

VII. Additional Agreement Requirements

A. Performance Requirements and Penalties

Per the PL 113-2, performance requirements and penalties are required to be incorporated into all procured contracts utilizing CDBG NDR funds. HCD along with subgrantees, partners, and the U.S. Forest Service must comply with these requirements.

To ensure compliance, HCD is required to maintain a public website which provides information accounting for how all grant funds are used and administered, including details of all contracts and ongoing procurement policies. To meet this requirement, HCD makes the following items available on its website:

- The Action Plan (including all amendments).
- Each Quarterly Projection Report (QPR) detailing expenditures for each contractor.
- Procurement policies and procedures.
- Executed CDBG-NDR contracts.
- Status of services or goods currently being procured by HCD—e.g., phase of the procurement, requirements for proposals, etc.

The specific requirements and associated penalties to be included in each contract vary based on the type of service(s) or good(s) procured. For all contracts, performance requirements and penalties follow the below guidelines:

- Clearly define performance goals, benchmarks, and deliverables.
- Establish deadlines for the completion of each goal, benchmark, or deliverable.
- Account for the quantity and quality of services provided, including:
 - Outputs (the products or assistance delivered).
 - Outcomes (the consequences of the products or assistance).
- Establish HCD's methods for monitoring performance requirements.
- Outline penalties associated with failing to meet established deadlines.
- Define the nature of the penalty (e.g. liquidated damages for failing to meet a deliverable deadline).
- Establish the contractor's method(s) for curing noted deficiencies.
- Adhere to established reporting schedules and methods.

B. Additional Standards

1. CDBG NDR Green Building and Energy Efficiency Standards

For the purpose of CDBG NDR funds, HCD is not completing any rehabilitation or new construction of residential buildings. Thus, CDBG NDR Green Building and

Energy Efficiency Standards do not currently apply to any existing NDR funded activities.

All new construction of residential buildings or reconstruction of substantially damaged buildings must incorporate the state's green building standards. California Green Buildings Standards Code (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.¹

HUD requires all housing rehabilitation, reconstruction, and new construction to be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of future disasters. Should HCD complete an amendment to its NDR Action Plan to include residential building, this section of the manual will be updated to reflect the required standards.

2. CDBG NDR Green Infrastructure Standards

HUD encourages the implementation of Green Infrastructure policies to the extent practicable. Additional tools for green infrastructure are available at the Environmental Protection Agency's (EPA) Green Infrastructure website (<https://www.epa.gov/green-infrastructure>).

3. California Green Building Standards

The State of California encourages, where appropriate, construction methods that emphasize high quality, durability, energy efficiency, a healthy indoor environment, sustainability, and water or mold resistance, including how they support adoption and enforcement of modern building codes and reduction of hazard risk, including possible sea level rise, storm surge, and flooding. In addition to the federal standards outlined above, the State of California requires that all new construction projects funded through CDBG NDR meet the following certification, standards and recommendations, to the fullest extent possible. This will apply to the construction of the Biomass Utilization Facility and the Community Resilience Centers.

- Achieve energy performance 15 percent better than mandated by building code.
- Achieve Zero Net Energy usage (ZNE), if cost can be covered in budget.

¹ California Department of Housing and Community Development, <http://www.hcd.ca.gov/building-standards/calgreen/index.shtml>.

- Include evaluation of biomass power, solar panels and/or other low emission heating, cooling, electricity, and hot water technology where applicable.
- Achieve LEED silver certification, or higher, and achieve all LEED water points.
- Use a Monitoring Based Commissioning dashboard.
- Achieve WELL building certification, a standard pertaining to occupant health and minimizing use of toxic materials.
- Achieve SITES certification for landscaping.
- Include rainwater and greywater capture and reuse for pertinent plumbing systems and landscaping.
- Meet ENERGY STAR and Water Sense program requirements.
- Incorporate all CAL FIRE Wildland Urban Interface (WUI) building codes.