State of California
Department of Housing and Community Development

Community Development Block Grant - Disaster Recovery
DR18 Disaster Recovery Multifamily Housing Program Policies and Procedures Manual

Version 1.0

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Section 1. General

1.1 Purpose and Scope

This document is designed to address program policies and provide general guidance for the use of Community Development Block Grant – Disaster Recovery (CDBG-DR) funds appropriated on January 27, 2020 through 85 FR 4681 under Public Laws 115–254 and 116–20, Catalog of Federal Domestic Assistance Number 14.228. The California Department of Housing and Community Development (HCD) is the lead and Responsible Entity for administering the CDBG-DR funds allocated to the State of California. CDBG-DR supports the State of California's unmet recovery needs related to the Federal Emergency Management Agency (FEMA) Major Disaster Declarations DR-4382 in July-September 2018 and DR-4407 in November 2018. HCD performed an Unmet Needs Assessment that covered the areas affected by DR 4382 and DR 4407, and included data from FEMA, Small Business Administration (SBA), California's Department of Forestry and Fire Protection (CAL FIRE), and California Department of Insurance (CDI). Recognizing the requirement included in Federal Register Notice 83 FR 5851, published February 9, 2018, and 83 FR 40314, published August 14, 2018, to address housing needs first and based on the results of the needs assessment, HCD expanded the Disaster Recovery Multifamily Housing Program (DR-MHP) from 2017 disasters to meet the needs of the 2018 disasters. DR-MHP Projects are funded to assist with meeting the unmet rental housing need, including the needs of individuals displaced from rental homes and individuals who became homeless as the result of the disasters. Multifamily Projects include apartment complexes and mixed-use developments. The DR-MHP will allow Subrecipients to identify, select, and submit potential Projects to HCD for eligibility assessment and review, approval, and funding. Subrecipients that receive funds will then work with qualified Developers and Contractors to construct the Projects. In addition to DR-MHP, the Department has allocated additional CDBG-DR funding for infrastructure that is in support of housing; Subrecipients with potential housing projects that also have an infrastructure need should consider how the two programs can work together to achieve the community recovery outcomes.

1.2 Program Timeline

Milestone	Due Date
Publish Program Policies and Procedures	Mid-January 2021
Begin Accepting Due Diligences via Grants Network	January 15, 2021
Q&A Webinar on Policies and Procedures	January 28, 2021
Due Diligence Submissions due in Grants Network	March 15, 2021
Publish Small Rental Policies and Procedures	March/April 2021
Final Date to Submit Solicitation for HCD Review	6 months after MSA Execution
Final Date to Submit Project Applications	December 31, 2022
HCD Reallocation of Unused Funds	January 2023
Final Date for HCD to issue Notice(s) to Proceed	December 31, 2023
Final Date to Submit Certificate of Occupancy for all Projects	May 31, 2026
HCD-HUD Grant Closeout	December 2026

1.3 Terms and Definitions

Affordable Rents: means rents that are at or below the "High" HOME Program rents published by the U.S. Department of Housing and Urban Development (HUD) for different metropolitan areas.

Affordable Units: means a "dwelling" that is rented at an Affordable Rent to a household that earns less than 80 percent of Area Median Income adjusted for household size as calculated by the U.S. Department of Housing and Urban Development (HUD) for different metropolitan areas within the State and published annually by the State of California Department of Housing and Community Development (Department or HCD).

Applicant: means any eligible jurisdiction, city, or county that applies for funds pursuant to Section 2.1. (See Also: Subrecipient)

Area Median Income (AMI): means the median family income for specific geographic areas, adjusted for household size, as calculated by HUD, and published annually by HCD for the CDBG program.

CALGreen: is California's first green building code and first in the nation state-mandated green building code. It is formally known as the California Green Building Standards Code, Title 24, Part 11, of the California Code of Regulations.

California Environmental Quality Act (CEQA): is a statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible.

Code of Federal Regulations (CFR): is the acronym used for the Code of Federal Regulations.

Contractor: a properly licensed person or company that subrecipients or developers hire to undertake a contract to provide materials or labor to perform a service or do a job.

Davis Bacon Wage Requirements: For Projects that include eight (8) or more dwelling units, the Davis Bacon and Related Acts (DBRA) requires all contractors and subcontractors performing work on federal or District of Columbia construction contracts or federally assisted contracts in excess of $2,000 to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar Projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts.

Deep Affordability: Units available for households whose income is at or below 30% of AMI.

Department of Housing and Urban Development (HUD): Federal department through which the CDBG-DR funds are provided to HCD.

Developer: A private for-profit or nonprofit organization that owns or has site control over real property and arranges all financing, professional, technical, and construction

services necessary to develop or rehabilitate affordable housing.

Rider to Development Agreement: The legal document that sets forth terms and conditions by which CDBG-DR funds must be utilized for a specific Approved Project. It is issued with the Notice to Proceed and shall be made a part of the development agreement between the Subrecipient and Developer.

Disability: any disability, including mental or physical disability, that limits a major life activity, including a disability that falls within the definitions in Government Code (G.C.) Sections 11135, 12926, and 12926.1 or within the definition of disability used in the federal Americans with Disabilities Act of 1990, codified at 42 U.S.C. 12102.

Disaster Recovery Multifamily Housing Program (DR-MHP): is the acronym used for the Disaster Recovery Multifamily Housing Program.

DR-MHP Assisted Unit: An Affordable Unit that is subject to rent and occupancy restrictions as a result of the financial assistance provided by DR-MHP, as specified in the Regulatory Agreement.

Due Diligence: A formal process requiring Subrecipients to submit forms and associated documentation to the Department via Grants Network for review prior to the Department's issuance of the Master Standard Agreement.

Duplication of Benefits (DOB): Financial assistance received from another source that is provided for the same purpose as the CDBG-DR funds.

Elderly Person: A person at least 62 years of age.

Environmental Review Record (ERR): A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents as required by CEQA and NEPA regulations. (See California Environmental Quality Act and National Environmental Policy Act).

Extremely Low Income (ELI): ELI individuals or families whose income is at or below 30% of the area median income (AMI) or the federal poverty level, whichever is higher for the area of the proposed Project.

Fair Market Value (FMR): The hypothetical price that a willing buyer and seller agree upon when they are acting freely, carefully, and with complete knowledge of the situation.

Federal Emergency Management Agency (FEMA): An agency of the United States Department of Homeland Security. The agency's primary purpose is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.

Grantee: The term ''grantee'' refers to HCD.

Grants Network: The Department's electronic grant management system and application portal.

Household: One or more persons occupying a housing unit.

HSC: means the California Health and Safety Code.

Limited English Proficiency (LEP): A designation for persons that are unable to communicate effectively in English because their primary language is not English, and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. A LEP person benefits from an interpreter who translates to and from the person's primary language. A LEP person may also need documents written in English translated into his or her primary language so that person can understand important documents related to health and human services.

Low-Income Immigrants: "Low-income" persons mean individuals, families, and households whose incomes are no more than 50% of the area median income involved, as set by HUD. From the demography point of view, the low-income working families are those earning less than twice the federal poverty line; and recent immigrants are those who came to the United States within the past 10 years.

Low- to Moderate-Income (LMI): Low to moderate income people are those having incomes not more than the "moderate-income" level (80% Area Median Family Income) set by the federal government for the HUD-assisted Housing Programs. This income standard changes from year to year and varies by household size, county and the metropolitan statistical area.

Master Standard Agreement (MSA): The contractual arrangement between HCD and the Subrecipient which sets forth the terms and conditions by which CDBG-DR funds are utilized.

Minority- and/or Women-Owned Business Enterprise (M/WBE): A business that is owned and controlled (minimum of 51% ownership) by a member of a minority group, or women.

Most Impacted and Distressed (MID): An area that meets the definition of Most Impacted and Distressed set by HUD in the Federal Register Notice. For purposes of the unmet needs' allocation, HUD has defined Most Impacted and Distressed as an area (county) that meets the following criteria:

A. Individual Assistance/Individual and Households Program (IHP) designation. HUD has limited allocations to those disasters where FEMA had determined the damage was sufficient to declare the disaster as eligible to receive IHP funding.

B. Concentrated damage. HUD has limited its estimate of serious unmet housing need to counties with high levels of damage, collectively referred to as ''most impacted areas''. For this allocation, HUD is defining most impacted and distressed areas as all of Butte, Lake, Los Angeles, and Shasta counties. However, the State is committed to also addressing unmet needs in Ventura County and will do so within the budgetary allotment allowed by HUD.

National Environmental Policy Act (NEPA): Establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government consider the environment prior to undertaking any major federal action that could significantly affect the environment.

National Flood Insurance Program (NFIP): Created by Congress in 1968 to reduce future flood damage through floodplain management and to provide people with flood insurance through individual agents and insurance companies. FEMA manages the NFIP.

Notice to Proceed (NTP): The legal document within a Master Standard Agreement that provides an approved Project's specific description, budget, milestones, construction schedule, reporting requirements and special conditions.

Program Income (PI): Program income means gross income that is directly generated from a CDBG-funded activity. Program income is subject to the CDBG rules in perpetuity.

Program Portal: A web-based portal via Grants Network to the DR-MHP overview and program-specific documents, Due Diligence and Project Application.

Project: A multifamily housing development which may include apartment complexes, scattered sites, and mixed-used developments with 8 or more total units.

Project Solicitation Process (PSP): is the process implemented by Subrecipients at the local level to solicit applications from Developers for DR-MHP Projects that address one or more DR-MHP program priorities, meet DR-MHP federal, state and local requirements, and that meet locally established criteria. The local Project Solicitation Process shall set forth the Project selection schedule, local requirements in addition to the requirements set forth in this Policies and Procedures Manual, and criteria for how Subrecipients will select Projects for submission to HCD to receive DR-MHP funds.

Reconstruction: Rehabilitation: Demolishing and re-building a housing unit on the same lot in substantially the same manner. Reconstruction is rehabilitation for purposes of this section**.**

Regulatory Agreement: The legal document that sets forth affordability restrictions on rent and occupancy for a specific Approved Project. It is issued with the Notice to Proceed and shall be recorded against the fee and leasehold title to the property (as applicable) for the applicable affordability period as required in the Master Standard Agreement.

Responsible Entity (RE): Under the ERR requirements at 24 CFR Part 58, the term "responsible entity" (RE) means the agency receiving CDBG assistance. The responsible entity must complete the environmental review process. The RE is responsible for ensuring compliance with NEPA and the Federal laws and authorities, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the Environmental Review Record (ERR) is complete.

Scattered Site: More than one residential property on non-contiguous lots under common ownership and management.

Senior Housing: Housing where all units are restricted to residents who are 62 years of age or older under applicable provisions of Cal. Civ. Code, Section 51.3 and the federal Fair Housing Act (except for Projects utilizing federal funds whose programs have differing definitions for senior projects, or have the Rehabilitation of occupied developments restricted to residents 55 or older, or have Supportive Housing or Special Needs Projects also restricting occupancy to residents who are 55 years of age or older), and further be subject to state and federal fair housing laws with respect to senior housing.

Small Business Administration (SBA): SBA's Office of Disaster Assistance (ODA) provides affordable, timely and accessible financial assistance to homeowners, renters, and businesses, as well as other eligible applicants. The SBA low-interest, long-term loans are the primary form of federal assistance for the repair and rebuilding of non-farm, private sector disaster losses.

Special Needs or Special Needs Populations: means agricultural workers, individuals living with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities; individuals living with developmental disabilities, serious mental illness or substance abuse disorders; individuals who are survivors of domestic violence, sexual assault, and human trafficking; individuals who are experiencing Homelessness; individuals with HIV; homeless youth as defined in Government Code (GC) Section 12957(e)(2); families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county; frequent users of public health or mental health services, as identified by a public health or mental health agency; Frail Elderly Persons; or other specific groups with unique housing needs as determined by the Department. "Special Needs Populations" do not include seniors unless they otherwise qualify as a Special Needs Population.

Subrecipient: The term ''Subrecipient'' refers to a unit of local government receiving a direct award from HCD and providing awards to developers.

Substantial Rehabilitation: Defined in 24 CFR 5.100.

Supportive Housing: means housing with no limit on length of stay, that is occupied by the target population and is linked to onsite or offsite services to assist the resident that needs support in retaining the housing, improving his or her health status, and

maximizing his or her ability to live and, when possible, work in the community.

Uniform Relocation Assistance and Real Property Acquisition Act (URA): A federal law that establishes minimum standards for federally funded programs and Projects that require the acquisition of real property (real estate) or the displacement of persons from their homes, businesses, or farms.

Section 2. Program Requirements

2.1 Eligible Applicants

The Applicant must be a jurisdiction listed below:

- Butte County
- City of Chico
- City of Gridley
- City of Oroville
- Town of Paradise
- Lake County
- City of Lakeport
- Los Angeles County
- City of Agoura Hills
- City of Malibu
- Shasta County
- City of Redding
- City of Anderson
- City of Shasta Lake
- Ventura County
- City of Thousand Oaks

As indicated by the eligible Applicant list above, Project applications must be submitted by a city and/or county that was directly impacted by DR-4382 or DR-4407 and received an allocation of funding.

Eligible Applicants may submit Project applications for Projects located anywhere within the jurisdiction, including in CDBG Entitlement communities, in accordance with the Project eligibility requirements outlined in Section 2.3 below.

As needed, eligible Applicants may collaborate with other eligible Applicants or with other units of local government in the implementation of the DR-MHP. HCD must approve agreements between eligible Applicants to jointly apply for a Project or between eligible Applicants and other units of local government if program funds are included in the agreement. Agreements with other units of local government are limited to program implementation support and cannot allocate Project funding directly to other government entities.

In accordance with 83 FR 5851 Section 51(k), HCD must also assess the jurisdiction's capacity to execute and monitor the proposed Project(s) as a factor in prioritization review.

As a condition of receiving DR-MHP funds, eligible Applicants shall also have submitted a Housing Element to the Department that demonstrates compliance with State housing element law as required by HSC 50829 and 50830, as evidenced by a Housing Element Compliance Report status of "IN" or "IN REVIEW."

Procedures:

To consider the above counties and cities as eligible Applicants for submitting DR-MHP applications, the procedures below must be fully addressed.

1. The jurisdiction must be in compliance with the single audit requirements of 2 CFR 200.501.
2. HCD verifies if the jurisdiction is in good standing with the State of California, meaning there are no outstanding monitoring findings through other programs administered by HCD.
3. The jurisdiction shall have entered into a Master Standard Agreement with the Department, following submission and approval of Due Diligence items, including a resolution of the Subrecipient's governing board, a Certified Housing Element or proof of effort in attaining compliance in a timely manner, allocation budget, and allocation milestones.
4. Jurisdictions from the above list must submit complete applications to HCD for review and approval.
5. Eligible jurisdictions must request approval from HCD to engage with other units of local government for program implementation support. Such agreements are considered subrecipient agreements and must adhere to all relevant requirements.

2.2 Eligible Activities

Pursuant to 42 USC 5305(a)(4), authorized activities under this statute include the clearance, demolition, removal, Reconstruction, and Rehabilitation of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and Reconstruction or Rehabilitation, and of privately- owned properties). New housing construction is also eligible as established in 83 FR 5851, paragraph B.32 of Section VI. Given California's housing crisis where the affordable housing inventory is critically low, and the wildfire disasters destroyed thousands of units of housing stock, many of which were rental properties, exacerbating and increasing the severity of the lack of housing, the development of affordable rental units through new construction is critical for recovery.

2.3 Project Eligibility

A. Eligibility of multifamily housing Projects will be assessed by HCD based on specific eligibility criteria below:

- CDBG-DR funds are limited to low to moderate income housing units. Proposed Projects may have mixed-income units, but CDBG-DR funds must only be applied to the Affordable Units for occupation by Low- to Moderate- Income Households.
- The proposed project must tie back to the disaster by increasing the supply of affordable housing units or rehabilitating or reconstructing disaster-impacted units.

- The proposed Project must have a minimum of 8 total units. If the Project is a Scattered Site Project, the Project application must include details on the Developer's experience managing Scattered Site rentals and must provide a reasonable plan to adequately supervise and maintain the properties.
- The proposed Project must have a minimum of four Affordable Units or 30 percent of units must be Affordable Units, whichever is greater. Pursuant to 24 CFR 570.483(b)(3), if the project is a rehabilitation project or a senior new construction project, the project must include at least 51% of units as LMI-occupied, or a waiver must be requested. All rehabilitation projects must result in the addition of affordable units to the affordable housing stock to be deemed eligible.
- The proposed Project must meet one of the HCD Project types defined in the "2019 Multifamily Housing Program Guidelines" Article 2, Section 7302 (e) (1-5) including, 1) Large Family, 2) Special Needs, 3) Seniors, 4) Supportive Housing, and 5) At High Risk.
- All sources of funding required to complete the Project must be identified, documented as committed, and accessible prior to the Department issuing a firm commitment letter and Notice to Proceed.
- The proposed Project must be cost reasonable, which is what a reasonable person would pay in the same or similar circumstances for the same or similar item or service. Cost reasonableness may be documented by comparing costs between vendors or to similar Projects.
- The proposed Project must successfully meet environmental review clearance and receive an Authority to Use Grant Funds (ATUGF) or environmental clearance letter from the Department prior to the Department issuing a firm commitment letter and Notice to Proceed.
- The proposed Project must meet the following affordable rent requirements and tenant income limits through the duration of the affordability period. At a minimum, the following thresholds must be adhered to in all Projects:

  (1) Maximum Affordable Rents (inclusive of all utility costs) shall not exceed the High HOME rents as designated for the Project area. DR-MHP Assisted Units may only be leased to Households with an annual income that is less than 80% of the Area Median Income.

  (2) Multifamily developments must meet the following affordability requirement: a minimum affordability period of 15 years for the Rehabilitation or Reconstruction of multifamily rental Projects and a minimum affordability period of 20 years for the new construction of multifamily rental units.

  (3) Sale of a Project during the affordability period is acceptable; however, affordability periods must still be adhered to and included as a deed restriction.
- The proposed Project must be completed and occupied by the date noted in the

program timeline in Section 1.2.

- The proposed Project must meet one of the Priority Criteria outlined in Section 2.4.

B. Per unit maximum assistance will be consistent with annual HOME limits established by HUD. If HUD has issued a regional per-unit subsidy increase for the Project area, the alternative subsidy amount may be used, up to 240 percent of the HOME subsidy limit.

FIGURE 1: PER UNIT CDBG-DR FUNDING LIMIT

Bedrooms	HOME Funding Limit/Unit National (June 2020)	HOME Funding Limit/Unit California (June 2020)	CDBG-DR Per Unit Limit
0	$63,881	$153,314	$153,314
1	$73,230	$175,752	$175,752
2	$89,049	$213,718	$213,718
3	$115,201	$276,482	$276,482
4+	$126,454	$303,490	$303,490

C. The minimum total project cost is $250,000 per Project. Waivers may be requested from DR-MHP on a case-by-case basis in advance of Project submission.

2.4 Project Priority Criteria

Prioritization will occur at the local level through the selection of Projects to propose to HCD for funding. Jurisdictions may not receive CDBG-DR funds in excess of the total amount allocated to them in section 2.9, Allocation Methodology, stated in Figure 3. The jurisdiction will provide their own priority ranking for HCD to review, but HCD will require that Projects meet one of the following criteria within the income-restricted units:

A. Projects providing housing for Extremely Low Income (ELI) individuals or families, accommodating “Deep Affordability” with at least 10% of total units below 30% AMI to be spread proportionally across unit sizes.

B. Projects providing 15% of total units for permanent Supportive Housing (PSH), per the 2019 Multifamily Housing Program Guidelines as a housing type that meets the requirements of Article 2, Section 7302(e)(4).

C. Projects which are providing residential units for low-income Elderly Persons, accommodating “Deep Affordability” with at least 5% of total units below 30% AMI to be spread proportionally across unit sizes. (E.g., in a 20-unit project, a minimum of 6 units must be affordable to meet the 30% of units affordable units eligibility standard, and one such unit shall be targeted below 30% AMI).

D. Projects providing 15% of residential units for people with at least one Disability, and accommodating “Deep Affordability” with at least 3% of total units below 30% AMI to be spread proportionally across unit sizes and disability configurations (E.g., in a 50-unit project, a minimum of 15 units are affordable, including at least 2 units targeted below 30% AMI). Disabled people are among the groups considered as being most vulnerable and at risk

of suffering negative effects from natural disasters.

FIGURE 2: PRIORITY AND UNIT MIX MINIMUMS EXAMPLE (based on a 100-unit project, any Project Type)

Deep Affordability	Permanent Supportive Housing	Elderly Affordability	Disability Affordability
10 units @ < 30% AMI 20 units @ < 80% AMI	30 units @ < 80% AMI, including 15 PSH units	5 units @ < 30% AMI 25 units @ < 80% AMI	3 units @ < 30% AMI 27 units @ < 80% AMI, including 15 ADA units

Procedures:

To prioritize a Project to be funded:

1. Jurisdictions must create their own priority ranking criteria in accordance with Project eligibility and prioritization requirements outlined in Sections 2.3 and 2.4 above. Jurisdiction priorities should not conflict with sections 2.3 and 2.4 or with the CDBG-DR requirements.
2. Jurisdictions must provide a written justification indicating how they have prioritized each submitted Project.
3. HCD reviews each submitted Project based on the evaluation criteria outlined in Section 3.6 herein.

2.5 Verifying Eligible and Ineligible Costs

HCD commits to funding activities eligible under Title I of the Housing and Community Development Act of 1974 or those activities specified in 83 FR 5851 published February 9, 2018, 83 FR 40314, published August 14, 2018, and 85 FR 4681, published January 27, 2020. Selected Projects will be funded through completion in accordance with their financing needs and program policies.

Eligible costs include:

- Activity delivery costs for Subrecipients to implement their program, including staff time and environmental reviews for funded Projects
- Architectural and engineering design
- Permitting fees
- Developer fees
- Mobilization, site prep, and clean up
- Construction, Reconstruction or Rehabilitation costs
- Land and building acquisition costs (case-by-case basis)

Ineligible costs include:

- Pre-application costs and application development costs
- Advances of any type, including construction
- Facility operating or maintenance expenses

HCD reserves the right to approve or deny the applicability and eligibility of costs on a per-application basis. HCD requires that construction or rehabilitation costs are reasonable and consistent with current market costs for the area where the multifamily construction or rehabilitation will take place.

2.6 Form of Assistance

The form of assistance from HCD to the Subrecipient shall be a grant. The form of assistance from the Subrecipient to Project Developers shall be a grant, forgivable loan, or residual receipts/cash flow loan. Other forms of assistance from the Subrecipient to Project Developers may be approved by HCD on a case-by-case basis concurrent with application review and approval. Selected Project applications will be funded to address a financial gap, not to exceed 40% of total Project cost, up to the allocation amounts by Subrecipient listed in Section 2.9 below.

Payments will be made on a reimbursement basis via a Master Standard Agreement and Notice to Proceed between HCD and the Subrecipient. Specific payment terms and conditions are outlined in the Master Standard Agreement. The Master Standard Agreement will define financial and property management requirements as well as remedies to correct deficient or non-compliant Projects. Master Standard Agreements will also contain CDBG-DR recapture provisions for non- performance or breach of Subrecipient responsibility on any requirements, including adherence with CDBG-DR rules and regulations. (See Section 4 for additional information on the Master Standard Agreement).

Applying CDBG-DR Funds to Affordable Units

Considering a) the CDBG-DR commitment to finance the financial gap up to 40% of the total Project cost, b) the Affordable Units requirement of 4 units or 30% of total units (whichever is higher), and c) the HOME subsidy cost/unit:

1) the approved Project funding amount will be calculated according to the type of Project and number of Affordable Units; and
2) the funding cap will be determined by the total Project cost and number of Affordable Units.

See sample scenarios below:

Scenario A: 20-unit (2 bedroom) multifamily Project

- Total Project cost: 20 units X $240,000 (cost/unit) = $4,800,000
- <u>Minimum</u> required number of Affordable Units: 20 X 30% = 6 Units
- <u>Actual</u> number of Affordable Units: 8 Units
- Total Project cost of Affordable Units: 8 units X $240,000 (cost/unit) =

$1,920,000

- Maximum funding gap: $4,800,000 X 40% = $1,920,000
- Therefore, the entire Project cost of Affordable Units up to the CDBG-DR per unit subsidy limit can be covered by CDBG-DR funds.

Scenario B: 100-unit (2 bedroom) multifamily Project

- Total Project cost: 100 units X $240,000 (cost/unit) = $24,000,000
- Minimum required number of Affordable Units: 100 X 30% = 30 Units
- Actual number of Affordable Units: 50 Units
- Total Project cost of Affordable Units: 50 units X $240,000 (cost/unit) = $12,000,000
- Max. funded gap: $24,000,000 X 40% = $9,600,000
- Therefore, CDBG-DR funds can only cover up to $9,600,000 of the total cost of all Affordable Units.

Procedures:

After approving proposed eligible Projects:

1. HCD commits the approved Project funds, not exceeding 40% of total Project cost, from the Subrecipient's allocation (Refer to Section 4.1B).
2. Subrecipient submits eligible Project costs for reimbursement to HCD (Refer to Section 4.4).
3. HCD makes payments on a reimbursement basis via a Master Standard Agreement and Notice to Proceed between HCD and the Subrecipient (Refer to Section 4.4).
4. HCD monitors construction agreements between the Subrecipient and the developer to ensure that proper financial controls and safeguards are in place to protect CDBG-DR funds (Refer to Section 4.10).

2.7 Calculating Duplication of Benefits (DOB)

In accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5207) (Stafford Act) and Federal Register Notice published June 20, 2019 (84 FR 28836) requirements, all activities funded with CDBG-DR must undergo a Duplication of Benefits (DOB) review and calculation prior to Project award and prior to close out. DOB occurs when a program beneficiary receives disaster assistance from multiple sources for the same recovery purpose, and the total assistance received for that purpose is more than the total need. This includes all benefits available to a person or entity for the same recovery purpose, including cash and other resources such as insurance proceeds, grants, FEMA assistance, SBA loans, other local, state, or Federal program funds, and private or nonprofit organization funds.

It is HCD's responsibility to ensure that the DR-MHP provides assistance only to the extent that the disaster recovery need has not been fully met by funds that have already

been paid, or will be paid, from another source. The Project application must document all funds obtained from any source from the date of the disaster until the date of the application. Additionally, HCD, in coordination with the Subrecipient, will perform a check for Duplication of Benefit (DOB) prior to issuing an award and pre-Project closeout to ensure that duplicative assistance is not provided for multifamily housing. HCD also reserves the right to require that the Subrecipient perform additional DOB checks throughout the course of the Project's period/performance to ensure there is no duplicative assistance throughout the course of the Project. To address any potential duplication of benefits, the Master Standard Agreement and Rider to Development Agreement will include provisions requiring repayment of any assistance later received for the same purpose as the CDBG–DR funds. The Master Standard Agreement and Rider to Development Agreement must also include the following language: ''Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.''

Please reference HCD's Grant Administration Manual, Section XI for additional guidance on DOB including potential sources, calculation and verification.

2.8 Verifying Program Income

Loan repayments are not anticipated because the form of HCD assistance is a grant to the Subrecipient and a grant or forgivable loan to the Developer. However, for other forms of assistance approved by HCD that may generate Program Income (PI), HCD manages PI through the provisions in the Master Standard Agreement, which all Subrecipients must sign to receive funding from HCD. In the event that PI is generated, Subrecipients must report the PI to HCD through a request for payment and must expend PI prior to additional grant funds being drawn. PI may only be used for eligible Project or activity delivery costs related to the awarded Project. Subrecipients must provide monthly reports to HCD on PI generated and retained. Per 83 FRN 5851, HCD must report all PI to HUD through the DRGR Quarterly Performance Report (QPR). PI remaining at the end of each quarter and at the expiration of the Master Standard Agreement in excess of $35,000.00 must be remitted to HCD.

Any PI remaining at the end of a Master Standard Agreement, in excess of $35,000.00, is remitted to HCD during closeout where it is tracked and reported as revenue until it is obligated through a new Master Standard Agreement. PI held by HCD and awarded is tracked through the Grant Management System similarly to HUD grant funds.

2.9 Allocation Methodology

Funding was included in the Action Plan for Subrecipients based on a formula that determined the proportionate share of the total program allocation based on the disaster impacts to that jurisdiction. HCD used a methodology to calculate the allocations based on the FEMA Individual Assistance (FEMA IA) applicants. This allocation also ensures that nearly 95 percent of multifamily housing recovery funds are spent in MID areas. It is also weighted for LMI applicants in Butte County who were displaced within and outside the County. Totals were adjusted using FEMA current addresses at the time of application to account for housing needs. For LMI applicants who registered new addresses outside the County, those funds have been turned into a Phase II oversubscription fund. Eligible jurisdictions can apply for additional funds from this

source if they have additional multifamily housing needs.

FIGURE 3: DR-MHP ALLOCATION BY SUBRECIPIENT

Allocation Summary	Total $
Butte County	$61,361,926
City of Chico	$32,496,114
City of Gridley	$2,394,037
City of Oroville	$8,850,089
Town of Paradise	$55,906,660
Lake County	$7,594,201
City of Lakeport	$2,433,284
Los Angeles County	$2,708,010
City of Agoura Hills	$4,827,321
City of Calabasas	$3,257,461
City of Malibu	$18,602,848
Shasta County	$4,277,870
City of Redding	$16,660,146
City of Anderson	$745,684
City of Shasta Lake	$1,530,614
Ventura County	$1,707,223
City of Thousand Oaks	$1,726,847
Total	$227,080,335
Phase II*	$23,606,779
Combined Total	$250,687,114

*HCD has set-aside a phase II allocation available to all jurisdictions. This is intended to promote affordable housing development where there remains demonstrated need.

2.10 Applying Construction Standards/Requirements

All residential construction Projects must comply with the housing construction codes of the State of California. All units developed under DR-MHP must meet these codes as well as any locally adopted codes and ordinances. Housing construction codes for building in California follow federal and state laws, regulations, and adaptions for construction of single family and multifamily units. The State Housing Law Program under HCD continuously refines the building standards to ensure they comply with new or changing laws and regulations and develops statewide building standards for new construction of all building types and accessories. The State Housing Law Program also develops the building standards necessary to provide accessibility in the design and construction of all housing other than publicly funded housing. The building standards are published as the California Building Standards Code under the California Code of Regulations, Title 24, and construction standards in the Master Standard Agreement must meet or exceed all applicable requirements for housing or building construction.

A. **Labor Standards:** as required by Section 110 of the Housing and Community Development Act, and as outlined in HUD Handbook 1344.1 Rev 2, Federal Labor Standards Requirements in HUD Programs, Subrecipients are responsible

for ensuring compliance with Davis-Bacon (DBA) requirements as well as the Copeland Anti-Kickback Act, the Contract Work Hours and Safety Standards Act (CWHSSA) and the Fair Labor Standards Act (FLSA) collectively referred to as Davis Bacon and Related Acts (DBRA). In general, DBRA requires payment of prevailing wages to laborers and mechanics on contracts, financed in whole or in part with CDBG-DR funds, that involve construction work valued in excess of $2,000 or on residential Projects that include eight (8) or more units. Advertising for bids, bid solicitation and contracts are to incorporate Davis Bacon Labor Standards and wage determinations, "Attention of Bidders" paragraph and CDBG-DR Compliance Provisions for Construction Contracts. Please reference the state's Grant Administration Manual, Section XII(E) for additional labor standards procedures and requirements.

B. **Minority and Women Business Enterprise (M/WBE):** Per 2 CFR 200.321, Subrecipients, contractors, and/or Developers must take all necessary affirmative steps to ensure that minority business, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises
5. Using the services and assistance, as appropriate, of such organizations as the SBA and the Minority Business Development Agency of the Department of Commerce
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) above

Subrecipient will be required to collect information from all contractors and Developers and report all contracts and subcontracts awarded to minority businesses, women's business enterprises and labor surplus area firms to HCD on an annual basis.

C. **Section 3 of the HUD Act of 1968:** compliance requirements of Section 3 of the HUD Act of 1968 (12 U.S.C. 1701u) ("Section 3") are triggered when a Grantee receives in excess of $200,000 of HUD funds for the construction, reconstruction, conversion or rehabilitation of housing, other public construction that includes buildings or improvements assisted with CDBG-DR funds. If Section 3 of the HUD Act of 1968 is triggered for the Grantee, then contractors/subcontractors whose contracts are paid in full or in part with CDBG-DR funds and exceed $100,000 must also comply with Section 3 of the HUD Act

of 1968.

The Subrecipient shall require the Developer to:

1. Prepare and utilize a Section 3 Plan for HCD.
2. Designate a Section 3 Coordinator.
3. Take affirmative steps to follow the Section 3 Plan and document those efforts.
4. Include a Section 3 Clause and the Contractor Certification of Efforts to Fully Comply with Employment and Training Provision of Section 3 in any construction contract in excess of $100,000.

D. **California Building Codes (CBC):** all residential construction Projects shall comply with the housing construction codes of the State of California, including all units developed under DR-MHP. Housing construction codes for building in California follow federal and state laws, regulations, and adaptions for construction of single family and multifamily units.

E. **California Green Buildings Standards Code (CALGreen):** CALGreen is California's first green building code, enacted as mandatory in 2011, and adopted to address five divisions of building construction and improve public health, safety and general welfare. The divisions addressed are as follows: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and environmental quality. CALGreen applies to the planning, design, operation, construction, use, and occupancy of nearly every newly constructed building or structure in the state, as well as additions and alterations to existing buildings that increase the building's conditional area, interior volume, or size.

   HCD determined that CALGreen meets the standards as equivalent comprehensive green building program per 84 FRN 4836, Section VI: "Meaning of Green Building Standard" and has received HUD concurrence. As a mandatory standard, all Subrecipients are required to follow CALGreen requirements for construction permits and approvals. Subrecipients shall ensure access to local verifications that demonstrate CALGreen compliance in the Project plans and in the constructed development at construction close out.

   The CALGreen requirements and checklist are available on the State website.

F. **Sustainability Requirements:** all rehabilitation, reconstruction, and new construction must be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of future disasters. Wherever feasible, the State of California follows best practices, such as those provided by the U.S. Department of Energy, Home Energy Professionals: Professional Certifications and Standard work specifications. The State of California intends to promote high quality, durable and energy efficient construction methods in areas impacted by the 2018 fires. In May 2018, the California Energy Commission adopted new building standards that will require all newly constructed homes to include solar photovoltaic systems, effective

January 1, 2020. Homes built with the 2019 standards will use approximately 53 percent less energy than those built under current 2016 standards.

G. **National Floodplain Elevation Standards:** Subrecipients and Developers must comply with the national floodplain elevation standards for new construction, repair of substantially damaged structures, or substantial improvements to residential structures in flood hazard areas. All structures designed for residential use within a 100-year (or one percent annual chance) floodplain will be elevated with the lowest floor at least two feet above the base flood elevation level and comply with the requirements of 83 FR 5850 and 83 FR 5861 as well as Executive Order 11988 and 24 CFR Part 55. Additionally, Developers with Projects approved to build within a 100-year floodplain must obtain and maintain flood insurance in perpetuity, per part 24 CFR Part 58.6, as a condition of federal assistance.

H. **Wildland-Urban Interface building codes (WUI codes):** California continues to be a national leader in implementing statewide policy to both prepare for climate change and reduce greenhouse gas emissions and has dedicated substantial resources to mitigating the impacts of climate change. Housing resilience measures are set forth in state legislation, including requirements for local building codes, such as the Wildland-Urban Interface building codes (WUI codes) addressing wildfire risk since 2005.

   In accordance with the Federal Register Notice requirement to support the adoption and enforcement of modern and/or resilient building codes and mitigation of hazard risk, structures located in any Fire Hazard Severity Zone within State Responsibility Areas, any Local Agency Very-High Fire Hazard Severity Zone, or any Wildland Urban Interface Fire Area designated by the enforcing agency must comply with WUI codes, found in Title 24, Chapter 7a of the California Building Code, which offer specific material, design and construction standards to maximize ignition- resistance.

I. **Broadband Infrastructure.** Per 83 FRN 40314, any Substantial Rehabilitation or new construction of a building with more than four rental units must include installation of broadband infrastructure, except where the Subrecipient documents that: 1) The location of the new construction or Substantial Rehabilitation makes installation of broadband infrastructure infeasible; 2) The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or 3) The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

J. **Resilient Home Construction Standards.** Subrecipients are strongly encouraged to incorporate Resilient Home Construction Standards, meaning that all non-substantial or Substantial Rehabilitation or new construction meet an industry-recognized standard such as those set by the FORTIFIED Home Silver and Bronze levels.

K. **Uniform Relocation Assistance and Real Property Acquisition Act ("URA").** The URA contains requirements for carrying out real property acquisition or the

displacement of a person, regardless of income status, for a project in which HUD financial assistance is provided. The implementing regulations, 49 CFR Part 24, include steps which must be taken with tenant occupants, including those who will not be impacted by the HUD assisted activity. **Section 104(d).** The one for one-replacement provisions of Section 104(d) of the Housing and Community Project Act of 1974 as amended are not applicable. The remaining requirements of Section 104(d) are applicable.

L. **Additional requirement.** If a Project site is occupied at the time the CDBG-DR application is made, the application must include an exhibit explaining either that no relocation of tenants will result, or that such relocation will be temporary (supported by an adequately documented estimate of relocation costs). Subrecipients may request a waiver of this requirement on a case by case basis where permanent relocation may be necessary to otherwise meet the program requirements.

M. **Prohibition Against Eminent Domain.** Per the Federal Register Notice, no funds allocated to a Subrecipient may be used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use as defined in 83 FRN 40314.

N. **Equal Opportunity Requirements and Responsibilities**

- **Title VI of the Civil Rights Act of 1964:** This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving federal financial assistance.
- **Title VII of the Civil Rights Act of 1968 (The Fair Housing Act):** This act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing.
- **Restoration Act of 1987:** This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, Disability or age in a program or activity which does not directly benefit from such assistance.
- **Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 53091]:** This Section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.
- **The Fair Housing Amendment Act of 1988:** This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on

behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.

- **The Age Discrimination Act of 1975:** This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic including: KRS 18A.140; KRS 344.040; 1 01 KAR 1 :350 Paragraph 11; 1 01 KAR 1 :375 Paragraph 2(3); 101 KAR 2:095 Paragraphs 6 and 7.
- **Section 504 of the Rehabilitation Act of 1973:** It is unlawful to discriminate based on Disability in federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her Disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance. Section 504 also contains design and construction accessibility provisions for multi-family dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991.
- **The Americans with Disabilities Act of 1990 (ADA):** This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a Disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.
- **Executive Order 11063:** This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government.
- **Executive Order 11259:** This executive order provides that the administration of all federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.
- **The Equal Employment Opportunity Act:** This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings federal, state, and local governments under the Civil Rights Act of 1964.
- **The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978:** This manual applies to employee selection procedures in the areas of hiring, retention,

promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of federal laws prohibiting discriminatory employment.

- **The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002):** This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.
- **Executive Order 11246:** This executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race.

O. **Lead Based Paint Hazards:** Activity(ies) performed with assistance provided by HCD are subject to lead-based paint hazard regulations contained in Title 8 (Industrial Relations) and Title 17 (Public Health) of the CCR and 24 CFR, Part 35 (Lead Disclosure). Any grants or loans made by the Subrecipient with assistance provided under this program shall be made subject to the provisions for the elimination or mitigation of lead-based paint hazards under these regulations. The Subrecipient shall be responsible for the notifications, inspections, and clearance certifications required under these regulations.

2.11 Minimizing Land Acquisition/Relocation

If acquisition and/or relocation is required, Subrecipients shall make every effort to minimize displacement of families from their home and/or neighborhood, according to the state's Residential Anti-displacement and Relocation Assistance Plan. Additionally, compliance with Federal Acquisition and Relocation laws will be required. Please reference the state's CDBG-DR Grant Administration Manual, Section XIV for additional acquisition and relocation procedures and requirements.

Projects shall be designed with the established community in mind to lessen the displacement of families and must commit to the affordability periods of 15 and 20 years according to the Project type. Subrecipients helping to administer multifamily housing Projects may either follow the state's Residential Anti-displacement and Relocation Assistance Plan (RARAP) to minimize displacement or develop its own plan with the state's and public's approval. Details on affordable rent requirements, tenant income limits, and minimum affordability period can also be found under General Requirements, part 1(D) in HCD's Action Plan.

2.12 Affirmative Marketing Plan

Developers advertise Projects and units to fill vacant units or to develop a waiting list of interested applicants for the subsidized housing. DR-MHP applications must include an Affirmative Marketing Plan developed using the Affirmative Fair Housing Marketing Plan Form HUD-935.2A. Affirmative Marketing involves special outreach and advertising efforts designed to communicate the availability of DR-MHP assisted housing to those groups or individuals who might otherwise be unlikely to apply. Those groups are identified through analysis of local housing market area demographics using statistics readily available from the U.S. Census Bureau and determining appropriate advertising

and outreach efforts to be followed by Developers to reach out to those least likely to apply for the housing opportunity. Affirmative marketing efforts must begin at least 90 days prior to initial or renewed occupancy for new construction and Substantial Rehabilitation Projects, respectively.

HCD has determined that in addition to the required demographic analysis, individuals and families that were impacted by the disasters, low-income immigrants, persons with limited English proficiency, and Section 8 Housing Choice Voucher holders are least likely to apply. Examples of renters impacted by the disasters include renters that have lost rental units or have been displaced due to the impacts of DR-4382 and DR-4407.

Procedures:

To prepare the Affirmative Marketing Plan:

1. Developers shall download Form HUD-935.2A.
2. Review the form and its instructions.
3. Identify the Census Tract where the housing is located.
4. Determine the Census Tract(s) that comprise the Housing Market Area (generally multiple Census Tracts comprising a City or portion of a County). Develop a map to represent this market area. CPD Maps may be used for this purpose.
5. Determine the Census Tract(s) that comprise the Expanded Housing Market Area (generally multiple Census Tracts that comprise an entire County and often areas that extend beyond jurisdictional boundaries).
6. Using CPD Maps or U.S. Census Bureau data, complete Form HUD-935.A Worksheet 1, listing the number of residents in each category (existing Project residents if applicable, Project wait list applicant data if applicable, residents of the Census Tract, residents of the designated Housing Market Area, and finally residents of the Expanded Housing Market Area).
7. Based on the data evaluation in Worksheet 1, to identify any under-representation of certain demographic groups in terms of race, color, national origin, religion, sex, familial status, or Disability. If there is significant under-representation of any demographic group among Project residents or current applicants (for existing housing) in relation to the housing/expanded housing market area, then targeted outreach and marketing should be directed towards these individuals least likely to apply. To identify underrepresented groups least likely to apply for housing in newly constructed Projects that do not currently have existing occupants or waitlists, evaluate the Census Tract data against the Housing Market Area and the Expanded Housing Market Area to identify underrepresented groups in the Census Tract. Note that individuals and families that were impacted by the disasters and Section 8 Housing Choice Voucher holders shall be considered among those who are under-represented and least likely to apply.
8. Worksheet 2 shall not be used. Residency Preference Areas shall not be established for DR-MHP Projects.
9. Complete Worksheet 3 to identify each targeted underrepresented population and

the specific community contacts to be consulted for the purpose of effectuating Affirmative Marketing. To reach out to individuals and families that were impacted by the disasters and to Section 8 Housing Choice Voucher holders, the AFHMP shall, to the extent feasible, identify non-profit caseworkers who were on the ground during the disaster, contact area public housing agencies, advertise through TV/Radio/Newspapers/Billboards/211 system. Within the interest list and application, data shall be collected to determine if a prospective applicant was impacted by the disasters or is a Section 8 Housing Choice Voucher holder.

10. Complete Worksheet 4 to identify appropriate advertising methods (publications, outlets) for each targeted population.
11. Review and update the AFHMP every five years, or when there are significant changes to the demographics of the Project or the local housing market area.

Applications shall also demonstrate that the proposed Projects will affirmatively further fair housing and adequate tenant market, which are likely to lessen area racial, ethnic, and low-income concentrations, and/or promote affordable housing in low-poverty, nonminority areas in response to natural hazard related impacts.

2.13 Meeting a National Objective

In accordance with 24 CFR 570.208, all CDBG-DR funded activities must satisfy a national objective. For DR-MHP, all Projects must meet the low to moderate income housing (LMH) national objective, which requires that 51% of units are designated a LMH. Proposed Projects that do not have more that 51% of units as LMI may only be funded for the proportional amount of assisted units, however, pursuant to 24 CFR 570.483(b)(3), if the project is a rehabilitation project or a senior new construction project, the project must include at least 51% of units as LMI-occupied, or a waiver must be requested. All waiver requests must document legal and justifiable good cause. While proposed Projects may be mixed-income units, CDBG-DR funds are limited to the Affordable Units for occupancy by Low- to Moderate-Income Households in accordance with the policies in Section 2.6.

2.14 Completing Environmental Review

An environmental review must be performed on the Project prior to federal funds being committed or disbursed by HCD and Subrecipients. The environmental review shall document compliance with 24 CFR Part 58, NEPA, and all related laws, authorities, and executive orders. For DR-MHP, each Subrecipient is the Responsible Entity and must submit complete Environmental Review Records (ERR) to HCD to grant the authority to use funds. A project for rehabilitation that is documented as Categorically Excluded, Subject to Part 58.5 review, has the possibility of converting to Exempt. The conversion to Exempt must be documented and documentation must be submitted to the Department as part of the ERR. Subrecipients are also responsible for ensuring compliance with CEQA, including the submission or designation of applicable waivers to the CEQA Clearinghouse with a copy to HCD. Pursuant to 83 FRN 40314, HCD may accept another federal agency's environmental review. The DR-MHP will not reconstruct or rehabilitate housing units that have been determined to have a Finding of Significant Impact (FOSI).

No work may start on a proposed Project, or proposed site acquisition, if applicable, before both the federal and state environmental review processes are completed, even if that work/acquisition is being done using non-federal funds. Subsequent to submission of an application by a Developer to a Subrecipient for the use of DR-MHP funds, there can be no **choice-limiting actions** on the part of the Developer/owner until environmental clearance is received in the form of an Authority to Use Grant Funds (ATUGF) or environmental clearance letter issued by the Department. The concept of prohibiting **"choice-limiting"** actions is to prevent the Developer from investing in a Project before all necessary environmental clearances are obtained. Market studies, environmental studies, plan development, engineering or design costs, inspections and tests are not considered "choice-limiting" actions. **"Choice-limiting actions"** are defined as any activity that would have an adverse environmental impact or limit the choice of reasonable alternatives, such as acquisition by the Developer/owner (or any subsidiary of the Developer), construction, demolition of buildings, or rehabilitation or reconstruction of buildings. Per 24 CFR Part 58.22, failure to comply with the prohibition against committing funds or taking physical action (using either HUD funds or non-HUD funds) before the completion of the environmental review process could result in loss of HUD assistance, cancellation of the Project, reimbursement by the Developer/owner to HUD for the amount expended, or suspension of the disbursement of funds for the affected activity.

Procedures:

To process the environmental review for each Project:

1. Subrecipients must submit all Environmental Review Records (ERRs) and request for release of funds (RROF), if applicable, to HCD for review at submission of the Project application (if available) or following conditional Project approval by HCD. Additional information can be found on HUD guidance on Environmental Reviews.
2. Upon receipt, review and approval of a completed ERR, HCD will provide Subrecipient with an ATUGF, if applicable or environmental clearance letter.
3. Upon receipt of the ATUGF or environmental clearance letter and Notice to Proceed, Subrecipient may incur Project costs and drawdown funds.

Section 3. Project Solicitation, Selection, and Submission

3.1 Project Solicitation Process

Subrecipients must develop a local solicitation to provide opportunity for Developers to submit potential Projects and be selected through an open and competitive process. The solicitation and selection process must adhere to the applicable requirements set forth in 2 CFR 200.200- 213 and Appendix II: Contract Provisions.

Appendix A herein, Subrecipient Project Solicitation Checklist, provides a list of solicitation and application requirements as a framework for Subrecipients to ensure Developers are in compliance with the federal and state regulations and Projects can be adequately evaluated. The checklist includes the minimum federal and state requirements that Subrecipients must instruct Developers to comply with. Subrecipients

must address the requirements identified in Appendix A and submit citations to facilitate HCD's review. Subrecipients may add Project and solicitation requirements beyond the minimum required by the program.

Subrecipients are not required to use a specific solicitation template or format. HCD will accept solicitation formats and forms used for other funding sources as long as all federal and state requirements, identified in the checklist, are addressed. For Subrecipients that do not have a solicitation format that has been used previously, HCD recommends utilizing the sample provided in HUD's CDBG-DR Toolkit.

Subrecipients must submit the draft of their solicitation to HCD for review and approval no less than 2 weeks prior to releasing the solicitation to the public. See Section 3.3 below for information about existing solicitations. Subrecipients may keep the solicitation open on a rolling basis until all Project funds have been allocated to Projects or through the final date to submit project applications as noted in Section 1.2 - Program Timeline, whichever comes first.

3.2 Project Selection Requirements

Subrecipients must review and evaluate Projects submitted through the local Project Solicitation Process. The local selection process must include the following reviews at a minimum: eligibility review, assessment of long-term Project viability, verification of financial feasibility and cost reasonableness, Project timeliness and schedule, and Developer capacity. The evaluation should be consistent with HCD's prioritization criteria and any local evaluation, selection, or underwriting criteria included in the local Project Solicitation Process.

Appendix B herein, the DR-MHP HCD Project Underwriting Checklist, provides the program's underwriting standards to ensure Projects are feasible, viable, and in compliance. HCD accepts existing underwriting and selection criteria from Subrecipients and from other funding sources to the Project (LIHTC, HOME, etc.), so long as there is no conflict with the DR-MHP underwriting standards. This acceptance includes, but is not limited to, the following underwriting criteria: vacancy rates, total debt service coverage ratio, operating expense coverage ratio, Developer fee, initial reserves, rent up reserve, operating deficit reserve (ODR), replacement reserve, other reserves, and residual receipts. Subrecipients should ensure their Project Solicitation Process collects sufficient information for DR-MHP to conduct its underwriting.

There may be some limited cases where a Subrecipient does not have underwriting guidelines and a Project does not have another public source of funds. For these limited situations, HCD recommends the Subrecipient utilize the underwriting and selection criteria identified in HCD's Uniform Multifamily Regulations (Cal. Code Regs., tit. 25, § 8300 et seq.) (the "UMRs") incorporated here by reference.

Subrecipients must retain documentation and records for each solicitation under DR-MHP. Records should include a detailed description of the selection process used, copies of all submissions, and documents pertaining to evaluation and selection. These files may be requested during routine monitoring or as a part of a Project appeal. If a Subrecipient allows for a rolling application process, the selection process should include a minimum threshold that must be met to submit the Project for funding to HCD.

3.3 Existing Solicitation and Project Selections

HCD recognizes that some Subrecipients may have completed a solicitation for Projects in anticipation of the DR-MHP funding. HCD will review these solicitations on a case-by-case basis to determine if the solicitation substantially adheres to the program requirements in Appendix A. Subrecipients that completed an advanced solicitation should reach out to DR-MHP staff to discuss the review process.

3.4 Article XXXIV

Each DR-MHP application must show that the proposed Project is in compliance with article XXXIV, section 1 of the California Constitution ("Article XXXIV"), or that it falls within one or more of the statutory carveouts set forth by California's Public Housing Election Implementation Law (PHEIL) (Health & Saf. Code, §§ 37000 – 37002). For instance, some Projects will be exempt from Article XXXIV on the basis of Health and Safety Code section 37001, subdivision (f), because they consist of the "replacement" of "dwelling units of a previously existing low-rent housing project, or a project previously or currently occupied by lower income households. The Subrecipient must provide Article XXXIV documentation in the form of either an Article XXXIV allocation letter or an Article XXXIV opinion from their legal counsel.

3.5 Project Submissions

DR-MHP accepts applications from the effective date of the Master Standard Agreement through the final date to submit project applications as noted in Section 1.2 - Program Timeline. HCD reviews submissions on a rolling basis and generally anticipates providing a conditional or firm approval, as described in Section 3.9 below, within 60 days of submission, or requesting additional information within 15 days of application receipt. The HCD review process ensures compliance with regulatory requirements and broader recovery goals and verifies there is sufficient funding remaining in a Subrecipient's allocation to make an award. Subrecipients must use the Grants Network Program Portal to submit Project applications for specific Projects.

Procedures:

To submit a Project application and related forms, the following steps are required:

1. A Master Standard Agreement must be executed between HCD and Subrecipient.
2. Subrecipient must establish a solicitation (e.g. through a NOFA or similar solicitation process) to identify and select Projects within their jurisdiction and prioritize the use of CDBG-DR funds based on the prioritization criteria outlined in Section 2.4 above and the need for gap assistance in the form of a CDBG-DR loan or grant.
3. Subrecipients must submit a draft solicitation to DR-MHP for review at least two weeks before publication.
4. Subrecipient must evaluate Projects in accordance with the local solicitation requirements and in accordance with the requirements outlined in Appendix B.

5. Subrecipient must submit a completed application for each Project through HCD's Grants Network for review by the final date to submit project applications as noted in Section 1.2 - Program Timeline.
6. HCD may request additional information in order to verify program compliance prior to approving an application.

3.6 Evaluating Applications

The DR-MHP Review Board evaluates all aspects of the Project, including: scope, budget, eligibility, environmental review, and compliance with the eligibility requirements outlined in Section 2 above. The Review Board performs an underwriting analysis to determine the financial feasibility and amount of requested funds needed for a Project to arrive at an appropriate level of CDBG-DR funds.

The Review Board consists of three to five HCD staff members and may be assisted by additional staff or subject matter experts. The DR-MHP Manager shall chair the Review Board. Review Board decisions shall be unanimous. If consensus cannot be reached in favor or against an application, an Issue Memo shall be developed by the dissenting Board Members and submitted to the CDBG-DR Section Chief for consideration and further discussion until consensus is achieved. Once consensus is achieved, the Project will be submitted to the Department's Internal Loan Committee for final approval. Upon approval, the decision shall be documented in a letter to the Subrecipient and Developer. The Developer and Subrecipient shall have the right to appeal (refer to Section 3.10 below).

3.7 Underwriting Analysis

Prior to making an award, DR-MHP conducts an application review and underwriting analysis to evaluate a Project to ensure that the CDBG-DR investment does not exceed the amount that is necessary to provide quality, affordable housing that will be financially viable for the required affordability period. The underwriting criteria is detailed in Appendix B: DR-MHP Development Application Review and Underwriting Checklist. Generally, this review and analysis includes:

- Examining the sources and uses of funds for the Project to determine that the costs are reasonable and that the Project will generate sufficient cash flow during the affordability period to satisfy debt and other obligations. Review the assumptions for vacancy rate and annual rent increases to determine if those assumptions are reasonable.
- Performing a cost allocation to determine the minimum number of CDBG-DR assisted units and/or the maximum permissible amount of CDBG-DR investment for the Project, not to exceed 40% of the total Project cost. An appropriate HOME cost allocation methodology will be used.
- Confirming that all CDBG-DR funds are used exclusively for the construction of Affordable Units.
- Verifying that there are firm written financial commitments for the Project that, along with the CDBG-DR gap funding would allow the Project to be

completed and occupied.

- Analyzing the Project's financial feasibility to meet the required affordability period.
- Evaluating the supplied Market Assessment to verify that there is currently market demand in the neighborhood in which the Project will be located. The level of review of the market assessment and HCD's determination of its sufficiency shall account for Project scale and complexity.
- Evaluating the qualifications of the Developer, including experience and financial capacity. Qualified Developers must have completed at least three multifamily developments, at least one of which includes affordable rental units.

Additional evaluation criteria include:

- The application package is complete pursuant to Sections 3.1 and 3.2 above.
- The Subrecipient's capacity to monitor the proposed Project(s), manage funds, and comply with CDBG-DR requirements.
- The level of Project readiness and ability to meet the occupancy timeline as noted in Section 1.2 - Program Timeline:
  - Completion of HUD and NEPA-compliant Environmental Review Record and adoption or certification of CEQA reviews;
  - Receipt of all necessary land use approvals or entitlements prior to issuance of a building permit, including any required discretionary approvals, such as site plan review or design review.
  - Submission of a letter signed by a certified planner indicating that, the Project meets all requirements for approval under a nondiscretionary local approval process.

Procedures:

To conduct the Development Application Review and Underwriting process, the following steps are required by the DR-MHP Review Board:

1. Perform a threshold review of the development application for compliance with the submission requirements.
2. Perform a review of the development application and supporting documents to determine if the proposed development meets the DR-MHP requirements.
3. Perform basic development underwriting for all Project submissions. Note that the numerical standards in this section are benchmarks. If the proforma does not conform to these benchmarks, the application may include a request for waiver based on the specific economics of the Project.
4. Obtain evidence of advanced development underwriting (e.g., from the California Tax Credit Allocation Committee for tax credit Projects or from other funding sources with similarly stringent underwriting standards).
   a. If no other public funding source is underwriting the Project, request that the Developer supply a completed State of California Universal

Application for the Development of Affordable Rental Housing.

b. Complete underwriting in accordance with UMR standards.

3.8 Coordination with Other Funders

DR-MHP focuses on ensuring eligible and feasible Projects that meet the CDBG-DR requirements and can be developed within the grant expenditure timeline. HCD will generally accept other lenders and funders underwriting terms and defer to the HCD Universal Application and standards if there are no other funder or lender requirements for the Project.

3.9 Project Approvals and Rejections

HCD anticipates Project approval or rejection to be announced within 60 days of the DR-MHP Review Board's receipt of Project applications. Project approvals and rejections are issued through the Grants Network application portal. Rejected applications may be revised and submitted for a subsequent review, in consultation with DR-MHP staff.

Conditional Approval and Commitment

Project approvals may come in the form of a conditional approval and commitment. A conditional commitment is an approval of the project if specific conditions are met. DR-MHP Review Board recommends conditional commitments for projects that have pending or conditional funding (included upcoming submission for low-income housing tax credits) and projects with incomplete environmental reviews. Once the condition have been satisfied, the finalized project is evaluated by the Review Board for the recommendation of issuance of a Firm Approval and Commitment.

Firm Approval and Commitment

Project approvals may come in the form of a firm approval and commitment. A firm commitment is an approval of a project with firm funding and financing commitments and a completed environmental review record. Subrecipients will be informed of additional closing conditions or outstanding items needed in order for HCD to release a Notice to Proceed.

Department Approvals

The Internal Loan Committee (ILC) of Department shall provide final approval of any Conditional Project Approval and Commitment and/or Firm Project Approval and Commitment. The Deputy Director of the Division of Financial Assistance shall execute the conditional commitment letter or Notice to Proceed, as applicable.

3.10 Appeals

In cases where Projects are not approved to receive funding, Subrecipients have the right to appeal the DR-MHP Review Board's determination. The Subrecipient must submit their appeal in written form, within 60 days from the award announcement date, via mail to HCD at:

Department of Housing and Community Development (HCD)
DR-MHP Appeals

P.O. Box 952054
Sacramento, CA 94252-2054

An authorized person of HCD Leadership shall review the appeal and then discuss the merits of the appeal with the CDBG-DR Section Chief and the DR-MHP Review Board before rendering an independent decision concerning the appeal. The decision of the authorized person of HCD Leadership shall be final.

Additionally, Subrecipients shall establish an appeal method for Developers who are not selected through their solicitation process and are asking for reassessment. Subrecipients shall describe the appeal procedure, submission deadline, submission method, digital or physical address of recipient, and review period in their solicitation documents.

Section 4. Program Operation

4.1 Legal Documents

A. HCD shall enter into a Master Standard Agreement with the Subrecipient constituting a conditional commitment of funds. This agreement will define financial and property management requirements as well as remedies to correct deficient or non-compliant Projects. The agreement will also contain CDBG-DR recapture provisions for non-performance or breach of Subrecipient responsibility on any requirements, including adherence with CDBG-DR rules and regulations. Subrecipient must complete Due Diligence, including a resolution from the governing board accepting the funding, before the Master Standard Agreement can be routed.

   The Master Standard Agreement shall contain, but not be limited to, the following:

   - A description of the Subrecipient's program implementation responsibilities, including but not limited to, Project solicitation, selection, and submission;
   - The amount and terms of the funding;
   - Provisions governing the construction or rehabilitation work;
   - Terms and conditions required by federal or state law;
   - The approved schedule of the program;
   - The approved program budget;
   - Manner, timing and conditions for disbursement of Project funds;
   - Reporting and recordkeeping requirements, defining the specific reports and the reporting dates, along with the particular records and the timeline for maintaining them in order to assist HCD in meeting HUD's recordkeeping and reporting requirements.
   - Terms and conditions for the inspection and monitoring of the Project in order to verify compliance with the requirements of the program;
   - Provisions regarding tenant relocation;

- Provisions regarding the recapture of funds;
- Requirements for multiyear property and hazard insurance policies;
- Provisions relating to the erection and placement on or in the vicinity of the Project site a sign indicating that HCD has provided financing for the Project. HCD may also arrange for publicity of the program funds in its sole discretion;
- The form of the Notice to Proceed; and
- Other provisions necessary to ensure compliance with the requirements of the DR-MHP.

B. Upon HCD approval of individual Projects and clearance of any closing conditions (if applicable), HCD will issue a Notice to Proceed to the Subrecipient. The Notice to Proceed is a binding document, approved as to form as a component of the Master Standard Agreement, that amends the allocation agreement between the Subrecipient and HCD by committing funds to a specific Project. The Notice to Proceed includes Project details, including but not limited to:

- A description of the approved Project and the permitted uses of program funds;
- The approved Project development budget and sources and uses of funds and financing;
- Total number of units, Affordable Units and DR-MHP Assisted Units;
- The approved schedule of the Project, including land acquisition, if any, commencement and completion of construction or rehabilitation work, and occupancy by eligible Households;
- Performance milestones; and
- Performance penalties.

C. Upon issuance of the Notice to Proceed, HCD will provide the Subrecipient with the DR-MHP Rider to Development Agreement and ensure it is included with the Development Agreement between the Subrecipient and Developer. The Rider to Development Agreement includes HUD, CDBG-DR and State requirements for Developers. Additionally, HCD will provide the Subrecipient with a Regulatory Agreement to be recorded against each property that will enforce requirements on affordability periods, restricted units, income targeting, rents, property standards, and records and reports.

4.2 Agreements with Developers, Contractors or Other Parties

A. Per 2 CFR 200.214, Subrecipient shall not enter into any agreement, written or oral, with any Contractor, Developer or other party without the prior determination that the Contractor, Developer or other party is eligible to receive federal funds and is not listed on the government-wide exclusions in the System for Award Management (SAM). The terms “other party” is defined as public or private non-profit agencies or organizations and certain (limited)

private for-profit entities who receive Grant Funds from a Subrecipient to undertake eligible Projects. Requirements of an agreement between the Subrecipient and any Contractor, Developer or other party shall contain, but not be limited to the following:

- Compliance with all State and federal requirements including those that pertain to labor standards, nondiscrimination, Americans with Disabilities Act, Equal Employment Opportunity and Drug-Free Workplace Act.
- Maintenance of at least the minimum State-required Workers' Compensation Insurance.
- Maintenance of unemployment insurance, disability insurance and liability insurance which is reasonable to compensate any person, firm or corporation who may be injured or damaged during the performance of Project activities.
- Contractors shall:
  - Comply with the applicable provisions of the California Labor Code
  - Perform the project activities in accordance with federal, state and local housing and building codes, as applicable.
  - Provide security to assure completion of the project(s) by furnishing the borrower and construction lenders with proof of sufficient insurance and performance and payment bonds, or other security approved in advance in writing by the Department, as determined by the particulars of each individual project will be required.

B. Subrecipient shall withhold as retainage 10% of all DR-MHP funded Developer payments. No retainage payments shall be released to the Developer or reimbursed to the Subrecipient until receipt and approval by HCD of all required and approved Project closeout documents identified in the Master Standard Agreement and Rider to Development Agreement.

4.3 Procurement

Subrecipients are required to adopt procurement procedures as required in 2 CFR 200.318 - 326. All procurement transactions funded in whole or in part with CDBG-DR funds, regardless of dollar amount, must be conducted to provide "maximum open and free competition". 2 CFR 200.318(i) requires that Subrecipients maintain records sufficient to detail the significant history of each procurement.

All contracts and agreements procured by the Subrecipient for use under the DR-MHP program must be reviewed and approved by HCD. For new contracts, the HCD approval should occur prior to execution. For previously procured contracts that are active, the Subrecipient must provide the procurement file to HCD for review and verification of compliant procurement that conforms to the minimum requirements found at 2 CFR 200.318 – 326 prior to expending DR-MHP Funds under said contract. HCD's approval of the procurement and contract shall be issued in writing.

4.4 Disbursement of Funds

Payments will be made directly to Subrecipients as reimbursements based on the documented completion of agreed upon Performance and Project milestones, as

outlined in the Master Standard Agreement and Notice to Proceed. Reimbursement-based means that activity delivery and Project costs must be incurred by the Subrecipient and/or Developer and documented as required by the terms of the Master Standard Agreement for payment of invoices. Please see the state's CDBG-DR Grant Administration Manual, Section V for additional financial management procedures and requirements.

4.5 Recapture of Funds

A Subrecipient and/or Developer may be required to repay all, or a portion of the funds received. The reasons for recapture include, but are not limited to the following:

- A Subrecipient does not comply with the terms of the standard agreement;
- A Subrecipient and/or Developer withdraws from the Program prior to completion of the Project and fails to meet a national objective;
- A Developer does not meet the affordability requirements for the period specified in Section 2.3 above;
- A Subrecipient and/or Developer is found to have used program funds for an ineligible activity or cost;
- A Developer does not report the receipt of additional insurance, SBA, FEMA, non- profit assistance and/or any other Duplication of Benefits received after award; and/or,
- Funds are remaining after the Project is completed, the expenditure deadline has passed, or the Master Standard Agreement has expired.

The method of recapturing funds and the timeframe for doing so are determined on an individual Project basis. However, the recapture method and timeframe will be consistent with 2 CFR part 200 or other applicable cost principles. Complete recapture provisions will be included in the standard agreement with the Subrecipient and must also be included in any agreements between the Subrecipient and Developer.

4.6 Project Management

Developers will operate the approved multifamily housing Project(s) in accordance with local requirements, the Disaster Recovery Multifamily Housing Program Policies and Procedures Manual, and as set forth in the Master Standard Agreement between HCD and the Subrecipient. The Subrecipient's role will include the selection of qualified Developers, Project oversight, environmental reviews, compliance monitoring (including Section 3 and applicable labor and wage requirements), construction oversight, and Project closeout. The Subrecipient can open solicitations to qualified Developers, defined as having completed at least three multifamily developments, at least one of which included affordable rental units.

Multifamily Projects funded under this CDBG-DR grant will adhere to standard requirements set by HCD to ensure compliance, as well as specific requirements set by the governing federal income limits. HCD will provide technical assistance to Subrecipients to ensure compliance with CDBG-DR requirements and consistency with

the Disaster Recovery Multifamily Housing Program Policies and Procedures Manual. In addition, regular monitoring of the Subrecipient and specific Projects will be conducted to test compliance and ensure timely Project completion. Subrecipients shall ensure their Developers are in compliance with CDBG-DR requirements and shall perform ongoing monitoring of the Developer as well.

A. The Developer shall be responsible for all management functions of the multifamily housing development including construction, rehabilitation, maintenance, selection of the tenants, annual recertification of Household income and size, and managing the units in accordance to program requirements.
B. The Developer is responsible for all repair and maintenance functions of the multifamily housing development, including ordinary maintenance and replacement of capital items. The Developer shall ensure maintenance of residential units, commercial space and common areas in accordance with local health, building, and housing codes, and the management plan.
C. The Developer shall ensure that the Multifamily Housing Development is managed by an entity approved by Subrecipient that is actively in the business of managing affordable housing. Any management contract entered into for this purpose shall be subject to Subrecipient approval and contain a provision allowing the Developer to terminate the contract upon 30-days' notice. The Developer shall terminate said contract as directed by Subrecipient upon determination that management does not comply with program requirements.
D. The Developer shall develop a management plan subject to Subrecipient approval prior to the start of construction. Any change to the plan shall be subject to the approval of Subrecipient. The plan shall be consistent with program requirements and should include the following:
    - The role and responsibility of the Developer and its delegation of authority;
    - Personnel policy and staffing arrangements;
    - Plans and procedures for publicizing and achieving early and continued occupancy;
    - Procedures for determining tenant eligibility and selecting tenants and for certifying and annually recertifying Household income and size;
    - Plans for carrying out an effective maintenance and repair program;
    - Rent collection policies and procedures;
    - A program for maintaining adequate accounting records and handling necessary forms and vouchers;
    - Plans for enhancing tenant-management relations;
    - The management agreement, if any;
    - Provisions for periodic update of the management plan;
    - Appeal and grievance procedures;

- Plans for collections for tenant-caused damages, processing evictions and terminations; and
- A supportive services plan for Projects serving Special Needs Populations, including Supportive Housing and/or providing Supportive Services to the general tenant population.

4.7 Performance Goals

Performance goals shall be in accordance with the program timeline set forth in Section 1.2.

A. Specific performance goals and performance penalties for Subrecipients will be outlined in the Master Standard Agreement.

B. Specific performance goals and performance penalties for the Developer will be outlined in the Notice to Proceed on a Project by Project basis.

4.8 Reporting Requirements

A. Subrecipients will be required to submit reports at times indicated in the Master Standard Agreement, in accordance with HUD reporting requirements, and via HCD's Grants Network. At a minimum, during the term of the Master Standard Agreement, on a monthly basis the Subrecipient shall submit to HCD a progress report which addresses the following topics:

- A description of the current status of the Project activity, including number of units leased, and demographics of Households assisted (beneficiaries).
- A description of activities to be undertaken in the next reporting period.
- A description of problems or delays encountered in Project implementation and course of action taken to address them.
- A description of actions taken to achieve Project expenditure deadlines.
- A summary of Project fiscal status, including:
  - Award amount,
  - Funds drawn, and,
  - Remaining balance.

B. At any time during the term of the Master Standard Agreement, HCD may perform or cause to be performed an independent financial audit of any and all phases of the Subrecipient's Project(s). At HCD's request, the Subrecipient shall provide, at its own expense, a financial audit prepared by a certified public accountant.

C. Subrecipient shall require each Developer to provide an annual audit of the Project prepared by an independent certified public accountant. Subrecipient shall report any findings to HCD within 30 days of reviewing the Developer's audit.

4.9 Providing Technical Assistance

HCD provides various types of technical assistance (TA) to Subrecipients and vendors throughout the program from the release of the Due Diligence to Master Standard Agreement closeout. The objective of technical assistance is to develop a strong partnership with subrecipients and support the implementation of a successful program across all levels. TA also assists Subrecipients to maintain their day-to-day compliance with federal and state regulations and program requirements as they administer relevant programs. Initially, TA to the Subrecipient and vendors focuses on development of a clear understanding of the program requirements and support in establishing effective and compliant program policies and procedures. TA can also include, but is not limited to, support to submit the Project applications and reimbursement requests.

In addition, HCD performs a risk assessment to determine a Subrecipient's capacity and to identify deficiencies in complying with HUD requirements. According to the risk assessment results, HCD provides TA, monitoring and helpful information to Subrecipients to improve their performance, develop or increase capacity, and

augment management and technical skills. Some examples of TA include:

A. Verbal or written advice, including review and feedback on documents
B. Formal training and workshops
C. Regular and ongoing communications and check in meetings
D. Documentation and guidance

In addition, Subrecipients should contact HCD if assistance is needed when providing technical assistance to their Developers/Contractors.

Under a separate Planning activity, HCD has also allocated CDBG-DR funds to support needed capacity building efforts and long-term recovery planning at the county and city level. HCD will provide technical assistance planning services to the local jurisdictions to increase capacity and create knowledge transfer via a separate CDBG-DR award.

4.10 Monitoring and Compliance

HUD describes monitoring as an integral management control standard and requires any entity receiving HUD funding to monitor and evaluate program performance and compliance, see CDBG Regulation 24 CFR 570.501(b) and Office of Management and Budget (OMB) Uniform guidance at 2 CFR 200. Therefore, HCD monitors all DR-MHP activities. HCD is required to ensure that its Subrecipients comply with all regulations governing administrative, financial and programmatic operations, and that they achieve performance objectives on time and within budget. Monitoring enables HCD to verify compliance with both regulatory and performance requirements.

In the event a Subrecipient disagrees with a finding and/or any accompanying corrective actions or sanction(s) that are associated with such finding, Subrecipient shall follow HCD's appeals process and rights contained in Exhibit 15 of the Department's Monitoring Plan located on HCD's website.

A. Subrecipients. HCD requires the Subrecipients to develop their own monitoring plan. Therefore, Subrecipients are responsible for carrying out their Projects to meet these compliance requirements, including monitoring their Developers, Contractors and subcontractors, and routine inspections of the DR-MHP Projects during the affordability period. Monitoring of Subrecipients may include on-site visits to the Subrecipient's offices or desk monitoring at HCD. Please see the state's CDBG-DR Grant Administration Manual, Section XVI for additional monitoring and compliance procedures and requirements.

   Subrecipients may charge Developers a reasonable annual fee for compliance monitoring during the term of affordability period. The fee must be based upon the average actual cost of performing the monitoring of CDBG-DR-assisted approved Projects. The basis for determining the amount of the fee must be documented and the fee must be included in the costs of the project as part of the project. If a monitoring fee is charged, Subrecipient shall remit 10% of the

monitoring fee collected from the project to HCD not less than annually and within 90 days of receipt of the fees.

B. Developers. All completed Projects require annual compliance monitoring during the period of affordability. The Subrecipient shall establish a Project monitoring schedule to ensure that physical property, program, and financial compliance happens as outlined in the monitoring plan.

- Physical Monitoring

  Physical inspections should include the inspection of the exteriors of all buildings and common areas, and the inspection of the interiors of income restricted units to ensure compliance with HUD Housing Quality Standards (HQS).

- Program Monitoring

  The Subrecipient will meet with the development's management staff and review performance under the contract for the following topics:

  1. Initial Affordable Rents and subsequent rents during the period of affordability
  2. Initial and annual certification of tenant income
  3. LMI benefit (minimum 4 or 30% Affordable Units)
  4. Affirmative Marketing requirements
  5. Fair Housing requirements

- Financial Monitoring

  Subrecipients shall annually review the development's financial statements to ensure the development continues to be operated in a fiscally responsible manner, addressing all debt service obligations and adequately funding Project reserve accounts.

- Record Retention

  All records and books relating to the initial development phase of the Project (application through project completion) shall be retained for a minimum period of five (5) years after the Department notifies the Subrecipient that the grant agreement between HUD and the State of California has been closed. Subsequent to closeout of the grant agreement between HUD and the State of California, all records and books relating to the operational phase of the Development shall be retained for the most recent five (5) year period, until five years after the affordability period terminates. All records must be maintained in such a manner as to ensure that the records are reasonably protected from destruction or tampering. All records shall be subject to inspection and audit by the Subrecipient, the Department, HUD, or its representative.

4.11 Over-Income Tenants at Recertification

Consistent with rules for other funding programs, including the HOME Investment

Partnerships (HOME) program at 24 CFR 92.252(h), if, at the time of tenant recertification, the income of a household occupying a DR-MHP Assisted Unit exceeds the income level applicable to new tenants for Affordable Units, the Developer may not evict the tenant, and shall instead take the following specific actions to remedy the temporary noncompliance:

- Increase the tenant's rent to the lesser of:
  - 30 percent of adjusted income;
  - the HUD Fair Market Rent applicable to the unit based on unit size and location; or
  - the rent limitations of another leveraged funding source that applies to the Development; and
- If, within the Development, another unit that is not assisted with DR-MHP funds becomes available, designate the next available comparable unit as a DR-MHP Assisted Unit at the income level originally applicable to the household until the Unit mix required by the Master Standard Agreement is achieved. A Unit shall be deemed "comparable" if it has the same number of bedrooms, the same or similar features, and is similar in size to the original Unit.

4.12 Grant Closeout

The closeout of a grant is a process through which HUD determines that all applicable administrative and program requirements of the grant were completed. In general, a grant is ready for closeout when the following conditions are met:

- All eligible activities were completed and met a national objective.
- All grant funds were expended in full or all remaining funds are planned to be returned to HUD.
- All reporting requirements were completed and submitted (except for the final report that is submitted during the closeout process, if applicable).
- Any special conditions of the grant were met.
- All audit and monitoring issues affecting the grant were resolved.

Subrecipients are required to retain all books and records pertaining to the CDBG-DR Projects for at least five (5) years after HCD notifies the Subrecipient that the grant agreement between HUD and the State of California has been closed. See Section 4.10 above for Developer's records retention requirements.