



Single Family New Construction Policy Manual

CONTENTS

CONTENTS	1
1 PROGRAM OVERVIEW	6
1.1 Introduction	6
1.2 Purpose of the Policy Manual	6
1.3 Program Description.....	7
2 CDBG-DR REQUIREMENTS	8

2.1 National Objective	8
2.2 Eligible Areas	8
2.3 Eligible Activities.....	9
2.4 Ineligible Activities	9
2.5 Tieback to Disaster.....	10
3 PROGRAM ADMINISTRATION	10
3.1 Overview	10
3.2 Eligible Applicants	10
3.2.1 Certified Grant Administrator Requirements.....	11
3.3 Participation in the National Flood Insurance Program	11
3.4 Maximum Award.....	11
3.5 Application Process	11
3.5.1 Open Application	11
3.5.2 Subsidy Limits.....	12
3.5.3 Developer/Subrecipient Application Requirements	12
3.4 Environmental Review	13
3.5 Award Notification.....	13
3.6 Terms of Funding	14
3.7 Disbursement of Funds.....	15
3.8 Non-profit partners.....	15
3.9 Withdrawn Applications	15
3.9.1 Voluntary Withdrawals	15
3.9.2 Administrative Withdrawals	15
4 CONSTRUCTION STANDARDS.....	15
4.1 Unit Size and Amenities.....	15
4.1.1 Manufactured Housing Units.....	16
4.2 Accessibility Requirements.....	16
4.3 Green and Resilient Building Standards	16
4.4 Elevation Standards	17
5 SALE OF UNITS TO INCOME ELIGIBLE HOMEBUYERS	17
5.1 Homebuyer Application Process.....	17
5.2 Underwriting Standards for Homebuyer Loan	17
5.2.1 Homebuyer Income Eligibility.....	18
5.2.2 Housing Debt (Front-End Ratio).....	19

5.2.3 Total Debt (Back-End Ratio)	20
5.2.4 Assets.....	20
5.3 Homebuyer Loan Agreement.....	20
5.3.1 Loan Terms	20
5.3.2 Loan Recapture	21
5.3.3 Homebuyer Counseling	22
5.3.4 Flood Insurance Requirements	22
5.3.5 Noncompliance	23
5.3.6 Application Withdrawals.....	23
6 OTHER PROGRAM POLICIES	23
6.1 Limited English Proficiency (LEP).....	23
6.2 Subrecipient Language Access Plan	24
6.3 Fair Housing and Civil Rights.....	25
6.4 Uniform Relocation Act.....	26
6.5 Conflict of Interest.....	26
7 REPAYMENT POLICY	27
8 Reporting Requirements and File Management	27
8.1 Reporting Requirements.....	27
8.2 File Management.....	27
9 COMPLAINTS AND APPEALS.....	28
9.1 Grievances	28
9.2 Section 504 Coordination Complaints and Grievances	28
9.3 Grievances Received by Developers and/or Subrecipients.....	29
9.4 Grievances Received by DLG.....	29
9.5 Beneficiary Program Appeals	29
9.5.1 Method of Submitting Appeals	29
9.5.2 Processing Appeals	30
9.5.3 Responses to Appeals	30
10 DUPLICATION OF BENEFITS.....	30
11 Construction	31
11.1 Inspections	31
11.2 Bonding Requirements	32
11.3 Pre-Construction Conference	32
11.4 General Contractor Responsibilities.....	33

11.5 Change Orders	33
11.6 Construction Warranties	34
11.7 Davis-Bacon	34
11.8 Section 3	34
11.9 Notice to Proceed	35
11.10 Construction Monitoring	35
11.11 Payments	35
11.12 Retainage	36
11.13 Final Inspections.....	36
11.14 Final Payment.....	36
11.15 Retainage Release	36
11.16 General Contractor Performance Review	36
11.17 Construction Closeout	37
12 COMPLIANCE AND MONITORING	37
13 PROGRAM CLOSEOUT	38
13.1 Project Closeout	38
13.2 Duplication of Benefits Due Diligence and Monitoring.....	38
14 RECORDS MANAGEMENT	38
14.1 National Objectives.....	38
14.2 Beneficiary Records	38
14.3 Audit	39
14.4 Personally Identifiable Information (PII)	39

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 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, 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	03.26.2024	2022 Single Family New Construction Policy Original

1 PROGRAM OVERVIEW

1.1 Introduction

In response to the 2022 severe storms, the US Department of Housing and Urban Development (CDBG-DR) announced that the Commonwealth of Kentucky would receive \$297,994,000 in Community Development Block Grant-Disaster Recovery (CDBG-DR) funding to support long-term recovery and mitigation efforts following the 2022 severe storms, flooding, landslides, and mudslides (DR-4663), provided through the Kentucky Department for Local Government (DLG). These funds are designed to address the needs that remain after all other assistance has been exhausted

In alignment with the Commonwealth of Kentucky's comprehensive approach to resilient recovery, DLG is launching the Single-Family New Construction Program to support the development of single-family housing units to be sold to income qualified buyers.

1.2 Purpose of the Policy Manual

This manual provides policy guidelines for subrecipients and developers 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 constructed
- Types of eligible costs and unit requirements
- Process, compliance, and documentation requirements to participate
- What an approved participant must do before and after they get assistance from the program
- Who is eligible to buy a unit and the underwriting requirements to determine the level of affordability assistance
- Additional resources are available to help developers and subrecipients to move forward with their application
- How to appeal a program decision.

Please note that throughout this policy manual, the term subrecipients refer to city and county governments and nonprofit organizations when they operate the program. Any references to DLG could include an administrator that DLG has designated to operate the program. Other applicants, such as non-profit and for-profit developers, will be considered contractors of the State. Beneficiaries refer to the homeowners who will receive assistance to purchase the affordable units upon completion.

Navigating the Policy: Users of this policy 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.

This policy will reference the CDBG-DR Subrecipient Manual located on the DLG Disaster website [Kentucky DLG - DRP Grants](#). Applicants should review this Policy in conjunction with the Subrecipient Manual to understand roles and responsibilities if funded.

1.3 Program Description

The Single-Family New Housing Construction program will provide funding for the development of resilient and affordable new single family housing units on vacant lots within existing neighborhoods or in new residential neighborhoods. Upon completion, the units will be sold to households with incomes at or below 80% of HUD's Area Median Income (AMI). The program will also provide funding to the income-qualified homebuyers to purchase a completed unit.

Projects must be in areas designated Most Impacted and Distressed (MID) and outside of Special Flood Hazard Areas (SFHA). Projects located in identified 'high ground sites' will be prioritized for funding.

Eligible applicants, including developers (both for profit and nonprofit), as well as city, county, and tribal governments, will apply to DLG with a detailed proposal for the project.

DLG, or its designee, will administer the program when funds are awarded directly to developers. Local governments that receive an award will function as subrecipients and must oversee project development and the sale of the units to income eligible households. Subrecipients must enlist a certified grant administrator to oversee the housing development including the environmental review, construction management, and the qualification of eligible homebuyers. For more on the certified grant administrator requirement please refer to Section 3.2.1 of this policy.

Subrecipient applicants must identify a qualified developer (either for profit or nonprofit) to plan and undertake the project. Subrecipients must then execute a loan agreement with the developer to lock in the project scope, affordability requirements, and the overlay of CBDG-DR and other federal requirements.

Each Single-Family New Construction award will be based on the DLG approved budget for both unit construction and infrastructure. The developer and/or the subrecipient will be responsible for marketing the units to eligible buyers including screening for duplication of benefits and all homebuyer eligibility requirements.

The developer or subrecipient will complete the homebuyer applicant information packet including the affordability review and proposed affordability assistance for each buyer and submit for DLG review prior to finalizing a binding sales agreement.

Subrecipients recipient grant administration responsibilities include but not limited to the following:

- Homebuyer intake
- Eligibility Review
- Duplication of Benefits Verification
- Appeals
- Inspections
- Environmental Review
- Green Building Requirements
- Completion of the Initial Homebuyer Underwriting
- Monitoring construction
- 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 CDBG-DR REQUIREMENTS

2.1 National Objective

Assistance provided under this program will meet the national objective of benefiting Low to Moderate income (LMI) persons or households.

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

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 4.5 for additional information on the income verification process.

2.2 Eligible Areas

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

The Consolidated Notice allows Kentucky to determine where to use up to 20% of the remaining amount of the CDBG-DR grant. The funds must be used to address unmet needs within areas that received a presidential disaster declaration. The HUD and Kentucky identified MIDs are shown below:

2022 Severe Storm, Flooding, Landslide and Mudslide (DR-4663)

MID Areas		
HUD-Identified MID Areas	Breathitt County Knott County Letcher County	Perry County Pike County*
Grantee-Identified MID Areas	Casey Clay Cumberland Floyd Harlan Johnson Lee Leslie	Lincoln Magoffin Martin Owsley Pike* Powell Whitley Wolfe

*Kentucky has expanded the HUD-identified MID areas to include the entirety of Pike County.

2.3 Eligible Activities

New construction, acquisition, clearance, and homeownership assistance; HCDA Section 105(a)1, 4, 5, 11, 14, 15, and 24; applicable waivers identified in the Allocation Announcement Notice and Consolidated Notice.

Only new construction of units for affordable homeownership are eligible for funding under this program. Rehabilitation of existing units is not eligible.

2.4 Ineligible Activities

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

- Located in a SFHA
- Located in areas where federal assistance is not permitted
- Manufactured units that do not meet the program requirements
- Luxury or non-standard items, such as swimming pools, Jacuzzis, high-end appliances, window air conditioners, washers, and dryers, etc.

Homebuyer assistance that is for:

- Homes not occupied as the owner's primary residence
- Assistance for homebuyers determined not to meet the Duplication of Benefits (DOB) standards
- 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;
- Labor time for sweat equity may not be paid out to recipients of rehabilitation assistance.

2.5 Tieback to Disaster

This program will address unmet housing recovery needs by financing the replacement of damaged or destroyed affordable housing units. The construction of new, single-family housing units will allow for households impacted and/or displaced by the flood of 2022 to find safe and affordable housing options.

This program will also provide direct financial assistance to homebuyers to purchase and occupy the newly constructed single-family homes.

3 PROGRAM ADMINISTRATION

3.1 Overview

Applicants will submit funding packages to DLG. DLG, or its designee, will administer the program for awards to for-profit and non-profit developers. City and county governments that apply to DLG will be considered subrecipients and must operate a single-family new construction program.

Subrecipient applicants must partner with a for-profit or non-profit developer to provide the needed capacity to develop and sell single family affordable housing units. Applications must present evidence of adequate capacity to oversee all aspects of the project.

All awardees must work with a certified grant administrator to assist with application development, grant administration, and activity delivery. Homebuyer beneficiaries will apply to the entity jurisdiction or their implementation partner for participation in the program.

In addition to being the Environmental Review Responsible Entity for direct applications, DLG is responsible for developing and amending the CDBG-DR Public Action Plan, program policies and procedures, ensuring program and other cross-cutting federal regulatory compliance, providing technical assistance to applicants, procurement oversight, and financial management.

3.2 Eligible Applicants

Developers (both for-profit or nonprofit), counties and cities, are eligible applicants. Projects must be located within the designated MIDs. DLG, or its designee, will administer the program for awards to developers. Counties and cities applying for funding to administer the program will be awarded as subrecipients.

Subrecipient applications must identify an experienced developer in good standing with the Commonwealth for the proposed project. Additional eligibility requirements will be described in the program guidelines.

Eligible Beneficiaries: The program's beneficiaries are the homebuyers who will purchase and occupy the newly constructed housing units. DLG will prioritize and market to LMI disaster-impacted households for the first 4 months of the program, after which all eligible LMI homebuyers will be prioritized. Cities and counties will conduct advertising to ensure that impacted households are informed and can participate in the program.

More information on the homebuyer process can be found in Section 5 Sale of Units to Income Eligible Homebuyers.

3.2.1 Certified Grant Administrator Requirements

The Commonwealth of Kentucky requires that individuals administering CDBG-DR funds 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. Once administrators have been certified, DLG will maintain an updated list of certified CDBG-DR Administrators.

3.3 Participation in the National Flood Insurance Program

Projects receiving assistance from this program must be in communities that participate in the National Flood Insurance Program (NFIP). Communities that do not participate in the NFIP are prohibited from receiving federal assistance.

3.4 Maximum Award

DLG is setting a maximum award of \$200,000 per unit in the form of a loan for the construction of single-family homebuyer units and any on-site infrastructure such as water and sewer lines from the unit to the connection in the public right of way. Additionally, CDBG-DR funds are available for overall site development and infrastructure costs including streets, sidewalks, drainage, utilities, and site development costs such as grading and clearance. Site development and infrastructure funds will be provided as a grant to a subrecipient or local government. DLG will consider exceptions to the maximum award amounts when necessary and in compliance with federal regulations.

3.5 Application Process

3.5.1 Open Application

Applications will be accepted until all funds have been obligated. DLG will receive the applications and make funding decisions based on the completeness of the application, justification for funding, and feasibility of the project. Application approval and associated funding decisions will be made through evaluation of threshold criteria related to the application and subject to funding availability. Projects located in designated 'high ground' sites will be prioritized for funding.

Applicants must download the CDBG-DR Housing Application located [at Kentucky DLG - DRP Grants](#) and submit with all attachments to DLG.OFG@KY.GOV or DLG.DR@KY.GOV.

DLG will contact applicants to request missing or additional information and those applications will be placed on hold until all requested information is received.

3.5.2 Subsidy Limits

This program provides a maximum development subsidy of \$200,000 per unit, of which all, less the developer fee, will be provided in the form of a subordinate loan based on the affordability underwriting template. The level of subsidy needed will be determined for each household utilizing the homebuyer underwriting template provided by DLG.

All buyers will receive a minimum of \$1000 in closing cost assistance. Any additional assistance must be supported by the underwriting template's determination of need.

3.5.3 Developer/Subrecipient Application Requirements

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

- Responds to a demonstrated need
- Impacts vulnerable communities
- Meets a national objective
- Qualifies as a CDBG-DR-eligible activity
- Is located in a declared disaster-affected area

Complete applications must include the following items:

- A signed, dated, complete original copy of the CDBG-DR Single Family New Construction Program Application available on the Kentucky DLG - DRP Grants website.
- CDBG-DR Single Family New Construction Sources and Uses Development Budget template
- Preliminary site plan including both the units and infrastructure
- Specifications for the proposed units including unit size and amenities
- Public Hearing documentation and other Citizen Participation requirements as found in Chapter 1 of the Subrecipient Manual
- Title VI Form- Implementation Plan and Self-Survey Description found in [Chapter 1 of the Subrecipient Manual](#) and the Form (7-2) is found in [Chapter 7](#).

Documents to Attach:

- Project Area Map with boundaries
- For Subrecipients only:
 - Grant Administration Plan: for required information, please refer to [Chapter 1 of the Subrecipient Manual](#).
 - Authorizing Resolution to submit the application adopted by the community's governing body
- For direct applications from developers: Letter(s) of Community Support
- Proposed Designs and Plans (Project Scope)

- All Funding Commitment Letters
- Kentucky State Clearinghouse 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 when applicable
- If the 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 potential recipients.

DLG reserves the right to request any additional information as necessary.

3.4 Environmental Review

DLG will assume the role of Responsible Entity (RE) and complete the Environmental Review for direct awards to developers. Subrecipients who receive CDBG-DR funds are considered REs and must complete an environmental review of all project activities prior to obligating any project funds.

Under Part 58, the local chief elected or appointed official (CEO) must assume the role of the Environmental Certifying Officer (ECO) or formally designate another person to do so. If the CEO designates a staff person to serve as the ECO, this designation must be made in writing, signed by the CEO, and placed in the Environmental Review Record (ERR). The ECO accepts full responsibility for the completeness and accuracy of the review and compliance with applicable laws and regulations. Local officials should review the municipal liability and indemnification statutes and the status and coverage of local liability insurance policies when accepting responsibility under environmental laws. The responsibilities of the ECO include making findings and signing required certifications.

Refer to Chapter 2 of the CDBG-DR Subrecipient Manual for more information.

3.5 Award Notification

For selected projects, DLG will provide a preliminary award letter that includes the following:

- Award amount
- Project completion date
- Environmental Review requirements
- Procurement requirements; and
- Any missing information that is needed to proceed

The applicant must indicate acceptance of the conditions by signing the preliminary award letter and returning it to the DLG office. No costs can be incurred until the applicant has entered into an agreement with the Commonwealth and received Environmental Clearance.

Counties and cities receiving funding will function as a subrecipient and oversee the unit development and the sale of the units to income eligible households and provision of affordability assistance will be provided to eligible homebuyer beneficiaries. Subrecipients must engage qualified for profit or nonprofit developers to construct the projects and work with a certified grant administrator to oversee the compliance requirements, including the

environmental review, construction management, and the qualification of eligible homebuyers. For more on the certified grant administrator requirement please refer to Section 2.2 of this policy.

DLG, or its designee, will provide loans when direct awards are made to developers. When funding awards are made to subrecipients, they will enter a loan agreement with the developer to lock in the project scope, affordability requirements, and the overlay of CBDG-DR and other federal requirements. Each Single-Family New Construction funding award will be based on the DLG approved budget for both unit construction and infrastructure. The subrecipient and developer will be responsible for marketing the units to eligible buyers including screening for duplication of benefits and all homebuyer eligibility requirements. The subrecipient will complete the homebuyer applicant information packet including the affordability review and proposed affordability assistance for each buyer and submit for DLG review prior to finalizing a binding sales agreement.

The program's administrative responsibilities include, but are not limited to:

- Homebuyer intake
- Eligibility Review
- Duplication of Benefits Verification
- Appeals
- Inspections
- Environmental Review
- Green Building Requirements
- Completion of the Initial Homebuyer Underwriting
- Monitoring construction
- 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.

3.6 Terms of Funding

DLG will provide funding as a loan directly to developers or a grant to subrecipients. Terms will be determined on a project-by-project basis. Allowable costs include hard construction costs, including site work, soft costs, and professional fees. Upon closing of the sale of the unit to an income eligible buyer, excess sales proceeds, after payment of any outstanding project costs, construction loans, and the developer fee, must be repaid to DLG.

Upon approval from DLG, CDBG-DR funds may be provided to a subrecipient for site development and infrastructure in the form of a grant provided that the project meets the housing national objective by selling 51% of the units to income eligible buyers. Failure to meet the National Objective requirements will trigger the repayment of the portion of overall site development and infrastructure costs per unit for ineligible units.

3.7 Disbursement of Funds

Once funding is awarded and all required agreements and contracts are fully executed, program disbursements will be available to subrecipients. The loan agreement will specify which evidentiary materials are required for submission to DLG. DLG must receive and approve these materials before the grantee may expend any project funds for specified activities. Those evidentiary materials and release of funds procedure are detailed in Chapter 1 of the Subrecipient Manual, Section 1-D.

3.8 Non-profit partners

Developers and subrecipients are encouraged to partner with local, non-profit organizations in Kentucky to administer all or part of a CDBG-DR program, as memorialized in a legally binding agreement. If a non-profit entity would like to apply directly for these funds, they must contact DLG for more information on this process.

3.9 Withdrawn Applications

3.9.1 Voluntary Withdrawals

Program applications may be withdrawn by an applicant at any time. All parties 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.

3.9.2 Administrative Withdrawals

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).
- Applicant becomes unresponsive.

4 CONSTRUCTION STANDARDS

4.1 Unit Size and Amenities

The following minimum square foot measurements are required by unit types. For this requirement's purposes, net square feet are the unit's heated and cooled area.

- One-bedroom and Efficiency units: not less than 600 net square feet
- Two-bedroom units: not less than 800 net square feet
- Three-bedroom units: not less than 1,000 net square feet
- Four-bedroom units: shall contain at least 1,100 net square feet.

DLG may approve exceptions on a case-by-case basis after reviewing the proposed unit and the intended homebuyer's household needs.

4.1.1 Manufactured Housing Units

A Manufactured Housing Unit (MHU) is a structure that is transportable in one or more sections. In the traveling mode, the home is eight (8) body-feet or more in width and forty (40) body-feet or more in length. It is at least three-hundred and twenty (320) square feet, built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. The MHU also includes plumbing, heating, air-conditioning, and electrical systems. The structure must be designed for occupancy as a principal residence by a single household.

All new MHUs will be required to meet Federal Construction Standards and appliances must meet Energy Star requirements.

Subrecipients wishing to use manufactured units under this program will need to work with DLG to determine if the proposed units meet the Program standards for quality, energy efficiency, and serviceability.

4.2 Accessibility Requirements

Newly constructed residential units may have to meet the accessibility requirements described in [24 C.F.R. Part 8](#), which implements Section 504 of the Rehabilitation Act of 1973. When applicable, designs must adhere to accessibility requirements ensure access for persons with mobility, hearing, or vision impairments and ensure that 5% of project units are accessible for persons with mobility impairments and 2% accessible for persons with hearing or vision impairments. Should it apply, the applicable standard for compliance is the Uniform Federal Accessibility Standard (UFAS).

4.3 Green and Resilient Building Standards

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 (11-1) 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 to:

- Review the proposed project plans and specifications to ensure that the approach is aligned with the selected standard(s);
- Perform inspections throughout the construction process to ensure that the project adheres to the selected standard(s), and
- 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.

4.4 Elevation Standards

All structures, as defined in CFR 59.1 (National Flood Insurance Program), designed principally for residential use, and located in the SFHA (1% annual chance [or 100-year] floodplain) or equivalent FEMA data source, that receive assistance for new construction, reconstruction, rehabilitation of substantial damage, or rehabilitation that results in substantial improvement, as defined at 24 CFR 55.2(b)(10), must be elevated with the lowest floor, including the basement, at least 2 feet above the 1% annual chance floodplain elevation (base flood elevation). Structures that are elevated will meet federal accessibility standards.

If a home is within a 100-year floodplain, DLG will ensure the reasonableness of the elevation costs by analyzing multiple bids from contractors, cost estimating software, and/or comparable costs to elevate in similar markets.

5 SALE OF UNITS TO INCOME ELIGIBLE HOMEBUYERS

5.1 Homebuyer Application Process

Homebuyers will submit applications to DLG or the Subrecipient. The following information should be included on all homebuyer applications:

- Name, address, phone number
- Household composition
- Race, ethnicity, and disability status
- Source and amount of income for all household members
- Description of assets:
 - Length of ownership
 - Mortgage or lien holders
 - Insurance coverage
 - Utility types and monthly costs
- Narrative of how the household has been impacted by a disaster such as loss of a home
- Completed Duplication of Benefits forms:
 - 10-04 DLG Homebuyer DOB Form
 - 10-08 DOB Attestation Certification
 - 10-11 Subrogation Agreement
- Insurance information (prior to closing):
 - Insurance provider's contact information
 - Policy coverage information

5.2 Underwriting Standards for Homebuyer Loan

Homebuyers receiving CDBG-DR affordability assistance will receive an appropriate level of funding to ensure sustainability of homeownership while not being over-subsidized. As such, DLG has adopted the following minimum underwriting criteria to ensure the appropriate amount of CDBG-DR assistance is directed toward each homebuyer. CDBG-DR subrecipients may impose more restrictive underwriting criteria; however, more lenient standards are not allowed. Subrecipients will complete the [CDBG-DR Benefit Profile for Assisted Homebuyers - Attachment A](#) to determine the size of a mortgage that will be affordable for each household. The subrecipient will submit the underwriting template for DLG review prior to finalizing a purchase agreement with each potential homebuyer. to determine the size of a mortgage that will be affordable for each household. The subrecipient will submit the underwriting template for DLG review prior to finalizing a purchase agreement with each potential homebuyer.

5.2.1 Homebuyer Income Eligibility

Homebuyer applicants must be at 80% or less of the Area Median Income (AMI) as published by HUD. DLG will provide the HUD AMIs to awardees when HUD issues the annual updates.

Every applicant purchasing a CDBG-DR funded single family unit must be income-qualified prior to executing a binding sales agreement and at the point of commitment of the CDBG-DR assistance. It is expected that the commitment of homebuyer assistance will occur at the time of income qualification or within six months of verification (see Step 5 below). Repayment of the CDBG-DR funds is triggered if a homebuyer does not meet the income requirements for the unit or the funds are used for an ineligible cost or purpose. Once approved, homeowners are not required to remain income eligible through the affordability period.

As a part of the application to purchase the CDBG-DR assisted single family units, the applicant must provide information on income and asset sources using HUD's [Part 5 definition](#). ***This link is provided for information only. Please contact the Certified Grant Administrator or DLG with questions or for guidance on calculating income.***

These policies and procedures outline the CDBG-DR standards and policies on how income eligibility will be determined. Staff can use the online Income Calculator found on the HUD Exchange at <https://www.hudexchange.info/incomecalculator/> to document and print out the income determination for each household. These procedures are based on the Part 5 definition of Income. It is important to remember that under the Part 5 definition, assets are part of the income calculation. If the cash value of assets is greater than \$5,000, an imputed asset calculation must be completed and compared to the actual income received from assets.

Income (regular, periodic payments)

- Social Security Disability Insurance (SSDI) or Social Security Supplemental Income (SSI) – obtain current year's Social Security Administration (SSA) award letter.
- Employment – obtain 3 months of statements for sheltered workshop jobs or if other employment, 4 current and sequential pay statements.
- Veterans Administration (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.

Assets

- Checking accounts – obtain four months of statements to include an average balance Saving accounts – obtain most recent statement and use current value
- Retirement (if applicant can access funds prior to retirement 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)

At the time of income eligibility determination, staff will conduct the following step by step process:

1. Staff reviews the income eligibility documentation for income and asset sources. Complete an income eligibility determination form, including imputed asset calculation as applicable (Attachment 6: Income Determination Form).
2. If the income eligibility documentation is incomplete, staff will clarify with the applicant what documents are needed to complete the eligibility determination and the application will be placed on hold until the additional documentation has been submitted.
3. Staff compares income eligibility determination form to the income limits to ensure the applicant is below the low-income Limit (80% of area median income).
4. Once the income eligibility documentation is completed and is accepted, staff places the income eligibility determination form and accompanying documentation in the applicant's file.
5. The date of the income eligibility verification must be completed. **Income determinations are considered valid for six months.** If the commitment of assistance has not been completed within 6 months of the income determination, the documentation will need to be updated and the income recalculated to determine if the applicant remains eligible for assistance.

5.2.2 Housing Debt (Front-End Ratio)

The Front-End Ratio is total principal, interest, taxes, and insurance for the mortgage(s) as a percentage of the gross household income. DLG has established a tiered standard for KCDHG-DR homebuyers. Households with income at or below 50% must have a front-end ratio between 20-24.99%. Households with incomes about 50% must have a front-end ratio between 25-30% as calculated by the Underwriting template. The front-end ratios are held to these standards to ensure the financing will be affordable, meaning the minimum ratio of principal, interest, taxes, and insurance (PITI) to gross monthly income cannot be less than set range or exceed the standard range. The underwriting process ensures the household is only receiving enough CDBG-DR affordability assistance to complete the transaction and is not over-subsidized but has a mortgage(s) that are affordable and sustainable even if the household experiences limited unanticipated expenses.

5.2.3 Total Debt (Back-End Ratio)

The maximum back-end ratio is 41 percent, meaning that long-term debt (six months or longer) plus PITI cannot exceed 41 percent of gross monthly income. Requests to exceed this standard may be submitted to DLG for consideration on a case-by-case basis.

5.2.4 Assets

CDBG-DR Subrecipients must have a liquid asset policy and establish a method to evaluate liquid assets and the ability of assisted homebuyers to financially contribute to the acquisition of their home.

All CDBG-DR-assisted homebuyers must contribute a minimum of \$250 to the purchase of the home. Exceptions to this standard may be requested if the only source of household income is Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI). Homebuyers with non-home assets of more than \$50,000 are ineligible for assistance.

5.3 Homebuyer Loan Agreement

5.3.1 Loan Terms

DLG requires that the homebuyer affordability assistance, whether from DLG, its designee, or a Subrecipient, is provided in the form of a loan structured with 0% interest, no payments during the term of the loan, and will be forgiven at the end of the term provided the homebuyer remains in compliance with the agreement.

The Promissory Note is the homeowner's written promise to adhere to all the commitments made in the Mortgage Agreement and stipulates when and how the terms of the loan are to be satisfied. The Mortgage Agreement must be recorded at the County Clerk's Office and can be subordinate to a primary loan. The affordability term for the Single-Family New Construction program will follow the recapture provisions and will be based on the level of direct affordability assistance provided to the homebuyer.

A sample Mortgage Agreement and Promissory Note Template can be found here:

- [Mortgage](#)
- [Promissory Note](#)

The homebuyer will enter into a loan agreement with DLG or the Subrecipient that will detail the financial terms of the loan and will also include the CDBG-DR recapture provisions. The buyer will sign a promissory note and a lien, such as a mortgage or deed of trust, will be recorded on the property. In addition to financial terms, the loan agreement will include additional requirements, including:

- Confirmation that the buyer will occupy the property as their primary residence throughout the affordability period or trigger repayment requirements
- Insurance Requirements: homebuyers will be required to obtain and maintain hazard insurance at a minimum up to the level of both the private mortgage lien and the CDBG-DR affordability assistance lien amount.

- Agree to the subrogation requirements as detailed in Chapter 10 of the Subrecipient Manual.
- Declaration of covenants and restrictions to ensure project completeness and that it meets a national objective.
- Execute other program documents, as necessary.

DLG or the Subrecipient will examine the terms of all other loans a homebuyer will receive, particularly any private mortgages, to ensure the terms are reasonable and sustainable. If a loan contains terms and conditions that are predatory or harmful to the homebuyer (such as excessive fees or interest rates, balloon payments, adjustable interest rates, etc.), the homebuyer will not be eligible for CDBG-DR assistance from the DLG.

There may be instances when the required underwriting identifies homebuyers who can make payments on an affordable loan provided by the program. If a Subrecipient wants to provide an amortizing loan to buyers who can make payments, DLG must approve the Subrecipients policies and procedures for those types of loans.

All self-certified information may be investigated by the Program, HUD, or other entities at a later date. Homebuyers 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, homebuyers that previously received disaster recovery assistance after September 14, 1994, are required to obtain and maintain adequate and necessary flood insurance coverage when applicable. If the homebuyer beneficiary has a power of attorney, the original POA documents must be provided to the program in person or via certified mail.

5.3.2 Loan Recapture

This program will utilize the recapture provision as described by the HOME regulations at [24 CFR 92.254\(a\)\(ii\)\(A\)\(2\) - Reduction during the Affordability Period](#). This provision will be enforced by including appropriate language in the CDBG-DR agreement with the homebuyer, the promissory note and recorded mortgage document.

The assisted homebuyer must reside in the home as his/her principal residence for the duration of the period of affordability. In the event the homebuyer transfers the property, either voluntarily or involuntarily, during the period of affordability, DLG (or its designee), the CDBG-DR subrecipient, or developer will recapture all or a portion of the "direct" CDBG-DR assistance provided to the homebuyer from the available net proceeds. The direct CDBG-DR assistance is the total amount of CDBG-DR assistance that enables the buyer to purchase the unit, including: downpayment and closing cost assistance, interest subsidies, and other assistance provided directly to the homebuyer (e.g., soft second mortgage), and if applicable, the amount that reduces the purchase price from fair market value to an affordable price.

The portion recaptured by CDBG-DR subrecipient, DLG, or any entity on behalf of DLG, will be a pro-rata amount of the direct CDBG-DR assistance. The total amount of the loan will be reduced for each year that the owner occupies the unit. For instance, for each year of a five-

year affordability period, one-fifth of the amount of the CDBG-DR assistance will be forgiven. To determine the amount to be forgiven, calculate:

(Number of years the buyer occupied the home/period of affordability) X Total amount of direct CDBG-DR assistance originally provided to the homebuyer = amount forgiven.

Total amount of direct CDBG-DR assistance – the amount forgiven = Recapture Amount.

In the event net proceeds of the sale are insufficient to repay the amount owed, recaptured funds will be equal to net proceeds, and the loan will be considered satisfied. Net proceeds are defined as the sales price of the home minus superior loan repayment (not including CDBG-DR loans) and any closing costs paid by the seller. The recapture provision is in effect for a period of affordability that is based on the amount of direct CDBG-DR assistance to the buyer, as follows:

Amount of Direct Assistance to Buyer/Period of Affordability

- Under \$15,000: 5 years
- \$15,000 to \$40,000: 10 years
- Over \$40,000: 15 years

Recapture Example

Ms. Mary Smith purchases a home for \$225,000 in June of 2024 and received \$20,000 in direct CDBG-DR assistance from ABC nonprofit, the Responsible Entity. Ms. Smith sells the house in August 2029, after the fifth year of affordability. As a result, 50 percent of her loan is forgiven and a balance of \$10,000 is to be repaid from the net proceeds. However, if the net proceeds of the sale are insufficient to repay the balance, the amount subject to recapture will be equal to the net proceeds.

5.3.3 Homebuyer Counseling

Homebuyer counseling is required for all homebuyers assisted with CDBG-DR funds. All eligible applicants must provide proof of completion of homebuyer counseling from a HUD certified agency and counselor prior to the CDBG-DR funding commitment.

5.3.4 Flood Insurance Requirements

If the unit to be acquired is 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 homeowner being ineligible for future disaster relief.

Upon sale or transfer of the property, the homeowner 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. If the

homeowner fails to provide such notice, the homeowner may be liable to the United States for future disaster assistance related to the property.

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

5.3.5 Noncompliance

During the affordability period, noncompliance occurs when an owner (1) vacates the property or rents the property to another household, or (2) sells the home without DLG receiving recaptured funds due at time of sale. DLG will require local program administrators to monitor its homebuyer properties to confirm that owners continue to reside in the units as their principal residence. In the event of noncompliance, the owner is subject to repay any outstanding CDBG-DR funds invested in the housing. This is based on the total amount of CDBG-DR funds invested, including both development funds and direct subsidy to the buyer minus any CDBG-DR loan repayments.

5.3.6 Application Withdrawals

Program applications may be withdrawn by an applicant at any time. All parties 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 homeowner a written notice of acknowledgement of voluntary withdrawal.

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

- Any homebuyer that fails to provide required documentation or information within the deadline described in the written request. Homebuyers 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).
- A homebuyer is determined to have provided false or misleading information.
- A homebuyer becomes unresponsive.
- A homebuyer is aggressive and/or abusive to a DLG employee or any other representative or affiliate of the Program, including, but not limited to, Program Representatives.

6 OTHER PROGRAM POLICIES

6.1 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.

6.2 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 homeowners who have difficulty speaking or reading English and ensure that services are available to them in accordance with the [KY DLG Language Access Plan](#). *KY DLG Language Access Plan*.

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:
 - Translating all vital documents.
 - Posting notices of application public hearings in areas frequented by LEP persons of the threshold population(s) in the language(s) spoken.
 - Providing translation services at public hearings, if requested to do so by LEP persons.

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:

- Posting notices of application public hearings in areas frequented by LEP persons of the threshold population(s) in the language(s) spoken; and
- Providing translation services at public hearings, if requested to do so by LEP persons.

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 Language Access Plan (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. It will review the LAP, evaluate its implementation effectiveness, and update it annually 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 concern.

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.

6.3 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.

6.4 Uniform Relocation Act

The Uniform Relocation Act (URA) provides relocation assistance to any person as defined at 49 CFR 24.2(a)(9)(i) that is displaced as a result of a federally assisted project involving acquisition, demolition, or rehabilitation. Displaced persons include individuals, households, businesses, non-profits, and persons storing property on site. URA may apply to those homeowners who reside in a Special or Attached Dwelling Unit and rent out a portion of that residence. Please refer to [Chapter 8 in the Subrecipient Manual](#) for further guidance on the Program's policy on who is considered displaced and who meets occupancy requirements, as well as the State's process for implementing URA provisions.

In the event a renter is occupying a property that is participating in the Program, the property owner must comply with all URA requirements for notices and applicable services. These may include, but are not limited to, a notice to vacate in an instance of temporary relocation, replacement housing payments, housing of last resort, and moving expense payments. Tenants of properties receiving assistance that results from the funding of a property under the Program may be either temporarily or permanently displaced. Relocation in the Program is anticipated to concern primarily temporary relocation activities, meaning renters may return to the property after the rehabilitation activities are complete. Designated Housing Recovery staff (Relocation Specialists) will work with each applicant with a tenant-occupied property to assist property owners in complying with URA requirements. The Program will comply with the policy on acquisition and relocation and will minimize displacement, per the State's Residential Anti-Displacement and Relocation Assistance Plan (RARAP).

6.5 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 as 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 and through the activity. DLG has outlined the following requirements and persons covered:

- State CDBG Regulations at 24 CFR 570.489
- 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.

7 REPAYMENT POLICY

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

As a result of this review, a subrecipient may be required to repay all, or a portion of funds received by the Program. Reasons for repayment of program funding include the following:

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

Projects will not be closed out until all funds have been repaid to the Program.

8 REPORTING REQUIREMENTS AND FILE MANAGEMENT

8.1 Reporting Requirements

Subrecipients must submit a Certification of Inspection and Contract Construction Payment Request form with each draw request (form 6-22), located in [Chapter 6 of the Subrecipient Manual](#). Payment requests will not be processed without the form completed in its entirety.

8.2 File Management

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

The filing system should be easy to use and 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. Chapter 1 will also provide lists of regulatory documentation necessary for the contract folder. However, each household assisted will also require a folder that relates only to that address. Therefore, each individual housing project file should contain the following:

- Developer agreement and all associated paperwork including the duplication of benefits documentation
- Homebuyer Application and all associated paperwork including the duplication of benefits documentation
- Affordability Assistance Underwriting Worksheet
- Pending Homebuyers and Disqualified Homeowners, Family Survey

- Work Write-ups and Cost Estimates
- Master Complaint File
- Proof that Recipient Received a Copy of the Grievance Procedures
- Settlement Statement for each unit sold
- Affordability assistance loan/grant agreement and evidence of recorded lien; • Homebuyer Release for Verification of Income
- Verification of Income and Employment Executed Loan/Grant Documents
- Executed Contract (with contractor) Documents
- Homebuyer Counseling Certification of Completion
- Notice to Proceed
- Progress and Final Inspection Reports
- Progress Payments and Final Payment Documentation (including cancelled checks)
- Change Orders, if any
- General Contractor/Subcontractor/Material Affidavit, Warranties and Release of Liens
- Promissory Note, if applicable
- Real Estate Mortgage, 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)

9 COMPLAINTS AND APPEALS

9.1 Grievances

Subrecipients should refer to the Subrecipient Manual Chapter 01: Project Administration for additional specifics regarding program and/or project related grievances. Occasionally, developers, subrecipients, or DLG 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.

9.2 Section 504 Coordination Complaints and Grievances

Section 504 prohibits discrimination based on disability in programs conducted by federal agencies, programs receiving federal financial assistance, federal employment, and 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.

9.3 Grievances Received by Developers and/or Subrecipients

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

Developers and/or 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.

9.4 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 must 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.

9.5 Beneficiary Program Appeals

9.5.1 Method of Submitting Appeals

Homeowners may 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 home and/or quantities of damaged materials only
- Duplication of benefits

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). Homeowners may submit appeals via email, the Program's website, or U.S. mail.

9.5.2 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 homeowner 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. 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 home is 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 home replacement, the grant award and disbursements will be reduced to reflect the reduction.

9.5.3 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.

10 DUPLICATION OF BENEFITS

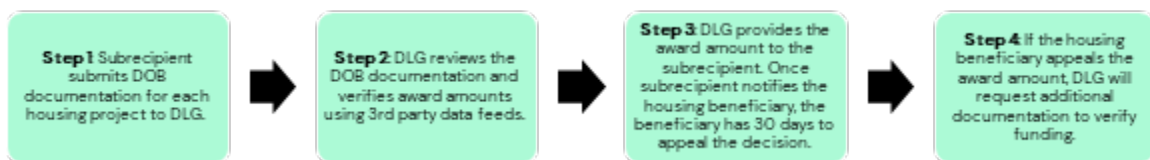
The Duplication of Benefits process is described in detail in chapter 10 of the CDBG-DR subrecipient manual. Subrecipients are responsible for collecting all documentation pertaining to duplication of benefits (DOB) verified by DLG for the single-family construction project and the assisted homebuyer purchasing the CDBG-DR funded units.

Step 1: Subrecipient submits DOB documentation for each housing project to DLG.

Step 2: DLG reviews the DOB documentation and verifies award amounts using 3rd party data feeds.

Step 3: DLG provides the award amount to the subrecipient. Once the subrecipient notifies the housing beneficiary, the beneficiary has 30 days to appeal the decision.

Step 4: If the housing beneficiary appeals the award amount, DLG will request additional documentation to verify funding.



Homebuyers must report all assistance they have been awarded or from third-party sources such as flood and homeowner'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 that are for the same intended use as the purchase of a replacement unit must be considered when the amount of the grant is determined. Funds received from these sources for other purposes such as temporary housing and replacement of household contents are not considered a DOB. Personal funds or private mortgages are not considered in the DOB calculation.

11 CONSTRUCTION

The subrecipient should refer to the Subrecipient Manual for more specific guidance and requirements in addition to those specified within this policy. This policy 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 subrecipient shall review the proposed scope of work prior to 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 project 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 31 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 or designated agency representatives may also conduct periodic inspections as needed and as requested by DLG.

Inspections are conducted to ensure compliance with the contract standards for workmanship and materials, to detect unauthorized deviations and to identify necessary changes to the contract work in its initial 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.

A final inspection of the work must be performed prior to the final payment to the contractor for the project to be considered complete. Subrecipients will be required to maintain Certification of Inspection and will make available to DLG or designated agency representatives 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 or designated agency representatives 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. 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 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.

11.3 Pre-Construction Conference

Before construction starts, 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 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);

- Safe work practices and OSHA requirements, as applicable. Also, the responsibilities of all parties to the contract(s) must be fully discussed. The various processes and procedures involved in completing the project also need 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.

11.4 General Contractor Responsibilities

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

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

The general contractor must abide by State contracting law including the Kentucky Fairness in Construction Act of 2007.

11.5 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 all substitutions made to the project, even if the dollar value of that work item remains unaffected, and for time extensions to a rehabilitation construction contract.

The change order must be executed by the owner and the contractor and approved by the Program inspector and the Subrecipient. The contractor's costs associated with all items listed within change orders must also be itemized. 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 does not exceed 20 percent of the original contract price and the changes do not constitute a major alteration of the original scope of work. If the proposed change order(s) 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 with DLG or a designated agency that the change order is

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 must be contained in individual project files, and those which do not conform to the above requirements may not be funded by DLG.

11.6 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:

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.

All warranty claims are between the homeowner and the developer. Instructions on how to file a warranty claim and a copy of a claim form must be provided to the applicant by the developer.

11.7 Davis-Bacon

The construction of eight (8) or more residential units with an investment greater than \$2,000 that is financed in whole or in part with CDBG-DR funds triggers the Davis-Bacon Act and certain Federal labor standards requirements. In accordance with federal requirements, the Program will adhere to the Davis-Bacon and related acts requirements established for the CDBG-DR Program and as fully described in the DLG Disaster Subrecipient Manual.

Further information can also be found here:

https://www.hud.gov/program_offices/davis_bacon_and_labor_standards

11.8 Section 3

In accordance with federal requirements, the Program will adhere to the Section 3 requirements established for the CDBG-DR Program and as fully described in the DLG Disaster Subrecipient Manual.

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 projects covered by Section 3 are housing construction, demolition, rehabilitation, or other public construction (such as 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. For more information, please see Chapter 4 of the CDBG-DR Subrecipient Manual: [Chapter 4: Procurement](#)

11.9 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 contractor's name and the contract amount. 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 twelve (12) months from the date of the Notice to Proceed to be identified as the completion date.

If required for construction, the applicant must vacate the home, and for duplexes/triplexes they must secure the removal of any tenants in a way that 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.

11.10 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 3.1.1 Unit Size and Amenities

11.11 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.

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.

11.12 Retainage

Per Kentucky Revised Statutes 371.410, a ten percent (10%) retainage shall be withheld from partial payments, this percentage can be reduced to five percent (5%) at fifty percent (50%) completion. 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.

11.13 Final Inspections

All new construction projects must meet the 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 closing out the activity.

11.14 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 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 final payment (less retainage), the subrecipient must ensure that all relevant items noted in Chapter 6 of the Subrecipient Manual are present.

11.15 Retainage Release

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.

11.16 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 consider any specific job requirements and the contractor's ability to meet them. 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 and 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 can communicate effectively, both internally and externally.

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

11.17 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.

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 these steps are completed, the project can be considered complete and ready for occupancy.

Subrecipients must 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 for the homebuyers.

12 COMPLIANCE AND MONITORING

For activities administered by subrecipients, the State performs monitoring of activities and projects executed by the subrecipient in conformance to the monitoring guidelines. Monitoring guidance for all CDBG-DR programs is found in the Subrecipient Manual. The frequency of the monitoring is dependent on program progress, policy manual changes and amount of spending. The Program Manager may request an internal program desk monitoring review at any time, and the subrecipient must make available all required documentation for review.

13 PROGRAM CLOSEOUT

13.1 Project Closeout

In addition to the Construction Closeout documentation submitted by the general contractor, Program representatives will work with homeowners to collect all closeout documentation for their file in accordance with the Subrecipient Manual Chapter on Project Closeout. Homeowner files will be closed out in the Program once all documentation is received and approved by the Program. A final closeout file review will be required to ensure that all documentation required in each step of the process is complete and compliant.

13.2 Duplication of Benefits Due Diligence and Monitoring

Upon the closeout of a Single-Family New Construction project, both the overall project and homebuyer's DOB compliance must be monitored by the subrecipient by contacting the various agencies noted above or listed in the original DOB calculation, and by contacting the recipient of CDBG-DR funds. The subrecipient or homebuyer 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](#).

14 RECORDS MANAGEMENT

Records are to be maintained in accordance with 24 CFR part 570.490 and 24 CFR part 570.506. Records are kept to document compliance with program requirements, with federal, state, and local regulations, and to facilitate audit review by HUD and other designated auditors. CDBG-DR records, including program documents, are subject to the Freedom of Information Act (FOIA). More information on Records Management, please refer to the Subrecipient Manual Chapter 1.

14.1 National Objectives

Subrecipients must maintain records that funded activities meet the LMI national objective. Documentation for all LMI beneficiaries must be kept on file, including supporting documentation that verifies income eligibility.

14.2 Beneficiary Records

Subrecipients must maintain records for each household that receives CDBG-DR assistance. For all projects beneficiaries must be tracked by income, race and ethnicity as categorized by HUD, as well as by owner-occupied status, 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.

14.3 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. If for some reason there are no audited financial statements available, developers must submit IRS standing, operational budgets and cashflow statements. These documents must also be submitted upon application to DLG to determine fiscal solvency.

14.4 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 the program receives direct applications from homeowners requesting assistance, subrecipients must keep all PII information 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 is necessary, in accordance with record retention requirements at 2 CFR part 200.333 and 24 CFR part 570.502(a)(7).