PA CDBG-DR Buyout Program

Administrative Manual for Local Governments

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This manual and the accompanying forms will be updated as needed. If you have any questions or notice any errors or inconsistencies in this manual or any of the forms, please contact David Grey via email at dgrey@pa.gov. He will address your concern and if appropriate distribute an updated version of the manual and forms to all participating local governments.
# CDBG-DR Buyout Program

## Administrative Manual for Local Governments

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I. INTRODUCTION

This Administrative Manual documents the process for the administration of the Community Development Block Grant – Disaster Recovery (CDBG-DR) Buyout Program. The Commonwealth of Pennsylvania received $29,986,000 from the Department of Housing and Urban Development (HUD) under The Disaster Relief Appropriations Act, 2013 (Public Law 113-2, approved January 29, 2013). This was the second allocation of CDBG-DR funding to assist the State with recovery from 2011 storm events Hurricane Irene – FEMA-4025-DR and Tropical Storm Lee – FEMA-4030-DR. The HUD guidance for the funding was published March 5, 2013 in the Federal Register as Docket Number FR-5696-N-01 and the funding appropriation for the Commonwealth of Pennsylvania was published in the Federal Register as Docket Number FR-5696-N-03 on May 29, 2013. The Department of Community and Economic Development (DCED) is the recipient and administrator of CDBG-DR funding for the Commonwealth of Pennsylvania. The Action Plan for this funding was published on August 30, 2016 and the first Substantial Amendment was published on September 22, 2016.

In the Action Plan and subsequent substantial amendment submitted to and approved by HUD, $8.5 million has been set aside to purchase properties subjected to repetitive or severe repetitive flooding or other properties impacted by the storms. This is a voluntary acquisition program. Properties purchased through the Buyout Program will be demolished and the land converted to greenspace in perpetuity.

II. PURPOSE

DCED has entered into a Notice of Subgrant (NOS) with the Pennsylvania Emergency Management Agency (PEMA), in recognition of PEMA’s prior experience and success with Federal Emergency Management Agency (FEMA)-funded buyout programs. PEMA, in turn, will enter into subrecipient agreements with communities participating in the CDBG-DR Buyout Program. The NOS provides $8.365 million to PEMA, $115,000 for administration costs and $8.25 million for the Buyout program projects. DCED has retained $250,000 to cover costs associated with eligibility determinations, reviewing duplication of benefits determinations and determining and providing permanent relocation assistance to tenants under the Uniform Relocation Act.

The purpose of this manual is to set forth program guidance for participating local governments outlining the eligibility, development criteria, submission requirements, program requirements, and regulations governing the use of CDBG-DR funds.

III. AUTHORITIES AND REFERENCES

Subrecipients must comply with the authorities and references included in this section. These authorities and references are also included in the subrecipient agreement executed between PEMA and each local government receiving CDBG-DR funding.

A. Federal

1. Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subparts J and K of these regulations

2. Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288) as amended

3. 76 FR 71060 (published November 16, 2011) regarding duplication of benefit requirements applicable to the CDBG-DR program

4. Establish safeguards to prohibit employees from using official positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties, in accordance with CDBG regulations.

   a. Subpart D – Post Federal Award Requirements
   b. Subpart E – Cost Principals
   c. Subpart F – Audit Requirements

7. Single Audit Act Amendments of 1996

8. Certification by subrecipient’s Contractors, and each tier of subcontractors, that such Contractors and subcontractors are not on the List of Parties Excluded from Federal Procurement or Nonprocurement Programs promulgated in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension,” as set forth at 24 CFR part 24 (CDBG funds may not be provided to excluded or disqualified persons)

9. 2 CFR 200 Uniform Administrative Requirements

10. Section 109 of Title I of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR Part §570.602)

11. Section 104(b) (2) of the Housing Community Development Act of 1974

12. 24 CFR 570.200(c): Special assessments to recover capital costs if imposed

13. 24 CFR Part 570.206(c): Fair Housing Activities

14. 24 CFR Part 570.487(e): Architectural Barriers Act and Americans with Disabilities Act

15. 24 CFR 570.489: Program Administrative Requirements

16. 24 CFR 570.490: Recordkeeping requirement

17. 24 CFR Part 570.487(b): Affirmatively Furthering Fair Housing

18. 24 CFR 570.489(j) regarding change of use of real property

19. 24 CFR 570.491: Performance Reviews and Audits

20. 24 CFR Part 570.49S (b): HCDA Section I 09 Nondiscrimination

21. 24 CFR Part 570.506(g): Fair Housing and Equal Opportunity records

22. 24 CFR Part 570.601: Affirmatively Further Fair Housing

23. 24 CFR 570.603 – Labor Standards and any other regulations issued to implement such requirements (as applicable)

24. 24 CFR Part 570.608 and Part 35: Lead-Based ·Paint


27. 24 CFR Part 70.912: Nondiscrimination compliance


29. Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–3619), which requires administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing.


32. 24 Code of Federal Regulations Part 107: Non-discrimination and Equal Opportunity in Housing Under Executive Order 11063 (State Community Development Block Grant grantees)
33. Davis-Bacon Act (40 USC Section 276a to 276a-7)
34. Copeland Act (40 USC Section 276c and 18 USC Section 874)
35. Contract Work Hours and Safety Standards Act (40 USC Sections 327-333)
37. Hatch Act (5 USC Section 1501-1508 and 7324-7328)
38. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646)
39. National Environmental Policy Act of 1969 (PL 91-190) and 24 CFR Part 58.5 and 58.6
40. 24 CFR Part 121: Collection of Data
41. 24 CFR Part 135: Economic Opportunities for Low- and Very Low- Income Persons
42. Federal Funding Accountability and Transparency Act (FFATA) contract reporting requirements
43. Section 312 of the Stafford Act and 76 FR 71060 (November 16, 2011) regarding duplication of benefit requirements applicable to the CDBG-DR program
44. No federal funding will be used for lobbying purposes regardless of level of government.
46. Federal Register I Vol. 78, No. 103 I May 29, 2013, Department of Housing and Urban Development, and (Docket No. FR-5696-N-03] Allocations, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant Disaster Recovery Funds in Response to Disasters Occurring in 2011 or 2012
47. Architectural Barriers Act of 1968
48. Title IX of the Education Amendments Act of 1972
49. Section 504 of the Rehabilitation Act of 1973
50. Section 508 of the Rehabilitation Act of 1973
51. Age Discrimination Act of 1975
52. Title II of the Americans with Disabilities Act of 1990
53. Housing for Older Persons Act of 1995 (HOPA)
54. Title III of the Americans with Disabilities Act of 1990 (42 U.S.C .A. § 1210I et seq.) accessibility requirements
55. Section 3, Housing and Urban Development Act of 1968 and 24 CFR Part 135
56. Executive Order 11063: Equal Opportunity in Housing, November 20, 1962, as amended by Executive Order 12259
58. Executive Order 12086: Consolidation of contract compliance functions for equal employment opportunity, October 5, 1978
60. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994
62. Executive Order 13217: Community-Based Alternative for Individuals with Disabilities, June 19, 2001
63. Executive Order 13330: Human Service Transportation Coordination, February 24, 2004 And affirms it will comply with implementing regulations for the above:
64. 24 CFR Part 1: Nondiscrimination in Federally Assisted Programs of HUD.
65. 24 CFR Part 3: Nondiscrimination on the Basis of Sex in Education Programs or Activities receiving Federal Financial Assistance.
66. 24 CFR Part 5.105: Other Federal Requirements
67. 24 CFR Part 6: Nondiscrimination in Programs, Activities Receiving Assistance under Title I of the Housing and Development Act of 1974
68. 24 CFR Part 8: Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development
69. 24 CFR Parts 50.4 (I) and 58.5 (J): Environmental Justice
70. 24 CFR Part 91.225 (a) (I): Affirmatively Furthering Fair Housing
71. 24 CFR Part 91.325(b) (5): Compliance with Anti-discrimination Laws.
72. 24 CFR Part 91.520: Performance Reports
73. 24 CFR Parts 100-125: Fair Housing
74. 24 CRR Part 107: Non-discrimination and Equal Opportunity in Housing under Executive Order 11063 (State Community Development Block Grant Grantees)
75. 24 CFR Part 121: Collection of Data
76. 24 CFR Part 146: Non-discrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance

B. State
Subrecipients must comply with all requirements imposed by the State concerning special requirements of law, program requirements, and other administrative requirements; and
1. State Prevailing Wage Requirements (as applicable)
2. Small, minority, veteran, women-owned businesses as applicable.

IV. DEFINITIONS

Acquisition of property and Structure Demolition
The acquisition of an existing at-risk structure and, typically, the underlying land, and conversion of the land to open space through the demolition of the structure. The property must be deed-restricted in perpetuity to open space uses to restore and/or conserve the natural floodplain functions.

Administration Costs
Any indirect costs, administrative expenses, and any other expenses not directly chargeable to a specific project that are reasonably incurred by a Grantee or sub-grantee in administering and managing a grant or sub-grant award. It must be a project line item and detailed in text. PEMA’s administrative costs may not exceed $115,000. All costs incurred by subrecipient are considered project delivery costs and therefore local governments do not receive any funding to cover administration costs.
Applicant

A state agency, local government, or eligible private nonprofit organization, Native American tribe, or authorized tribal organization submitting an application to the Governor's Authorized Representative (GAR) for assistance under the PA CDBG-DR Buyout Program. An applicant becomes a subrecipient upon receipt of financial assistance.

Application

The initial request for Section 404 funding as outlined in 44 CFR 206.436.

Building

A structure with two or more outside rigid walls and a fully secured roof that is affixed to a permanent site; a manufactured home or a travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. “Building” does not mean a gas or liquid storage tank or a recreational vehicle, park trailer, or other similar vehicle.

Clean-site certification

A certification from the appropriate government agency indicating that a site which was subject to a remedial, removal, response or corrective action under Federal or State law is clean from hazardous materials.

Community Development Block Grant – Disaster Recovery (CDBG-DR)

Funding provided to states and local jurisdictions by the U.S. Department of Housing and Urban Development to assist with recovery from Presidentially-declared disasters; the use of which is governed by the Housing and Community Development Act of 1974 and waivers and alternative requirements published in the Federal Register for each disaster.

Construction Date

Date the home was constructed. Use the date the original structure was built. Date additions/out buildings separately.

Declaration

Announcement of a Presidential determination that a natural catastrophe or other occasion or instance has occurred which requires federal assistance to supplement commonwealth and local efforts and resources to alleviate the damage, loss, hardship, or suffering caused thereby.

Disaster Recovery Grant Reporting System (DRGR)

HUD system used by CDBG-DR grantees to drawdown funds and report program income. In addition, each grantee is required to submit an Action Plan in DRGR describing the process that will be used to determine the areas of greatest need; the distribution and eligible uses of funds; a program budget; and the expected outcomes and benefits to low-, moderate-, and middle- income families. Once an Action Plan is approved and the program launched, grantees begin submitting Quarterly Performance Reports (QPRs), which contain information about the uses of funds, activity types, demographics of households benefitted, budgets and locations of activities. QPRs are submitted via DRGR, and the data can then be used by HUD staff to review funded activities, prepare reports to Congress and other interested parties, and monitor program compliance.

Duplication of Benefits

The use of federal disaster-related funds when assistance from another source has been or will be received, or is reasonably available for the same purpose resulting in an amount that exceeds the total need for that purpose. Further guidance clarifying duplication of benefits is contained in FR–5582–N–01, November 16, 2011. Funds not under the control of the property owner are excluded from duplication of benefit calculations.
Dwelling
A building designed for use as a residence for no more than four families or a single-family unit in building under a condominium form of ownership.

Easement
A non-possessing interest held by an entity such as a unit of local government, state, county or utility in the land of another whereby the entity is accorded partial use of such land for a specific purpose. An easement restricts but does not abridge the rights of the fee owner to the use and enjoyment of the land. Easements may be given for surface rights, subsurface rights or overhead rights. For example, the unit of local government may use an easement to obtain rights to construct a storm drain through someone’s property. The easement would give the entity the right to perform maintenance of the facility and would restrict the property owner from placing structures over the facility. The easement would allow the owner to continue to plant grass or otherwise use the property, while saving the unit of local government the costs of having to outright purchase the property.

Elevation
One of the most common mitigation methods is to elevate a flood-prone structure so that the first floor elevation is above a desired design flood elevation (DFE). When the property falls within a FEMA-designated Special Flood Hazard Area, the DFE is commonly established by the Base Flood Elevation (BFE), which is determined from the FEMA Flood Insurance Study. The DFE will always be the BFE or higher. Additional height above the BFE is known as freeboard. The goal of these projects is to elevate all living or occupied space above the level of all but the most severe flood events. This can be accomplished by a number of methods, including elevating the entire structure on the existing foundation, constructing a new structural foundation, or abandoning living space below the DFE and replacing it with new construction at a higher elevation. Although many of these methods can vary significantly in approach, the general information required for a complete grant application is fairly similar.

Emergency
Any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

Facility
Any publicly or privately owned building, works, system, or equipment, built or manufactured, or an improved and maintained natural feature. Land used for agricultural purposes is not a facility.

Flood
Any time two or more normally dry residential or commercial lots are inundated by water.

Flood Insurance Rate Map (FIRM)
A FIRM is a FEMA map that shows areas that have the highest probability for flooding and shows designated Flood Zones and special Flood Hazard Areas. These maps are used to determine if flood insurance is required and what its cost will be to the buyer. Flood risk information presented on FIRMs is based on historic, meteorological, hydrologic, and hydraulic data, as well as open-space conditions, flood control works, and development. To prepare FIRMs that illustrate the extent of flood hazard in a flood prone community, FEMA conducts engineering studies referred to as Flood Insurance Studies (FISs). Using information gathered in these studies, FEMA engineers and cartographers delineate Special Flood Hazard Areas (SFHAs) on FIRMs. SFHAs are those areas subject to inundation by a flood that has a 1-percent or greater chance of being equaled or exceeded during any given year. This type of flood is referred to as a base flood. A base flood has a 26-percent chance of occurring during a 30-year period ... the length of many mortgages. The base flood is a regulatory standard used by Federal agencies, and most states, to administer floodplain management programs, and is also used by the National Flood Insurance Program (NFIP) as the basis for insurance requirements nationwide. More detailed information about FIRMs can be found at www.fema.gov/hazard/map/firm.shtm or order maps at 1-877-FEMA MAP.
Floodplain
Any land area that FEMA has determined has at least a 1-percent chance in any given year of being
inundated by floodwaters from any source.

Floodplain Administrator (FPA)
Local community officials charged with enforcing NFIP regulations that regulate development in the
floodplain.

Floodplain Management
In order for a community to offer flood insurance through the NFIP, the community is required to enforce
certain minimum regulations on development in the floodplain. This management of the floodplain is done
to ensure that flooding problems do not increase and to work towards the reduction in the risk of flooding.
This work is performed by the local communities’ Floodplain Administrator. Floodplain management
consists of an overall program of corrective and preventive measures for reducing flood damage, through
such measures as emergency preparedness plans, flood control works, and floodplain management
regulations.

Floodway
The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to
discharge the base flood without cumulatively increasing the water surface elevation more than a
designated height. Communities regulate development in these floodways to ensure that there are no
increases in upstream flood elevations. These lands have the strictest regulations on them because they
must be reserved in order to pass the 100-year flood without cumulatively increasing the water surface
elevation more than one foot, because it is the area that is needed to move the 1% flood downstream and
out of the homes or businesses that it may have flooded. The floodway also includes all land necessary to
convey a ten-year flood without structural improvements. Private development may not encroach into
floodway limits without construction of a FEMA approved flood control facility that is to be maintained by a
public agency and without first obtaining a Conditional Letter of Map Revision (CLOMR).

Flood Insurance Studies (FIS)
A study done by engineers to determine the level of risk citizens in a certain area have with respect to the
dangers of flooding. The end result of a FIS is flood insurance rate maps that are used to determine the
cost and requirements for the purchase of flood insurance. Flood hazard areas are determined using
statistical analyses of records of river-flow, storm tides, and rainfall; information obtained through
consultation with the community; floodplain topographic surveys; and hydrologic and hydraulic analyses.
The FIS covers those areas subject to flooding from rivers and streams, along coastal areas and lake
shores, or shallow flooding areas. Actual copies of FISs can be ordered from FEMA’s Map Services
Center. The results of the Flood Insurance Study that define flood risk areas for each community are
available in a technical document that provides information used for floodplain management. This is
known as the Flood Insurance Study Report. Regulatory floodways and other floodplain management
information may be shown on a separate flood map known as a Flood Boundary and Floodway Map
(FBFM). If the FBFM for the FIS is available, it is distributed with the Flood Insurance Study report.

Force Account
A local government’s own labor forces and equipment.

Grant
An award of financial assistance which can be to an individual beneficiary (homeowner, tenant, business
owner) or to a local municipality or non-profit to address disaster damage and support recovery efforts.
HUD CDBG-DR funds may also be used as the “local or state match” for other federal funds from FEMA,
Federal Highway Administration (FHWA), Environment Protection Agency (EPA), etc.

Governor’s Authorized Representative
The person empowered by the Governor of the Commonwealth of PA to execute on behalf of the
Commonwealth of PA all necessary documents for disaster assistance.
Hazard Mitigation
Any action taken to reduce or eliminate the long-term risk to human life and property from natural or technological hazards.

HUD – Commonwealth Grant Agreement
A formal legal document between HUD and the Commonwealth of PA stating the understandings, commitments, and binding conditions for assistance applicable as the result of the major disaster or emergency declared by the President.

Improved Property
A structure, facility, or item of equipment which was built, constructed, or manufactured. Land used for agricultural purposes is not improved property.

Increased Cost of Compliance (ICC)
ICC coverage provides payment to help cover the cost of mitigation activities that will reduce the risk of future flood damage to a building. When a building covered by a Standard Flood Insurance Policy suffers a flood loss and is declared to be substantially or repetitively damaged, ICC will pay up to $30,000 to bring the building into compliance with state or community floodplain management laws or ordinances. Usually this means elevating or relocating the building so that it is above the BFE. Non-residential structures may also be flood-proofed. ICC coverage applies solely to buildings and only covers the cost of the compliance measures undertaken.

Independent Cost Estimate (ICE)
Required by 2 CFR Part 200 prior to procuring goods and services, including construction/demolition services. It is a cost estimate secured in advance of the bid to provide a benchmark for assessing the cost-reasonableness of bids. It can be produced by a municipal engineer, third party contractor (not participating in bid process) or generally accepted software (e.g. RS Means).

Letter of Intent (LOI)/Preapplication
A standard form, combining the statement (CDBFG-DR Form 0) of an applicant’s interest in participating in the CDBG-DR program. Form 0 is used to initially screen potential projects for eligibility under the CDBG-DR Buyout Program. (Note: References to applicable forms can be found in each section, and a complete set of required forms can be found in the Appendix to this document.)

Local Unit of Government
Any county, city, borough, township, or other political subdivision within the Commonwealth of Pennsylvania.

Major Disaster
Any natural catastrophe (hurricane, tornado, storm high water, wind driven water, tidal wave, tsunami, seiche, earthquake, volcanic eruption, landslide, mudslide, snowstorm, fire, or drought) or, regardless of cause, any fire, flood, or explosion in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused by the disaster.

Manufactured (Mobile) Home
A structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities.

Match Funds
Funds provided to a State or local government through a Federal grant where the authorizing statute for that grant explicitly allows the funds to be used as cost share for other Federal grants.

Measure
Any mitigation measure, project, or action proposed to reduce the risk of future damage, hardship, loss, or suffering from disasters. The term “measure” is used interchangeably with the term “project” in this plan.

**NEPA – National Environmental Policy Act (PL 91-190)**

The National Environmental Policy Act (NEPA) was passed by Congress in 1970 and established a national policy for the protection and maintenance of the environment by providing a process which all federal agencies must follow. Congress recognized the profound impact that federal actions of the preceding decades were having, and saw the need to declare a federal policy through this act to allow the federal government to maintain and create conditions under which man and nature could exist in productive harmony.

**National Flood Insurance Program (NFIP)**

The program of flood insurance coverage and floodplain management administered under the National Flood Insurance Act of 1968, as amended, to include Biggert-Waters Flood Insurance Reform Act of 2012, the Flood Disaster Protection Act of 1973 and applicable federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.

**Natural Disaster**

Any natural catastrophe, including hurricane, tornado, storm high water, wind-driven water, tidal wave, tsunami, seiche, earthquake, volcanic eruption, landslide, mudslide, snowstorm, fire, or drought.

**Non-Federal Funds**

Financial resources provided by sources other than the Federal Government.

**Non-Residential Structure**

Includes, but is not limited to: small business concerns, places of worship, schools, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, mercantile structures, agricultural and industrial structures, warehouses, hotels and motels with normal room rentals for less than 6 months’ duration, and nursing homes.

**Open Space**

The acquired property in an acquisition project which is maintained for a use that is compatible with open space, recreational or wetlands management practices in perpetuity in order to restore and/or conserve the natural floodplain functions. Because Federal law requires properties acquired with CDBG-DR funds to be maintained as open space in perpetuity and are deed restricted, subrecipients are responsible for oversight in ensuring and enforcing proper land use, and for coordinating with DCED and HUD on any future land use or property disposition issues.

**Open Space Maintenance Agreement Certification**

Forms signed by the local government pursuant to which the local government accepts responsibility for all future maintenance of the deed restricted open space and agrees to maintain the acquired property as open space and to report the property status every three years to PEMA as required by Federal law.

**Open Space Requirement**

The requirement that property acquired for demolition, or property from which a structure is relocated must be dedicated to and maintained as open space in perpetuity.

**Period of Performance (POP)**

The period of time during which the subrecipient and PEMA is expected to complete the grant activities and to incur and expend approved funds.

**Post-Disaster Code Enforcement**
Projects designed to support the post-disaster rebuilding effort by ensuring that sufficient expertise is on hand to ensure appropriate codes and standards, including NFIP local ordinance requirements, are utilized and enforced.

Pre-Flood Market Value
The value of the structure the day before the flood, as appraised by a state certified appraiser.

Private Nonprofit Facility
Any private nonprofit educational, utility, emergency, medical/custodial care facility, including a facility for the aged or disabled, any other facility providing essential governmental type services to the general public, and such facilities on Indian reservations. [See Section 105 of the Housing and Community Development Act of 1974].

Private Nonprofit Organization
Any non-governmental agency or entity that currently has:
1. An effective ruling letter from the United States Internal Revenue Service, granting tax exemption under section 501(c), (d) or (e) of the Internal Revenue Code of 1954; or,
2. Satisfactory evidence from the state that the non-revenue producing organization or entity is a nonprofit organization doing business under state law.

Project
The same as “measure” for the purposes of this plan and used interchangeably with it.

Project Status Database
A consolidated electronic database containing key information regarding CDBG-DR applications.

Public Facility
Any of the following facilities owned or operated by the commonwealth or local government: any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, watershed development, or airport facility; any non-federal street, road, or highway; any other public building, structure, or system, including those used for educational, recreational, or cultural purposes; any park.

Recipient
The government to which a grant is awarded and which is accountable for use of the funds provided. The recipient is the entire legal entity even if only a particular component of the entity is designated in the grant award document. For purposes of this manual, the commonwealth is the recipient.

Retrofitting of Existing Buildings
Modifications to the structural elements of a building to reduce or eliminate the risk of future damage and to protect inhabitants. The structural elements of a building that are essential to protect in order to prevent damage include foundations, load-bearing walls, beams, columns, structural floors and roofs, and the connections between these elements.

Riverine Flooding
Flooding that is the result of creeks and bayous leaving their banks as a result of a heavy rainfall. This is the flooding that is mapped on the Flood Insurance Rate Maps.

Runoff
Run off is the surface water from rainfall not absorbed by the ground that flows in to the local drainage system, and ultimately, streams. The amount of runoff generated is generally a function of the amount of rainfall, the permeability of the soils, ground cover and the amount of land development. Many other factors can also influence the amount of runoff including the size of the watershed, the sequence of storms within the watershed (are soils already saturated from previous rainfall?), evapo-transpiration, and terrain type.
Special Flood Hazard Area (SFHA)

A darkly shaded area on a FIRM or Flood Hazard Boundary Map (FHBM). The SFHA is defined as the land in the floodplain within a community subject to a 1-percent or greater chance of flooding in any given year. An area having special flood, mudflow, or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or a FIRM as Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE, or V.

Specifications and Contract Document

The document prepared by the Project Engineer in the Design Engineering Section which includes a complete description of the hazardous materials remediation, demolition, site clearance, and site reclamation, including contractual obligations of the unit of local government and Contractor as well as the estimated time, costs, and methods and materials to be used, and contains the general provisions, the special provisions, the detailed specifications and any drawings (plans) relevant to the demolition and site reclamation project. The document must also include an Independent Cost Estimate (ICE) of the specified project. This document (without ICE) is used by contractors interested in bidding on the project to determine their probable cost of demolition, by the inspectors to police and control the project and by the surveyors to place the survey control needed to complete site reclamation.

Standards

Codes, specifications, or standards for the construction of facilities, to include legal requirements for additional features. Such standards may be different for new construction and repair work.

Structure Location Map

A legible (a copy on which all landmarks can be easily distinguished) FIRM map which identifies and locates all structure(s) as accurately as possible.

Sub-Grant

An award of financial assistance under a grant by a grantee to an eligible sub-grantee.

Subrecipient

The government or other legal entity to which a sub-grant is awarded and which is accountable to the recipient for the use of the funds provided. Subrecipients can be a commonwealth agency, local government, private nonprofit organization, or Native American Tribe. An applicant becomes a subrecipient upon receipt of financial assistance.

Substantial Damage

"Substantial damage" means damage of any origin (i.e., water, floating debris, fire resulting from a flood, etc.) sustained by a structure from the specific event (i.e., flooding) when the cost of restoring the building to its pre-event condition would equal or exceed 50 percent of the market value of the building (not including the value of the land) before the damage occurred. Substantial damage is determined regardless of the actual repair work performed.

Residential Damage Calculation Form

The form used by the municipality (not the homeowner) to calculate the damage to a structure as a result of the specific event (i.e. flooding). A municipal officer or qualified person contracted by the municipality should sign the “Residential Damage Calculation Form”

Title Search

A search of public records to determine the condition of title to real property.

Type of Structure

Accurate description of the major component used in the construction of the structure. Exterior materials may be wood (may be covered with aluminum siding but is still considered wood) or masonry (usually brick or cement block). Other materials may also be utilized but must be accurately described. Number of Stories describes the number of ABOVE GROUND stories of the structure. If the home is a one story, two story, three story, split level or tri-level home, please note the style of construction. Finally, is there a
basement (Yes or No), and is the basement a finished basement (i.e. living area, game room, etc.), or just a storage and utilities area.

**Watershed**

(1) An area that, because of topographic slope, contributes water to a specified surface water drainage system, such as a stream or river. (2) All lands enclosed by a continuous hydrologic drainage divide and lying upslope from a specified point on a stream; a region or area bounded peripherally by a water parting and draining ultimately to a particular water course or body of water.

**Wetlands**

Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (U.S. ACE 1987). Wetlands generally include (1) swamps, marshes, bogs, and similar areas; (2) lands that are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface of the land and is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following attributes: (1) at least periodically, the land predominantly supports hydrophytes (plants dependent on saturated soils or a water medium); (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.
V. CDBG-DR GRANT PROCESS

1. Presidential declaration.
2. Congressional appropriation of CDBG-DR funding (PL 112-5 AND PL 113-2).
3. Development and publication of Action Plan and Amendments outlining CDBG DR programs.
4. CDBG DR Buyout Program created.
5. PEMA solicits CDBG DR Buyout applications from eligible local governments.
6. DCED enters into Notice of Subgrant (NOS) with PEMA to administer Buyout program.
7. PEMA reviews, prioritizes and selects eligible local governments.
8. Solicit program applications from local governments.
9. PEMA awards grant funds to eligible local governments.
10. Subrecipient identifies properties for voluntary buyout and secures participation by owners.
11. PEMA executes subrecipient agreement with selected local governments.
12. Subrecipient completes environmental review and submits to PEMA and DCED for release of funds.
13. Subrecipient identifies properties for voluntary buyout and secures participation by owners.
14. PEMA evaluates construction of buyout agreement with subrecipients for approval.
15. Subrecipient determines purchase price (pre-storm value duplication of benefits) and acquires property from owner.
16. PEMA awards grant funds to eligible local governments.
17. Structures are demolished and site is cleared.
18. Subrecipient records deed restriction.
19. PEMA inspects completed projects.
20. Subrecipients submit quarterly reports to PEMA.
21. PEMA closes out grant.
VI. BUYOUT PROGRAM ROLES AND RESPONSIBILITIES

The Department of Community and Economic Development (DCED) is the department designated by the Commonwealth to be the grantee for HUD CDBG-DR funds. DCED has entered into a Notice of Subgrant (NOS) with the Pennsylvania Emergency Management Agency (PEMA) to administer the Buyout Program through subrecipient agreements with local units of government. A similar structure was used by PEMA for their FEMA-funded Buyout program.

DCED staff will provide technical assistance to PEMA, review eligibility determinations, and monitor program implementation for project approvals. The following sections clarify responsibilities related to eligibility, cost effectiveness, environmental, and grants management procedures.

A PEMA Responsibilities
1. Designate a Program Manager to administer the CDBG-DR Buyout Program.
2. Designate the Program Manager to coordinate activities and serve as the responsible individual for Buyout project management and fund administration. PEMA will designate additional staff to adequately support the Buyout Program Manager as they see fit.
3. Provide appropriate Commonwealth staff to assist the Program Manager in periodic tasks requiring specific expertise. In situations where expertise is beyond that available within PEMA, the Program Manager will request assistance from DCED, which will coordinate with the appropriate agencies.
4. Administer the Buyout Program consistent with federal, state, and local law and regulations, Federal Register Notices, Waivers and Alternative Requirements, Executive Orders, 2 CRF Part 200, and program policy guidance.
5. Maintain the technical capability necessary to meet its responsibilities to the best of its ability. If at any time PEMA determines it needs additional technical capability, it will notify DCED to request technical assistance.
6. Solicit impacted communities to enter into a Subrecipient Agreement to carry out a program to acquire and demolish residential properties meeting the description provided in the “Overview.” PEMA will be assisted in this engagement activity by DCED.
7. Enter into Subrecipient Agreements with local governments for the implementation of the Buyout Program.
8. Oversee and monitor the implementation of the Buyout Program by Subrecipients.
9. Obtain, review, and process invoices and related documentation from subrecipients to secure reimbursement for allowable expenses of the Buyout Program.
10. Prepare and submit invoices to DCED for reimbursement of allowable costs associated with the program.
11. Submit monthly contractor reports and quarterly reports to DCED on forms provided by DCED that will enable DCED to meet its expenditure and reporting requirements for HUD.
12. Comply with all requirements and assurances of the Notice of Subgrant (NOS) between PEMA and DCED for administration and implementation of the CDBG-DR Buyout Program.
13. Ensure compliance with URA and provide permanent relocation assistance to eligible tenants.

B DCED Responsibilities
1. Monitor all pre-and post-disaster CDBG-DR programs and activities.
2. Designate a program liaison to maintain cooperation and coordination between DCED and PEMA for the duration of the Buyout Program.
3. Provide technical assistance as necessary to assist PEMA to carry out CDBG-DR funded program responsibilities.
4. Conduct periodic compliance and monitoring reviews of the Buyout program activities and projects (including subrecipients) no less than annually.

5. Provide training as needed to PEMA staff and staff from the local units of government conducting the Buyout Program on CDBG-DR regulations and requirements.

6. Assist PEMA to secure local governments as subrecipients for the Buyout Program.

7. Provide staff support to PEMA to ensure that all HUD and OMB requirements are met.

8. Review and approve all Subrecipient Agreements, and review other contracts for compliance with HUD and OMB requirements.

9. Serve as the Authorizing Entity for environmental reviews conducted by subrecipients.

10. Review all invoices for conformity to HUD and OMB requirements, process drawdowns from the US Treasury account and send timely reimbursements to PEMA or the appropriate party.

11. Conduct all required DRGR entries and prepare and submit Quarterly Performance Reports to HUD.

12. Provide permanent relocation assistance services and determine relocation assistance amounts for tenants.

C Local Government (County or Municipal) Responsibilities

1. Designate a Program Agent to serve as the subrecipient contact for the Buyout Program. The Program Manager will be responsible for coordinating planning, grant application, project implementation, communicating with county/municipal government lead agencies, and providing progress reports as required to PEMA and DCED. Designate an individual to serve as subrecipient’s Program Agent and manager for the PA CDBG-DR Buyout project.

2. The Program Agent will compile, maintain, and make available to the PEMA Program Manager, state or federal auditors, or other persons as necessary, the following:
   a. Current rosters of properties participating in the Buyout Program along with current status (e.g., negotiation, acquisition, closed, bid, hazardous materials remediation, utility cut offs, demolition in process, demolition complete, lot cleared, site reclaimed, etc.).
   b. General Information Notice (GIN) to potential homeowner applicants and information about current and time of event tenants to PEMA and DCED.
   c. Completed Environmental Review documentation, notice of publication and Authorization to Use Grant Funds prior to any expenditure of funds (excepting costs related to environmental review and title search).
   d. Independent Cost Estimates, bid and procurement documents, bid tabs, award letters and letters to unsuccessful bidders.
   e. Applicable invoice submission forms with supporting invoices and proof of payment for labor, equipment, and materials.
   f. Time sheets with daily log sheet completed using the applicable form and proof of payment to the employee for labor (cancelled checks for the period when the work was completed or bank statement with electronic funds transfer).
   g. Itemized invoices for purchased materials, contracted work, demolition, and any other eligible expenses.
   h. Duplication of Benefits calculations and documentation for each property to be purchased; including Increased Cost of Compliance (ICC) checks paid to the homeowner by FEMA or the insurance company.
   i. Obtain clear title to each property to be acquired along with a title insurance policy.
   j. Copy of executed subrogation agreement executed at property purchase.
k. Project contract file (to include all documents relating to each project: copies of appraisals, real estate transactions, HUD-1 with proof of payment for eligible expenses listed on the HUD-1, deeds, easement agreements, title company and attorney invoices all financial records supporting eligible expenses, etc.)

l. Quarterly Project Progress Reports (Form 36) submitted to the PEMA Program Manager, indicating the status and completion date for each measure funded, and reflecting any problems or circumstances affecting completion date(s), scope of work, or project costs which are expected to result in non-compliance with the approved grant conditions. (The standardized form will be provided to subrecipients during the fiscal briefing.)

m. Record deed restriction.

VII. IDENTIFICATION AND NOTIFICATION OF POTENTIAL APPLICANTS

A Outreach

1. PEMA, assisted by DCED will initiate outreach to potentially eligible county and municipal jurisdictions.

2. Notifications will be made to all eligible county Emergency Management Agency (EMA) offices and local elected officials through PEMA communication avenues. Electronic notifications will be made to municipal (county and local) governments through the Pennsylvania Association of Township Supervisors (PSATS), Pennsylvania Association of Boroughs (PAB), County Commissioners Association of Pennsylvania (CCAP), Pennsylvania League of Municipalities, and the Pennsylvania House and Senate through PEMA’s Legislative Liaison. A PEMA Press release will be distributed through the Governor's Office of Communications. County Planning Commissions and affected state agencies will also be notified by the PEMA Program Manager. Special outreach by PEMA staff in areas known to have experienced severe, repetitive flooding, and areas prone to flooding with high concentrations of low/moderate income, elderly, disabled and ESL populations.

3. The DCED Program Manager will notify the NFIP Coordinator/State Floodplain Manager (SFPM) and State Historic Preservation Office (SHPO) that CDBG-DR funds have been allocated for a buyout program. The use of Programmatic Agreements to facilitate Section 106 reviews will be considered.

4. The PEMA Program Manager will work with Communications staff to coordinate a general announcement of the availability of the CDBG-DR Buyout Program during scheduled WebEx opportunities and post “How to Apply” information on PEMA’s website as well as a link on DCED’s website. A detailed overview of the program will not be presented at this time; rather, the intent is to create an early awareness of its existence and to indicate that detailed information will be available at a later date.

5. At the discretion of the PEMA Program Manager and in coordination with DCED, a joint DCED/PEMA press release describing the program will be developed and issued. It will include a point of contact for obtaining additional program details and, possibly, an announcement of briefings to be held in the area.

B Identification of Potential Applicants

1. At the conclusion of the outreach process, the PEMA Program Manager will meet with DCED to discuss the anticipated range and types of potential applicants. A detailed program briefing for potential applicants can then be scheduled.

2. This briefing will include, but not be limited to, the following:
   i. General program overview
   ii. Applicant eligibility (NFIP)
   iii. State mitigation priorities
   iv. The selection process
v. Project management
vi. Technical assistance
vii. Nature of funding
viii. Key deadlines

3. The PEMA Program Manager will notify potential applicants of the detailed briefing via direct contact and/or other media, as appropriate.

4. During the briefing, potential applicants will be given an "Application Package" consisting of the following:
   i. CDBG-DR general regulations and guidelines, including eligibility criteria, types of projects, key deadlines, and a point of contact for additional information
   ii. Letter of Intent (LOI)/Pre-Application form (Form 00) for participation in the CDBG-DR Buyout Program and to solicit preliminary information for potential projects
   iii. State-identified priority measures for program funding (Form 17).

VIII. APPLICATION PROCEDURES FOR LOCAL GOVERNMENTS

This section describes the procedures to be used by local governments in submitting an application for funding for the CDBG-DR Buyout Program.

A Letter of Intent/Pre Application

PEMA is responsible for ensuring that all potential applicants are aware of assistance available, submission of those documents necessary for grant award, and providing technical advice and assistance to subrecipients. The PEMA Program Manager will have primary responsibility for ensuring that all applications are properly completed for submission to PEMA. The Program Manager will review each application for eligibility in accordance with Section 9, below. The Program Manager is responsible for obtaining additional information from applicants, if necessary, and notifying them of ineligible projects.

1. Potential applicants will be given a deadline to submit their LOI/Pre-Application to the PEMA Program Manager. This time limitation may be extended by PEMA when justified and requested in writing by the applicant.

2. Applicants will be given a deadline to submit their completed Project Application Form (Form 6) to the Program Manager. Applications were preceded by the Letter of Intent/Pre-Application form.

3. Upon receipt of the LOI/Pre-Application, the Project Manager will perform an eligibility review and notify potential applicants of the date, time and location of any applicants' briefings relative to the Buyout Program. The LOI/Pre-Application is located on PEMA’s webpage for applicant use. PEMA will provide necessary applications briefings via face-to-face (preferred method) or WebEx.

4. Those applicants who have submitted pre-applications determined to have been ineligible during the review will be invited to an applicants’ briefing and given technical assistance/advice regarding how to achieve program eligibility.

5. Submission dates and response times will be included in all applicant notices, briefings and requests for additional information.

B Application Processing

1. All potential subrecipients are required to submit a full application (Form 6) along with a Designation of Program Agent (Form 3). The Application Guide (Form 2) and the Application Checklist (Form 1) will assist applicants to submit a complete application. All of these documents are included in the Appendix.

2. To be eligible for assistance the subrecipient must (1) be located within the declared disaster areas which includes the following eligible counties: Adams, Bedford, Berks, Bradford, Bucks, Chester, Columbia, Cumberland, Dauphin, Delaware, Huntingdon, Juniata, Lackawanna, Lancaster, Lehigh, Lebanon, Lycoming, Luzerne, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Schuylkill, Snyder, Sullivan,
Susquehanna, Tioga, Union, Wayne, Wyoming, York; and (2) have documented proof of an impact that occurred as a result of the Presidentially declared disaster in the proposed buyout area, as determined by condemnation, flood levels and/or status as beyond reasonable repair for each property.

3. Upon receipt of a project application, the PEMA Program Manager will review the project application to ensure all information required for determination of eligibility is completed. Incomplete projects will be returned to the applicant for completion.

4. Correspondence on each project will be with the applicant Program Agent and the senior elected official who submitted the project.

5. The PEMA Program Manager will log the project into the grants management system and assign a Project Identification Number (PIN) to each application. The PIN will consist of a two-digit county designator, followed by a number indicating the sequence in which the application was received.

6. Priority will be given to the acquisition and demolition of floodplain properties and structures. Projects will be evaluated on the basis of their ability to substantially reduce the risk of future damage, hardship, loss, or suffering resulting from a major disaster.

7. Acquisition projects may be further prioritized by the amount of substantial damage, which the municipality must demonstrate by documenting that the project:
   a. Addresses a problem that has been repetitive, or a problem that poses a significant risk to public health and safety if left unsolved.
   b. Has been determined to be the most practical, effective, and environmentally sound alternative after consideration of a range of options.
   c. Contributes to a long-term solution to the problem it is intended to address.
   d. Considers long-term changes to the area and entities it protects, and has manageable future maintenance and modification requirements.

To be eligible for CDBG-DR funding, the property must be a primary residence or 1-4 unit rental property that is either a (1) severe repetitive or repetitive flood loss property (defined as having experienced flood damage during at least two events and one of them includes either Hurricane
Irene or Tropical Storm Lee) or (2) located in Harrisburg and damaged due to a sinkhole that occurred as a result of Tropic Storm Lee. Property owners must not have already participated in and received assistance from the PEMA Unified Hazard Mitigation Grant Program.

8. PEMA will:
   a. Perform eligibility reviews of complete project applications from applicants per the grant guidelines and federal eligibility requirements.
   b. Ensure all proposed projects are consistent with current codes, standards, and permit requirements.
   c. Ensure all costs included in the individual project budgets (including those to be funded by non-federal funds) are eligible costs for funding under CDBG-DR.
   d. Provide DCED with a list of names and addresses of potential acquisition and elevation projects for Duplication of Benefits (DOB) verification. PEMA will conduct individual assistance and NFIP claim payment reviews for individuals and structures within a CDBG-DR application, and DCED will review and verify.
   e. Ensure that no duplication of federal programs exists.
   f. Ensure that CDBG-DR funds are not used to duplicate amounts available from any other source including insurance, legal settlements, or other financial sources. PEMA shall ensure that any DOB not documented with eligible receipts is deducted from the CDBG-DR property acquisition purchase offer. PEMA shall research the Other Needs Assistance (ONA) awarded to any homeowners approved for the CDBG-DR project and determine if any portion of the ONA grants should be considered as DOB.

9. Ensure no commingling of federal funds exists. Federal funds will be kept separate and accounted for separately from non-federal funding sources and the budget will outline what is being paid from federal funds versus non-federal funding sources. DCED will:
   a. Review the state’s eligibility determinations based on data as part of the project applications provided by PEMA. Conduct duplication of benefits (DOB) analysis by consulting the following databases: FEMA, NFIP, Emergency Minimal Repair assistance database and private insurance real property settlements.
   b. See Form 25 (Duplication of Benefits) for clarification of what is considered a duplication of benefits and what is not.

C Application Review Procedures

Following determination of project eligibility, the PEMA Program Manager will check to ensure each application contains:

1. Name of the applicant
2. State or local contact for the Buyout project
3. Location of the project
4. Description of the Buyout project
5. Cost estimate for the measure
6. Analysis of the measure’s ability to reduce risk
7. Minimum project criteria:
   a. Work schedule
   b. Justification for selection
   c. Alternatives considered
9. A narrative describing how the project benefits the designated disaster areas, and an analysis of projected potential damages if the hazard is not addressed.

10. Information sufficient to determine the extent to which the project will solve the problem it is intended to address, and the status of any associated dependent or supporting projects:
   a. A brief history of previous occurrences of the problem the project addresses, including dates and impact of each.
   b. Information sufficient to allow a comparison of the cost of the project versus the anticipated value of future damage reduction.
   c. Documentation comparing the proposed project to alternatives considered.
   d. An estimate of the effective life of the project and a list of influencing factors.
   e. An analysis of any pertinent demographic and physical changes to the area or facility to be protected by the project, and a description of any future maintenance or modifications the project may involve.

IX. PROJECT EVALUATION AND PRIORITIZATION

If the number and cost of Buyout projects exceeds the amount of funds available for such activities, all eligible Buyout applications will be scored and the highest scoring applications will be funded. The Application Evaluation Review Checklist (Form 17) includes the scoring criteria including the number of points awarded for each criterion. These criteria include:

1. Experience successfully carrying out previous buyout project(s)
2. Government participation in FEMA’s National Flood Insurance Program (NFIP)
3. Project feasibility and reasonableness of operational and maintenance costs
4. Adequate monitoring, financial and grant management systems
5. Sufficient staff and financial capacity to support program
6. Demonstrated proof of eligible disaster’s impact in program area
7. If project meets the low-moderate income area benefit (preference is given to projects that meet this criterion)
8. Project area located in 100-year floodplain or designated floodway
9. Project will solve a repetitive problem or address one that poses a significant risk if left unresolved
10. If all structures identified for acquisition are substantially damaged (at least 50 percent of pre-disaster fair market value in damages; priority given to projects where all structures are substantially damaged)
11. Project’s potential to prevent loss of life
12. Project’s potential for preventing damage to homes and businesses
13. Project budget adequately details all costs associated with successful completion of program
14. Program work schedule is reasonable and attainable
15. Selection process that considers extent to which the projects funded will solve the problem it is intended to address

X. ENVIRONMENTAL REVIEW

DCED as the HUD grant recipient is the responsible entity to ensure that all projects are undertaken in compliance with 24 CFR Part 58, Section 106 of the National Historic Preservation Act of 1966 and associated environmental and historic review requirements. DCED in their capacity as a responsible...
The subrecipient will enter into a Notice of Subgrant with PEMA to administer the CDBG-DR program with grants to local municipalities (subrecipients). The Subrecipients will be responsible to fully comply with CDBG-DR environmental and historic review requirements prior to PEMA authorizing disbursement of funds. DCED’s Environmental and Historic Review Program staff will be the lead contact for questions that subrecipients may have regarding Part 58 requirements and compliance.

The subrecipient will perform the environmental and historic reviews compliant with 24 CFR Part 58 and Section 106 of the National Historic Preservation Act of 1966, respectively and provide the final documentation and checklists to DCED.

The use of CDBG-DR funds requires that an environmental review record is developed for every project that is the beneficiary of these federal dollars. The environmental reviews for the Buyout Program may be performed by the Subrecipient. The Subrecipient’s environmental review record will fully comply with 24 CFR Part 58 and Section 106 of the National Historic Preservation Act of 1966, requirements. An environmental assessment is the required level of environmental review because of the change in land use. The acquired lands will convert to open space and remain as open space in perpetuity through a deed restriction.

The subrecipient's environmental review approach is a community wide environmental assessment based on the geographic area designated and type of activity (acquisition and demolition with the acquired properties to be owned by the local jurisdiction and used for open space and passive recreation).

The subrecipient conducts the following steps within the NEPA environmental review process to establish the Environmental Review Record (ERR): desktop assessments; field assessments; and the additional levels of assessment required to support an environmental review and determine environmental clearance for the purchase and demolition of each property. The Pennsylvania State Historic Preservation Office (PA SHPO) reviews projects in accordance with state and federal laws. Section 106 of the National Historic Preservation Act of 1966, and the implementing regulations (36 CFR Part 800) of the Advisory Council on Historic Preservation, is the primary federal legislation. The Environmental Rights amendment, Article 1, Section 27 of the Pennsylvania Constitution and the Pennsylvania History Code, 37 Pa. Cons. Stat. Section 500 et seq. (1988) is the primary state legislation.

The subrecipient assumes responsibility for compliance with the environmental review process mandated by the use of HUD federal funds, including Section 106 of the National Historic Preservation Act and its regulations (36 CFR Part 800). The subrecipient must make efforts to identify the presence of historic properties (defined as those eligible for or listed in the National Register of Historic Places) in the project area and determine the effect of the project on those properties in consultation with the State Historic Preservation Office. In accordance with the Programmatic Agreement in place between DCED and the PA State Historic Preservation Office, the subrecipient will provide information regarding each project to the PA SHPO for review prior to project initiation.

Project information will include a written project description demonstrating the project purpose and need, photos of all buildings on the property, a city or borough or USGS quad map with the project location clearly marked, ground disturbance plans and a Section 106 Consultation Form for DCED Administered HUD Programs. The PA SHPO may request additional information for properties which have the potential for National Register eligibility.

The PA SHPO will provide a signed copy of the Consultation Form for each project reviewed and will notify the Sub-recipient of any projects which require additional consultation or mitigation of adverse effects including the creation of a Standard Mitigation Measures Agreement or a Memorandum of Agreement with the PA SHPO. Receipt of a signed Consultation Form with a No Effect or No Adverse Effect finding provides proof of satisfaction of the Section 106 review process and no further action by the Sub-recipient is required. The Consultation Form should be added to the project Environmental Review Record.

The subrecipient certifies their Environmental Review Record (ERR) and Historic Review; and prepares the ERR for the signature of the Responsible Entity. The executed Environmental Review Record is published as a legal advertisement in a newspaper with regional coverage and as a display advertisement in a regionally published Spanish publication (if applicable). Public comments are solicited.
during the HUD and subrecipient dual fifteen (15) day public comment period. Proof of publication for the required notices is retained in the ERR file.

Note: If the presence of an underground storage tank (UST) is found during the environmental assessment then, pursuant to Commonwealth requirement (confirm), the removal and disposal of the UST is added to the scope of the demolition and clearance work.

The DCED environmental review concludes with HUD’s issuance of an Authorization to Use Grant Funds. An issuance of an Authorization to Use Grant Funds from HUD or DCED completes the environmental review and allows the buyout process to proceed. If a property does not receive environmental clearance, CDBG-DR funds may not be used for reimbursement of the purchase of the home by the State.

A DCED Responsibilities

DCED has assumed responsibility for the environmental review compliance. DCED’s chief executive officer or other appropriate officer consents to assume the status of a “responsible federal official” under the National Environmental Policy Act of 1969 (NEPA) P.L. 91-190 (42 U.S.C. 4321 et. seq.).

HUD responsibilities under Part 58 are very limited. HUD will receive the Request for Release of Funds and Certification (HUD form 7015.15) from the responsible entity, accept public comments during the HUD public comment period, and approve the use of HUD assistance through the Authority to Use Grant Funds (HUD form 7015.16). HUD will also periodically conduct in-depth monitoring of responsible entities’ environmental review records.

B Community Responsibilities (as Subrecipient)

The subrecipient will assume responsibility for environmental review, decision-making and action under NEPA and HUD regulations at 24 CFR Part 58. Subrecipients will be required to provide PEMA documentation from DCED (the Authority to Use Grant Funds - AUGF) that the environmental review requirements for a specific property are met prior to releasing any funds to the subrecipient. DCED’s and the subrecipients’ requirements are further defined in their Environmental Review policies and procedures.

Due to change in use the level of environmental review required is **Environmental Assessment** (due to change of use). The steps in Environmental Assessment process are as follows:
1. Ensure that all environmental permits will be obtained to comply with DCED and Pennsylvania Department of Environmental Protection (DEP) Chapters 105 and 106 administration and regulatory requirements.

2. Complete tiered environmental review of selected properties. The Environmental Assessment

3. Complete Section 106 Historic Review and submit to Bureau of Historic Preservation for clearance.

4. Publish Finding of No Significant Impact (FONSI) and Request for Release of Funds (RROF).

5. Submit to DCED for Certification of Responsible Entity and Authority to Use Grant Funds (AUGF)

6. Coordinate as necessary with the county conservation districts and planning commissions.

7. Comply with all asbestos, lead abatement and underground storage tank regulations.

8. Comply with all local, state, and federal disposal and landfill regulations.

C PEMA Responsibilities

1. Coordinate with FEMA early in the project development process, to determine if projects have been subject to prior FEMA environmental review and may be exempt from additional Part 58 review.
2. Coordinate with state agencies early in the project development process if extraordinary circumstances arise or if other state or federal laws apply.

XI. UNIFORM RELOCATION ACT (URA) CONSIDERATIONS

The full Uniform Relocation Act – Permanent Displacement Policies and Procedures are in a separate document which can be provided to subrecipients as requested. This section includes a summary of the Permanent Displacement process highlighting the role of PEMA and the subrecipients with respect to URA.

All acquisitions in the Buyout Program must be voluntary and at the discretion of the property owner, therefore the owner-occupant is not eligible for relocation assistance. The policy provides for the provision of relocation assistance to any person as defined at 49 CFR 24.2 (a) (9) (i) that is permanently and involuntarily displaced as a result of a Federally-assisted project involving acquisition, demolition and/or rehabilitation of real property. Involuntarily displaced persons for the purposes of PA’s CDBG-DR Buyout Program includes tenants.

The DCED Relocation Specialist, a contractor hired and managed by DCED program staff, is responsible for working with each property owner to assist in complying with the URA requirements. The DCED Relocation Specialist will review URA eligibility and determine:

- Reimbursement for moving expenses; and
- Payment for the added cost of renting or purchasing comparable replacement housing.

The subrecipient is responsible for the payment of all Replacement Housing Payments and related moving expenses for permanent involuntary displacement associated with the acquisition and demolition of Federally-assisted PA CDBG-DR Buyout Program properties.

The policy provides for the provision of relocation assistance and appropriate advisory services to any person as defined at 49 CFR 24.2 (a) (9) (i) that is permanently and involuntarily displaced as a result of a Federally-assisted project involving acquisition, demolition and/or rehabilitation of real property. Involuntarily displaced persons include any tenants who are living in the selected properties at the time the owner makes application to the program and can verify they were occupants for a minimum of ninety (90) days prior to the date of the application. Any references to tenants herein will also apply to an individual and/or individuals who was occupying an applicable unit (or rented room) at the time of the storm (or for Harrisburg project properties at the time of the sinkhole event). Homeowners are required to attempt to track down tenants at the time of the event. Displacement does not apply to tenants or boarders that voluntarily vacated the rental unit after the storm (or sinkhole) or to renters legally evicted for good cause.

The subrecipient contacts interested homeowners to determine if the units (or rented rooms) are currently occupied or have been occupied up to ninety (90) days before the date of application to the program or at the time of the federally-declared disaster. If so, the subrecipient verifies that the General Information Notice (GIN) was provided to the tenants. If not, the subrecipient explains the GIN process to the homeowner(s) who are responsible to notify the tenants and obtain the required acknowledgement of receipt.

Once the GIN acknowledgement receipt is received, the subrecipient submits copies to PEMA of either the certified mail return receipt signed by the tenant or a tenant acknowledgement letter, if the GIN was hand-delivered by the landlord. If this acknowledgement is not received within thirty (30) calendar days from delivery of the GIN, the subrecipient contacts the property owner to follow up.

The buyout process cannot progress until the tenant acknowledges receipt of the GIN. If the tenant acknowledgement is not received within sixty (60) calendar days from delivery, the application is deemed incomplete and the homeowner is notified that their application for a buyout purchase cannot move forward until the tenant acknowledges receipt of the GIN.

Once it is determined that a property has tenants that will be permanently and involuntarily displaced and in need of relocation assistance, the subrecipient refers the application to PEMA who in turn notifies the DCED Relocation Specialist for relocation assistance processing. A DCED Relocation Specialist is
assigned to work with the property owner and tenants to ensure relocation assistance (advisory services, notices, counseling, and housing search assistance) is provided.

The subrecipient provides the GIN acknowledgment receipt to the DCED Relocation Specialist along with Notification of Possible Tenant Dislocation Form. Once the subrecipient determines that the potential buyout is approved for property acquisition, the subrecipient notifies the DCED Relocation Specialist who moves forward with the relocation assistance process.

XII. PROJECT ADMINISTRATION

1. DCED has determined that no administration costs will be provided to the Subrecipients.

2. DCED has provided some administration funding to PEMA that will be used to monitor and oversee subrecipients and provide technical assistance to subrecipients carrying out buyout activities. PEMA is required to submit, no later than 120 days after the expense is incurred, documentation to support costs and activities for which administration cost funding will be used.

3. Direct management costs incurred by PEMA that can be assigned to a specific project such as inspections, construction oversight, and working with home owners will be included in the project budget. PEMA is required to submit, no later than 120 days after the expense is incurred, documentation to support costs and activities for which management cost funding will be used.

4. The documentation for both project administration costs and direct management costs that can be identified to a specific project must include:
   a. A description of activities, personnel requirements, and other costs for which PEMA used funding.
   b. The grantee’s plan for expending and monitoring the funds provided under this part, and ensuring sufficient funds are budgeted for grant closeout.
   c. Full Time Commonwealth Employees (FTE) and Annuitants are required to properly annotate the Commonwealth of Pennsylvania Time and Leave Sheet to account for time charged to the management of the Buyout Program. Charged time should be accounted for in .25 hour increments, and the time sheet must be annotated to indicate the total hours chargeable to this disaster’s Management Cost. Eligible time includes assisting subrecipients in project/plan development, application review, site visits, inspections, processing reimbursements, updating appropriate data records, meeting with homeowners, etc.

XIII. GRANT ADMINISTRATION

A PEMA Responsibilities

1. Conduct outreach to identify communities interested in participating in the Buyout Program.

2. Assist subrecipients to meet the non-federal cost share.

3. Assist interested communities with the application process.

4. Assure that adequate training is provided to Subrecipients to ensure they will be able to comply with all State and Federal regulations and requirements.

5. Receive Authorization of Grant funds prior to approving project commencement.

6. Review and approve the process that each subrecipient will use to:
   a. Identify and acquire properties
   b. Procure contractors for hazardous material remediation, demolition and site reclamation
   c. Conduct Duplication of Benefits analysis.

7. Provide quarterly reports to DCED (Form 36 - Subrecipient Quarterly Progress Report)

8. Provide DCED with a status of individual properties acquired and demolished.
9. Conduct a final site visit for each approved project and provide closeout/reconciliation information to DCED.
10. Request extensions as necessary from DCED.
11. Conduct three (3) year monitoring as required 3 CFR Part 80.

**B DCED Responsibilities**
1. Review all Subrecipient agreements.
2. Review and process all funds requests.
3. Oversee all activities under Uniform Relocation Act.
4. Assume responsibility for all DRGR entries.
5. Collect and compile data for submission to HUD for Quarterly Progress Reports.

**XIV. SUBRECIPIENT ALLOCATION/APPROVAL**
1. For allocation of disaster funding (CDBG-DR) through both PL 112-55 and PL 113-2 all funding for Buyout programs will be allocated in one funding round. Eligible local governments will be required to compete for those funds through a competitive application process. A Buyout Program team including participation from both PEMA and DCED staff will be convened and tasked to review all eligible applications and develop a rank-order list for project funding (assuming more requests than available funds). PEMA will fill out the Application Evaluation Review Checklist (Form 17) for all applications in order to establish priority for funding.
2. Subrecipients shall submit applications to PEMA no later than the established deadline date.
3. Upon completion of review for eligibility, applications are evaluated and rank ordered by the PEMA Program Manager.
4. PEMA will assign a PEMA staff person who will serve as the applicant’ primary point of contact throughout the approval process.
5. Upon receiving a project assignment, PEMA will conduct a completeness review of the application to verify that it contains all required information using the CDBG-DR application review checklist (Form 17: Application Review Completeness Checklist).
6. Should Buyout Program staff determine that additional information is required from the applicant, it is their responsibility to collect such data.
7. PEMA will advise the applicant in writing when the project has been approved or disapproved.

**XV. REIMBURSEMENTS OF FUNDS**

The CDBG-DR Buyout Program is a reimbursement program only. As such, all Funds Requests will be required to have supporting documentation of an invoice for materials provided or services performed. PEMA and DCED will make every effort to expedite payment on all Funds Requests. This can be accomplished most effectively if each Request for Funds is accompanied by the required documentation. A subrecipient does not need to have paid the invoice, but must produce evidence that the goods have been purchased or the services provided.
5. All reimbursements to the subrecipient will utilize the Electronic Fund Transfer (EFT) system and payments will be made within 4-6 weeks.
6. As approved work for projects is completed, and based on the approved budget, Subrecipients may request reimbursement of actual costs incurred for eligible work. Acquisition and demolition projects may request reimbursement of actual costs incurred for eligible work up to the full 100 percent of the project costs.
a. When requesting funds, Subrecipients will submit Form 33: Subrecipient Request for Payment detailing costs for each separate project. Request for Payment Requests will be accompanied by documentation of the expenditure and any additional narrative required to support the request. When requesting reimbursement of costs in advance of payment by the local community, Subrecipients must include a copy of an encumbrance for those funds, such as a property appraisal in the case of an acquisition project, or a signed contract and invoice for a demolition project.

b. Pursuant to Federal Regulations, once payment is received from CDBG-DR, subrecipients have 72 hours to disburse funds to vendors. This timeline does not apply in instances where the subrecipient has already paid municipal funds and it reimbursing itself.

c. Each Request for Reimbursement will be reviewed by PEMA prior to payment authorization and before being forwarded to DCED for payment.

d. Payment for construction activities (i.e. demolition and site reclamation) will include a 10% retainage, to be released upon receipt of satisfactory final inspection by PEMA’s program staff.

e. Final payments (including retainage) will be made after completion of required final inspections and financial reviews.

DCED audit staff will ensure that subrecipients are in compliance with 2 CFR §200.508 - §200.512 as it pertains to Single Audit requirements for subrecipients.

XVI. CDBG-DR DRAWDOWN PROCEDURES

1. PEMA notifies DCED of project approval by inter-office mail or email.

2. DCED creates activity in DRGR.

3. Buyout Program Manager prepares project fiscal file, and notifies applicant of project approval by fax followed by hard copy letter from the PEMA.

4. Program Manager makes copy of obligation report and approval letter, places copy in fiscal file, and gives original to Fiscal Team Leader for processing and invoice preparation if necessary.

5. Program Manager conducts fiscal briefing, gives applicant financial management packet, and informs applicant of responsibilities and requirements.

6. Subrecipient submits Request for Payment (Form 33) to PEMA.

7. Program Manager makes copy of form, places in fiscal file, and reviews request to determine if reasonable and within project approved scope of work.

8. Program Manager makes payment approval/disapproval recommendations to DCED, who either concurs or does not concur with Program Manager’s recommendation.

9. Upon DCED approval, PEMA creates an invoice in SAP system which creates an invoice #.

10. Funds Request is submitted to DCED’s Grants Management Division (GMD).

11. DCED obligates funds in DRGR and includes a copy DRGR report with the project Invoice # and support documentation.

12. Comptroller submits invoice to the Treasury Department.

13. Treasurer system accepts EFT information for applicant, and transfer is processed.

14. The Subrecipient will receive an electronic payment within four to six weeks. If the sub-grantee has not received the payment by the seventh week, they should inquire through the PEMA Program Manager to initiate an inquiry to the Comptroller regarding payment status.

15. The Treasury Department makes electronic transfer and notifies DCED GMD, who then posts payments in the DRGR system.
16. DCED prepares and submits Quarterly Progress Reports (QPRs) to HUD.

PEMA receives invoice from sub grantee (DCED and PEMA staff performs joint review of the invoice request)

PEMA creates an invoice in SAP

PEMA gives the invoice and support documentation to DCED staff
Identifying Invoice Number

DRGR SYSTEM REQUIREMENTS
DCED staff sends info to DCED compliance staff

DCED Compliance Staff creates voucher in DRGR

Comptroller approves voucher

Funds are drawn from DRGR from Federal Treasury and deposited in State Treasury, to reimburse state account.

TREASURY DRAW PROCESS
DCED staff returns invoice back to PEMA financial division with approval

PEMA financial division submits invoice via SAP to Comptroller

Comptroller submits invoice to Treasury

Treasury makes payment to grantee

Comptroller notifies DCED Compliance Staff of payment. DCED staff post payment in DRGR
XVII. **FINANCIAL MANAGEMENT**

A  **Documentation and Record Keeping (Subrecipients)**

1. Following PEMA approval of a project application, the Program Manager will contact the subrecipient and schedule a fiscal management briefing. During the briefing, the Program Manager will provide a packet containing the necessary forms for tracking project costs, such as but not limited to:

   a. Force Account Activity Worksheet (Form 29)
   b. Activity Worksheet for Outside Contractor/Vendor Invoices (Form 30)
   c. Subrecipient Advance Request Letter (Form 32)
   d. Subrecipient Request for Payment (Form 33)
   e. Summary of Costs Worksheet (Form 34)
   f. CDBG-DR State Fiscal Briefing Checklist (Form 35)
   g. Subrecipient Quarterly Progress Report (Form 36)
   h. FFATA Contractor Reporting Template (Form 37)

2. During the briefing, each form in the packet will be reviewed and explained in detail. Correct and complete documentation will be emphasized, and initialed off by the Subrecipient. Duplication of Benefits policy (Form 25), as administered by the commonwealth, will be reviewed for all CDBG-DR acquisition/demolition projects.

3. A separate fiscal file for each project should be established since subrecipients will be required to request reimbursement by Project Identification Number (PIN), to be established by the Program Manager for each project.

4. Following application approval, the Program Manager or his/her representative will visit each Subrecipient in a timely manner to provide necessary technical assistance in documentation maintenance, and to assess the progress of scheduled work.

5. Record maintenance and retention guidelines are incorporated into the PEMA Subrecipient Agreement (Form 18).

6. Individual project files will be opened, beginning with an applicant’s initial LOI and CDBG-DR Preapplication (Form 0). Thereafter, the Buyout Program application, correspondence, authorizations, and all documentation will be maintained in a project file by the designated Program Manager. Before and after pictures must be taken and maintained in each project file.

7. A project fiscal file will be opened upon project approval and obligation of funds. The fiscal file will also contain the PEMA Subrecipient Agreement (Form 18).

8. All Subrecipient Request for Payment (Form 33), Quarterly Reports (Form 36), disbursements of state and federal funds, all related correspondence, and final project completion and closeout authorization. Project files for PEMA and subrecipients must be maintained for eight years after the entire HUD grant has been closed out. This timeframe is extended for any project under litigation or incomplete audit with findings.

9. The declaration master file is maintained by the PEMA Executive Office and DCED.

B  **Post-Approval Requirements**

1. **Procurement**

   Subrecipients must comply with all applicable federal and state laws governing procurement of goods and services. Engineering contracts must be awarded based on competitive bidding. (See Section XVIII, C for additional detail.)

2. **Plans and specifications**
Plans and specifications will be reviewed by PEMA prior to contract award. If there are any deviations from the plans submitted and approved by PEMA in the original application, PEMA will perform a technical engineering review prior to the contract award.

3. Progress Reports
   a. Subrecipients will be required to submit Subrecipient Quarterly Progress Reports (Form 36) no later than January 10, April 10, July 10, and October 10 of each year until project closeout. The report will indicate the status and anticipated completion date for each project funded. Any problems or circumstances affecting completion dates, scope of work, or project costs which are expected to result in noncompliance with the approved grant conditions shall be described in the report. Addendum sheets will be used as necessary. Failure to submit required reports will result in the withholding of future reimbursements until compliance is achieved per the PEMA/Subrecipient Agreement.

4. Grantee Oversight
   a. PEMA may conduct periodic on-site project reviews as necessary, but no less than once annually.
   b. Project activity and progress will be monitored through review of “Requests for Reimbursement”, Quarterly Reports, routine telephonic contact between subrecipient’s Program Agent and Program Manager, and on-site visits as needed. During the early stages of project development and approval, the Program Manager will contact the subrecipient’s Program Agent at a minimum once every three weeks to monitor and address any questions or concerns.
   c. The progress of all Buyout projects will be monitored initially through the submission of quarterly progress reports as provided for under federal regulation. Assistance field visits will also be scheduled on an “as needed” basis. If appropriate progress is not made for a period of three months, intensive project management will be instituted by PEMA and/or DCED. If appropriate progress is not made after another six months, PEMA will begin procedures to recoup CDBG-DR funds from the subrecipient.

5. Review Procedures for Single Audit Reports
   a. DCED shall evaluate municipal audit submissions to determine acceptability for program purposes by verifying that all funded programs are properly included on the applicable financial schedules, that findings affecting the municipality contain sufficient information to facilitate a management decision, and that the subrecipient has submitted an adequate corrective action plan, if indicated.
   b. DCED shall notify Subrecipient, in writing, of report’s acceptability, or if found unacceptable, of those actions which must be taken to gain acceptance.
   c. DCED shall monitor subrecipient implementation of corrective actions to ensure that they proceed as rapidly as possible.
   d. DCED shall report any extreme exceptions or adverse findings noted in the Single Audit Report to the proper federal and state agencies and appropriate authorities.
   e. Repeat this procedure annually as long as the subrecipient meets the Single Audit threshold of 2 CFR 200.501.

C Time Extensions
1. Most projects funded under this program will be of a permanent nature and can be expected to be completed within 6 months from the date of the application. Should an extension be necessary, the subrecipient will submit a written request to PEMA who will forward it to DCED no later than 90 days prior to scheduled completion date. The request must include:
   a. CDBG-DR Grant Award number
   b. Reason(s) for delay
c. Original scheduled completion date
d. New scheduled completion date
e. Dates and provisions of any previous extensions

D  Cost Overruns

1. In the event that actual project costs are exceeding the approved estimates, the subrecipient shall advise PEMA in writing and furnish appropriate justification for the overrun.

2. The Project Manager shall evaluate each cost overrun. Those cost overruns which can be met without additional federal funds, or which can be met by offsetting cost under-runs on other projects, may be approved as long as the full scope of work on all affected projects can still be accomplished. Requests that are not justified will be denied.

3. For justifiable cost overruns which require additional funds, the PEMA shall submit a request with a recommendation to DCED for a determination. The subrecipient’s justification for additional costs and other pertinent material shall accompany the request. Cost overruns can only be funded by identifying an equivalent cost under-run in a previously approved project under a CDBG-DR grant.

4. The Program Manager shall notify the Subrecipient in writing of the determination and process an amendment to the Subrecipient Agreement, if necessary.

5. Problems or circumstances affecting project costs shall be identified through the quarterly progress reports required.

E  Scope of Work Changes

1. The subrecipient will notify the Program Manager of any perceived change to the original scope of work if it becomes necessary, as soon as identified. This written notification must include:
   a. CDBG-DR Grant Number
   b. Reason(s) for the change as supported by appropriate justification and any relevant documentation (e.g., photographs, standards, etc.)
   c. Estimate of additional cost
   d. Original scheduled completion date
   e. New projected completion date

2. The Program Manager will evaluate the proposed change(s) and, if necessary, ask PEMA or DCED staff to perform a technical review.

3. The change request and PEMA’s recommendation will be submitted to DCED after evaluation of all available information. DCED evaluates recommendation and notifies PEMA of decision.

4. The Program Manager shall notify the Subrecipient in writing of the determination and process an amendment to the Subrecipient Agreement, if necessary.

F  Compliance Monitoring

All open projects will receive at least one on-site inspection annually. Following completion of demolition and site clearance all acquisition project sites will be monitored every three years to ensure the integrity of the “open space in perpetuity” provisions of Local Maintenance Compliance Letter (Form 5).

PEMA will maintain a database incorporating acquisition site information into existing GIS technology and open space compliance confirmation will be verified, in writing, by the applicable municipalities. PEMA will submit unmet needs in this effort to DCED.

G  Appeals

1. Decisions Subject to Administrative Appeal
Appeals are limited to actions or decisions that the individual making the appeal (Petitioner) believes to be in conflict with stated program policies or to be based on contestable facts. Program policies established by PEMA or DCED are not appealable. The following are examples of decisions subject to administrative appeal:

a. Minimum damage threshold determination – For minimum damage threshold determination on appeal, structural damage to the principal residence can be documented by FEMA, FEMA sub-agencies or affiliates, third-party insurers, NFIP, SBA, or other source as accepted by PEMA;

b. Owner occupied, primary residency determination;

c. Determination of ownership/title documentation;

d. Duplication of benefits calculation;

e. Appraisal;

f. Tenancy status (including unit count).

2. Decisions Not Subject to Appeal (non-contested matters) include, but are not limited to, the following:

a. Eligible county determination;

b. Incomplete or non-existent applications for the program;

c. The terms and conditions of any required legal agreement;

d. Requirements imposed by Federal, State, or local law or regulation;

e. Decisions of a local Flood Plain Manager may not be appealed to the Buyout Program staff, but may be appealed directly to the Flood Plain Manager;

f. Environmental determination; and

g. If the municipality of the damaged residence opted out of flood insurance, the applicant does not qualify for any program.

3. Appeals Process

a. Submission Requirements

Appeal requests to the PEMA Buyout Program must be postmarked within thirty (30) calendar days of the date of service.

The applicant’s written request should contain the following information:

- Applicant's name,
- Address of damaged residence,
- Applicant's mailing address,
- Applicant's telephone number,
- Email address (if available),
- The reason(s) the decision or action is being appealed,
- Documentation that supports the request to overturn the decision or action, and
- Application number

b. Program Operations Processing

Appeals will be received and processed by the subrecipient. Appeals will be date stamped when received and placed on a log for tracking. Subrecipient will submit the written notice of appeal to the PEMA Program Manager within twenty (20) calendar days of receipt.

c. Subrecipient Review
Subrecipient staff will initially review appeals relating to actions or decisions made by the Buyout staff. The review should be conducted by staff that is independent from those that originally made the decision being appealed. If appropriate, municipal staff will overturn the initial decision and notify the Buyout program staff. If the municipal staff decides that the determination or decision should stand, they will prepare an appeals worksheet and documentation to support the decision for the submission of the appeal to PEMA.

d. PEMA Review

The PEMA Appeal Board will review the appeal documentation presented by the subrecipient and homeowner and render a decision by majority vote.

If appropriate, PEMA staff may contact the subrecipient to allow him/her to provide additional documents to address any deficiency or incomplete information, or to be interviewed to determine the merits of the applicant’s appeal.

If the action or decision of the subrecipient is overturned by PEMA Appeal Board, notification will specify the corrective action to be taken. For contested cases where ineligibility has been upheld, PEMA will render a decision and notify the subrecipient of the decision in writing by certified mail. For non-contested cases, PEMA will issue a Final Agency Decision.

e. Appeals to DCED

The PEMA decision may be appealed by submitting a petition for a formal hearing before the DCED Director or his/her designee within thirty (30) days of the date on the letter the local government receives regarding PEMA’s final decision. Only contested cases will be forwarded to DCED.

The written request must be addressed to:

Department of Community and Economic Development
Appeals Officer

The 30 day appeal period begins 5 days from the date of mailing (the date on the letter) not the date of receipt. If an appeal is forwarded to the DCED a formal hearing will be held. The decision of the DCED Director is final.

f. Final Decision

For contested cases, the DCED Director will review the initial decision by the Review Board and issue a final decision, accepting, modifying, or rejecting the Review Board’s initial decision. The Review Board decision and the final decision will both be sent to the petitioner at the address provided.

H Closeout

The subrecipient must submit closeout requests to PEMA within 90 days of completion of each sub award. At a minimum, the subrecipient’s requests for CDBG-DR closeouts should include the supporting documentation outlined in the CDBG-DR Closeout checklist (CDBG-DR File Checklist - Buyout Program (Form 36)) to verify PEMA and CDBG-DR compliance with the award and state/municipal grant agreement. Additional documentation may be requested prior to FEMA’s approval of the closeout request. A subaward is officially closed when DCED approves the closeout request and sends a closeout letter to the Recipient (PEMA) confirming the final Federal expenditures for the sub award.

XVIII. BUYOUT PROJECT MANAGEMENT

A Intake and Applicant Eligibility

The Buyout Program process is initiated by the property owner signing a “Voluntary Participation Agreement” (Form 7).

1. Compensation Award for Voluntary Buyout
All residential properties that are to be bought out by the CDBG-DR Buyout Program will be done based on a fair and reasonable offer determined by a qualified PA State licensed appraiser who prepares a property specific, professional real estate appraisal report. CDBG-DR Buyout Program offers are based on a general purpose appraisal report (GPAR) valuation of the property prior to the designated storm/flood event, unless the property was conveyed after the occurrence date of the storm. If title to the property was conveyed after the storm, the appraisal is based on the property’s current market value. This policy is intended to ensure a consistent valuation protocol across all the CDBG-DR Buyout Program buyouts regardless of the federal funding being applied. The appraisal is the basis, but not the sole determining factor, of the amount offered for the property. The subrecipient reviews the property appraisal report and performs a thorough review of any potential duplication of federal benefits that would require a revision to the valued offer. A description of the CDBG-DR Buyout Program duplication of benefit review policy is explained in the duplication of benefit section. All purchase offers are made verbally (in person) and then followed up in writing. The written offer will constitute the Subrecipient’s appraised value of the property, any required duplicative deduction and it will include a Certification of Compensation and a settlement sheet to be signed by the property owner. Notwithstanding any appeals relative to the appraisal or duplication of benefits determination, the property owner shall have thirty days to respond in writing to the written offer.

2. Voluntary Buyout Program Eligibility

Eligible Applicants: Property owners in a floodway, a flood-prone area or an area that has sustained severe repetitive flood losses in all counties.

General Eligibility Criteria:

- Property must have been impacted by a storm/flood event covered by P.L. 112-55 or P.L. 113-2;
- Property is a single family home (1-4 units), manufactured (mobile) home or full time rental unit(s);
- Property must have had between one to four dwelling units prior to the date of the flood event. A dwelling unit is defined as having complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation; and
- If vacant land, the parcel must be deeded to the property owner that the State is dealing with and be adjacent to the parcel with the structure(s) on it that CDBG-DR Buyout Program is buying.

Vacation homes or part time residential properties are not eligible for a buyout under the CDBG-DR Buyout Program.

3. Program Eligibility

The use of CDBG-DR buyout funds should be applied to acquire properties from voluntary sellers and where possible, include properties in primarily residential areas where at least 51% of the individuals can be classified as low to moderate incomes (LMI) households. Census tract mapping will be prepared by the CDBG-DR Buyout Program to show the LMI classification for each identified project area to determine which buyouts will contribute towards the LMI obligation.

Voluntary participation is a crucial program component. The Commonwealth does not wish to exercise its powers of eminent domain for this program.

4. Owner Eligibility

The CDBG-DR Buyout Program will acquire property from resident homeowners and landlords whose properties serve as a permanent or year round residence for a tenant or tenants. The CDBG-DR Buyout Program is limited to acquiring residential properties that contain one to four rental units. Anything larger than four units is precluded from participation. Tenant relocation assistance will be provided to eligible tenants in conformance with the Housing and Community Development Act of 1974, as amended, and HUD regulations at 24 CFR 42.325. In accordance with the URA Act, tenants that are not verified legal citizens of the United States are not eligible for URA benefits.

5. Vacant Properties with Owner Unable to Occupy
In the aftermath of the storms and flooding some properties have been declared sustainably damaged and remain vacant. This declaration is based on local floodplain manager determinations that the cost of repairing or improving a structure located in a Special Flood Hazard Area (SFHA) is equal to or exceeds 50 percent of the building’s market value (excluding land value). In these instances many properties remain uninhabited and untouched. Property owners who own substantially damaged properties are often forced to demolish the properties and then choose either buyout or elevation measures that would safely elevate the property from future flood vulnerability. Dangerous or hazardous structures may be demolished in advance of a buyout if deemed reasonably unsafe by local officials. These properties remain eligible for a buyout despite being cleared of the structure.

Properties that have fallen into foreclosure and are owned by banks and lending intuitions are not eligible for a buyout under the CDBG-DR Buyout Program. In many instances foreclosed properties are severely damaged and vacant but ownership by a financial institution precludes them from being eligible for the Buyout Program.

6. Owner Occupied

Homeowners participating in the Buyout Program are responsible for adhering to program requirements as stated in the contract agreements, as well as any applicable local, state, and federal requirements. Participating homeowners will agree to the following requirements in order to receive Program benefits and participate in a buyout:

- The sale of their property is voluntary;
- Homeowner must be represented by an attorney at their cost;
- Homeowner must agree to comply with the Uniform Relocation Act (URA) requirements;
- The property will be broom clean upon transfer unless otherwise agreed to by the Subrecipient; and
- Any environmental areas of concern will be remediated if directed by CDBG-DR Buyout Program.

B Subrecipient – PEMAP Coordinaton

Any town that works with PEMAP on the CDBG-DR Buyout Program to purchase flood-prone lands agrees to a management arrangement (Form 5) in which the municipality accepts some degree of custodial management responsibility for the flood-prone lands once they are purchased, the structures removed and the site restored with CDBG-DR funding. This arrangement and the division of management responsibility is documented in the Subrecipient Agreement between the local government unit (subrecipient) and PEMAP. The Subrecipient Agreement must be completed and signed by the unit of local government prior to the initiation of any buyout activities.

The Subrecipient Agreement between the unit of local government and PEMAP outlines the terms of the management relationship, but local management participation is often heavily dependent on the size and characteristics of the land in question and who will be the ultimate day to day manager. In most flood-prone communities local municipal management is preferred. If the local government cannot or will not commit to long term management of the property, it will need to contact another local government or in some cases a county entity to determine if a local partner would manage the property or properties under an Memorandum of Understanding (MOU). A signed MOU with a local government must be in place with PEMAP before any title closing occurs.

Once the structure(s) are removed and the land is properly graded and seeded, local supervision of the newly vacant land will occur. Local oversight will ensure that new vegetation thrives and that inappropriate encroachments or abuses of the open space do not develop. A clear connection and understanding of the use and condition of the shared, public open space is important.

C Duplication of Benefits

CDBG-DR Buyout Program ensures that the buyout/purchase offer extended to a property owner does not constitute a duplication of assistance. Property owners are not required to spend the disaster assistance they receive to participate in a buyout, but they must keep documentation of how any such assistance monies are spent. To avoid a DOB deduction for buyout projects in which pre-event value is the basis for a purchase offer, the property owner must provide documentation demonstrating that structural insurance and repair assistance proceeds were used for their intended purpose (Form 8).
The total assistance a property owner receives from all programs, charitable contributions, and insurance combined cannot exceed the certified fair market value of the property before the disaster occurred. The Buyout Program’s total purchase offer amount cannot exceed the certified market value. Relevant forms of financial assistance given to a property owner that was used for the repair of storm-related structural damage and to clean up the home after the storm, if properly documented can be credited back towards the certified market value of the property.

A Duplication of Benefit Explanation (Form 25) has been developed, and can be provided to program participants for additional information regarding how duplication of benefits are defined and determined.

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Property owners may contest the Buyout Program’s DOB review by appeal. If an appeal is requested, the PEMA Program Manager will cooperate with all parties involved to resolve any appeals.

D Appraisals

The Buyout Program will have an appraisal performed for each property by a qualified PA State licensed appraiser. Appraisal services should be procured by each subrecipient; or PEMA may opt to procure a state contract for all appraisal services. The appraiser is required to follow a scope of work as specified by PEMA; and submit a General Purpose Appraisal Report (GPAR) to the subrecipient.

The appraisal is based on the value of the property prior to the disaster or flood event, unless the property was conveyed after the occurrence of the storm. In the event title to the property was conveyed after the flood event, the appraisal is based on the property’s current market value. This policy is designed to ensure uniform valuation protocols are applied on all the federally funded buyouts regardless of the federal funding being applied. The appraisal is the main basis, but not the sole determining factor, in calculating the amount offered for the property. The Subrecipient will also require the contracted appraisers to determine the current market rent value for relocation purposes.

The appraiser is required to notify the property owner that an appraisal is to be prepared. A phone call to the property owner to schedule the site inspection is acceptable; however, a certified letter on the appraiser’s letterhead is to be sent to the property owner confirming the notification and subsequent inspection. Copies of said notice must be included in the body of the appraisal report. If the appraiser is unable to contact the property owner, he/she must notify the Subrecipient prior to making the site inspection. The complete inspection of the property (both interior and exterior) must be conducted. The appraiser is required to complete and sign an appraiser inspection form and also obtain the property owner’s signature. If a property owner refuses an appraisal, this must be documented in writing.

The appraiser has twenty-one days to complete and submit the GPAR to the Subrecipient. PEMA staff appraisers may review and certify the contracted appraisals.

The Subrecipient provides a watermarked copy of the GPAR to the property owner when a verbal offer is made. The Subrecipient requires the property owner or designee to sign an appraisal release form. If the property owner believes there are errors in the appraisal, he/she can request PEMA review and rectify, if applicable.

Other than correction of errors, the property owner may appeal the Buyout Program’s appraisal in which case the property owner must pay for a commissioned appraisal to be done by a qualified PA State licensed appraiser (second appraisal). The Appraisal Appeal process cannot begin until the property owner has received a written offer from the subrecipient for the purchase of his/her home. To begin the Appraisal Appeal process, the property owner notifies the subrecipient in writing as soon as possible and no later than 10 working days following receipt of appraisal that he/she would like to pursue an Appraisal
Appeal. The property owner must obtain the second appraisal at their own expense. The subrecipient will send the property owner a confirmation letter containing specific instructions for them and their appraiser and note a thirty (30) day timeframe for submittal. The subrecipient provides the property owner with a detailed scope of work as to the requirements of the appraisal. The subrecipient and PEMA will cooperate with all parties involved to resolve any appeals.

Once the property owner’s self-commissioned appraisal is completed and submitted, PEMA’s licensed staff appraisers review and certify the property owner commissioned appraisal. If the property owner commissioned appraisal value is less than the first appraisal value, property owners do not submit the information to the subrecipient and will continue their decision process based on the first appraisal value. The property owner may withdraw from the appeal process up until the time he/she submits the appraisal report to PEMA. Once PEMA receives the appraisal report, however, the appeal process cannot be terminated.

The revised appraised value is based on the average of the first and second appraisal amount. When the property owner receives the final offer letter from the Buyout Program, s/he must choose either to accept the offer or to reject the offer, effectively terminating purchase negotiation with the subrecipient. If the property owner formally terminates purchase negotiations, the subrecipient will not pursue the acquisition of the property any further.

E Title Commitment and Title Insurance

Subrecipients will obtain a title commitment and title insurance for each buyout property by a qualified PA State licensed title agent. Title services include commitments, rundown, endorsements, and insurance policies. The title commitment is completed in accordance with industry standards, and should be issued “without Standard Exceptions.” The title commitment will include a description with blocks and lots, tax and assessment searches, tax liens, judgments, upper court searches, and full copies of all vesting deeds, mortgages, easements, right-of-ways, etc. Title commitments will also include a copy of any relevant filed map(s) and tax map sheet.

The Subrecipient will ensure that title to each buyout property is free and clear of all liens and encumbrances that would limit the ability of the property owner to provide marketable, insurable title to the Subrecipient. Any property included in an open bankruptcy may not be able to participate in the buyout program until final judgments are determined. Outstanding liens (such as Federal, State or property tax liens, municipal assessment liens or subdivision assessment liens) and judgments which could result in foreclosure and the loss of the property prior to the completion of the buyout should be disclosed and could result in Subrecipients’s inability to acquire the property.

The Subrecipient’s title company will obtain documentation of all mortgage balances, home equity loans, or other financial encumbrances that would preclude the transfer of clear title. The contracted firm will issue a title insurance policy after the closing of each buyout property.

Closing cannot occur unless all financial encumbrances against the property can be released as a result of the title transfer; this includes but is not limited to satisfying outstanding mortgage balances, home equity loans, and personal liens or judgments. It should be made clear to the owner that all outstanding encumbrances will be paid from proceeds of sale, with the remaining balance to the property owner.

F Purchase of Property

1. Face to Face and Written Offer to Property Owner

The Subrecipient will make purchase offers based on pre-event fair market value after a full accounting of all Federal, State; non-profit, personal structural flood insurance received to ensure that there is no DOB. PEMA and DCED consider customer service to be a crucial part of the buyout process and as a result every effort will be made to ensure that all initial purchase offers are made in person or face-to-face with the property owner or his/her authorized representative. As part of the official offer process, the Subrecipient will review with the property owner any DOB information, including supporting documentation, and an appraisal release form. The Subrecipient will provide the property owner with a watermarked copy of the appraisal. The owner should be asked to sign a statement indicating that he requested and received a copy of the appraisal.
Following the face-to-face meeting with the property owner, the Subrecipient will send a written offer to the property owner and advise him/her to secure legal representation. The written offer will include a Buyout Property Settlement sheet (Voluntary Participation Agreement or VPA) to be signed by the property owner. This sheet details:

- the appraised value;
- minus any benefits received that are determined to be duplicative;
- Equals the amount to be paid to the owner (less any outstanding encumbrances)

Any URA benefits that may be made available for current or prior tenants should be noted in a separate document (See Section XI for additional detail).

The property owner shall have thirty days to respond in writing to the written offer.

Revised offers may be necessary based upon additional DOB, appraisal appeal, appraisal correction or a combination of both.

2. Purchase agreement

After a homeowner formally accepts a buyout offer by sending a signed purchase offer and the Buyout Program Property Settlement Sheet, the Subrecipient sends the following “Purchase Agreement package” to the property owner or the property owner’s attorney by priority mail. A Purchase Agreement package includes the following documents:

a. Voluntary Participation Agreement (VPA) (Form 7);
b. Four (4) original purchase agreements with schedules;
c. Title search and title endorsement(s);
d. Survey, if available;
e. W-9 vendor questionnaire and payment voucher;
f. Duplication of Benefits Disclosure form;
g. HUD Model Deed Restriction (Form 27a or 27b);
h. Statement of Voluntary Participation (executed previously);
i. Property Settlement Sheet (HUD 1); and
j. HUD Affidavit on Duplication of Benefits
k. Copy of appraisal

If the property owner has tenants, both the property owner and the Subrecipient must provide notification to the tenant(s), pursuant to URA requirements (See Section XI), once an offer has been accepted so that the occupants can obtain alternate housing and pursue any relocation assistance for which they may be eligible. Once the signed Purchase Agreement is received by the Subrecipient it will be reviewed for completeness. If the Purchase Agreement package is returned unsigned or incomplete, the Subrecipient will work with the property owner to make any necessary corrections or modifications. Once the Purchase Agreement has been signed by all those with a title interest in the property, the Subrecipient will prepare a contract signature package for PEMA. The Subrecipient will ensure that the PEMA contract signature package includes, but is not limited to, the following items:

a. The four (4) original signed purchase agreements with schedules;
b. W-9 vendor questionnaire and payment voucher;
c. Certificate of Compensation (certified market value) signed by the Subrecipient’s appraiser;
d. Fully executed Settlement Sheet;
e. GIS map of property;

The contract signature package will be reviewed and signed by the subrecipient. A copy of a fully executed Purchase Agreement and all the accompanying forms/documents are sent to the property owner’s attorney.

3. Property Survey

The Subrecipient will have a survey performed for each property by a qualified PA licensed surveyor. The surveyor is required to follow a detailed scope of work and submit a full set of the defined deliverables to the Subrecipient for review and approval.
The survey work conducted is a property boundary survey of land, with corner markers set and metes and bounds descriptions to be provided. The surveyor is not required to provide vertical data. Improvements well within the boundaries of the premises are shown on the plan in a general manner, as all improvements will be demolished after the Subrecipient buys the property. One Surveyor’s Certification and Summary Form (and one paper project map as above) must accompany each set of plans and descriptions per each owner.

The preference is for a survey to be completed prior to closing of title so it can be recorded with the transfer deed, so that the title policy can be issued without Standard Exceptions. If this is not possible, then a corrective deed and revised title commitment will need to be secured and filed post-closing with the accurate survey information.

4. Title Transfer & Closing

All closings will be performed by the Subrecipient’s title company. It is DCED’s position that all property owners/sellers should be represented by an attorney and that the property owner is responsible for his/her legal costs. If a property owner does not want to be represented by an attorney, then the property owner must waive that right in writing.

The subrecipient will coordinate a final walk-through of the property prior to closing, if necessary. This is done to ensure the property is left in the condition agreed upon by all parties and to ensure that no emergent hazards or issues have developed that would impact the closing.

Within twenty-four to forty-eight hours of closing, the subrecipient will order a final title rundown to ensure no new encumbrances exist against the property and that any already-existing obligations/lien held against the property have been settled or will be settled with the closing proceeds. The HUD 1 must reflect resolution by the property owner, at his/her own cost, any outstanding liens on the property, such as open mortgages and tax liens, at or prior to closing.

The homeowner signs the deed and all relevant affidavits and forms. These documents are sent to the closing agent for recording, at which point the subrecipient forwards the closing proceeds to the homeowner’s attorney. The delivery of the closing proceeds effectuates the official title closing and all required documentation such as the deed, mortgage discharges, etc. are forwarded to the county by the Subrecipient’s title company for recording. Filed copies of all documents are sent to the Subrecipient and placed in the property file.

Closing funds are provided through a coordinated process between the subrecipient, PEMA and DCED. Funds requests should be made timely to DCED by Subrecipient and PEMA. Disbursement of funds received must be completed as quickly as possible following the drawdown from the U.S. Treasury. Reimbursement is the preferred method of funding closings (per 2 CFR §200.305). However the subrecipient can request funds in advance of closing by submitting a copy of the approved HUD1.

5. Unaccepted Purchase Offers

While the intention of the buyout program is for all homeowners in a pre-defined target buyout area to accept a purchase offer and move to a less vulnerable area, there is a chance that homeowners may opt out of the buyout process or decline a purchase offer. Every effort will be made to try to encourage the greatest participation but as a voluntary seller based program, no coercive or forcible action against a homeowner that declines a buyout will be taken. Eminent domain and condemnation will not be a part of the CDBG-DR Buyout Program.

In the event that a Purchase Offer is rejected or the purchase cannot be completed for other reasons, a full explanation should be entered into the property record, documenting all steps taken. It is possible for the Subrecipient to received reimbursement for title work, surveys and other expenditures on a “failed acquisition.” PEMA and DCED will provide additional specific direction regarding how to code these activity delivery costs for DRGR purposes.

G Procurement

With the implementation of 2 CFR Part 200, and FR procurement requirements for States and non-federal entities acting as “pass-through” for Federal funds were somewhat modified. Whereas States are
permitted to follow their own procurement policies as long as they are equal to or more stringent than 2 CFR §200.316- §200.328, subrecipients are required to follow all of the regulations listed below:

§200.213 Suspension and debarment.

Non-federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, sub awards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. Verification of a subrecipient, contractor or vendor status must be verified through SAMS database (https://www.sam.gov/portal/SAM/##11 - “Search Results”) and a printed copy included in the vendor/Subrecipient file.

§200.317 Procurements by states.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow §§200.318 General procurement standards through 200.326 Contract provisions.

§200.318 General procurement standards.

The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to or are more stringent than applicable Federal law and the standards identified in 2 CFR Part 200.

Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.213 Suspension and debarment.

The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

- The actual cost of materials; and
- Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§200.319 Competition.

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business;
2. Requiring unnecessary experience and excessive bonding;
3. Noncompetitive pricing practices between firms or between affiliated companies;
4. Noncompetitive contracts to consultants that are on retainer contracts;
5. Organizational conflicts of interest;
6. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
7. Any arbitrary action in the procurement process.
The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

1. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

2. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

§200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

Procurement by micro purchases. Procurement by micro purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro purchase threshold (§200.67 Micro purchase). To the extent practicable, the non-Federal entity must distribute micro purchases equitably among qualified suppliers. Micro purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(Note: §200.67 - The micro purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions). It is $3,000 except as otherwise discussed in Subpart 2.1 of that regulation, but this threshold is periodically adjusted for inflation.)

Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c) (1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
(2) If sealed bids are used, the following requirements apply:

(i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publically advertised;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

(4) After solicitation of a number of sources, competition is determined inadequate.

§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps must 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 Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.


A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§200.323 Contract cost and price.

The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals. (Note: These Independent Cost Estimates must be made part of the permanent procurement record for that procurement.)

The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§200.324 Federal awarding agency or pass-through entity review.

The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non- Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or
pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

1. The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
2. The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
3. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
4. The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

The non-Federal entity is exempt from the pre-procurement review if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

1. The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;
2. The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

1. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
2. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
3. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

H Contracting

§200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for nonfederal Entity Contracts Under Federal Awards.
In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(1) Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(2) All contracts in excess of $10,000 must address termination for cause.


(4) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(5) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(6) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(7) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C.
I  Demolition, Clearance and Site Reclamation

The subrecipient will promptly initiate the demolition of properties once acquired, and as soon as Environmental Review has been completed, submitted, and Authority to Use Grant Funds received. Demolition activities will include actions such as the removal of all structures, improvements, and fixtures and the restoration and stabilization of the site to a natural condition so that it can function as open space.

The clearing of all improvements, structures and fencing will occur on each property acquired by the Subrecipient after the closing of title. This demolition work will occur in accordance with the pre-defined scope of work for all CDBG-DR funded buyouts and includes, but is not limited to, the following:

- Demolition of Building and Site Improvements
- Obtaining any and all necessary Permit Approvals
- Performing Soil Erosion Controls and Site Protection
- Conducting Rodent Control
- Removal of all utility service connections
- Excavation, Backfilling and Grading
- Appropriate Removal and Disposal of Site and Demolition Debris
- Asbestos Containing Material and Lead Paint Abatement
- Removal of Aboveground and Underground storage Tanks
- Decommissioning of Water Wells
- Closing of Sewerage Disposal Systems

All homes acquired by the subrecipient will be assessed for the presence of asbestos containing materials (ACMs) and lead prior to demolition. Any identified ACM will be properly removed and placed in a sanitary landfill suitable for such disposals in accordance with state and federal requirements. The Subrecipient and its contractors will follow guidance related to Reimbursement as noted in HUD Notice CPD-13-038, issued on July 30, 2013 related to the needs for lead and asbestos reviews. “Tipping tags” verifying appropriate disposal of hazardous materials in a Type II land fill will be required of contractors as a condition of payment.

All CDBG-DR funded demolition activities will be managed through a contracted process by the subrecipient. The subrecipient will oversee the demolition plan and will conduct all environmental reviews. The Subrecipient will procure and oversee the physical demolition activities, which will be awarded to a separate contractor following the prescribed procurement process. This process is detailed in Section XVIII, G.

The Subrecipient (or a contractor procured for this purpose by the Subrecipient) will perform, but will not necessarily be limited to, the following tasks:

- Preliminary Site Investigations
- Project Scoping Documents
- Preparation of Designs and Bid Specifications
- Develop Specifications for Proper Removal and Disposal of Hazardous Materials
- Develop Specifications for Site Remediation (if necessary) and Restoration After Demolition
- Compliance with all Environmental Statutes and Regulations
- Project Outreach Participation
- Coordination with Federal, State and/or Local Officials
- Quality Control/Assurance
- Bid Support Services
- Construction Administration and Oversight

Demolition work demands coordination with various municipal entities, including but not limited to: the local water & sewer department, police department, municipal clerk’s office, health department, code and/or construction offices, the governing body, and the Mayor’s office. The aforementioned coordination is the responsibility of the subrecipient.
The physical demolition activities will be performed by a licensed, bonded and insured professional
 demolition contractor in accordance with all local, State and Federal laws and regulations.

PEMA has integrated the “FEMA Best Practices for Lower Impact Debris Removal and Demolitions,”
approved in June 2013, into its demolition scope of work to ensure safe, environmentally responsible and
culturally sensitive practices into all demolition activities. This scope should be included in all subrecipient
demolition contracts. These best practices ensure the following:

- The use of heavy equipment will be limited to hard or firm surfaces to the fullest extent possible, to
  avoid sinking into soft soils.
- All efforts will be made to promote minimal soil disturbance when operating heavy equipment on wet
  soils and to ensure that excavation and burial of debris on site will not occur unless otherwise
  permitted.
- Excavations will be limited to within two (2) feet of the foundation perimeter and shall not occur more
  than six (6) inches below the depth of the foundation to minimize soil disturbance.
- Excavations will be limited to within one (1) foot of the slab/driveway/sidewalk perimeter and shall not
  occur more than six (6) inches below the depth of the asphalt/concrete to minimize soil disturbance.
- The demolition will include the removal of uprooted trees, limbs, and branches from public rights of
  way and/or public areas. Related waste will be transported to and disposed of at existing licensed
  waste facilities or landfills.
- If debris removal activities associated with demolition disturb archaeological artifacts (e.g. old bricks,
  ceramic pieces, historic bottle glass or cans, coins, beads, stones in the form of tools [arrow heads],
  pieces of crude clay pottery, etc.), archaeological features (e.g. grave markers, house foundations,
  cisterns, etc.), or human remains, PEMA, DCED and the relevant consultants/contractors will ensure
  to the fullest extent possible that the consultant/contractor immediately stops work in the vicinity of
  the discovery and takes all reasonable measures to avoid or minimize harm to the finds. In such
  cases, all parties will immediately inform the Bureau of Historic Preservation and local law
  enforcement, county coroner/medical examiner, and county OEM representative for human remains,
  in accordance with applicable Commonwealth guidelines of the discovery for further guidance.

As advised by HUD, the CDBG-DR Buyout Program demolition activities do not need to comply with
Davis Bacon Act and related regulations related to maintaining federal prevailing wages. Any and all
additional HUD requirements for demolition work will be incorporated as needed. State prevailing wages
do apply to all demolition work completed under the Buyout Program.

J Section 3

As required by federal regulations, all demolition activities deemed construction elements will be
conducted in compliance with HUD Section 3 regulations (24 CFR 135), which require the Subrecipient to
the greatest extent possible, to provide job training, employment, and contract opportunities for low- or
very-low income residents in connection with Buyout activities in surrounding neighborhoods.

To comply, all Section 3 covered contracts (any contract dealing with construction related activities,
including construction management) shall include the following clause (referred to as the “Section 3
Clause”):

“A. The work to be performed under this contract is subject to the requirements of Section 3 of the
Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The
purpose of section 3 is to ensure that employment and other economic opportunities generated
by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent
feasible, be directed to low- and very low-income persons, particularly persons who are recipients
of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD’s regulations in 24 CFR Part 135, which
implement section 3. As evidenced by their execution of this contract, the parties to this contract
certify that they are under no contractual or other impediment that would prevent them from
complying with the part 135 regulations.
C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected by before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

K   File Close Out

Upon completion of demolition work, final inspection, final payments to all vendors and filing of Deed Restriction, the file is ready for close out. The property file must contain at a minimum the following information at close-out:

- Eligibility of the activity (clearance, public facility);
- Evidence of having met a national objective (Urgent Need or LMI Area Benefit);
- Subrecipient agreement or Memorandum of Understanding if applicable;
- Procurement documentation, including any bids or contracts;
- Characteristics and locations of the properties;
- Compliance with program requirements, including environmental review records;
  - Voluntary Purchase Agreement
  - Appraisal
  - Survey
  - Title Commitment
  - Purchase Agreement
  - HUD 1 (final)
  - Deed Restriction (filed copy)
  - Environmental Record (if Tiered both Tier 1 and Tier 2)
  - Before and After Demolition pictures of site
  - Contract for Demolition
- Documentation of Hazardous Materials Assessment (if relevant)
- Documentation of Appropriate Hazardous Materials Remediation and Disposal (if relevant)
  - Budget and expenditure information (including draw requests); and
  - Status of the project/activity.

**XIX. FORMS**

Below is a list of the forms that accompany this manual.

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