16 MONITORING AND COMPLIANCE PLAN
VERSION 16-1.1

16.1 CHAPTER 16 RECORD OF CHANGES

CDBG-DR Program Manual – Chapter 16, Monitoring and Compliance Plan

The table summarizes changes by version. Version numbers include the chapter number to indicate which chapter was revised. This identifier is also located immediately above, on the cover page of the full Manual, and included in the Record of Changes table below.

Version	Date	Description of Change
16-1.0	09/2022	Initial Publication.
16-1.1	11/2023	Clarifying processes and updating toolkit items; expanding risk assessment to include both Applicant and Project Risk Assessments; and incorporating a record of change to acknowledge and track revisions.

16.2 POLICY OVERVIEW

As the Grantee of CDBG-DR funds, DED is responsible for the day-to-day operations of the CDBG-DR program. This includes the ongoing monitoring of all CDBG-DR programs to ensure that Federal funds are expended in accordance with program requirements. This Monitoring Plan describes how DED oversees Program Implementation Contractors, Subrecipients, Successful Applicants, and other monitored entities in the implementation of the CDBG-DR program funded by grant(s) from HUD.

Monitoring as an activity is designed to ensure that programs are operating efficiently and effectively and that CDBG-DR funds are being used appropriately. HUD requires monitoring and evaluation of program performance for compliance with CDBG-DR statutory and regulatory requirements. Pursuant to 24 CFR § 570.501(b), DED is responsible for ensuring that "CDBG funds are used in accordance with all program requirements." This includes responsibility for all Subrecipients, Successful Applicants, and Program Implementation Contractors. Further, DED is

also responsible for, "determining the adequacy of performance under Subrecipient agreements and procurement contracts, and for taking appropriate action when performance problems arise…."[1]

This Plan allows program monitoring to be tailored for monitoring any programs or projects directly implemented by any Subrecipient, Successful Applicant, or a Program Implementation Contractor. The Plan utilizes checklists which include compliance areas applicable to all program/project types; however, all sections of the checklists may not apply to every program or project. Guidance related to the topics is covered within each of the monitoring tools (see *Section 16.14: Monitoring Tools*).

This Plan will be maintained in accordance with emerging State and Federal regulations and guidance. The Plan will be reviewed semiannually to verify that all Action Plan amendments are up to date. Additional updates may be conducted on an as needed basis (e.g., if a substantial Action Plan amendment is approved or if a new Subrecipient, Successful Applicant, or Program Implementation Contractor is added/changed affecting the Plan). The updated version of the Plan will be maintained on DED's CDBG-DR webpage.

16.3 PURPOSE

The primary purpose of this Plan is to ensure that CDBG-DR funds are used for authorized purposes, in compliance with State and Federal statutes and regulations and any terms and conditions set forth in HUD's Grant Agreement(s) with the State of Nebraska. Effective monitoring and compliance also determines the status of activities funded by CDBG-DR, identifies implementation issues and needs, provides technical assistance (TA), informs quarterly reporting on CDB G-DR activities, and evaluates financial management systems.

The monitoring process has the following objectives:

1. Gauge the overall program progress and effectiveness of the State's Program Implementation of Contractors, Subrecipients, Successful Applicants, and other monitored entities in meeting the program objectives, goals, and requirements over time.

2. Provide information about program participants that is critical for making informed judgements about program effectiveness and management efficiency.

3. Serve as a management tool to identify issues that may compromise program integrity, funding, and/or service delivery for corrective action and resolution.

4. Serve as a TA tool to identify areas in which to program capacity and quality of service delivery can be strengthened.

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[1] 24 CFR § 570.501(b).

5. Identify instances of fraud, waste, and abuse.

This Plan, however, does not describe DED's internal auditing process which separately uses DED's internal audit staff.

Subrecipients and Successful Applicants may be monitored multiple times through desktop and on-site monitoring over the course of their agreement, depending on factors such as the complexity of their activities and implementation timeline. As further described below (see **Section 16.13: Contractor Monitoring***Error! Reference source not found.*), Program Implementation Contractors will be monitored under a separate process to ensure contractor management and compliance.

16.4 FEDERAL STATUTES AND REGULATIONS

This Monitoring and Compliance Plan is informed by HUD's regulations and requirements for all CDBG-DR programs, including but not limited to the following:

- Title I of the Housing and Community Development Act of 1974;

- Public Law 116-20, Additional Supplemental Appropriations for Disaster Relief, 2019 – Title IX, Department of Housing and Urban Development, which appropriated funds for Nebraska's CDBG-DR award related to Winter Storm Ulmer (DR-4420);

- 24 CFR § 570, as applicable;

- 2 CFR Part 200, as applicable, which establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities";[2]

- 24 CFR Part 58, which dictates that states must "monitor compliance with any environmental conditions included in the award";[3]

- Federal Register Notice published on February 9, 2018 (83 FR 5844), which describes the basic requirements applicable to Nebraska's CDBG-DR award;

- Federal Register Notice published on June 20, 2019 (84 FR 28836), which describes Duplication of Benefits (DOB) requirements for CDBG-DR grants received in response to disasters declared between January 1, 2015 and December 31, 2021;

- Federal Register Notice published on January 27, 2020 (85 FR 4681), which allocates CDBG-DR funding "appropriated by the Additional Supplemental Appropriations for

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[2] 2 CFR § 200.100(a)(1).
[3] 24 CFR § 58.18(a)(1).

Disaster Relief Act, 2019" and "clarifications on waivers and alternative requirements," which apply "unless expressly limited to certain Grantees";[4]

- Federal Register Notice published on August 17, 2020 (85 FR 50041), which "provides waivers and establishes alternative requirements and extensions for grants… as [CDBG-DR Grantees] continue their disaster recovery efforts while also responding to the Coronavirus Disease 2019 (COVID-19)";[5]

- All current Action Plans, as amended, and grant agreements as amended with HUD;

- HUD's CPD Monitoring Handbook (Handbook 6509.2); and

- HUD's CDBG-DR Monitoring Checklist.

16.5 ROLES AND RESPONSIBILITIES

The following section provides roles and responsibilities for entities included under the scope of this Plan. Note that the responsibilities defined below may not be an all-inclusive list, as additional duties may be required as the Programs evolve during the grant.

16.5.1 NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT (DED)

16.5.1.1 OVERVIEW

As the lead agency for implementing the State of Nebraska's CDBG-DR Program, DED leads all monitoring efforts. Specifically, DED is responsible for all monitoring and compliance activities by Program Implementation Contractors, Subrecipients, and Successful Applicants to the CDBG-DR program.

Using documents and reports submitted by its Program Implementation Contractors, Subrecipients, and Successful Applicants, DED inspects and monitors grant activities to determine compliance with Federal and State laws, regulations, rules, and guidelines relative to use of the CDBG-DR grant funds for administrative, financial, and programmatic operations, as well as to ensure that they achieve performance objectives on time and within budget.

DED operates under a team approach to promote a good working environment and allows for redundancies in roles and responsibilities to ensure continuity of programs, meeting of goals and objectives, etc. The CDBG-DR Team will principally work with the Compliance, Operations, Finance, and Data/Research Teams to administer and implement the CDBG-DR programs but

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[4] 85 FR 4681.
[5] 85 FR 50041.

will also collaborate and coordinate with Field Services, Housing, and Community Development Team members (for further details, see *Chapter 3: Program Management Guide*).

While the CDBG-DR Team will take the lead in implementing CDBG-DR programs, other internal DED teams will be tapped to assist with grants management, policy and planning, financial management, data systems and reporting, compliance and monitoring, communications and outreach, and program operations. DED's operational structure incorporates considerable collaboration between teams to ensure efficiencies and efficacies in the delivery of programs.

16.5.1.2   DISASTER RECOVERY TEAM PROGRAM STAFF

CDBG-DR Team program staff are responsible for overseeing the administration and implementation of CDBG-DR programs and projects, including the initial capacity assessment of Subrecipients and Successful Applicants, and serve as DED's primary contacts for CDBG-DR program questions.

As part of monitoring CDBG-DR programs and projects, the Compliance Team may require specific information from Subrecipients, Successful Applicants, or Program Implementation Contractors to complete their monitoring functions. Instances could arise where CDBG-DR Team program staff will initiate certain processes (e.g., document collection, site visits, and other training and TA activities) prior to any monitoring initiatives.

Because of their active participation with Subrecipients, Successful Applicants, and Program Implementation Contractors, CDBG-DR Team program staff may have initial knowledge of events the Compliance Team does not. This may include, but not be limited to, the following examples:

- Specific observations noticed by CDBG-DR Team program staff before or during project implementation,

- Changes in Subrecipient, Successful Applicant, or Program Implementation Contractor contact information, or

- Pending SRA or funding agreement changes under review/consideration and not previously known to the Compliance Team.

CDBG-DR Team program staff may share verbal information under an informal process and may provide that verbal knowledge in support of the Compliance Team's monitoring activities. Information to support the Compliance Team's monitoring activities may also be shared by email, including through the Compliance Team's DED Compliance Inquiry Program by sending information to DED.ComplianceRequests@nebraska.gov. The Compliance Team can reach out to CDBG-DR Team program staff for – or CDBG-DR Team program staff may notify the Compliance Team of – specific information which is not fully recorded in DED's files and grants management system to avoid duplicative efforts or requests to Subrecipients, Successful Applicants, or Program Implementation Contractors.

CDBG-DR Team program staff responsibilities include, but are not limited to, the following:

- Support TA and training activities as needed per the TA plan (e.g., assist in conducting portions of training or TA to Program Implementation Contractors, Subrecipients, or Successful Applicants and ensure a Subrecipient's or Successful Applicant's program compliance and performance metrics are being adhered to within daily programmatic and operational tasks).

- Coordinate program-led or other ad hoc TA and training activities which are conducted outside of the published TA plan.[6]

Other responsibilities include, but are not limited to, the following:

- Alert the Disaster Recovery Manager and the Compliance Team Lead of any situation that may require the Compliance Team to perform a level of monitoring (on-site or desktop).

- Assist in the appeals review process, as applicable.

16.5.2   DISASTER RECOVERY MANAGER

As a member of the CDBG-DR Team, the Disaster Recovery Manager is responsible for compliance and policy work associated with the CDBG-DR program. The Disaster Recovery Manager's role is to ensure that the CDBG-DR program remains in compliance with:

- HUD grant agreement(s);

- CDBG-DR grant conditions;

- Federal Register Notices (FRNs);

- Regulatory requirements; and

- State requirements, where applicable.

This requires the Disaster Recovery Manager to regularly review appropriate Federal and State resources for the latest updates, discuss with appropriate HUD Regional Field Specialists (as necessary), and support the Compliance Team and CDBG-DR Team program staff, respectively.

The Disaster Recovery Manager will assist the Compliance Team in completing the Annual Risk Assessment (see **Section 16.8: Annual Risk Assessment**) and establishing regular monitoring of CDBG-DR-funded Program Implementation Contractors, Subrecipients, and Successful

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[6] Subrecipient or Successful Applicant onboarding and potential initial site visits may serve as TA measures around the execution of SRAs and funding agreements to discuss program and cross-cutting requirements, contract performance, and other Federal and award requirements. This may also address or resolve a potentially noncompliant issue which arose suddenly or unknowingly within the Subrecipient's, Successful Applicant's, or Program Implementation Contractor's program or project.

Applicants. Additionally, the Disaster Recovery Manager and the Compliance Team Lead will maintain regular trainings for staff for knowledge and capacity development with any changing regulations, FRNs, and HUD guidance – to include any changes in program management standards – regarding CDBG-DR program/grant compliance.

The Disaster Recovery Manager responsibilities include, but are not limited to, the following:

- Support the Compliance Team Manager and Compliance Team in completing Annual Risk Assessments, consisting of the Applicant Risk Assessment and the Project Risk Assessment. Assist the Compliance Team Manager in creating the official Desktop and On-Site Monitoring Schedule and alter the monitoring schedule as the need arises.

- Review recommendations of finding(s) or concern(s) provided by the Compliance Team after a monitoring (on-site or desktop) is completed.

- Review Monitoring Report and Letter (MR), if necessary.

- Track finding(s) or concern(s), and resolutions of identified issues, as a result of the monitoring.

- Review recommendation(s) made by the Compliance Team staff of the Subrecipient, Successful Applicant, or Program Implementation Contractor response to the MR.

- Review Corrective Action Incomplete Letter (CAIL) or Monitoring Report Clearance Letter (MRC), if necessary.

- Provide status updates to Disaster Recovery Division Director.

16.5.3   COMPLIANCE TEAM

The Compliance Team inspects and monitors grant activities to determine compliance with Federal and State laws, regulations, rules, and guidelines relative to the use of CDBG-DR grant funds including regulations governing administrative, financial, programmatic operations, and that they achieve performance objectives on time and within budget.

To determine the frequency of monitoring activities (which may include a focus on TA and capacity building within the first year of the monitoring activities),[7] the DED Compliance Team coordinates with the Disaster Recovery Manager to complete an Annual Risk Assessment, including a Project Risk Assessment, and an Applicant Risk Assessment (collectively "Annual Risk Assessments") of all DED's CDBG-DR Subrecipients and Successful Applicants, as covered in **Section 16.8: Annual Risk Assessment**

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[7] CDBG-DR Team program staff provide support regarding TA and capacity building.

After the DED Compliance Team and the Disaster Recovery Manager have completed the annual risk assessment process *Error! Reference source not found.*they record the Annual Risk Assessment results. The Compliance Team Lead and Disaster Recovery Manager use this information to set up the yearly monitoring schedule. DED Compliance Team staff will conduct a monitoring activity (e.g., desktop or on-site) based on this schedule, on an on-going basis.

The Compliance Team Manager and Compliance Team's responsibilities include, but are not limited to, the following:

- Act as the lead for the completion of the Annual Risk Assessment.

- Communicate the results of the Annual Risk Assessment and Monitoring Schedule to the Disaster Recovery Manager, program staff, and the Subrecipients, Successful Applicants, and Program Implementation Contractors.

- Conduct a level of monitoring in accordance with the Annual Risk Assessment upon DED entering into a CDBG-DR funding agreement.

- Conduct Exit Conference (Conference Call or On-site) to discuss issues identified during the desktop or on-site monitoring.

- Prepare, sign, and disseminate the MR to the Subrecipient, Successful Applicant, or Program Implementation Contractor.

- Prepare, sign, and disseminate CAIL or MRC, if necessary.

- Update Subrecipient, Successful Applicant, and Program Implementation Contractor file to complete/close monitoring.

16.5.4 PROGRAM IMPLEMENTATION CONTRACTORS, SUBRECIPIENTS, AND SUCCESSFUL APPLICANTS

For the purpose of this Plan, if a Program Implementation Contractor, Subrecipient, or Successful Applicant has entered into agreements with other entities to execute projects, DED recognizes this as a relationship between the Program Implementation Contractor, Subrecipient, or Successful Applicant and the said entity.

Program Implementation Contractors, Subrecipients, and Successful Applicants are responsible for carrying out their projects and programs in a way that meets compliance requirements, including monitoring their program and project administrators, contractors, and subcontractors. DED serves in an oversight monitoring role when this type of relationship exists.

16.5.5 PROGRAM IMPLEMENTATION CONTRACTORS

Through a competitive procurement process, DED may retain contractors to support program implementation. Contractor management and compliance will be conducted in accordance with statutory requirements set forth in 2 CFR Part 200.

The Program Implementation Contractor is responsible for complying with all requirements set forth in the contract between the Program Implementation Contractor, DED and applicable HUD requirements. The Program Implementation Contractor must have a working knowledge of CDBG-DR programmatic requirements and demonstrate adequate capacity in the administration of all DED's HUD funded programs.

At a minimum, Program Implementation Contractors will be responsible for:

- Complying with the terms and conditions of their agreement with DED.

- Monitoring construction contractors for equal opportunity, Federal and State labor standards, Section 3, and other federal and state requirements, where applicable.

- Performing sufficient financial controls to ensure CDBG-DR costs are eligible, allowable, reasonable, and allocable.

16.5.6   SUBRECIPIENTS

Subrecipients are responsible for the administration of HUD funded grant activities described in the SRA. Subrecipients must identify a Recipient Grant Manager in DED's grant management system, AmpliFund, as the point of contact for day-to-day grant administration and for coordination on monitoring efforts. Subrecipient staff will organize grant files in preparation for the monitoring and provide documentation requested from DED staff for monitoring purposes (e.g., desktop or on-site).

Subrecipients must have a working knowledge of CDBG-DR programmatic requirements and demonstrate adequate capacity in the administration of all DED's HUD funded programs. Some Subrecipients have multiple activities with varying levels of complexity, and monitoring requirements will be adapted accordingly.

At a minimum, Subrecipients are responsible for:

- Complying with the terms and conditions of the SRA with DED, specifically anti-fraud, waste, and abuse.

- Following procurement processes in accordance with 2 CFR Part 200 or local standards, if higher.

- Monitoring any Sub-subrecipients for Federal compliance standards.

- Monitoring construction contractors for equal opportunity, Federal and State labor standards, Section 3, and other federal and state requirements, where applicable.

- Performing sufficient financial controls to ensure CDBG-DR costs are eligible, allowable, reasonable, and allocable.

- Documenting national objective compliance for all activities.

16.5.7   SUCCESSFUL APPLICANTS

Successful Applicants are responsible for the administration of HUD funded grant activities described in their funding agreement. Successful Applicants must identify a Recipient Grant Manager in DED's grant management system, AmpliFund, as the point of contact for day-to-day administration and for coordination on monitoring efforts. Successful Applicant staff must organize files in preparation for the monitoring and provide documentation requested from DED staff for monitoring purposes (e.g., desktop or on-site).

Successful Applicants must have a working knowledge of CDBG-DR programmatic requirements and demonstrate adequate capacity in the administration of all DED's HUD funded programs. Some Successful Applicants have multiple activities with varying levels of complexity, and monitoring requirements will be adapted accordingly.

At a minimum, Successful Applicants are responsible for:

- Complying with the terms and conditions of the funding agreement with DED, specifically anti-fraud, waste, and abuse.

- Monitoring construction contractors for equal opportunity, Federal and State labor standards, Section 3, and other federal and state requirements, where applicable.

- Performing sufficient financial controls to ensure CDBG-DR costs are eligible, allowable, reasonable, and allocable.

- Documenting national objective compliance for all activities.

16.5.8   STATE PARTNERS

While DED is the lead agency and HUD grantee, certain CDBG-DR program operations are managed in collaboration with State partners, including:

- Nebraska Investment Finance Authority (NIFA)

- Nebraska Emergency Management Agency (NEMA)

- Nebraska Department of Natural Resources (NeDNR)

- University of Nebraska – Lincoln (UNL)

DED will coordinate with other State partners as necessary in order to gain information, TA, or ensure coordination on program goals. DED and its State partners define their collaborative

efforts through memorandums of understanding (MOUs), Interagency Agreements (IAs), or Subrecipient Agreements (SRAs), collectively "Instruments of Signing and Clarification", that are agreed to by both State partners.

The monitoring processes defined within this Plan are applicable to activities that directly impact the implementation of CDBG-DR programs, as well as compliance with the MOUs, IAs, and SRAs. This includes verification that:

- all invoices paid by the program align with CDBG-DR rules and regulations,

- compliance documents are completed,

- quarterly performance reports are submitted, and

- budgets are managed.

MOUs and interagency agreements will be enforced, particularly for the Infrastructure Match ("Match") Program and the Affordable Housing Construction Program (AHCP), which each anchor on close collaboration and compliance between State partners. Additional details about program implementation for AHCP and Match, and coordination between State partners is included in the respective program guides.

16.5.8.1 NEBRASKA INVESTMENT FINANCE AUTHORITY (NIFA)

DED is partnering with NIFA in connection with the CDBG-DR Affordable Housing Construction Program to increase the affordable housing supply in flood-impacted areas. The Affordable Housing Construction Program includes an application in partnership between DED and NIFA, where Low-Income Housing Tax Credit (LIHTC)/ Affordable Housing Tax Credit (AHTC) Program funding will be leveraged to fund affordable rental housing in disaster-impacted areas.

The MOU, agreed to by both State partners, further details DED and NIFA's relationship regarding the implementation of the Affordable Housing Construction Program.

16.5.8.2 NEBRASKA EMERGENCY MANAGEMENT AGENCY (NEMA)

DED is partnering with NEMA in connection with the CDBG-DR Infrastructure Match ("Match") Program to alleviate the burden for local communities in meeting local match requirements for the Federal Emergency Management Agency (FEMA) Public Assistance (PA) and Hazard Mitigation Grant (HMGP) programs. DED, administrator of the Infrastructure Match Program, and NEMA, administrator of the FEMA PA Program and HMGP, intend to coordinate program efforts to support long-term recovery throughout the State of Nebraska.

DED and NEMA's relationship regarding the implementation of the Match Program is formalized via a MOU/IA and SRA. The latter was entered due to the implementation model for PA projects.

16.6 CAPACITY AND RISK ASSESSMENT PROCEDURES

As further described below, each monitoring approach is tailored based on the entity's relationship to DED. This section outlines the methodology and tools DED utilizes to help inform monitoring and evaluation of Subrecipients and Successful Applicants.[8]

16.6.1 METHODOLOGY OVERVIEW

To provide effective oversight for all Subrecipients and Successful Applicants, DED takes a multi-layered approach to ensure there is adequate capacity to administer and implement the CDBG-DR Programs.

- **Initial Capacity Assessment**: For Subrecipients and Successful Applicants, DED engages in an initial capacity assessment during the initial program stages to evaluate Subrecipient or Successful Applicant program documentation and qualifications, as applicable, and identify potential high risk Subrecipients or Successful Applicants.

- **Annual Risk Assessment**: DED's monitoring is performed by the Compliance Team, which is driven by an Annual Risk Assessment that determines the frequency and type of monitoring to be performed, based on the level of risk. The risk-based approach identifies programs and projects that could be at potential risk of non-compliance with applicable Federal, State, and contractual requirements. Subrecipients and Successful Applicants will be prioritized based upon the most current information and staffing resources available, and this prioritization is utilized to generate the monitoring schedule.

- **Quarterly Progress Review**: On a quarterly basis, Subrecipients and Successful Applicants must submit project status reports (PSRs) to DED pertaining to the activities undertaken as a result of the SRA or funding agreement to ensure appropriate use of funds. CDBG-DR Team program staff conduct a review of these PSRs quarterly.[9]

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[8] **Section 16.8: Monitoring Procedures**, describes the monitoring procedures informed by the methodology and tools described in this section. **Section 16.11: Contractor Monitoring**, specifically outlines the methodology for DED's approach to monitoring and evaluating Program Implementation Contractors.

[9] As the HUD grantee, DED is responsible for reporting progress on all activities via DRGR. These reports are called Quarterly Performance Reports (QPRs); the applicable reporting schedule is set by HUD and included in **Chapter 17 Recordkeeping and Data Management**. Note that DED may set a parallel schedule for its awardees to help ensure it meets QPR due dates.

16.6.2   INITIAL CAPACITY ASSESSMENT

The initial capacity assessment can fulfill one or more of the following purposes:

1. Provides a due diligence review of Subrecipients' or Successful Applicants' initial program documents;

2. Provides an evaluation review of Subrecipient or Successful Applicant qualifications for programs which utilize a state-issued NOFO or NOI; and

3. Informs DED on the potential level of Subrecipient or Successful Applicant program compliance with Federal, state, and CDBG-DR requirements.

Within initial program stages (awarding, SRA or funding agreement, and early implementation phases), the initial capacity assessment primarily serves as a determination of Subrecipients' or Successful Applicants' readiness to execute an SRA or funding agreement and implement the respective program or project for which it is receiving funding. It also advises DED of those high risk Subrecipients or Successful Applicants who require direct administrative oversight in the form of intensive TA and capacity training.

As programs progress into full project implementation, the initial capacity assessment shifts to provide DED with understanding and prioritization of potential Subrecipient or Successful Applicant areas to focus compliance and monitoring activities on, which also still considers the components in which TA and training were initially provided. In this sense, the capacity assessment serves as the foundation from which DED records and documents both its TA and monitoring efforts to ensure regulatory compliance as responsible and effective stewards of HUD funding.

Additional functional results of the initial capacity assessment process include determinations on scheduling, frequency, and types of TA, training, and monitoring activities.

16.6.3   DOCUMENT COLLECTION

The Initial Capacity Assessment Document Collection Checklist (see *Appendix A: Initial Capacity Assessment Document Collection Checklist*) outlines specific documentation which DED staff uses to inform the analysis completed within the Initial Capacity Assessment Worksheet (see *Appendix B: Initial Capacity Assessment Worksheet*). These documents may include:

- Capacity and experience documents (staffing charts, job descriptions, etc.);

- Program design documents (draft applications, project budgets, and timelines);

- Scope design documents (draft vendor contract, work plan, contract budget estimate);

- Program implementation documents (draft agreement, program budget); and

- Prior compliance history (monitoring and audit reports, including single audit reports required under 2 CFR Part 200 Subpart F).

DED program staff will coordinate in the collection of this documentation from Subrecipients and Successful Applicants. DED program staff, with the advice from the Compliance Team, is responsible for ensuring that they have sufficient documentation from the Subrecipient or Successful Applicant in completing the Initial Capacity Assessment Worksheet (see *Initial Capacity Assessment Worksheet*).

It is vital to initially utilize this see the *Initial Capacity Assessment Document Collection Checklist* as a document guide for the *Initial Capacity Assessment Worksheet* prior to determining what additional information is still needed.

16.6.4   INITIAL CAPACITY ASSESSMENT PROCESS

CDBG-DR Team program staff collects information necessary to populate the SRA or funding agreement and confirm authority to execute the SRA or funding agreement. Subrecipients and Successful Applicants are required to provide documents and information to facilitate DED's initial capacity assessment as required in Federal Register Notice (83 FR 5867) and 2 CFR 200.332(b) (see *Initial Capacity Document Collection Checklist*).

CDBG-DR Team program staff collect basic organizational capacity information and relevant policies and procedures for the program area from the implementing entity. Additionally, CDBG-DR Team program staff review the documents to determine the potential for risk of noncompliance with regulatory or grant requirements.

Where key policies do not exist, CDBG-DR Team program staff identify a plan to develop the policies. Subrecipients or Successful Applicants may request TA or CDBG-DR Team program staff may provide TA for policy development.

This initial capacity assessment may result in the inclusion of specific conditions in the SRA or funding agreement, if warranted. These conditions require that the Subrecipient or Successful Applicant meet certain standards. Depending on the specific condition, such condition may need to be resolved before project-specific funds may be used, following issuance of a Release of Funds (ROF). For example, a situation that would elevate to the level requiring a grant condition to be satisfied prior to ROF may be to establish program guidelines for the operation of a Subrecipient program under the Homeowner Assistance Program. Details surrounding specific conditions will be further detailed in the SRA or funding agreement.

The initial capacity assessment should be completed, and risks should be fully communicated to all applicable DED teams to inform them of potential risk and noncompliance areas, prior to the expenditure of any HUD funding by the Subrecipient or Successful Applicant. The Subrecipient or Successful Applicant must agree to comply with the requirements, requests, and results of DED's initial capacity assessment and maintain the capacity to carry out disaster recovery activities in a timely manner.

In the unlikely event where CDBG-DR Team program staff did not perform an initial capacity assessment for Subrecipients or Successful Applicants prior to the expenditure of grant funding, the basis for determining specific SRA or funding agreement conditions, TA, or training must still be documented. DED will also document justification for why an initial capacity assessment was not previously conducted in this instance.

16.6.5   INITIAL CAPACITY ASSESSMENT RESULTS

CDBG-DR Team program staff will identify within the Initial Capacity Assessment Worksheet the completion of program policies, procedures, and critical documents necessary to confirm a Subrecipient's or Successful Applicant's readiness for program or project launch. The CDBG-DR Team program staff make determinations as to whether a review of documents, or lack thereof, result in the Subrecipient or Successful Applicant meeting a minimum standard of program or project readiness.

In those instances in which the minimum standard is not met, CDBG-DR Team program staff will utilize written conditions within the SRA or funding agreement to enforce additional controls on the Subrecipient or Successful Applicant to enact prior to receiving authorization to move forward in program or project implementation as outlined in the SRA or funding agreement (e.g., ROF, processing of initial request for payment, etc.).

Subrecipients and Successful Applicants will be informed about findings under the initial capacity assessment.
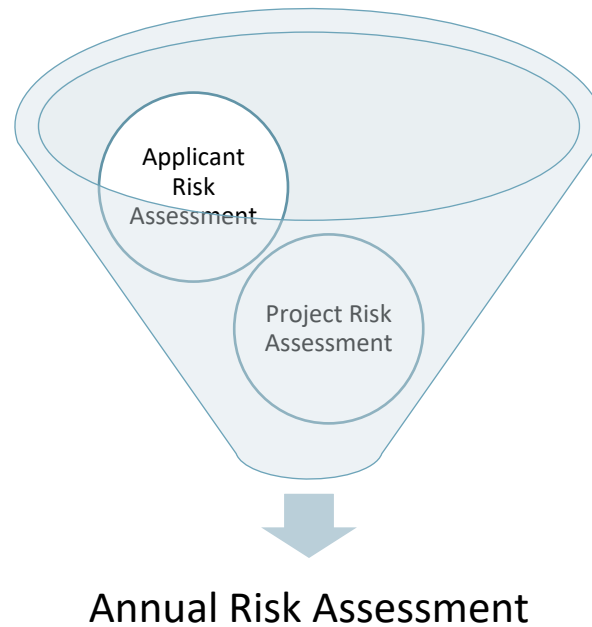
16.7   ANNUAL RISK ASSESSMENT

16.7.1   ANNUAL RISK ASSESSMENT PURPOSE

DED's monitoring process is conducted based upon priority, which is primarily determined by the results of an Annual Risk Assessment. Subrecipients and Successful Applicants are prioritized based upon the most current information and staffing resources available, and this prioritization is utilized to generate the monitoring schedule. Additional Subrecipients or Successful Applicants may be added to the monitoring schedule to accommodate changing monitoring priorities.

16.7.2   ANNUAL RISK ASSESSMENT PROCESS

All Subrecipients and Successful Applicants are subject to review over the life of the CDBG-DR program. The priority of each review is determined through the Annual Risk Assessment, which is performed annually based on the fiscal year of the State of Nebraska (June-July). The Compliance Team Manager and Compliance Team, conduct the Annual Risk Assessment using the **Sample Annual Risk Assessment Worksheets** The Annual Risk Assessment process includes two components: an Applicant Risk Assessment and a Project Risk Assessment. Each component assessment results in a risk rating of High, Medium, or Low, with the higher of the two component results serving as the final Annual Risk Assessment result. The process is outlined below in **Figure 1.**

Figure 1: Annual Risk Assessment Components

Annual Risk Assessment

The data utilized to generate the analytics for the criteria is derived from the Disaster Recovery Grants Reporting System (DRGR) and DED's records. While the results of the Annual Risk Assessment are the primary driver to determine prioritization, input from DED's finance, program, and field staff can also be taken into consideration as factors.

At the conclusion of the Annual Risk Assessment process, the Disaster Recovery Manager and the Compliance Team staff will discuss the Annual Risk Assessment results that may impact the risk level assessed. Based on these results of the Annual Risk Assessment, the Disaster Recovery Manager will coordinate with the Compliance Team Lead to develop a monitoring schedule for all Subrecipients and Successful Applicants. With the steps outlined above, Compliance Team staff will prepare annual strategies on how to effectively manage risks and increase compliance among all CDBG-DR funded programs. The Disaster Recovery Manager may also coordinate with CDBG-DR Team program staff to develop TA plans and training activity schedules for higher risk Subrecipients and Successful Applicants based on the results of the Annual Risk Assessment Worksheet.

Records regarding the Annual Risk Assessment Worksheet are maintained by the Compliance Team and shared with the Disaster Recovery Manager and Disaster Recovery program staff in the appropriate Subrecipient or Successful Applicant files.

16.7.2.1   COMPLIANCE AND MONITORING

Once the Annual Risk Assessment Worksheet is complete, official monitoring planning and scheduling can begin. The Compliance Team Lead and the Disaster Recovery Manager coordinate to develop a quarterly monitoring schedule (see *Section 16.9: Monitoring Schedule*).

The priority of reviews is based upon the results of the most recent Annual Risk Assessment—those Subrecipients and Successful Applicants identified as having the highest relative risk are considered priority. While the results of the Annual Risk Assessment are the primary driver to determine prioritization, input from DED's finance, program, and field staff can also be taken into consideration as factors by the Compliance Team Lead and the Disaster Recovery Manager.

The Compliance Team Lead and the Disaster Recovery Manager reserve the right to edit the official monitoring schedule as needed to address an immediate concern or issue of noncompliance or high risk which may occur outside of the Annual Risk Assessment process.

16.7.2.2   TRAINING AND TECHNICAL ASSISTANCE

The Disaster Recovery Manager will coordinate with CDBG-DR Team program staff to develop TA plans and training activity schedules for higher risk Subrecipients and Successful Applicants based on the results of the Annual Risk Assessment Worksheet. CDBG-DR Team program staff may undertake a further review of higher risk Subrecipients and Successful Applicants to determine common risk areas where TA and training could assist in reducing the same concerns across multiple entities. This may allow for coordinated TA and training for both individual and multi-entity events.

16.8   QUARTERLY PROJECT STATUS REPORTS

Subrecipients and Successful Applicants must submit Project Status Reports (PSRs) quarterly to DED pertaining to the activities undertaken as a result of the SRA or funding agreement. PSRs, or Quarterly Performance Reports (QPRs), identify accomplishments that have been achieved during the applicable reporting period, beneficiary data regarding CDBG-DR national objectives, and project activity progress. CDBG-DR Team program staff review these quarterly PSRs to ensure programs and projects are on track to meet performance plan and project milestones as identified in the SRA or funding agreement. This informal process allows DED to maintain an ongoing pulse of program implementation activities and supports DED's reporting responsibilities in the DRGR QPRs.

Figure 2: Quarterly Reporting Process Flow

Awardee-Submitted PSR or QPR	→	Program Manager Comments	→	DRGR QPR Activity Narrative

CDBG-DR Team program staff typically do not issue the Subrecipient or Successful Applicant a formal response in connection with to quarterly PSRs. However, if any deficiency is found in a

PSR, the CDBG-DR Team program staff relay any issues to the Disaster Recovery Manager and the Compliance Team Lead. The Disaster Recovery Manager and Compliance Team Lead will determine whether the identified deficiencies should prompt a desktop or on-site monitoring review.

Similarly, DED Finance regularly runs a report on financial activity (or inactivity) for all CDBG-DR-funded activities. The goal of this report is to identify slow expenditures or inactive projects. CDBG-DR Team program staff will follow up with such Subrecipients or Successful Applicants to determine the cause and assess the ability to draw funds. As described in *Table 1* above, percentage of total funds expended informs the Annual Risk Assessment and impacts a Subrecipient's or Successful Applicant's risk level for purposes of monitoring.

16.9   MONITORING PROCEDURES

16.9.1   MONITORING PURPOSE

As indicated in the prior section, the monitoring process follows the monitoring schedule for DED's monitoring of its Subrecipients and Successful Applicants. This routine represents the key method of oversight which DED directs toward those Subrecipients and Successful Applicants charged with implementing all or parts of its CDBG-DR projects and programs to ensure compliance. It is both an integral management control technique and an ongoing process to assess quality of performance over time. More specifically, monitoring ensures that the State manages the Federal awards in compliance with Federal statutes, regulations, and the terms and conditions through monitoring and reporting of program performance.[10]

This section of the Plan describes the monitoring process in detail from the initial notification to a Subrecipient or Successful Applicant to reporting results, corrective actions, and the eventual clearance of any findings of non-compliance. It covers two types of monitoring:
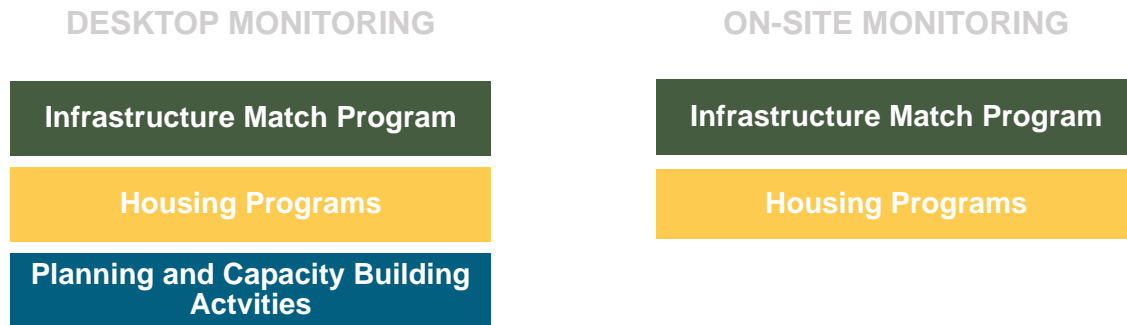
- Desktop Monitoring

- On-site Monitoring[11]

Grants administered under the Infrastructure Match Program, Housing Programs, and activities funded to support Planning and Capacity Building are monitored through the desktop monitoring process. Grants administered under the Infrastructure Match Program and Housing Programs are also monitored through the on-site monitoring process.

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[10] As noted, the State must manage the awards in compliance with terms and conditions of the award. This includes any special conditions or information contained in HUD communications and/or applicable Federal Register Notices. Such guidance may vary with each award and can either sharpen or alter the focus of DED's monitoring activities each year.

[11] On-site monitoring may be conducted remotely, at the discretion of DED, due to extenuating circumstances, including but not limited to, the ongoing COVID-19 pandemic.

Figure 3: Programs and Monitoring Process

DESKTOP MONITORING	ON-SITE MONITORING
Infrastructure Match Program	Infrastructure Match Program
Housing Programs	Housing Programs
Planning and Capacity Building Actvities	

16.10   MONITORING SCHEDULE

4. The monitoring schedule is based on the results of the Annual Risk Assessments.

5. The Project / Program Population of assessed Subrecipients/Successful Applicants is defined according to *Section 16.9.1: Project Selection*.

6. A sample of projects is selected to review for the Subrecipient or Successful Applicant by the Compliance Team based on the information supplied by the Project Manager.

7. Quarterly compliance and monitoring reviews are scheduled according to staff resources and the schedule is distributed to DED's Compliance and CDBG-DR Teams.

16.10.1   PROJECT SELECTION

16.10.1.1   DEFINING THE PROJECT POPULATION

For any given review cycle, the Compliance Team Lead may limit the total population. Additional criteria may be employed to either limit or expand the total project population for a particular Subrecipient or Successful Applicant. In these cases, the rationale for inclusion or exclusion of a project area, certain project, or group of projects in the population is documented accordingly.

16.10.1.2   SAMPLE SELECTION

In selecting project areas, projects, and programs for review, the Compliance Team Lead may consider a diverse cross-section of project types that meet the expenditure threshold to ensure a representative sample selection of activities, with special consideration given to higher risk activities, including construction, acquisition, relocation, etc.

Additional reviews of projects and/or programs requiring follow-up review and/or outstanding corrective actions identified in prior reviews generally take precedence over those that do not have outstanding issues to be addressed. Any individual risks imposed by a particular project or program are also taken into account when scheduling additional reviews or determining review frequency overall.

16.11   EXECUTING THE MONITORING REVIEW

The monitoring review is executed in three stages (see 4). Detail regarding each of these stages is provided in the subsections below.

Figure 4: Monitoring Review Execution

16.11.1   MONITORING NOTIFICATION LETTER

16.10.1.1   SUBRECIPIENT   AND   SUCCESSFUL   APPLICANT COMMUNICATION

Prior to a notification letter being disseminated to the Subrecipient or Successful Applicant, the DED Compliance Team member conducting the visit (i.e., the "Monitor") must reach out to the Subrecipient or Successful Applicant via a ***Monitoring Notification Letter*** (MNL). There are two types of notification letters based on whether the Monitor is conducting desktop or on-site monitoring.

A pre-notification communication between the Monitor and Subrecipient or Successful Applicant should be made via phone or email. The purpose of this communication is to alert the Subrecipient or Successful Applicant that either a desktop or onsite monitoring has been scheduled, discuss potential dates for the monitoring, and discuss any monitoring logistics required to execute the monitoring.

16.10.1.2   DESKTOP MONITORING NOTIFICATION LETTER

A MNL and ***Document Request Checklist*** will be sent by the Monitor notifying the Subrecipient or Successful Applicant no later than thirty (30) calendar days prior to the start of the desktop monitoring. The letter states the purpose of the desktop monitoring and the Subrecipient's or Successful Applicant's responsibilities related to the desktop monitoring effort. The letter also identifies the activity and compliance standards to be monitored, the documentation to be delivered to the appropriate Compliance Team staff, and the method(s) for providing the documentation to DED.

The timeframe from notification letter to the commencement of desktop monitoring allows a sufficient period for the Subrecipient or Successful Applicant to organize documentation, review their policies and procedures, and initiate internal controls they determine to be appropriate in advance of the monitoring.

Once the Subrecipient or Successful Applicant returns the completed **Document Request Checklist** with supporting documentation, the Monitor will perform a preliminary review to determine that all requested documentation has been provided.

16.10.1.3 ON-SITE MONITORING NOTIFICATION LETTER

A MNL and Document Request Checklist will be sent by the Monitor notifying the Subrecipient or Successful Applicant no later than thirty (30) calendar days prior to the start of the on-site monitoring. The letter states the purpose of the on-site monitoring, length of time the Monitor will be on-site, and the Subrecipient's or Successful Applicant's responsibilities in assisting the Monitor's onsite monitoring activities. The letter must clearly identify areas to be monitored and State that appropriate Subrecipient or Successful Applicant staff and any applicable consultants must be on-site to provide clarification and/or take part in interviews as determined necessary by the Monitor. The letter must also emphasize that the Monitor be provided suitable space – away from Subrecipient or Successful Applicant staff – in order to conduct the monitoring.

The timeframe from MNL to the commencement of the on-site monitoring allows a sufficient period for the Subrecipient or Successful Applicant to organize program documentation (specifically those items noted in the **Document Request Checklist**, review their policies and procedures, and to ensure required individuals are available – onsite – to assist Compliance Team staff. This will also afford the Monitor sufficient time to start the preparation work for the on-site visit.

If during the 30-day notification period something occurs that may require an on-site monitoring visit to be postponed/rescheduled, the Subrecipient or Successful Applicant must reach out to the Monitor in writing (via email) and discuss justification for a request to reschedule a monitoring visit. The Monitor should review the request and conduct any follow-up discussions necessary to gather all necessary information regarding justification, suggested dates, etc.

After the Monitor has collected all the information, a discussion between the Monitor, the Compliance Team Lead, in consultation with the Disaster Recovery Manager, should take place to determine if the justification is reasonable and if the requested dates are acceptable. Once the Compliance Team Lead has provided approval to reschedule the monitoring, the Monitor must follow up via email to notify the Subrecipient or Successful Applicant of the determination and agreed upon dates. This should be maintained in the file for record keeping purposes.

If there has not been a request to postpone the monitoring visit, the Monitor must contact the Subrecipient's or Successful Applicant's point of contact within fourteen (14) calendar days prior to the visit to serve as a reminder of the agreed upon date(s), time, and location of the on-site monitoring (if applicable). There should also be discussion on any arrival logistics required, e.g. parking restrictions, construction issues, etc.
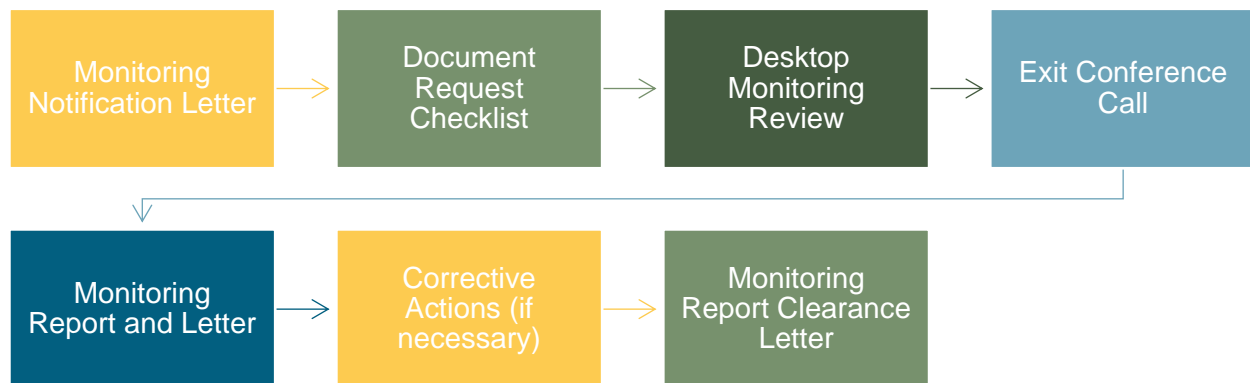
In emergency circumstances, DED can send the notice on the business day prior to the visit.

16.11.2   MONITORING LEVELS

16.10.2.1   DESKTOP MONITORING

The steps illustrated in the diagram below and described in the subsequent sections provide a high-level process for executing a desktop monitoring review (see 5).

Figure 5: Desktop Monitoring Process Flow

The desktop monitoring commences thirty (30) calendar days after the Subrecipient or Successful Applicant is notified of the monitoring via the MNL. During the thirty (30)-day notification period, the Subrecipient or Successful Applicant will provide the Monitor with any documentation requested in the ***Document Request Checklist***) contained in the MNL. Desktop monitoring is conducted at the DED office regardless of the location of the Subrecipient's or Successful Applicant's office.

A desktop monitoring can either be area specific (e.g., Procurement and Contract, Environmental, Section 3) or a comprehensive review of the CDBG-DR project or programs administered by the Subrecipient or Successful Applicant. The desktop monitoring also serves to assess Subrecipient or Successful Applicant compliance and potential training/TA needs in order to become compliant and maintain proper administration within acceptable compliance standards as set in Federal and State regulations, rules, and applicable guidance (provided either by DED or HUD, or other Federal Agencies).

Prior to the start of the desktop monitoring, the Monitor should review the following, in order to get a better understanding of the project(s) and any special conditions:

- The requirements of the CDBG-DR program;

- FRN requirements applicable to the CDBG-DR program and any applicable waivers;

- Other Federal regulatory guidance, such as Uniform Administrative Requirements, cost principles, and audit requirements outlined in 2 CFR Part 200;

- Specific conditions as stated in 2 CFR § 200.206 and § 200.208 respectively to mitigate the risk of the grant;

- The SRA or funding agreement, including amendments if applicable;

- The Annual Risk Assessment; and

- Results of any quarterly progress report reviews conducted by CDBG-DR Team program staff and any previous monitoring reviews conducted by the Compliance Team.

Typically, desktop monitoring is only conducted for low risk to medium risk Subrecipients or Successful Applicants who pose the least amount of risk to DED and its grant with HUD. At DED's discretion, the desktop monitoring process may be used to satisfy HUD's monitoring requirement in lieu of on-site monitoring for Subrecipients and Successful Applicants identified as low and medium risk.[12]

During the desktop monitoring, the Monitor will review the requested documents and test for compliance with all applicable requirements. The Monitor will utilize the **General Monitoring Checklist** and any relevant supplemental checklists to complete the review.

A desktop monitoring typically takes up to thirty (30) calendar days to complete following receipt of all documentation requested in the **Document Request Checklist**. The actual length of desktop monitoring is dependent upon organization and completeness of the documentation received and any necessary follow-up with the Subrecipient or Successful Applicant.

16.10.2.2   ADDITIONAL ACTION – FINDING

A desktop monitoring may identify a finding in either a particular area(s) of project management or identify a systematic deficiency that needs further investigation. If a finding is identified during a desktop monitoring, the Monitor is to halt all monitoring review activities – this includes if the monitoring review is incomplete – and arrange for discussion with management to determine the most appropriate next steps. The next steps can result in either continuing the desktop monitoring or require an on-site monitoring.

If the determination is that an on-site monitoring must be conducted, the following actions should be taken:

- Notate the decision on the draft monitoring report;

- Explain the next step is an on-site monitoring and process;

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[12] Special circumstances may arise that require a special desktop monitoring for a high risk Subrecipient or Successful Applicant, e.g. a news report related to a CDBG-DR funded project where actions may require a special on-site monitoring.

- Request tentative dates with appropriate Subrecipient or Successful Applicant staff;

- Expand sample and request additional documents for further review prior to the on-site monitoring;

- The Compliance Team Lead and Disaster Recovery Manager amend the official monitoring schedule to reflect the change from desktop monitoring to on-site monitoring; and

- Notify the appropriate Program Manager, including the DR Division Director, of the changes.

After the above actions are taken, the on-site monitoring process should be followed.

16.10.2.3   EXIT CONFERENCE CALL

The Exit Conference Call is conducted after the desktop monitoring is complete and the *Exit Conference Agenda* is created. The purpose of the exit conference agenda is to assist the Monitor in moving smoothly through the discussion and to inform the Subrecipient or Successful Applicant what points will be covered. This will help the Subrecipient or Successful Applicant discuss internally any questions they may have for discussion.

The Exit Conference Agenda should contain the following:

- Start Date and Time of the Exit Conference Call;

- Notations on attendance – names and positions;

- Preliminary results and tentative conclusions, including any identified deficiencies, concerns, and findings;

- Identification of the next stage in the monitoring process; and

- Placeholder for questions and discussion.

A copy of the exit conference agenda should be emailed to the Subrecipient or Successful Applicant staff when the date of the conference call is scheduled. The Monitor must contact the Subrecipient or Successful Applicant and schedule the conference call within fourteen (14) calendar days of the conclusion of the desktop monitoring. The Subrecipient or Successful Applicant staff and leadership, as appropriate, should be in attendance on the conference call.
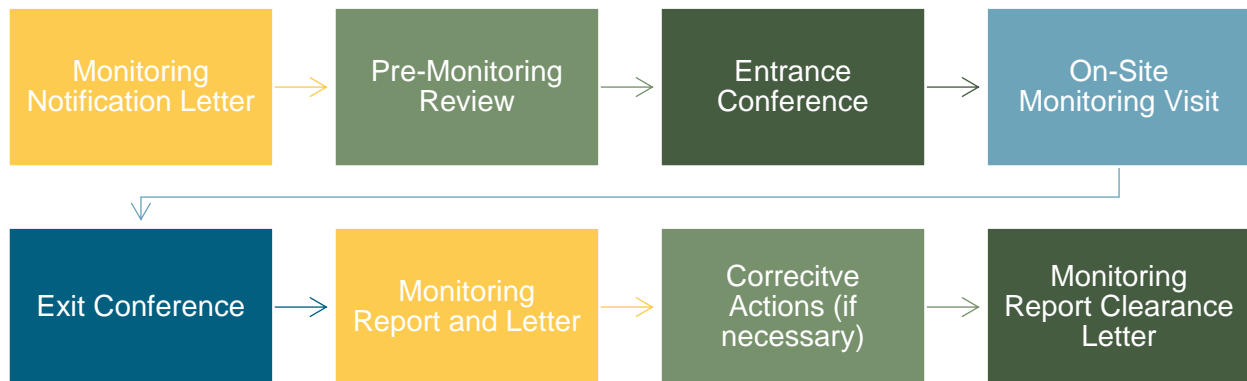
Recommended Best Practice: Make detailed notes from the conference call and any clarifying statements made by the Subrecipient or Successful Applicant. After the conference call, email a copy of the agenda and notes taken from the conference call and allow the Subrecipient or Successful Applicant two (2) calendar days to either confirm the notes accurately reflect the conversation or recommend note changes. After the Subrecipient or Successful Applicant agrees

with the notes (this is no more than a three (3)-day activity), the notes and agenda should be saved to the monitoring file.

16.10.2.4 ON-SITE MONITORING

The steps illustrated in the diagram below and described in the subsequent sections provide a high-level process for executing an on-site monitoring review.

Figure 5: On-site Monitoring Process Flow

Monitoring Notification Letter	→	Pre-Monitoring Review	→	Entrance Conference	→	On-Site Monitoring Visit
Exit Conference	→	Monitoring Report and Letter	→	Correcitve Actions (if necessary)	→	Monitoring Report Clearance Letter

Typically, on-site monitoring is reserved for medium to high risk Subrecipients and Successful Applicants. This group of Subrecipients and Successful Applicants present the greatest risk to DED's compliance with HUD's grant requirements. On-site monitoring is intended to be a more comprehensive assessment of the Subrecipients' or Successful Applicants' management of the CDBG-DR projects and programs in compliance with applicable Federal, state, and local regulations and requirements. This level of monitoring is typically performed at the Subrecipient's or Successful Applicant's location and is more formal than a desktop monitoring.[13]

As a general policy, DED conducts on-site monitoring visits **at least once** prior to closeout.

16.10.2.5   PRE-MONITORING REVIEW

The pre-monitoring review process is performed in order to:

- Reduce DED's use of time and resources in conducting on-site monitoring;

- Ensure the Monitor is adequately prepared and familiar with the program and project(s) in order to accurately determine compliance; and

- Reduce the impact of an on-site monitoring's use of staff time and resources of the Subrecipient or Successful Applicant.

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[13] On-site monitoring may be conducted remotely, at the discretion of DED, due to extenuating circumstances, including but not limited to, the ongoing COVID-19 pandemic.

In order to facilitate the pre-monitoring review, the Monitor should review documents contained within AmpliFund, SRA or funding agreement, and program application.

Pre-monitoring review(s) are performed during the thirty (30)-day period between when the MNL is sent to the Subrecipient or Successful Applicant and the date(s) scheduled for the on-site monitoring. The Monitor will use the pre-monitoring activity to assess areas where additional clarification and/or documents are necessary in order to accurately assess compliance in applicable areas of project management. Additionally, when the Monitor goes on-site, the documents should be reviewed – high level – to DED's records in order to reflect the most recent and official version of documents. If it is determined that the documentation DED maintains is not the most recent version, the Monitor is to make copies of any document(s) and bring back to DED to update applicable records.

Recommended Best Practice: For efficiency, the Monitor should write out any questions that arise from the pre-monitoring review and notate specific documents to request. The Monitor can request the documents during the entrance conference.

16.10.2.6   ENTRANCE CONFERENCE

The entrance conference is the official start of an on-site monitoring. A successful entrance conference will include the following activities:

- Introduction of Monitor(s);

- Providing a high-level overview of the on-site monitoring process and confirm scope of monitoring activities;

- Obtaining contact information of the appropriate staff members for the areas of review;

- Discussion of general logistics, e.g. fire escape, restrooms, copier, etc.;

- Scheduling – preliminary – interviews, additional interviews maybe required later in the monitoring visit. The **Appointment Log** should be filled out; and

- Ensuring the Subrecipient or Successful Applicant has an understanding – high level – of the onsite monitoring and needs of the Compliance Team staff.

Both DED and the Subrecipient or Successful Applicant must agree per the SRA or funding agreement at the outset that it is DED's responsibility to monitor the Subrecipient's or Successful Applicant's activities and determine whether their use of CDBG-DR funds is appropriate and meets applicable CDBG-DR regulations, even if the Subrecipient or Successful Applicant finds monitoring inconvenient and unwelcome.

Prior to the monitoring visit, the Monitor should create an **Entrance Conference Agenda.** The purpose of the entrance conference agenda is to assist the Monitor in moving smoothly through the discussion and to inform the Subrecipient or Successful Applicant what points will be covered.

The Monitor must record an accurate attendance record – **Monitoring Contact Sheet** – and take notes of any necessary information provided during the entrance conference.

16.10.2.7   CONDUCTING THE ON-SITE MONITORING VISIT

At the conclusion of the Entrance Conference, the Monitor will excuse the Subrecipient or Successful Applicant representatives and any additional attendees from the room and begin conducting the monitoring. While on-site, the Monitor will review the Subrecipient or Successful Applicant documents, complete the relevant monitoring checklists,[14] and make notes during the review. The majority of the visit is time spent on documentation, data acquisition, note-taking, interviews, and analysis. For housing activities, on-site monitoring must include a review of the property on-site for property standards compliance and assessment of the quality of the work; reasonableness of cost; and compliance with applicable laws and requirements. The Monitor also verifies that the number and location of units agree with the application.

The Monitor keeps a clear written record of the steps followed and the information reviewed during the visit.[15] This documentation is invaluable for analyzing information, developing conclusions from the monitoring visit, and explaining the basis for any findings that appear in the monitoring report. Being able to identify the sources of the information used to arrive at conclusions is particularly important if the Subrecipient or Successful Applicant disputes any of the findings.

During the on-site monitoring, the Monitor may conduct interviews with the appropriate staff or appropriate Subrecipient's or Successful Applicant's contractors/vendors. The interviews allow for the Monitor to question any initial observations from the review and obtain additional clarification, as necessary, in order to make an assessment of compliance. Any conversations or interviews with the Subrecipient's or Successful Applicant's staff or contractors/vendors must be documented.

16.10.2.8 EXIT CONFERENCE

The Monitor concludes the on-site monitoring visit with an Exit Conference. Subrecipient or Successful Applicant staff and leadership, as appropriate, should be in attendance at the exit conference. The on-site exit conference is conducted much like the desktop monitoring Exit

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[14] Specific areas of review include, but are not exclusive of, the following: national objective/eligible activity; program or project progress, performance, and capacity; general files; environmental review, including any mitigation, Tier II review, etc.; financial management, including internal controls, cash management, and accounting records; procurement; professional services and contract management; and civil rights and fair housing.

[15] A feasible method for this is to annotate a monitoring checklist or handbook and the Subrecipient's or Successful Applicant's written policies that DED obtains from the file reviews, on-site inspection of projects, or discussions with Subrecipient or Successful Applicant representatives with notes about particular case numbers, statistics, or financial figures.

Conference Call, as in the areas of weakness are discussed and the next steps in the monitoring process are explained to the Subrecipient or Successful Applicant. The on-site exit conference should cover the following actions:

- Thanking the Subrecipient or Successful Applicant for their time and assistance;

- Explaining next steps in the monitoring process;

- Covering the questions and documents that remain outstanding and giving the Subrecipient or Successful Applicant a deadline for response;

- Provide an opportunity for the Subrecipient or Successful Applicant to correct any misconceptions or misunderstandings on DED's part;

- Secure additional information from Subrecipient or Successful Applicant staff to clarify or support their position;

- Preliminary results and tentative conclusions, including any identified deficiencies, concerns and findings; and

- Responding to any questions by Subrecipient or Successful Applicant staff and/or leadership.

Once the Exit Conference has concluded, both the Subrecipient or Successful Applicant representative and the Monitor must sign the *Exit Conference Agenda*. Once the agenda is signed a copy must be given to the Subrecipient or Successful Applicant for its records. The purpose of signing the Exit Conference agenda confirms both parties understand all areas discussed and to record any requested information that may result in corrective actions.

Recommended Best Practice: The Monitor takes detailed notes of questions asked by the Subrecipient or Successful Applicant and any responses made while discussing any weaknesses identified during the exit conference.

16.11.3   MONITORING REPORT AND LETTER

Upon completion of the monitoring, the Monitor will begin composing the Monitoring Report and Letter (MR). The MR concisely details:

- Areas of Review

- Areas of Weaknesses (Finding or Concern)

- Areas of Merit

- Recommendations

- Areas of TA

DED uses the MR to create a permanent written record of the monitoring review's findings. Any required corrective actions must be detailed in a manner that allows the Subrecipient or Successful Applicant to clearly understand the requirements that must be met and the importance of future compliance. If any areas of merit were discovered during the monitoring, this should also be mentioned in the MR along with the areas of noncompliance.

DED has sixty (60) calendar days following the Exit Conference in order to provide the Subrecipient or Successful Applicant staff with the MR. During the sixty (60)-day timeframe, the Subrecipient or Successful Applicant has the ability to provide DED with necessary documents or other means of resolutions that were discussed during the Exit Conference. Submitting the documents prior to when the MR is sent out will help resolve minor issues. Even though the issue is resolved, it will still appear on the MR, but no actions will be required on resolved issues.

The MR can also inform further adjustment to other DED records relating to the project to ensure accuracy and visibility for future monitoring and auditing purposes.

Conclusions from monitoring processes may result in the Subrecipient or Successful Applicant being evaluated as falling under one of the three categories described below and further discussed in **Section 16.10.3.1: 16.10.3.1 Corrective** Action and **Section 16.10.4: Monitoring Report and Letter Response Review**.

Determination	Description
Satisfactory Performance	No identifiable issues.
Concern	An issue is identified but does not involve a statute, regulation or requirement, such as a management issue.
Finding	Clear violation of a statute, regulation, or requirement and a remedy is required.

16.10.3.1 CORRECTIVE ACTION

Findings or concerns identified in a MR must be addressed with a corrective action as described in the MR. DED allows the Subrecipient or Successful Applicant thirty (30) calendar days to respond with a written corrective action to a finding(s) and/or concern(s) as described in the MR. The corrective action should not only correct the immediate problem but also create future controls that prevent the situation from recurring.[16] Corrective action deadlines may be extended at DED's discretion or if a time extension is requested and supported by the Subrecipient or

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[16] Subrecipients and Successful Applicants will submit regular PSRs that include information responsive to any corrective actions based on the findings and concerns identified.

Successful Applicant. Any Subrecipient and Successful Applicant requests for extension must be made in writing to the Monitor.

In the corrective action, the Subrecipient or Successful Applicant must describe the steps taken to resolve each finding and/or concern and/or provide new process information or clarification on resolving the compliance issue.

The Monitor reviews the Subrecipient's or Successful Applicant's corrective action and compares the response to the findings or concerns noted during the monitoring to determine next steps. If additional revisions are needed to the corrective action before clearance, the Monitor will issue a **Corrective Action Incomplete Letter** (CAIL) to the Subrecipient or Successful Applicant. All findings and concerns from monitoring reviews must be cleared prior to project closeout. For additional information regarding corrective actions, see **Section 16.10.4: Monitoring Report and Letter Response Review**.

16.10.3.1.1   Corrective Action – Finding

Findings are deficiencies in CDBG-DR performance for which there is clear noncompliance with a statutory, regulatory, or CDBG-DR-specific requirements. Findings identified during monitoring must be addressed with an appropriate course of action, known as a corrective action plan. Further, when a violation of a Federal or State regulation is identified, the Monitor must perform additional activities in order to assess the extent of the finding (systemic or outlier). In order to make an assessment, the Monitor must expand the review sample of area where the finding(s) was identified.

Findings are recorded with a specific regulatory citation of the requirement that is not being adhered to, as well as a description of the condition which is causing the finding. Where possible, references should be made to specific dates, documents, payments, costs, or activities, rather than general operations.

16.10.3.1.2   Corrective Action – Concern

Concerns are identified issues but do not involve a specific statute, regulation or requirement, such as a management issue. Concerns may be more broadly described than a finding and not specifically cite a requirement. Concerns may reference a deficient process and not a deficient item. Subrecipients and Successful Applicants must address the concerns with details of remedy actions. DED may also provide recommendations and has the right to approve or reject the action.

Concerns may lead to future findings if deficiencies are not corrected.

16.10.3.1.3   Technical Assistance Delivery During Monitoring Process

During an on-site monitoring, the Monitor may discover an action or document that shows the Subrecipient or Successful Applicant may have a weak understanding of an area of CDBG-DR program management that could lead to a concern or finding. If the Monitor identifies a situation like this during a monitoring, they can provide on-site TA. This TA can either be conducted at the time the issue is identified during the review or during the Exit Conference. When providing this – proactive – TA, the Monitor should cover the documentation reviewed and where there appears

to be a weak understanding of requirements and/or regulations. It should be explained so that the Subrecipient or Successful Applicant staff understands the issue and has examples of best practices to help guide future actions in the correct manner.

When composing the MR, this on-site TA must be identified in the letter. The MR should provide a brief overview of what was identified, a summary of the assistance provided, and statements providing additional resources. It is important to record TA provided during the monitoring; in the event the issue is not corrected.

Where appropriate, the Monitor will engage CDBG-DR Team program staff to provide additional TA and training to Subrecipients and Successful Applicants.

16.11.4 MONITORING REPORT AND LETTER RESPONSE REVIEW

16.10.4.1 INCOMPLETE CORRECTIVE ACTION

The Subrecipient or Successful Applicant has thirty (30) calendar days from the date the MR is issued to respond to any findings and/or concerns identified therein. After the Compliance Team receives the Subrecipient's or Successful Applicant's response to the MR, it is reviewed to determine if the response satisfies the required corrective actions as stated in the MR. During this review period, the Monitor will assess the actions that have been put in place to avoid future occurrence of noncompliance. During this assessment period, the Monitor will determine if the actions are sufficient or insufficient. If it is determined that the official response is insufficient, the Monitor will make recommendations to the Compliance Team Lead and Disaster Recovery Manager on next steps, which can include DED taking more severe actions against the Subrecipient or Successful Applicant.

The Compliance Team Lead and the Disaster Recovery Manager will review the recommendations submitted by the Monitor. During this review, the Compliance Team Lead and Disaster Recovery Manager will either approve the recommendation – in part or in full – or will reject the recommendation – in part or in full – and will respond to the Monitor, instructing on next steps. If the Compliance Team Lead and Disaster Recovery Manager agree with the recommendations submitted by the Monitor, a CAIL will be generated by the Monitor. The CAIL will follow the letter review process as covered in the MR process. The CAIL process will continue until all issues have been satisfied and a Monitoring Report Clearance Letter (MRC) can be generated.

16.10.4.2 CORRECTIVE ACTION COMPLETE

After a Subrecipient or Successful Applicant has been provided with the MR, the Subrecipient or Successful Applicant must work on completing the corrective actions stated in the MR. During this part of the process, DED Compliance Team and CDBG-DR Team program staff and the Subrecipient or Successful Applicant will work towards satisfying all issues identified to improve internal processes or other actions that were required, based on the issues identified. Once all

issues have been satisfied the corrective actions will be considered complete and monitoring closed and a MRC is generated.

16.10.4.3   SANCTION

If a finding remains uncorrected, one or more sanctions may be imposed. The severity of the sanction(s) is governed by the type and seriousness of deficiency including violation of the SRA or funding agreement and DED policies and procedures. Possible sanctions include, but are not limited to:

- Reporting Subrecipient in Federal debarment system;

- Suspension of payments;

- Termination of award;

- Disallow cost recovery for costs incurred under the award;

- Disqualification from consideration for other CDBG funds; and

- Legal action pursued by the Nebraska Attorney General.

If the Subrecipient or Successful Applicant is uncooperative, does not comply with the MR requirements, and does not act to clear the findings and concerns, DED may consider this a violation of the SRA or funding agreement and DED will determine the consequences for such inaction. Such consequences shall be based on the severity of the deficiency, the State and Federal rules and regulations governing the area(s) of noncompliance, the impacts to the community, and consequences to DED. It is important to note, however, that Compliance Team staff, with the support of CDBG-DR Team program staff, must consider and are encouraged to provide targeted guidance and capacity building events to assist a Subrecipient or Successful Applicant, to create or develop the required documentation or information from the corrective action which is needed to resolve a finding and/or potential sanction.

As mentioned above, if those efforts do not resolve in resolution, additional DED actions may include, but are not limited to:

- Issuing a letter of warning that additional action(s) will be taken if deficiencies are not corrected or are repeated;

- Advising the Subrecipient or Successful Applicant that additional information or assurances will be required before additional funding is provided;

- Suspending or terminating the expenditure of funds for a deficient activity or grant;

- Refraining from extending any further assistance to the Subrecipient or Successful Applicant until full compliance has been met; or

- Requiring recapture of funds in question.

Additionally, if the Subrecipient or Successful Applicant does not address the deficiencies after being sanctioned, additional sanctions may be imposed. DED shall notify the Subrecipient or Successful Applicant of the decision to impose sanctions by official letter. The Subrecipient or Successful Applicant shall have the ability to appeal the decision following the process described on the CDBG-DR website.

16.10.4.4 APPEAL PROCESS

As further detailed on the CDBG-DR website, if a Subrecipient or Successful Applicant disagrees with a finding, the fact specific requirement of the finding, or the accompanying corrective actions or sanction(s) – that appears in the MR – that follow, therefrom, the Subrecipient or Successful Applicant may appeal the disputed decision no later than twenty (20) calendar days from the date of issuance of the MR unless the 20th calendar day falls on a weekend or State or Federal holiday, in which case, Subrecipient's or Successful Applicant's request for appeal is due by 5pm CST the next business day.

A Subrecipient or Successful Applicant may not appeal the methodology and standards found within the applicable laws, regulations, policies and procedures, which are used to identify the finding(s) of noncompliance and establish the resulting corrective action(s) and/or sanction(s).

The Compliance Team Lead, with the support of the Disaster Recovery Manager, will have thirty (30) calendar days to review the Subrecipient's or Successful Applicant's request for appeal and supporting evidence to determine if the original determination will stand or be repealed. The Compliance Team Lead may consult with DED's Legal team or the Disaster Recovery Division Director, where appropriate.

16.11.5 MONITORING REPORT CLEARANCE LETTER

Once the Compliance Team has determined that all corrective actions have been satisfied by the Subrecipient or Successful Applicant, a ***Monitoring Report Clearance Letter*** (MRC) will be generated. After this letter is generated and provided to the Subrecipient or Successful Applicant, the monitoring will be officially closed out. After the MRC has been provided to the Subrecipient or Successful Applicant, the Compliance Team Lead and Disaster Recovery Manager will update the file with the MRC. The MRC will state the date of the monitoring and address the number of findings and/or concerns, date of final response, and state that all identified issues have now been resolved and the monitoring is now complete.

Depending on the status of project activities, this MRC may also include additional instructions for final reporting or other required documentation (e.g., second public hearing documentation or final planning product) necessary to initiate closeout process and prior to issuance of certificate of closeout.

16.11.6 RECORDKEEPING

DED's policies on recordkeeping are further described in *Chapter 17: Recordkeeping and Data Management.* Specifically, DED and its Subrecipients and Successful Applicants are required to meet – at a minimum – the requirements covered in 24 CFR § 570.490 (a) and (b) and 2 CFR § 200.334, as well as CDBG-DR program specific requirements. Accurate and detailed records must be maintained in a manner that allows for easy access and provides enough information to make an accurate assessment on performance and compliance with all applicable regulations and requirements, either at the Federal or State level.

DED and its Subrecipients and Successful Applicants are required, at a minimum, to:

- Retain all books, records, accounts, documentation, and all other materials required by the SRA or funding agreement for a minimum period of three (3) years after DED notifies the Subrecipient or Successful Applicant that the HUD/DED grant(s) are closed.

- Permit applicable Federal and/or State entities and its representative(s) – as applicable – access to all files upon reasonable notice, unrestricted access to any or all books, records, accounts, documentation, and all other materials relevant to the SRA or funding agreement for the purpose of monitoring, auditing, or otherwise examining said materials.

16.10.6.1 TRACKING FINDINGS AND CONCERNS

After monitoring activities are complete and the MRC is sent to the Subrecipient or Successful Applicant, the Compliance Team Lead and Disaster Recovery Manager must track findings and concerns identified and the required and/or recommended corrective action. The corrective actions or any Subrecipient and Successful Applicant appeals should be maintained until the corrective actions have been deemed satisfactory and the monitoring process has been completed. This will maintain a detailed compliance history to support records requirements in 24 CFR § 570.490(a).

16.10.6.2 SUBRECIPIENT OR SUCCESSFUL APPLICANT FILE

DED is required to maintain accurate monitoring records to support compliance with monitoring requirements of HUD Grantees. At the conducting of the Annual Risk Assessment and creation of the yearly monitoring schedule, the Compliance Team Lead and Disaster Recovery Manager will create a file that breaks down monitoring into:

- Award Year;

- Quarter (1, 2, 3, and 4);

- Within each quarter should be a Subrecipient or Successful Applicant specific file that maintains all correspondence and documented activities performed by the Compliance Team and CDBG-DR Team program staff.

These files should at a minimum contain:

- Notification Letters

- Entrance Conference Agenda – if applicable

- Checklist(s)

- TA – if applicable

- Exit Conference Agenda

- Monitoring Report and Letter

- Follow-up Monitoring Report and Letters (e.g., CAILs) – as applicable

- Monitoring Report Clearance Letter

- Any applicable communication between Monitor and Subrecipient or Successful Applicant

16.12   CONTRACTOR MONITORING

When considering contractors, the same federal, state, local, and CDBG-DR administrative and monitoring requirements that apply to Subrecipients and Successful Applicants may not apply to a contracted entity. Therefore, the checklist used to monitor Subrecipients and Successful Applicants may not be suitable to fulfill DED's contractor monitoring responsibilities. With that in mind, a *Contractor Monitoring Checklist* was developed to help DED fulfill its responsibility for monitoring Program Implementation Contractors.

The Contractor Monitoring Checklist is tailored based upon the particular contract executed between DED and the Program Implementation Contractor. This would include updating the checklist to include all requirements and deliverables associated with the contract scope of work as well as any relevant areas of concern.

The Contractor Monitoring Checklist includes a review of the following areas:

1. Contractual requirements

    a. Administrative requirements

    b. Scope of Work

    c. Deliverables

2. Areas of Concern (as identified by the Monitor)

3. Labor

4. Civil Rights

5. Environmental

6. Financial Management

7. Property Management

8. Other Legal/Regulatory Requirements

16.12.1 SELECTING A DOCUMENTATION SAMPLE TO REVIEW

Using the Contractor Monitoring Checklist as a guide, the Monitor pulls samples of specific documentation to draw conclusions about an activity, process, or function. Samples are obtained through coordination with the particular entity being monitored and may consist of listings of projects, case files, program activities/transactions, or financial information. The actual sample items may consist of specific records and information as requested and/or data or reports that are provided by the Program Implementation Contractor as part of ongoing reporting or other production requirements.

According to Appendix A of HUD Handbook 2000.04 REV-2 CHG-7,[17] there are minimum sample sizes for attribute testing. The Monitor uses the guidance set forth in Appendix A of HUD Handbook 2000.04 REV-2 CHG-7 to determine the appropriate sample size for monitoring contractor activities.

16.13 MONITORING TOOLS

DED utilizes several monitoring tools to assist in the monitoring process of Subrecipients, Successful Applicants, and Program Implementation Contractors. Monitoring Tools are comprised of several documents, including:

- ***General Monitoring Checklist***

- ***Contractor Monitoring Checklist***

The ***General Monitoring Checklist*** is completed by DED to support the process of desktop and on-site monitoring. While completing this checklist, DED acknowledges it is important to make sure Subrecipients and Successful Applicants comply with all regulations governing their administrative, financial, and programmatic operations. It is also important to make sure

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[17] See https://www.hudoig.gov/library/single-audit-guidance/hud-consolidated-audit-guide.

Subrecipients and Successful Applicants achieve their performance objectives on schedule and within budget.

The Contractor Monitoring Checklist is further described in **Section 16.11: Selecting a** Documentation Sample to Review.

16.14   OTHER OVERSIGHT ACTIVITIES

As explained in section 1, this Plan, describes how DED oversees its Subrecipients and Successful Applicants in the implementation of the CDBG-DR Program funded by HUD grants. While monitoring is an integral management control technique, it is not the only ongoing process that DED uses to assess program progress, benefits, and other qualities of performance or compliance over time. Other oversight activities also enable the State to fulfill its oversight responsibilities.

These oversight responsibilities begin with a package of certifications and assurances the State makes to HUD about its continuing capacity to perform at the start of the grant cycle, especially with respect to grant management. They include internal and external reviews of the CDBG-DR Program progress toward recovery and resilience with appropriate attention to cross-cutting Federal requirements along the way. The topics of the Subrecipient and Successful Applicant reviews either correspond to the monitoring process described in the preceding sections or result from ongoing efforts, including periodic reporting from Subrecipients and Successful Applicants, DED program or financial reconciliation, and compilation of information for the Grantee (i.e., DED) QPRs.[18]

Additionally, this oversight involves independent, internal reviews by an auditor within DED, as well as a single audit for each Subrecipient and non-profit Successful Applicant conducted by an independent CPA firm exceeding the threshold set forth in 2 CFR § 200.501.

Consequently, this section is divided into three parts. The first broadly covers oversight of grant administration and overall program performance; the second relates to the wide range of cross-cutting Federal requirements; and the third involves independent auditing.

16.15   GRANT ADMINISTRATION AND COMPLIANCE

16.15.1   CERTIFICATIONS

A prerequisite to authorization to spend an awarded CDBG-DR grant is completion of a Certifications Package that seeks to establish that the Grantee possesses the wherewithal to manage a relatively large Federal award. The State typically completes this package as it plans use of a CDBG-DR grant(s), and it must update the contents as circumstances change. A required

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[18] As the HUD grantee, DED is responsible for reporting progress on all activities via DRGR QPRs. See also **Section 16.5 Capacity and Risk Assessment Procedures**.

checklist is usually provided in connection with each Congressional appropriation that covers grant allocation. An example of this checklist appears here. DED must ensure that the accompanying assurances the State makes to HUD remain valid, including the involvement of Subrecipients and Successful Applicants which assist in carrying out the CDBG-DR Programs.

16.15.2   PROGRAM MANAGEMENT

As previously mentioned, the State has made assurances to HUD that it will responsibly manage its grant programs. Part of the Certification Package includes a plan for implementation which designates DED as the lead entity for coordinating Nebraska's CDBG-DR Program. For additional information, see *Chapter 3: Program Management Guide*. To properly manage the program, DED has adopted a wide range of policies and procedures for each program component (Affordable Housing Construction, Infrastructure, Homeowner Assistance, and Planning), as well as Federal cross-cutting policies and procedures.

DED periodically verifies that such overall program and grant management policies and procedures are in place to ensure its continuing capacity to implement grant programs. Likewise, DED takes similar steps to determine that those Subrecipients and Successful Applicants, which assist DED in carrying out the program, can properly perform their roles.

Although it has not assigned responsibility for program management to any department or agency other than DED, the State recognizes that Grantees may need to work with staff at other agencies outside of their own to administer and/or implement various aspects of programs or projects. Other public agencies, commissions, or authorities that are independent of DED (as the administrating agency for the State) are public agencies. If they were to undertake HUD-assisted activities in cooperation with DED they would be subject to the same requirements as are applicable to the State's Subrecipients unless otherwise stated in a Federal Register Notice.

16.15.3   PROGRAM PROCESS

Among the assurances that the State provides is that DED has "proficient procurement processes" in place to prevent fraud, waste and abuse. The State must follow those processes as outlined in their Certifications or submit updated Certifications if/when they are no longer valid. As part of its oversight, DED must periodically compare the content of the Certification Package with current program processes during implementation of the CDBG-DR program. Likewise, for Subrecipients and Successful Applicants, the schedule of performance (i.e., the performance plan and project milestones) contained in the SRA or funding agreement must be compared to the actual progress to date (both in actual results and funds expended) to ensure the program is progressing in accordance with the time frame established. Such information is also used for DED to update QPRs submitted to HUD within the DRGR system, including, but not limited to, the following:

- Activity Progress

- Expenditures

- Actual accomplishments by performance measure

- Beneficiary data

The Disaster Recovery Division Director and the Disaster Recovery Manager provides oversight on the DRGR monitoring module content and entries, and the Disaster Recovery Division Director is responsible for coordinating submission of QPRs.

16.15.4   PROGRAM BENEFIT

All CDBG-DR program(s) activities must meet a need and address an impact of the disaster for which funding was appropriated. Given the standard CDBG requirements, this means each activity must:

- Be CDBG-eligible (or eligible under a waiver or alternative requirement);

- Meet a national objective; and

- Meet an unmet recovery need that addresses a direct or indirect impact from an eligible disaster in a presidentially declared county.

Eligible activities generally fall into one of the following categories: housing; restoration of infrastructure; economic revitalization; or administration and planning.

As described above, to qualify for CDBG-DR funding, activities must meet one of three national objectives set forth in section 104(b)(3) of the HCD Act:

- Benefit low-and-moderate-income persons;

- Aid in the prevention or elimination of slums or blight; or

- Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs (Urgent Need).

DED reviews program files to ensure the appropriate CDBG national objective has been met and the methodology of determining eligibility was sound. As part of oversight, the State reviews PSRs submitted by the Subrecipient or Successful Applicant to determine how many beneficiaries have been served and compares the actual number to the number projected in the approved funding application, SRA, or funding agreement for a wide range of projects. Activities that do not meet the defined national objective may be determined to be ineligible and a repayment of funds may be required as defined in the SRA or funding agreement.

16.15.5   ELIGIBLE ACTIVITIES

In accordance with 24 CFR Part 570 and HCDA section 105(a), DED must utilize HUD funding on eligible activities. Under DED's programs, such eligible activities may include, but are not limited to, the following:[19]

- Housing activities (rehabilitation and construction)

- Acquisition of real property

- Public facilities and improvements

- Public services

- Clearance

- Code enforcement

- Planning and capacity building

- Down payment and closing cost assistance

- Gap financing

- Housing counseling

- Activities carried out through nonprofit development organizations

With each eligible activity, the Compliance Team and CDBG-DR Team program staff will review applicable project costs paid with HUD grant funding to ensure it was an eligible cost under the activity as well as confirm that certain performance measures and project functionality requirements were documented and verified in order to meet an eligible activity. This may include site photos of the completed project, other permitting certificates indicating project completion, or other measurable documentation indicating an activity was carried out to completion.

For housing activities, the review may include on-site visits to DED-selected properties. On-site inspections include a review of the rehabilitated unit for property standards compliance, and assessment of the quality of the work, reasonableness of cost, and compliance with applicable laws and requirements. The Compliance Team also verifies that the number and location of units agree with the application.

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[19] Not all activities listed herein may be eligible under the DED CDBG-DR programs. Consult the most current version of the of the State's Action Plan for a list of eligible activities under DED's CDBG-DR Programs.

For all other non-housing projects, DED will monitor Subrecipient or Successful Applicant records to ensure projects funded are compliant with the related regulations for eligible costs and project completion. Additionally, a Subrecipient's or Successful Applicant's contractor or vendor will need to maintain similar records to ensure the services they provide are in compliance with the related regulations.

16.16   CROSS-CUTTING FEDERAL REQUIREMENTS

The second part of the oversight activities relate to the wide range of crosscutting Federal requirements. The topics arise in respect to Subrecipient and Successful Applicant reviews which correspond to the monitoring process described in the preceding sections or result from periodic reporting from Subrecipients and Successful Applicants and compilation of information for the Grantee QPRs. The Compliance Team monitors Subrecipient and Successful Applicant compliance with applicable cross-cutting Federal requirements by utilizing the Monitoring Tools outlined in *Section 16.8: Monitoring Procedures*.

16.16.1   FINANCIAL MANAGEMENT

DED personnel determine compliance with the financial management requirements outlined in *Chapter 4: Financial Management.* In particular, the review determines if records are maintained in compliance with 2 CFR Part 200 and 24 CFR Part 570, unless modified by waivers and alternative requirements issued by HUD via applicable Federal Register Notices, and applicable State requirements. DED personnel review ledgers, invoices, cancelled checks, bank statements, and funds requests to verify that all Subrecipients and Successful Applicants use grant funds for eligible expenses and to ensure costs are reasonable and necessary. Subrecipient and Successful Applicant financial management systems are evaluated for compliance with applicable regulations under both 24 CFR Part 570 and 2 CFR Part 200. Key requirements under these regulations include but are not limited to:

- Having accurate, current, and complete disclosure of the financial results of each award;

- Identifying all awards received and expended under the program where they were received;

- Identifying the source and application of funds; and

- Maintaining records to include information related to authorizations, obligations, unobligated balances, assets, income, and interest.

For CDBG-DR, DED uses three management systems to track and report grant expenditures: DRGR, the State's accounting system, EnterpriseOne, and the system of record, AmpliFund. Further details on financial management are referenced in *Chapter 4: Financial Management.*

16.16.2   PROGRAM INCOME

DED is required to treat any funds received and retained before closeout of the grant that generated them as program income; consequently, such program income is subject to all applicable requirements of 24 CFR Part 570. Program income is any gross income a Subrecipient or Successful Applicant receives that is generated from the use of CDBG funds. Where program income is produced, DED will handle said program income in accordance with *Chapter 7: Program Income.*

16.16.3   ENVIRONMENTAL REVIEW

Every HUD-assisted project must be in compliance with the National Environmental Policy Act (NEPA), HUD's implementing regulations at 24 CFR Part 58, and other related Federal and State environmental laws. Pursuant to 42 USC § 5304(g)(1) and 24 CFR § 58.4, the State of Nebraska assumes the responsibility for environmental reviews, decision-making, and actions that would otherwise be carried out by HUD under NEPA and other statutes.

DED is responsible for ensuring compliance with environmental review responsibilities under NEPA. Responsible entities must complete the environmental review prior to obligating any funds to the project, regardless of the source. This review includes determining the level of review that applies; completing the required procedures, finding forms, applicable supporting documentation, and necessary notices; and ensuring public participation and actions are part of the ERR and available at the local government office for public review. DED personnel make sure that required mitigation or follow-up actions triggered by the environmental review as indicated by DED correspondence have been carried out.

Further details on environmental review are referenced in *Chapter 8: NEPA Policies and Procedures*.

16.16.4   PROCUREMENT

Procurement and contract activities taken in relation to programs under the HUD grant agreement are to be in compliance with 2 CFR Part 200 and relevant State law and local procurement laws. DED and its Subrecipients and non-profit Successful Applicants are required to have controls and policies regarding how procurement will be conducted and allowable contract activities. When the Compliance Team conducts compliance reviews, the procurement and contract portion will focus on:

- Conflicts of Interest;

- Procurement type is the most appropriate method performed for goods and services procured;

- Contract is in compliance with applicable regulatory standards and appropriate for the services and/or goods procured; and

- All federally required contract provisions are contained within the contract.

Procurement and contract activity will be reviewed during monitoring to ensure all standards were met and to ensure the overall procurement and contract process ensures systematic compliance.

Further details on procurement are referenced in *Chapter 5: Procurement.*

16.16.5   LABOR STANDARDS AND SECTION 3

Construction contracts that meet the requirements for Davis Bacon and Related Acts (DBRA) are subject to labor compliance standards. Labor activities must meet the minimum requirements set in 29 CFR Part 5, applicable HUD labor standards, and any CDBG-DR program specific labor requirements. When the Compliance Team conducts reviews of projects that trigger DBRA requirements, Monitors will review all activities conducted during the construction services bid process and contract. The Monitors will review activities to ensure:

- Appropriate Prevailing Wage Rates were used;

- Workers are appropriately classified;

- Review of certified payrolls; and

- Applicable processes were followed, e.g. restitution and liquidated damages.

In addition to labor standards, Monitors will also ensure that Subrecipients and Successful Applicants have complied with Section 3 requirements set forth at 24 CFR Part 75 and are actively complying with Federal, State, and CDBG-DR program requirements and the Subrecipient's or Successful Applicant's Section 3 policy and plan.

Further details on Davis-Bacon and Section 3 are referenced in *Chapter 13: Section 3* and *Chapter 14: Davis-Bacon*.

16.16.6   EQUAL OPPORTUNITY AND FAIR HOUSING

Subrecipients and Successful Applicants of CDBG-DR Housing Programs must develop an Affirmative Fair Housing Marketing Plan. Subrecipient and Successful Applicant records must include an assessment of the effectiveness of the program's marketing and outreach efforts to ensure equal access to and non-discrimination in all program benefits. This includes a comparison between the Subrecipient's or Successful Applicant's general population, program applicants, and beneficiaries that received assistance or services. Applicants and beneficiaries that do not mirror the general population may indicate inadequate outreach. Compliance Team staff will review the documentation of actions taken.

Compliance Team staff also review hiring practices to see if they are exclusionary. If there are any outstanding complaints or lawsuits related to equal employment, then the Compliance Team staff will require additional details on the Subrecipient's or Successful Applicant's hiring practices.

Further details on equal opportunity and fair housing are referenced in **Chapter 11: Affirmatively Furthering Fair Housing.**

16.16.7   SECTION 504

DED personnel determine compliance with Section 504 of the Rehabilitation Act of 1973 regarding non-discrimination against qualified applicants and employees on the basis of disability and accessibility to program benefits, facilities, and services.

In accordance with Section 504 of the Rehabilitation Act of 1973, DED is required to have a Section 504 Plan for all HUD programs. Additionally, DED will provide grievance procedures that provide resolution to complaints for any action prohibited by Section 504. The Plan will be developed to protect qualified individuals with disabilities from discrimination, such as physical or mental impairment, including hearing, speaking, and visual impairments. It also ensures reasonable accommodations to the disabled.

16.16.8   UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT

As described in **Chapter 12: One-for-One Replacement Housing, Relocation, and Real Property Acquisition**, all federally funded property acquisition or other activities which involve displacement or relocation (temporary or permanent) of low-income households or which involve the demolition or conversion of residential units occupied by low income households must adhere to the requirements of two Federal laws – Section 104(d) of the Housing and Community Development Act of 1974, as amended, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) as amended – and their implementing regulations.

The URA further contains requirements for carrying out real property acquisition or the displacement of a person, regardless of income status, for a project or program in which HUD financial assistance is provided. The implementing regulations, 49 CFR Part 24, include steps which must be taken with tenant occupants, including those who will not be impacted by the HUD assisted activity. DED will monitor any project that includes acquisition and relocation to ensure the Subrecipient or Successful Applicant is in compliance with the regulations under the URA and Section 104(d).

Further details on Section 104(d) and the URA are referenced in **Chapter 12: One-for-One Replacement Housing, Relocation, and Real Property Acquisition.**

16.16.9   DUPLICATION OF BENEFITS

As outlined in **Chapter 18: Duplication of Benefits**, many Federal and State agencies are involved in responding to major disasters declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act). The Stafford Act includes a provision addressing duplication of benefits (DOB) that applies to all Federal agencies administering financial assistance for emergency response and long-term recovery. CDBG-DR awards are subject to these requirements. Under the requirements of Section 312 of the Stafford Act (42 USC

5155), CDBG-DR Grantees must consider certain aid received by Subrecipients and Successful Applicants in determining the amount of assistance that can be granted.

DED will monitor CDBG-DR programs and projects to ensure compliance with the rules and regulations surrounding DOB. Further details on DOB are referenced in *Chapter 18: Duplication of Benefits.*

16.16.10 RECORDKEEPING AND DATA MANAGEMENT

As further described in *Chapter 17: Recordkeeping and Data Management*, in accordance with 24 CFR § 570.490, DED and its Subrecipients and Successful Applicants must establish and maintain such records as may be necessary to facilitate review and audit by HUD. DED personnel will review all program recordkeeping, timeliness of reporting, program files, Subrecipients' and Successful Applicants' ability to work within a designated time frame, and the effectiveness of the Subrecipient's or Successful Applicant's management system (see *Section 16.10.6: Recordkeeping*).

Further details on recordkeeping and data management are referenced in *Chapter 17: Recordkeeping and Data Management*.

16.17 AUDITING

16.17.1 NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

The Nebraska Auditor of Public Accounts (APA) is charged with providing independent, accurate, and timely audits, reviews, or investigations of the financial operations of Nebraska State and local governments. The APA provides information to all policymakers and taxpayers through written reports and budget and audit databases.

16.17.2 INTERNAL AUDIT OF DED

DED has an Internal Auditor within the Compliance Team. The Internal Auditor will conduct ongoing audits of internal processes to ensure the grant meets all Federal compliance standards as well as to determine the internal controls are operating effectively and efficiently and are designed to detect and deter fraud, waste, and abuse. The Compliance Team conducts audit engagements in accordance with applicable Federal and State laws and regulations that include, but are not limited to, 2 CFR Part 200 and Federal Register Notices. In addition, the Compliance Team audits follow International Standards for the Professional Practice of Internal Auditing by the Institute of Internal Auditors and Generally Accepted Government Auditing standards (GAGAS) when applicable. This ongoing internal DED audit process ensures that the Federal and State compliance standards are met, and that DED follows standard operating procedures for grant implementation.

16.17.3   SINGLE AUDIT REQUIREMENTS

As further described in *Chapter 6: Auditing*, in accordance with 2 CFR Part 200, Subpart F, non-federal entities are required to track Federal funds awarded to Subrecipients and non-profit Successful Applicants each year. Subrecipients and non-profit Successful Applicants who spend $750,000 or more in Federal awards during a fiscal year are required to have an audit conducted in accordance with 2 CFR § 200.501. Subrecipients and non-profit Successful Applicants who spend less than $750,000 are exempt from the audit requirements, however, must submit written notification of exempt status to DED and records must be available for review or audit.

Expenses must be reported on a Schedule of Expenditures of Federal Awards (SEFA), submitted as a supplemental schedule to the entity's financial statements, listed separately by federal program. Each federal program must be identified by the CFDA or Assistance Listing number, or other unique identifier. This determines whether the entity meets the threshold for single audit.

TOOLKIT LIST

The following documents for **Chapter 16: Monitoring and Compliance Plan** are available on the [Toolkit section of DED's website](#):

- Appointment Log

- Sample Annual Risk Assessment Worksheets

- Contractor Monitoring Checklist

- Corrective Action Incomplete Letter

- Document Request Checklist

- Entrance Conference Agenda

- Exit Conference Agenda

- General Monitoring Checklist

- Initial Capacity Assessment Document Collection Checklist

- Initial Capacity Assessment Worksheet

- Monitoring Contact Sheet

- Monitoring Notification Letter

- Monitoring Report Clearance Letter