwriting Tool including income verifications, and subsidy amounts requested.
- Approve final determination of homebuyer eligibility and direct assistance amount and terms.
- Provide CDBG-DR funding to developers to construct units for the program.
- Provide required forms, including sample Purchase and Sale agreements or addendum.
- Provide guidelines for establishing sale prices and making adjustments as needed.
- Mediate and resolve grievances and appeals.

2.2 Developer Responsibilities

DLG has selected Subrecipients and their Development Partners and/or Developers directly to receive funding from the Program. Developers will:

- Coordinate Marketing and Sales of CDBG DR Homes (Section 3)
- Coordinate Homebuyer Intake and Eligibility (Section 4)
- Execute sales agreement and all required CDBG DR loan documents with the homebuyers. Support DLG's compliance efforts, as needed, to ensure that the buyer occupies the unit as their primary residence through the affordability period.
- Ensure that DLG is named as a loss payee on the buyer's insurance policy for notification purposes.
- Ensuring that the construction adheres to program guidelines, building codes, and any applicable affordability, safety, and quality standards.
- Comply with Davis Bacon, Section 3, and other Requirements.
- Ensure the final inspection is completed and the unit is ready for occupancy.
- Ensure the buyer's subsidy is recaptured if the unit is sold prior to the expiration of the affordability period.
 - Submit payment of any recaptured funds to DLG.
- Collaborate with DLG to resolve any compliance issues identified during monitoring before project closeout.
- Address appeals and grievances in alignment with DLG requirements.

2.3 Fahe Responsibilities

For certain development sites, DLG has contracted with FAHE to manage the homebuyer process. In situations where this is applicable, it will be noted in the Notice of Funding Availability for the Development; and/or Developers will be notified at the time the Funding Award is made to the Developer. When FAHE is involved, their responsibilities include, but are not limited to, the following:

- Marketing and Sales of CDBG DR Homes (described in Section 3)
- Coordinate marketing and sales with the Developers.
- Collect information from Developers on proposed lot options, floorplan options, and pricing estimates.
- Coordinate and order as-built appraisals for all Developers and plan options

Homebuyer Intake and Eligibility (described in Section 4)

- Determine applicant income and submitting to DLG for final determination of the household for CDBG-DR program eligibility.
- Utilize the CDBG-DR underwriting template to determine homebuyer's income level and appropriate level of assistance.
- Confirm that assistance does not duplicate other benefits received.
- Provide referrals to homebuyer counseling to buyers.
- Ensure housing counseling certification is in buyer file.
- Provide homebuyer intake documentation, underwriting details, duplication of benefits analysis, and proof of housing counseling completion to DLG before buyer finalizes a binding sales agreement.
- Communicate with applicants regarding approvals or denials.
- Address appeals and grievances in alignment with DLG requirements.
- Refer potential buyers to credit counseling when needed.

FAHE may function as agents during the construction process and post-sale to ensure the home meets program requirements. In this role, Fahe will:

- **Monitor Compliance:** Ensuring that the construction adheres to program guidelines, building codes, and any applicable affordability, safety, and quality standards. Support Developer's compliance with Davis Bacon, Section 3, and other Requirements. Support compliance efforts to ensure that the buyer occupies the unit as their primary residence throughout the affordability period.
- **Facilitate Communication:** Coordinating between contractors, developers, and other stakeholders to ensure smooth execution and compliance with the terms of the grant. Collaborate with DLG to resolve any compliance issues identified during monitoring before project closeout.
- **Address Issues:** Identifying and resolving any construction-related challenges that may impact the program's requirements or timeline.
- **Ensure Program Objectives are Met:** Verifying that the finished property aligns with the program's objectives, such as affordability, sustainability, and readiness for eligible homebuyers.
- For applicability and more details, please refer to the specific Notice of Funding Availability for the Development and/or the Developer Agreement.

3 Marketing and Sales of CDBG-DR Homes

3.1 Responsibility for Marketing and Sales

Developer (or FAHE when designated) is responsible for marketing the CDBG-DR Single Family New Construction Program and ensuring their sale to qualified buyers.

3.2 Marketing Options

Developers (or FAHE as designated) will coordinate marketing efforts including:

- Marketing and the pre-sale of units prior to construction.
- When unit is pre-sold, support buyers with making limited selections of colors, materials, etc.
- Allowing completed units to serve as marketing centers to tour and provide materials to potential homebuyers
- Provide online information specific to CDBG-DR units; access could be limited to pre-screened eligible applications
- Set up press events and site tours.
- Create direct marketing campaigns targeted at households impacted by disaster
- Place signage at the site with links (such as QR codes) for next steps, including contact information for qualification requirements and/or for materials on layouts and options.

3.3 Marketing Plan

Developers (or FAHE as designated) will create and implement a marketing plan for the Program. The marketing plan must include the following components:

- Strategies for affirmative outreach to residents within target areas.
- Additional methods for advertising homes for sale, such as through the Multiple Listing Service (MLS), advertisements, flyers, etc.
- Inclusion of equal opportunity language in all printed materials and advertisements.
- Pre-approved language for flyers, advertisements, and listings regarding buyer income qualifications and the CDBG-DR financing offered.
- Processes and timelines for prequalifying prospective buyers based on CDBG-DR income eligibility and mortgage financing eligibility.
- Process for implementing policy for managing a waiting list of potential buyers.
- Process for implementing policy for determining order of priority if demand exceeds supply
- Sample disclosure statements are to be provided and explained to buyers before signing purchase agreements and during closing.

4 Homebuyer Intake and Eligibility

Prior to executing a binding sales agreement, Developer (or FAHE as designated) is required to verify each applicant's eligibility and maintain proper documentation for those seeking to purchase a CDBG-DR-funded single-family unit.

4.1 Homebuyer Application Intake

Homebuyer applicants must submit an application to Developer (or FAHE as designated) to initiate the eligibility determination process. The application will contain the following:

- Name, address, phone number
- Household composition

- Race, ethnicity, and disability status
- Source and amount of income for all household members
- Description of assets
- Completed Duplication of Benefits forms:
 - 10-04 DLG DOB Form
 - 10-08 DOB Attestation Certification
 - 10-11 Subrogation Agreement
- Insurance information provided prior to closing including:
 - Contact information for Insurance provider
 - Policy coverage information and ID

The application process will be administered through Developer (or FAHE as designated). The Developer (or FAHE as designated) will adhere to all Privacy Act requirements by safeguarding client data in secured, locked file cabinets or within password-protected electronic systems.

After an application is submitted, Developer (or FAHE as designated) will review the application for eligibility. The applicant will be notified of the determination when the eligibility process is complete.

4.2 Determining Household Income Eligibility

Household income is calculated based on the total number of individuals in the household and the combined annual income of all members aged eighteen or older. The household's income must not exceed 80% of the State or County area median income (AMI), whichever is higher. The Commonwealth of Kentucky received approval from HUD to make LMI determinations across the MID areas for disasters occurring in 2021 and 2022 based upon 80% of the statewide median income. When the applicant's county AMI is below the statewide median income, the statewide income level may be used to qualify households. For example, the table below shows the 2025 AMI levels for a family of four in Knott County and statewide. In this instance, the statewide AMI level will be used to qualify the household.

Knott County Median Family Income	Knott County 80% AMI	Statewide 80% Median Income
\$50,800	\$56,700	\$67,350

These income limits are updated annually by HUD and can be accessed at [Income Limits | HUD USER](#). Upon HUD's release of updated income eligibility limits each year, DLG will provide the revised limits to Developer (or FAHE as designated), who is responsible for certifying household income eligibility.

As a part of the application to purchase the CDBG-DR assisted single family units, the household must provide information on income and asset sources based on the [Part 5 definition of Annual Income](#) (Part 5). Part 5 includes the gross income of all adult household members anticipated to be received during the upcoming 12 months. Income includes wages, salaries, benefits, and income received from assets, with specific inclusions and exclusions defined by HUD.

Developer (or FAHE as designated) will utilize the online [Income Calculator available on the HUD Exchange](#) to calculate, document, and print the income determination for each household.

Households are not required to remain income eligible over the term of the affordability period, but they must be income eligible at the point of commitment of the CDBG-DR assistance

4.3 Verifying and Documenting Household Income Eligibility

This program will follow a verification hierarchy to ensure accurate income and asset determination. Developer (or FAHE as designated) is required to document all verifications and efforts to verify income and assets based on the hierarchy outlined below:

1. **Written Third-Party Verification:** Source documentation, such as a paystub or award letter, from employers, financial institutions, or other sources.
2. **Written Third-Party Verification Form:** A DLG form completed by the income or asset source.
3. **Oral Third-Party Verification:** Verification obtained through phone calls or other oral communication.
4. **Self-Declaration:** Self-certification may be used only when written verification methods are unavailable.

4.4 Income

Income refers to regular and periodic payments, encompassing all earned income from household members aged eighteen or older, with the exception of full-time dependent students (excluding the head of household or spouse). Additionally, it includes all unearned income, such as benefits received by household members under the age of eighteen. Types of income may include:

- Employment – obtain 2 months of statements for all employment
- Social Security Disability Insurance (SSDI) – obtain current year’s Social Security Administration (SSA) award letter
- Social Security Supplemental Income (SSI) – obtain current year’s Social Security Administration (SSA) award letter
- Veterans Administration Disability Income (VA) – obtain current year’s award letter
- Railroad Retirement – obtain current annual statement
- Self-employed – obtain the most recent tax return and base projected income based on the prior year earnings unless the business owner can provide support documentation for why the prior year earnings are not a valid projection
- Parental support payment – obtain court-ordered payment for disabled adult child
- Other income sources may include disabled children of parents who held various occupations such as coal miner, teacher, etc. – obtain monthly amount.

4.5 Assets

Assets include cash, savings, stocks, bonds, real estate, and other items of value. They also include income-producing assets like rental properties. Certain assets may be excluded from consideration, such as personal property that is not income-producing (e.g., furniture, clothing).

Households with assets exceeding \$50,000 (not including the value of the primary residence) are not eligible for the program unless the excess liquid assets are contributed to the purchase.

Types of assets may include:

- Checking accounts – obtain four months of statements to include an average balance
- Saving accounts – obtain most recent statement and use current value
- Retirement (applicant can access prior to turning of age – 401(k), IRA, etc. accounts) – obtain most recent statement
- Whole life insurance policies (note: term life insurance is not counted because it cannot be accessed while living).

Developer (or FAHE as designated) will follow the steps below to determine income eligibility:

- Examine the income and asset documentation provided to verify all sources. Input the information into the HUD Income Calculator and document the results.
- If the application documentation is incomplete, inform the applicant of the required additional documents. Place the application on hold until the missing information is submitted.
- Cross-check the results from the Calculator against the income limits to confirm the applicant qualifies under the Low-Income Limit by using 80% of the Statewide or County Area Median Income, whichever is higher.
- Once all documentation is finalized and approved, place all supporting materials in the applicant's file and with the date of the income eligibility determination.

Income determinations are valid for **six months**. If assistance is not committed within this time frame, the documentation must be updated, and income eligibility recalculated to ensure the applicant still qualifies.

4.6 Prioritization of Units

In the event that demand for assistance to purchase newly constructed single-family units under this program exceed the units or funding levels available, DLG will establish a prioritization of homebuyer applicants based on the following criteria:

Priority 1: Applicants affected by the 2022 Presidentially declared disasters in Kentucky.

Priority 2: Eligible residential occupants who participated in a buyout program by selling their high-risk, owner-occupied homes.

For households participating in a buyout program, program representatives may request additional documentation including certification that the applicant's home will be voluntarily bought out for current (post-incident value) fair market value. If, after four months, enough priority applicants have not been qualified to purchase available homes, the units will be made available to other LMI households.

If demand exceeds supply priority will be given to the first eligible applicant to complete the eligibility, unit selection, underwriting and execution of a binding sales agreement to mirror the open market.

4.7 Determination of Purchase Price

The purchase price of each unit will be based on the as-built appraised value that is established within twelve (12) months before the buyer enters into the purchase agreement with the developer. The Developer (or FAHE as designated) may order the appraisal.

Prior to the start of construction on any home and prior to the execution of a purchase agreement with a homebuyer for a CDBG DR funded unit, the Developer must provide an as-built appraisal for the homebuyer's selected model type.

Developer may not agree to a contract price that is less than the amount in the as-built appraisal for the model type without the written consent of DLG.

4.8 Single Family New Construction Underwriting Standards

Developers (or FAHE as designated) must ensure that homebuyers receiving CDBG-DR affordability assistance are provided with adequate funding to support sustainable homeownership without over-subsidizing. To achieve this, DLG has established minimum underwriting criteria to allocate the appropriate level of CDBG-DR assistance for each homebuyer. While Developers may adopt stricter underwriting standards, less restrictive criteria are not permitted. Developers (or FAHE as designated) will utilize the CDBG-DR Underwriting Tool to determine the mortgage amount that is affordable for each household. The completed KCDBG-DR Underwriting Tool must be submitted to DLG for review before finalizing any purchase agreement with prospective homebuyers.

4.9 Housing Debt (Front-End Ratio)

The front-end ratio represents the total of principal, interest, taxes, and insurance (PITI) for the mortgage(s) as a percentage of gross household income. DLG has implemented a tiered standard for CDBG-DR homebuyers:

- For households with incomes at or below 50%, the front-end ratio must fall between 20-24.99%.
- For households with incomes above 50%, the front-end ratio must fall between 25-30%, as determined by the KCDBG-DR Underwriting Tool. These front-end ratio requirements ensure financing remains affordable, with the PITI as a percentage of gross monthly income staying within the specified range. This underwriting process prevents over-subsidizing while guaranteeing that households receive adequate CDBG-DR affordability assistance. Additionally, the standards promote sustainable homeownership, even if households encounter minor unanticipated expenses. DLG will consider exceptions to the front-end ratio on a case-by-case basis.

4.10 Total Debt (Back-End Ratio)

The maximum back-end ratio is set at 41%, which means the total of long-term debt (lasting six months or more) and PITI must not exceed 41% of the gross monthly income. Exceptions to this standard may be requested and will be evaluated by DLG on a case-by-case basis. This underwriting process safeguards borrowers from taking on excessive debt, fostering sustainable

homeownership. It minimizes the risk of default while ensuring that borrowers can comfortably balance their housing expenses with other long-term financial commitments.

4.11 Assets

Developer (or FAHE as designated) will evaluate liquid assets in order to assess the capacity of assisted homebuyers to contribute available funds to their home purchase. All households receiving CDBG-DR assistance must provide a minimum contribution of \$250 toward the home's purchase price. This requirement is waived for households whose sole income source is Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI). The contribution may be provided in the form of a gift from another person, which must be documented in the homebuyer's file.

Homebuyers with assets (excluding the value of the primary residence) exceeding \$50,000 are not eligible for assistance unless those assets are contributed to the purchase of the home.

Assets that are excluded from this calculation:

- Dedicated retirement savings such as 401(k) or pension contributions
- Dedicated educational savings accounts
- Real property value of former primary residence damaged by the federal disaster. If the home is a total loss, DLG will require the homebuyer to sign a certification that the property will not be sold or rented.

4.12 Review of Loan Terms for Additional Loans

DLG requires Developers (or FAHE as designated) to thoroughly assess the terms of all additional loans the homebuyer will secure, with a specific focus on private mortgages. This evaluation ensures the loan terms are both reasonable and sustainable. Applications which include any loan containing predatory or harmful features, such as excessive fees, high interest rates, balloon payments, or adjustable interest rates will be denied for CDBG-DR assistance.

4.13 Subsidy Limits

The CDBG-DR program permits a maximum development subsidy of \$200,000, including the developer fee, eligible to be allocated to the homebuyer as a secondary mortgage based on the affordability underwriting template. The specific level of affordability subsidy required will be determined on a household-by-household basis using the KCDBG DR Underwriting Tool (Attachment A). For additional guidance, please review the Single-Family New Construction Policy Manual and/or any appropriate Notice of Funding Availability.

4.14 Duplication of Benefits

Developer (or FAHE as designated) is responsible for collecting all duplication of benefits (DOB) documentation from the borrower and submitting to DLG for review and clearance. This documentation includes all assistance, from all sources, that the households have been awarded, or funds that have been made available to those households, to repair/reconstruct their homes from all sources. Funds provided to the applicant for a purpose other than homebuyer assistance must be disclosed but may not be considered a DOB.

These sources may include, but are not limited to:

- Federal Emergency Management Assistance (FEMA): FEMA letter or other evidence documenting FEMA funding received.
- Flood insurance settlement
- Homeowner's insurance settlement
- Increased Cost of Compliance (ICC) settlement
- Small Business Administration (SBA) loan
- Any assistance from other government or private non-profit sources.

Funds received from these sources for other purposes, such as temporary housing and Replacement of household contents, are not considered a DOB.

DLG will perform the DOB analysis and provide More information on the Duplication of Benefits process is described in detail in [Chapter 10 of the CDBG-DR Subrecipient Manual](#).

4.15 Housing Counseling and Other Services

Homebuyers are required to complete housing counseling with a HUD certified housing counseling agency prior to the CDBG-DR funding commitment. Developer (or FAHE as designated) will provide referrals when needed and the cost of the housing counseling service can be paid for with program funds. The housing counseling certificate of completion must be included in the homebuyer's qualification and purchase record.

Developer (or FAHE as designated) may refer buyers to other services, such as legal aid or credit counseling, if needed for potential homebuyers to resolve any issues that might hamper the purchase of an assisted property.

4.16 DLG Approval Prior to Entering a Sales Agreement

Developer (or FAHE as designated) will complete the final underwriting, DOB forms, and review of any outstanding eligibility related steps to determine eligibility and the level of CDBG-DR assistance that will be provided to each household to ensure long term affordability. Developer (or FAHE as designated) will submit a packet to DLG documenting eligibility and the basis for determining the level of assistance prior to providing the homebuyer applicant with a CDBG-DR Loan Commitment. Files can be submitted to DLG electronically and DLG and Developer (or FAHE as designated) will negotiate an estimated timeline to ensure the reviews can be completed within the target deadline. DOB information should be included in the complete homebuyer packet submitted for approval, as DLG will review and verify the DOB information in conjunction with review and verification of program eligibility

4.17 Communicating with Applicants Regarding Approvals/Denials

Developer (or FAHE as designated) is responsible for informing households, in writing, of their eligibility or ineligibility for CDBG-DR assistance. Written notification of eligibility for assistance will include the amount of CDBG-DR financial assistance that households qualify for and preliminary disclosures of the terms of that financial assistance.

4.18 Waiting List

4.18.1 Requirements for Waiting Lists

Developer (or FAHE as designated) is required to create and maintain a waiting list of all prospective homebuyers approved for assistance. However, DLG reserves the right to waive this requirement at its sole discretion if Fahe can conclusively demonstrate that a waiting list is unnecessary, such as when the number of available homes exceeds the number of qualified buyers.

4.18.2 Waiting List Procedures

Developer (or FAHE as designated) will adhere to the following waiting list procedures:

1. Priority for selecting a CDBG-DR-assisted unit will be based on the date a household's application for assistance was approved. Households with earlier approval dates will have higher priority.
2. When a unit becomes available for sale, it will first be offered to the household with the highest priority. If not selected by the household with highest priority, the unit will be offered to the next household in priority order.
3. Units will only be offered to households if the prices are deemed affordable, as determined by the KCDBG-DR Underwriting Tool completed by Developer (or FAHE as designated) and approved by DLG.
4. Each household may decline up to three CDBG-DR assisted units while maintaining their priority. After three rejections, the household's priority will move to the bottom of the waiting list.

5 Executing a Binding Sales Agreement

For each CDBG-DR assisted unit, Developer will coordinate the execution of the binding sales agreement between the developer and buyer.

5.1 Sales Agreement

Prior to execution of the sales agreement, each household must certify that they understand and agree to all terms of the sales agreement, including:

- **Property Details:** A description of the property, including its address, legal description, and any unique features.
- **Purchase Price:** The agreed-upon price for the home, including any subsidies or assistance provided through the CDBG-DR program.
- **Duplication of Benefits:** Explains the process for addressing resources considered a DOB and the method used to calculate the grant amount.
- **Buyer and Seller Information:** Names and contact details of the buyer and seller, along with their roles in the transaction.
- **Financing Terms:** Details of the buyer's financing, including the primary and CDBG-DR loans or financing provided by other funding sources.

- **Affordability Requirements:** Terms outlining the affordability period, including the requirement for the buyer to occupy the home as their primary residence or risk triggering repayment.
- **Insurance Obligations:** Requirements for the buyer to maintain hazard, multi-peril, and/or flood insurance, as applicable. If the home is sold, the flood insurance policy is assumable by the buyer, provided that the seller is not transferring the policy to a new location.
 - Homeowners in special flood hazard areas must obtain and maintain flood insurance if they receive federal disaster assistance. Failure to maintain this insurance disqualifies the property from future federal disaster recovery assistance.
 - Under the Stafford Act, homeowners who received disaster recovery assistance after September 14, 1994, are required to obtain and maintain adequate flood insurance coverage.
 - As part of the DOB verification, DLG must verify that homeowners with prior disaster recovery assistance have maintained flood insurance before granting an award.
- **Recapture Provisions:** Conditions under which assistance may be recaptured, such as selling or transferring ownership during the affordability period.
- **Inspection and Warranty:** Provisions for property inspections, warranties on construction, and any repairs or corrections required before closing.
- **Closing Costs:** Details of closing cost assistance provided through the program and any buyer contributions.
- **Deed Restrictions:** Declarations to ensure the project meets program objectives and remains compliant with CDBG-DR guidelines, such as maintaining FEMA flood insurance for the life of the property and ensuring occupancy as the owner's primary residence.
- **Subrogation Agreement:** Agreement to subrogation terms, ensuring compliance with program requirements.
- **Timeline and Deadlines:** Key dates for inspections, financing approval, and the closing process.

All self-certified information may be investigated by the Program, HUD, or other entities at a later date. Homeowners are obligated 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.

If the homeowner beneficiary has designated a power of attorney (POA), the original POA documents must be provided to the program in person or via certified mail.

6 Period of Affordability and Loan Terms

6.1 Period of Affordability

All units will be subject to HUD's period of affordability, recorded in the Disaster Recovery and Grant Reporting (DRGR) system, based on the amount of CDBG-DR assistance the homebuyer receives. After the minimum period of affordability has been met, the HUD and CDBG-DR Program requirements shall be satisfied.

6.1.1 Commonwealth Extended Period of Affordability

The Commonwealth is imposing an extended affordability period, which will begin at the completion of HUD's affordability period and remain in effect through the term of the CDBG-DR

loan. The extended affordability period will terminate when the CDBG-DR loan is fully paid or fully forgiven.

Homeownership Assistance Per Unit	HUD Minimum Period of Affordability	Kentucky Extended Period of Affordability*
Under \$25,000	5 years	5 years
\$25,000 to \$50,000	10 years	10 years
\$50,001 and above	15 years	15 years

**Kentucky period of affordability will commence at the expiration of the HUD period of affordability.*

6.2 Occupancy and Primary Residency

The homebuyer(s) are required to occupy the home as their primary residence for the entirety of the affordability and extended period. DLG will conduct annual monitoring to verify that owners continue to occupy the units as their principal residence.

During the affordability period, noncompliance occurs if the owner:

- Rents all or part of the property to another household.
- Vacates the property or fails to occupy the property as their primary residence.
- Sells the home without ensuring that the Department for Local Government (DLG) receives the required recaptured funds at the time of sale.

6.3 Loan Terms and Payment Structure

All CDBG DR loans will be made at zero percent (0%) interest rate, no payments, and a term of ten (10), twenty (20), or thirty (30) years, depending on the assistance per unit. The homebuyer will execute a promissory note and a mortgage, subordinate to the primary loan and assigned to DLG, will be recorded on the property.

There is no loan forgiveness during the HUD period of affordability. Beginning in the first year of the Kentucky period of extended affordability, the loan will be forgiven according to the table below:

Homeownership Assistance Per Unit	Period of Forgiveness	Percent of original loan balance forgiven per year
Under \$25,000	Years 6-10	20%
\$25,000 to \$50,000	Year 11-20	10%
\$50,001 and above	Year 16-30	6.7%

The loan must be repaid, according to the structure detailed in Section 6.4, upon sale of the unit, transfer of title, or when the property ceases to be occupied by the assisted homeowner.

6.3.1 Recapture Requirements

If the assisted homeowner sells the property before the expiration of the affordability period or is noncompliant with the terms of the loan agreement, DLG will recapture some or all of the CDBG-DR amount provided to the homeowner when the unit was purchased.

If the sale occurs within the HUD period of affordability, the full amount of assistance is subject to recapture, but cannot exceed the amount of the net proceeds from the sale. If the sale occurs during the Commonwealth's extended period of affordability, the amount recaptured will be the full amount of assistance minus any forgiveness, as detailed above in Section 6.3: Loan Terms and Payment Structure.

In the event net proceeds are insufficient to repay the amount owed, recaptured funds will be limited to the net proceeds, and the loan will be considered satisfied. Net proceeds are defined as the sale price of the home minus all superior loan repayments (not including CDBG-DR loans), any closing costs paid by the seller, and the homeowner's initial investment at time of purchase.

Funds that are recaptured by the developer must be repaid to DLG. Once funds have been recaptured, the long-term affordability period terminates, and the CDBG-DR requirements no longer apply to the property. Thereafter, the home can be sold to any homebuyer, regardless of income.

6.3.2 Homeowner Non-Compliance

DLG will implement the following procedures in the event of homeowner noncompliance:

1. DLG (or Developer or FAHE as designated) will notify the homeowner of the violation and requirement for compliance within a specified timeframe.
2. If the homeowner fails to comply within the specified timeframe, DLG may call the promissory note and require repayment of any outstanding balance. DLG reserves the right to assess additional penalties.

This provision will be enforced by including appropriate language in the CDBG-DR agreement with the homebuyer, promissory note, and mortgage documents.

6.4 Refinance and/or Equity Loans/Lines of Credit

Homeowners are not allowed to refinance their primary mortgage or obtain a home equity loan or line of credit without written review and approval by DLG.

7 Fair Housing and Civil Rights

The Fair Housing Act requires all grantees including subrecipients and developers receiving HUD financial assistance, in whole or in part, to certify that no individual is excluded from participation in, denied benefits of, or subjected to discrimination in housing programs or activities based on age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status.

The Department for Local Government (DLG) complies with and enforces the Civil Rights requirements under Title I of the Housing and Community Development Act and the Fair Housing Law. Developer (or FAHE as designated) must designate a Fair Housing and Equal Opportunity Coordinator to serve as the primary liaison with DLG. The coordinator reviews plans and activities to ensure compliance and recommends strategies to align with fair housing laws.

8 File Management

8.1 Project File Maintenance

Proper documentation of compliance with all applicable regulations is essential for grantees. This involves maintaining thorough records and submitting all required reports.

The filing system should be user-friendly and provide a historical record of activities for review by the State, auditors, and local staff. For more detailed guidance, refer to Chapter 1, Section 1-K of the Subrecipient Manual. Chapter 1 also includes a list of required regulatory documentation for the contract folder.

Additionally, each assisted homebuyer must have a separate file specific to their property. Each individual housing project file should include:

- The Homebuyer Application and related paperwork, including duplication of benefits documentation
- KCDBG-DR Underwriting Tool
- Master Complaint File
- Proof that the recipient received a copy of the Grievance Procedures
- Settlement Statement for each unit sold
- Homebuyer Release for Verification of Income (when applicable)
- Verification of Income and Employment
- Executed Purchase Agreement with the homebuyer
- Homebuyer /Education Counseling Certification of Completion
- Affordability Assistance Loan/Grant Agreement and evidence of the recorded lien
- Promissory Note
- Real Estate Mortgage
- Copies of written complaints, resolutions, and correspondence (to also be included in the Master Complaint File).

8.2 DOB Due Diligence and Monitoring

Before finalizing the homebuyer's purchase of the assisted unit, Developer (or FAHE as designated) must ensure compliance with Duplication of Benefits (DOB) requirements. This involves contacting the relevant agencies noted previously or listed in the original DOB calculation, as well as the recipient of CDBG-DR funds. If the homebuyer later receives additional assistance for the same purpose as the CDBG-DR funds, they are required to repay the duplicated amount. For detailed guidance, refer to HUD's Duplication of Benefits Policy at 87 FR 31636 and Chapter 10 of the Subrecipient Manual.

9 Complaints and Appeals

9.1 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's 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.

9.2 Grievances Received by Grantees

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.

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 fifteen (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.

9.3 Grievances Received by DLG

DLG must resolve complaints and grievances in accordance with established procedures within fifteen (15) working days from receipt by DLG (where practical) and a resolution letter will be provided to the complainant of resolution must be submitted to DLG.

9.4 Method of Submitting Appeals

Homebuyers may appeal to the following types of decisions made by the Program:

- Program eligibility
- Funding award calculation, prior to execution of the funding agreement
- Duplication of benefits
- File closure

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

9.5 Processing Appeals

Developer (or FAHE as designated) 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 homebuyer applicant files 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. Developer (or FAHE as designated) should be aware that this full file review may result in positive or negative changes to the eligibility status or an increase or decrease in the previous award amount. Such variations in the final award are necessary to ensure that the home is properly repaired and that the Program only pays for work that is necessary, reasonable and within Program guidelines.

9.6 Responses to Appeals

Developer (or FAHE as designated) 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 ten-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.

10 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.

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

Developer: A for-profit or private nonprofit individual or entity that receives CDBG-DR assistance to construct new housing or rehabilitate existing housing.

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.

Disaster Recovery and Grant Reporting System: The system used by HUD to review grant-funded activities, prepare reports to Congress and other interested parties, and monitor program compliance.

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].

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.

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 also flood in smaller storms. FEMA uses the 100-year floodplain 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

Award 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 or funding agreement, subrogation agreement, and any other document required to disburse program funding to an applicant.

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 with 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.

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.

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 exceeds the original footprint on the existing lot (if permitted) or the construction of a new home in a new location.

National Flood Insurance Program (NFIP): 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.

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

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: The process by which duplicative assistance paid to an applicant after receiving an award is remitted to the Program in order to rectify a duplication of benefit.

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.

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

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