

NEBRASKA

Good Life. Great Opportunity.

DEPT. OF ECONOMIC DEVELOPMENT

Infrastructure Match Program Guide

State of Nebraska CDBG-DR Program

DECEMBER 2022 | Version 1.1

RECORD OF CHANGES

Infrastructure Match Program Guide

The table below summarizes changes by version. This identifier is also located on the cover page of this document.

Version	Date	Description of Change
1.0	01/31/2022	Initial draft published.
1.1	12/28/2022	<p>In addition to minor changes to clarify process throughout, responsive to HUD feedback, revisions also include:</p> <ol style="list-style-type: none"> 1. Incorporated Environmental Review adoption process in the NEPA section. 2. Overall cleanup of content to align with the Process Flow. 3. Cross-Cutting Review. 4. Replaced references to Policies and Procedures with CDBG-DR Policy Manual Chapters. 5. Deleted duplicative toolkit documents and updated in-text references. 6. Updated Table 1: Stages of the Infrastructure Match Program. 7. Updated Section 6: Application and Award Process to reflect current process flow.

TABLE OF CONTENTS

RECORD OF CHANGES	1
TABLE OF CONTENTS	2
1 EXECUTIVE SUMMARY	6
2 CDBG-DR MATCH PROGRAM OVERVIEW	11
2.1 MATCH SHARE AMOUNT	12
2.2 SUMMARY OF REQUIREMENTS AND PRIORITIES	12
2.3 PROGRAM OBJECTIVES.....	14
2.4 PROGRAM GOALS	16
2.5 FLEXIBLE MATCH CONCEPT	17
2.5.1 COORDINATING FLEXIBLE MATCH.....	19
2.6 ONGOING UNMET NEEDS ASSESSMENT	19
2.7 AWARD LIMITS	20
2.8 TOTAL ALLOCATION	20
3 ROLES AND RESPONSIBILITIES	20
3.1 US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD).....	20
3.2 NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT (DED)	20
3.3 NEBRASKA EMERGENCY MANAGEMENT AGENCY (NEMA)	21
3.4 NEBRASKA INVESTMENT FINANCE AUTHORITY (NIFA).....	22
3.5 NEBRASKA DEPARTMENT OF NATURAL RESOURCES (NEDNR).....	22
3.6 SUBRECIPIENTS.....	22
4 PROJECT FUNDING REQUIREMENTS	23
4.1 ELIGIBILITY CRITERIA	23

4.1.1	ELIGIBILITY FOR FEMA PROGRAMS	23
4.1.2	ELIGIBLE USE OF FUNDS	24
4.2	ELIGIBLE ACTIVITIES	27
4.2.1	ELIGIBLE APPLICANTS	28
4.2.2	ELIGIBLE COSTS	28
4.3	NATIONAL OBJECTIVES	30
4.3.1	BENEFITING LMI PERSONS	31
4.3.1.1	Area Benefit	31
4.3.1.2	Limited Clientele	31
4.3.1.3	Housing Activities	32
4.3.1.4	Job Creation and Retention Activities	33
4.3.2	URGENT NEED	33
4.4	TIE TO THE DISASTER	33
4.5	TIERING CRITERIA	34
5	CITIZEN PARTICIPATION	36
5.1	PUBLIC ENGAGEMENT	36
5.2	WEBSITE	37
5.3	MEETINGS	38
6	APPLICATION AND AWARD PROCESS	38
6.1	STAGE ONE: IDENTIFY FEMA-OBLIGATED PA AND HMGP PROJECTS	39
6.1.1	IDENTIFYING FEMA OBLIGATED PROJECTS	39
6.1.2	STATE-ISSUED NOTICE OF INTENT (NOI)	40
6.2	STAGE TWO: PROJECT ANALYSIS	40
6.2.1	SERVICE AREA DETERMINATION	41

6.2.2	FINAL TIERED PROJECT LIST.....	42
6.3	STAGE THREE: DETAILED PROJECT VETTING.....	42
6.3.1	DETAILED PROJECT VETTING.....	42
6.3.1.1	Procurement Requirements	43
6.3.1.2	National Environmental Policy Act.....	44
6.3.1.3	Program Income	44
6.3.1.4	Force Account Labor	45
6.3.1.5	Capacity and Risk Assessment.....	46
6.4	STAGE FOUR: DED SUBRECIPIENT SELECTION AND SETUP	46
6.4.1	SUBRECIPIENT SELECTION.....	46
6.4.2	APPLICATION FOR FUNDING.....	47
6.4.3	HMGP SUBRECIPIENT AGREEMENT PROCESS.....	47
6.4.4	NON-SELECTS AND REFERENCE TO COMPLAINTS/GRIEVANCE PROCESS	48
6.4.5	POST-AWARD REQUIREMENTS	48
6.5	STAGE FIVE: SUBRECIPIENT PAYMENT.....	49
6.5.1	REQUEST FOR RELEASE OF FUNDS.....	49
6.5.2	INVOICING.....	49
6.6	STAGE SIX: RECONCILIATION AND CLOSEOUT	49
7	MONITORING AND COMPLIANCE.....	53
7.1	MONITORING REVIEWS	53
7.2	ANTI-FRAUD, WASTE, AND ABUSE	53
7.3	FINANCIAL MANAGEMENT.....	54
7.4	DUPLICATION OF BENEFITS	54
7.5	RECORDS RETENTION	54

8 TOOLKIT DOCUMENTS..... 55

1 EXECUTIVE SUMMARY

In early 2019, the State of Nebraska suffered record-breaking damage from severe winter weather, straight-line winds, and its worst flooding event in 50 years, leading to a Federal major disaster declaration (DR-4420) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act). Damage from DR-4420 was widespread, leading to disaster declarations in 84 of the State's 93 counties (and four tribal areas), with the worst damage located in the eastern part of the State. HUD Most Impacted and Distressed (MID) is detailed in the [Action Plan](#) and includes Dodge, Douglas, and Sarpy counties.

On May 19, 2019, the Federal Emergency Management Agency (FEMA) released a public notice of its intent to reimburse state and local Nebraska governments and agencies, and eligible nonprofit organizations for costs incurred to repair and/or replace facilities damaged by severe winter storms, straight-line winds, and flooding through the Public Assistance (PA) and Hazard Mitigation Grant (HMGP) programs. The United States (US) Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Grantees and Subrecipients (SR) may use CDBG-DR funds to fulfill all or a portion of the non-Federal cost share requirements of the PA and HMGP Match Programs (referenced as “Local Match”). FEMA provides funding for disaster recovery through two programs:

- **FEMA PA** provides funding to repair or rebuild infrastructure with FEMA funding 90% of the project cost and local jurisdictions responsible for the remaining 10%.¹
- **FEMA HMGP** provides funding for projects that mitigate risks from future disasters with FEMA funding 75% of project cost and local jurisdictions responsible for the remaining 25%.

To support long-term recovery, the State of Nebraska's Department of Economic Development (DED) received a \$108,938,000 grant through HUD. As part of the State of Nebraska's Action Plan, DED has established the CDBG-DR Infrastructure Match Program (Match Program) to provide funding to supplement the non-Federal cost share of these programs.

The Match Program focuses on developing and implementing projects that will strengthen and build resilient communities driven by the needs, opportunities, and strategies to mitigate future impacts throughout the State. The Match Program is designed to assist public entities, local nonprofit organizations, and other eligible entities by leveraging CDBG-DR funds with FEMA resources to support recovery efforts. The use of CDBG-DR funds to cover the required non-Federal cost share or Local Match will ease the fiscal strain on communities struggling to recover from the catastrophic 2019 floods.

¹ President Biden made additional disaster assistance available to the State of Nebraska by authorizing an increase in the level of federal funding for public assistance projects as a result of Winter Storm Ulmer (DR-4420).

Flexible Match is a streamlining concept that reduces administrative costs related to CDBG-DR funds to satisfy the Local Match requirement of the PA Match. Under the traditional matching concept, CDBG-DR funds are applied as Local Match to the entire projects and are subject to both FEMA and CDBG-DR eligibility compliance requirements. By contrast, the Flexible Match program allows applicants to apply its CDBG-DR funding to distinct facilities, sites, or specific component of the scope of work; however, only the CDBG- DR portion of the project must comply with CDBG-DR requirements. The Flexible Match concept can reduce the number of facilities or sites within the subaward that must comply with both the Federal grant program requirements.²

CDBG-DR funds may only be used to expand a project's scope if FEMA approves of the expansion in the FEMA PW and/or sub-application. Additionally, projects must implement a CDBG-eligible activity, meet a HUD National Objective, and comply with all applicable cross-cutting requirements, to include, but not limited to, the Davis-Bacon and Related Acts (DBRA), Environmental Review, Procurement Standards as validated by FEMA, and applicable local statutes, rules, and regulations.

The purpose of this guide is to outline the process for administering DED's Match Program, funded by HUD CDBG-DR for DR-4420. The objective is to provide an understanding of the Match Program. The intended outcome of the Match Program is to offset the local cost share for infrastructure projects to expand the reach of projects that address impacts from Winter Storm Ulmer and mitigate similar impacts in the future. Additional documentation, including the CDBG-DR Manual and the documents listed in this program guide, are available on DED's website.³

The Match Program includes six stages outlined below in **Table 1. Section 6: Application and Award Process** provides additional details related to each of these stages and describes the method for implementing the Match Program. It should be read as an "order of operations" for projects selected for funding under this program and relates directly to the below Match Program Stages.

² "Implementation Guidance for Use of Community Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for the Public Assistance Program ([October 2020](#))". HUD.

³ <https://opportunity.nebraska.gov/programs/community/cdbg-dr/>

Table 1: Stages of the Infrastructure Match Program

Stage	Tasks	Outcomes
<p>Stage 1: Identify FEMA-Obligated PA and HMGP Projects</p>	<ul style="list-style-type: none"> • The State of Nebraska Emergency Management Agency (NEMA) provides a list of active PA and HMGP projects to DED for consideration. • DED and NEMA use Grants Portal to view the most up-to-date project information. • DED conducts the Match Program’s preliminary review by generating a list of eligible projects based on the eligibility and prioritization review. • After the preliminary review, the State will issue a Notice of Intent (NOI) and Pre-Application to invite applicants to submit additional information to confirm eligibility. • Following the release of the NOI, CDBG-DR applicants have 60 days from the date the submission opened to complete and submit the NOI Pre-Application detailing eligible Match Program projects to DED. 	<ul style="list-style-type: none"> • DED conducts a preliminary review of PA and HMGP projects. • DED issues an NOI and Pre-Application to confirm initial eligibility.
<p>Stage 2: Project Analysis</p>	<ul style="list-style-type: none"> • DED reviews the NOI Pre-Application to determine National Objective, HUD-identified MID (e.g., Sarpy, Dodge, and Douglas counties), and non-MID, eligible Scope of Work (SOW). • DED tiers Pre-Application based on whether the project is in a HUD-identified MID and/or meets the Low-and moderate-income (LMI) National Objective and send Pre-Application Tiering and Ineligibility Letters to applicants via ShareFile. • Based on the Pre-Application tiering, DED will notify the applicant if they are going into a Detailed Project Review. 	<ul style="list-style-type: none"> • DED reviews Pre-Applications. • DED tiers Pre-Applications based on LMI and MID. • DED notifies applicants if they are moving into the Detailed Eligibility Review.
<p>Stage 3: Detailed Project Vetting</p>	<ul style="list-style-type: none"> • Following the preliminary review, DED conducts a Detailed Eligibility Review of approved project elements and supporting documentation, which includes, but is not limited to, the following: 	<ul style="list-style-type: none"> • DED conducts a Detailed Eligibility Review of PA and HMGP projects.

Stage	Tasks	Outcomes
	<ul style="list-style-type: none"> ○ Federal and cross-cutting requirements; and ○ Match share amount. ○ Subrecipient provides financial management documents to DED (e.g., an assessment of the entity’s audited financial statements, record-keeping methods, financial systems, or written procedures manual for financial management). <ul style="list-style-type: none"> ● DED confirms projects meet HUD eligibility and cross-cutting requirements prior to determining project eligibility. ● DED reviews FEMA’s environmental documentation for each project and processing for adoption. ● Subrecipient undergoes capacity and risk assessment for HMGP. 	<ul style="list-style-type: none"> ● DED reviews FEMA’s environmental review for adoption.
<p>Stage 4: DED Subrecipient Selection and Setup</p>	<ul style="list-style-type: none"> ● DED completes the PA and HMGP Application for Funding on behalf of the applicant. DED sends PA and HMGP Application for Funding to applicants for review, verification, and signature. ● DED sends a notice of award or issues a notice of non-selection. ● For those approved projects, DED initiates the Subrecipient Agreement (SRA) process with the applicant. ● DED monitors Subrecipient conducts such tasks as reviewing performance and compliance, confirming requirements, and evaluating any changes as they relate to the SRA, among others as required by the distinct program (i.e., HMGP project, PA project under construction, or complete PA project) (see Process Flowchart for further guidance). 	<ul style="list-style-type: none"> ● DED completes PA and HMGP Application for Funding on behalf of the applicant. ● Applicants review, verify, and sign the Application for Funding. ● For approved projects, DED initiates SRA process.
<p>Stage 5: Subrecipient Payment</p>	<ul style="list-style-type: none"> ● Once DED confirms that the project has complied with the National Environmental Policy Act (NEPA) and HUD requirements, DED and the Subrecipient submit their 	<ul style="list-style-type: none"> ● DED and Subrecipient submit their RROF to HUD.

Stage	Tasks	Outcomes
	<p>Request for Release of Funds (RROF) to HUD.</p> <ul style="list-style-type: none"> If approved, HUD grants an Authority to Use Grant Funds (AUGF). The Subrecipient then has three days to draw down the funds. 	<ul style="list-style-type: none"> If approved, HUD grants an AUGF.
<p>Stage 6: Reconciliation and Closeout</p>	<ul style="list-style-type: none"> DED will determine if a project is eligible for closeout for the CDBG-DR funded portion of the project. A project cannot close until the Subrecipient has submitted their last full invoice, completed all activities, and met the National Objective. The SRA is closed out after projects are closed. If an SRA covers multiple projects, the SRA cannot be closed out until all projects are complete and closed out. Subrecipient retains records for three years after HUD and DED Grant Closeout. 	<ul style="list-style-type: none"> DED closes out the CDBG-DR grant. Subrecipient reimbursed for local match cost.

1.1 ASSOCIATED ALLOCATION(S)

- Winter Storm Ulmer ([DR-4420](#))
 - In early 2019, the State of Nebraska suffered record-breaking damage from severe winter weather, straight-line winds, and its worst flooding event in 50 years, leading to a Federal major disaster declaration (DR-4420) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). Damage from DR-4420 was widespread, leading to disaster declarations in 84 of the State’s 93 counties (and four tribal areas), with the worst damage located in the eastern part of the state.
 - HUD designated the MID, as detailed in the Action Plan, as Dodge, Douglas, and Sarpy counties.
 - Pursuant to the federal requirements for DR-4420, a minimum of 80% of this allocation must be invested in HUD-designated MID areas.
 - A minimum of 70% of total CDBG-DR program funds must be spent on LMI populations.

This subsection may be updated should other allocations become available due to subsequent disaster events or supplemental allocations.

2 SCOPE

This policy applies to all DED employees, providers, vendors, contractors, consultants, Developers, Subrecipients, individual beneficiaries, partners, citizens, external departments, and agencies doing business with DED, as well as beneficiaries and others associated with, working for, accessing, or attempting to access benefits under the CDBG-DR programs.

3 CDBG-DR MATCH PROGRAM OVERVIEW

On December 3, 2019, HUD announced an allocation to Nebraska of \$108,938,000 in CDBG-DR funding. Issuance of the associated Federal Register Notice followed on January 27, 2020. These funds are intended to assist Nebraskans and their communities in recovering from the devastating effects of the severe weather conditions and subsequent flooding that occurred during the first half of 2019. The impact of these disasters on Nebraska's infrastructure, housing, and economy was widespread, with damage particularly focused on the eastern part of the state.

In accordance with the Action Plan and consistent with the data HUD used in determining Nebraska's allocation amount and the findings of the Unmet Needs Assessment (see Section 2 of the [Action Plan](#)), DED anticipates investing a considerable portion of the state's CDBG-DR allocation toward unmet infrastructure needs. This distribution is consistent with the HUD data which indicated that infrastructure damage was more significant than housing damage.

Additionally, in the few months since HUD took the steps outlined above, the nation has experienced the COVID-19 pandemic. Along with the rest of the nation and larger world, this unprecedented public health crisis is profoundly changing economic conditions within the state for the foreseeable future. Although extensive Federal resources are being directed to governments, businesses, and individuals to mitigate the impact of the COVID-19 pandemic, the actual needs far exceed the amount of funds available. It is incumbent upon the state to pursue policies and outcomes that maximize the financial resources available, mitigating financial burdens of local units of government by making available the Local match/non-Federal share portion of FEMA PA and HMGP Match Programs.

- **Flexible Match** is a concept that minimizes the administrative costs related to using CDBG-DR funds to satisfy the local match requirement of both the HMGP and PA program. Typically, a project consists of multiple facilities or sites (e.g., multiple elementary schools within a community or multiple road segments across a locality). When using the Flexible Match concept, the applicant can choose to apply its CDBG-DR funding to distinct facilities or sites within a Project Worksheet or sub-application. All the sites and facilities must comply with FEMA Program requirements, but only the CDBG-DR-assisted portion of the project must comply with CDBG-DR requirements. This concept is being implemented to reduce the number of facilities or sites within the SOW that must comply with both Federal grant program requirements, see Section 2.5, **Flexible Match Concept**.

CDBG-DR represents a down payment against unmet long-term recovery needs, which the initial Action Plan estimated at approximately \$269 million. The reality is that difficult decisions on the deployment of the CDBG-DR funds were always on the horizon, and the COVID-19 crisis has altered the state's evaluation of the alternatives. In making these decisions, it is important for Nebraskans with unmet recovery needs and for Nebraska's Federal partners to understand that there is a concerted commitment to finding the best possible options to address those remaining needs. Many such needs can be resolved more quickly, effectively, and reasonably with resources other than CDBG-DR. Our goal is to ensure that Nebraska recovers from the 2019 floods and is more resilient in the face of any similar event in the future. For the Match Program process overview, see: **Process Flowchart**.

The State of Nebraska enforces conduct of the CDBG-DR program to ensure that no person is excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status.

3.1 MATCH SHARE AMOUNT

FEMA provides funding to repair or rebuild infrastructure under its HMGP and PA program. However, applicants, such as local governments, must pay some of the eligible costs:

- 10% of the eligible costs to repair or rebuild infrastructure under FEMA PA; and
- 25% of the eligible costs under FEMA's HMGP.⁴

CDBG-DR funds may be used as match to offset the local share of PA or HMGP funded projects that:

- Demonstrate an unmet recovery need remains;
- Have exhausted other avenues for funding; and
- Are critical to restoring and making the community more resilient.

For eligible activities that meet CDBG-DR requirements, DED will reimburse up to 10% under the FEMA PA Match Program and up to 25% under the HMGP Match Program.

3.2 SUMMARY OF REQUIREMENTS AND PRIORITIES

Summarized in **Table 2** below are the Match Program priorities in context of the Federal requirements and state priorities these funds are subject to. To understand how the program

⁴ "DR-4420-NE Amendment 015." FEMA.

priorities are implemented under the Match Program, see **Section 6: Application and Award Process**, and CDBG-DR Manual **Chapter 2: Program Administrative Requirements**.

Table 2: Summary of CDBG-DR Requirements and Priorities

Entity	Requirement/Priority	Type and Citation
HUD	Tieback to the Disaster	77 FR 22583
	Eligible Activity	24 CFR § 570.482
	Meet a National Objective	24 CFR § 570.483
	Prioritization of HUD-defined MID areas	85 FR 4681
	Prioritization of Vulnerable Populations	Section 4.4.1 of the State of Nebraska DR-4420 Disaster Recovery Action Plan
	Infrastructure that directly or indirectly supports housing development activities	Section 5.1.2 of the State of Nebraska DR-4420 Disaster Recovery Action Plan; 83 FR 5844
State	Safe and Resilient Building	Section 4.3 of the State of Nebraska DR-4420 Disaster Recovery Action Plan
	Local and Regional Coordination	Section 4.4.2 of the State of Nebraska DR-4420 Disaster Recovery Action Plan
	Ongoing Outreach	Section 2.4.2.3 of the State of Nebraska DR-4420 Disaster Recovery Action Plan
Infrastructure Match Program	Emphasize green infrastructure, Increase capacity for resilience by upgrading stormwater and drainage infrastructure, Demonstrate a tie to housing recovery, Align with local planning efforts, Align with needs outlined in the Unmet Needs Assessment (UNA) (section 2 of the Action Plan) and Nebraska’s Baseline Conditions and Impact Assessment Report, and Relieve financial stress on local governments and other partners by	Section 5.1 of the State of Nebraska DR-4420 Disaster Recovery Action Plan

Entity	Requirement/Priority	Type and Citation
	making available local matching requirements for approved FEMA PA and HMGP projects.	

3.3 PROGRAM OBJECTIVES

Winter Storm Ulmer and the subsequent flooding caused severe damage to the state’s infrastructure systems and created cascading impacts across many sectors. Infrastructure damage was widespread, with 84 out of 93 counties impacted, reporting damage to roads, bridges, levees, dams, stormwater systems, and many other critical infrastructure facilities.

Roughly 64% of the total CDBG-DR funding allocation by HUD will go towards the Match Program to aid in Nebraska’s flood recovery effort. This is consistent with DED’s unmet needs assessment, which indicated that infrastructure damage was more significant than total housing damage. The Match Program allows FEMA PA and HMGP applicants to apply for CDBG-DR funding to cover costs that exceed the funds provided by FEMA. FEMA categorizes eligible projects by the type of damage that needs repair or restoration following a disaster. There are five categories of PA projects for permanent work (see **Table 3**).

Table 3: FEMA-PA Project Categories

Category		Description
Category C	Roads and Bridges (Section 406 of the Stafford Act)	Repair of roads, bridges, and associated features, such as shoulders, ditches, culverts, lighting, and signs.
Category D	Water Control Facilities (Section 406 of the Stafford Act)	Drainage channels, pumping facilities, and some irrigation facilities or levees, dams, and flood control facilities, with some restrictions.
Category E	Buildings and Equipment (Section 406 of the Stafford Act)	Buildings, including their contents and systems, or heavy equipment and vehicles.
Category F	Utilities (Section 406 of the Stafford Act)	Water treatment and delivery systems; power generation and distribution facilities; sewage collection and treatment facilities; or communications infrastructure.
Category G	Parks, Recreation Facilities, and Other Facilities (Section 406 of the Stafford Act)	Repair and restoration of parks, playgrounds, pools, cemeteries, mass transit facilities, beaches, and marinas. ⁵
		Any work or facility that does not fit under these categories.

DED’s Match Program for both FEMA PA and HMGP projects can distribute up to \$63.5 million in aid to eligible projects to help applicants meet their Local Match requirements. FEMA’s Federal cost share for PA projects was increased to 90% of cost with the required 10% match, which will be funded through the CDBG-DR Match Program. FEMA’s current Federal cost share for HMGP is 75% with a required 25% match to be funded through CDBG-DR Match Program.⁶

Per HUD requirements, 80% of the total CDBG-DR funding allocation must benefit the HUD-defined MID areas (Sarpy, Dodge, and Douglas counties). To meet the needs of other impacted counties outside of the HUD-defined MID areas, the State has allocated up to 20% of CDBG-DR funding to support recovery in the remaining 81 counties included in the Federal disaster declaration (i.e., the State-defined MID). DED is mandated to implement infrastructure activities

⁵ “Course: Public Assistance Hazard Mitigation Project Eligibility.” FEMA.

⁶ “DR-4420-NE Amendment 015.” FEMA.

that focus on benefiting LMI populations to meet the overall 70% LMI benefit level applicable to the entire grant.

Examples of CDBG-DR activities that can be funded in conjunction with FEMA Permanent Work Categories for PA local match include:

- Acquisition of real property;
- Acquisition, construction, reconstruction, or installation of public works, facilities, and site or other improvements; and
- Reconstruction and rehabilitation of privately-owned property.

Examples of CDBG-DR activities that can be funded in conjunction with FEMA HMGP local match may include but are not limited to:

- Structural elevations;
- Flood risk reduction;
- Infrastructure retrofits;
- Acquisition, construction, reconstruction, or installation of public works facilities;
- Site or other improvements; and
- Reconstruction and rehabilitation of privately-owned property.

As projects are evaluated through the HMGP process, DED will pay close attention to those that benefit housing recovery and address long-term housing needs throughout communities.

3.4 PROGRAM GOALS

The need to rebuild communities with an emphasis on resiliency became apparent after the 2019 disasters. To promote recovery and to prevent future catastrophic disaster-related damage, the Match Program provides FEMA applicants with the financial resources to pursue and implement projects that will rebuild and strengthen communities impacted by DR-4420.

As defined in **Table 2**, Match Program applicants are required to meet a series of Federal and state requirements to be eligible for the program. Program goals that will inform applicant selection include:

- Benefiting LMI persons;
- Implementing projects in HUD-defined MID areas;

- Supporting housing project development; and
- Relieving financial stress on local governments and other partners.

DED will review FEMA PA and HMGP projects to evaluate their eligibility under CDBG-DR. This process is outlined in **Section 6.2: Stage Two: Project Analysis**, and **Section 6.3: Stage Three: NOI and Detailed Project Vetting**. If eligible, CDBG-DR funds may be used to fund improvements to PA or HMGP projects that meet the following thresholds:

- Has been obligated by FEMA;
- Demonstrate that other avenues for funding have been exhausted and an unmet recovery need remains; and
- Demonstrate that the project is critical to restoring and making the community more resilient.

Analysis to verify that projects meet these thresholds will be conducted using **Detailed Eligibility Checklist**.

To demonstrate and meet the Federal requirements of CDBG-DR funding, DED created tiering criteria to prioritize projects (see **Section 4.5: Tiering Criteria**). While funding opportunities are available for communities impacted by disasters, many Federal programs require local governments to pay a share of the cost of the project. In the aftermath of the disaster, DED recognized that many local governments are fiscally constrained from implementing recovery efforts as they become overwhelmed with emergency response and loss of government revenue. In response, DED has established the CDBG-DR Match Program to provide funding to supplement the local cost share of these programs. Please refer to the six-stage process in **Table 1**.

3.5 FLEXIBLE MATCH CONCEPT

The Flexible Match concept will be used to guide management of both PA and HMGP Match Programs. Flexible Match is a concept that minimizes the administrative costs related to using CDBG-DR funds to satisfy the Local Match requirement of both PA and HMGP. HUD and FEMA issued joint guidance on Flexible Match in 2020, “Implementation Guidance for Use of Community Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for the Public Assistance Program” and that guidance will govern DED’s implementation of the concept.⁷

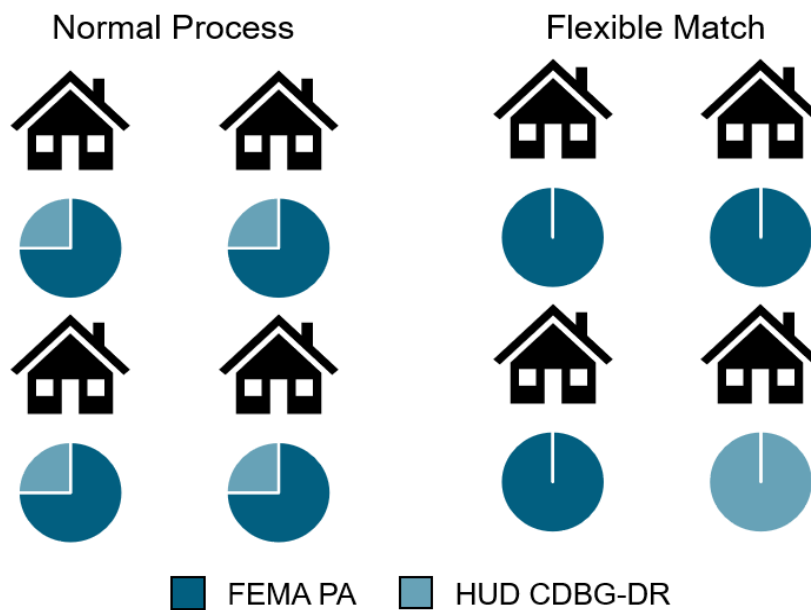
Typically, a FEMA PA and/or HMGP funded project consists of multiple facilities or sites (e.g., multiple elementary schools within a community or multiple road segments across a locality). When using the Flexible Match concept, the applicant can choose to apply its CDBG-DR funding

⁷ “Implementation Guidance for Use of Community Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for the Public Assistance Program.” HUD.

to distinct facilities or sites within a PA or HMGP project. All the sites and facilities must comply with FEMA Program requirements, but only the CDBG-DR-assisted portion of the project must comply with CDBG-DR requirements. Applying the Flexible Match concept can reduce the number of facilities or sites within the subaward that must comply with both Federal grant program requirements, **Figure 1**.

The Flexible Match concept can be applied to standard PWs and sub-applications when the amount of the Federal cost share and the local match is based on the actual cost to complete the SOW (the Federal cost share is reimbursed once work is completed).

Figure 1: Normal Process and Flexible Match Funding



CDBG-DR funds can be used to meet Local Match requirements for a PA or HMGP applicant provided that the CDBG-DR funds are used for costs that: 1) are eligible uses of CDBG-DR; and 2) are not reimbursable or otherwise payable by FEMA or the US Army Corps of Engineers. Applicants may use FEMA grant funds for most of the facilities in a project and consolidate all costs paid with CDBG-DR to as few facilities (or structures within facilities) as possible. The work completed with CDBG-DR funds is applied to the Local Match for the project. Under this approach, the CDBG-DR-assisted portion of the project must meet both FEMA and HUD CDBG-DR requirements. The portions of the project that are not CDBG-DR-assisted are subject solely to FEMA PA or HMGP requirements.⁸

⁸ "Implementation Guidance for Use of Community Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for the Public Assistance Program." HUD.

3.5.1 COORDINATING FLEXIBLE MATCH

Deliberate choices can reduce administrative costs and make it easier to comply with CDBG-DR requirements, especially the requirement that CDBG-DR funds primarily benefit LMI populations. Successful execution of Flexible Match requires coordination and transparency. This is because the work is dynamic and changes during implementation, successful implementation requires robust coordination and transparency. For example, the PW or sub-application SOW may change, costs may increase or decrease, or project delays may cause the deadline for completion of FEMA work to expire before the deadline for completion of CDBG-DR-assisted activities, or vice versa. Ongoing communication between clear points of contact assigned to oversee the use of each funding source between DED and a partner can help mitigate risk of noncompliance caused by changes to activities.

In the case of Nebraska's recovery, CDBG-DR Grantee (DED) and NEMA are two separate entities. Therefore, early, and ongoing communication is essential to the compliant use of CDBG-DR funds to satisfy Local Match, see **Section 4: Roles and Responsibilities**, for further details.

To receive CDBG-DR funding through the Match Program, DED must review the SOW, agree on eligibility, and work with agency partners and applicants to further compile documentation to send to HUD for review and release of funds.⁹

3.6 ONGOING UNMET NEEDS ASSESSMENT

As described in the Action Plan¹⁰ and discussed in the Citizen Participation Plan,¹¹ the State will actively work to identify infrastructure projects that address resiliency, including those that:

- Emphasize green infrastructure;
- Increase capacity for resilience by upgrading stormwater and drainage infrastructure;
- Demonstrate a tie to housing recovery;
- Align with local planning efforts; and
- Align with needs outlined in the UNA (Section 2 of the [Action Plan](#)) and Nebraska's Baseline Conditions and Impact Assessment Report.

DED will work with State partners to continually identify unmet needs that the Match Program may be able to support, and similarly communicate emerging unmet needs that are ineligible for the Match Program to programs who may be able to address them.

⁹ "Implementation Guidance for Use of Community Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for the Public Assistance Program." HUD.

¹⁰ "State of Nebraska DR-4420 Disaster Recovery Action Plan." DED.

¹¹ "State of Nebraska DR-4420 Disaster Recovery Action Plan." DED.

3.7 AWARD LIMITS

Under the Match Program, in accordance with the Action Plan, the following limits apply:

- Maximum award for an individual project: **\$10,000,000**

3.8 TOTAL ALLOCATION

The total allocation for the Infrastructure Match Program (\$63,491,100) is split between PA and HMGP projects:

- **Public Assistance (PA)**, up to \$49,778,602 and
- **Hazard Mitigation Grant Program (HMGP)**, up to \$13,712,498.

4 ROLES AND RESPONSIBILITIES

4.1 US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

HUD is the lead Federal agency responsible for the following activities as it related to CDBG-DR funds: calculates and announces allocations; publishes Federal Register Notice to govern CDBG-DR funds and issues waivers; reviews and approves CDBG-DR Action Plans; awards CDBG-DR Funds; provides CDBG-DR Grantees with technical assistance and manages the Disaster Grant Reporting System (DRGR); helps to coordinate funding streams from other Federal agencies; monitors CDBG-DR Grantees to ensure performance and compliance; review's Grantee Quarterly Performance Reports (QPRs); and works to resolve HUD Inspector General audits and investigations.

4.2 NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT (DED)

Grantee refers to a state or unit of general local government that received a direct CDBG-DR allocation from HUD. DED is the grant recipient ("Grantee") under HUD's CDBG-DR funds. Primarily responsibilities include administering the Federal grant directly and serving as a pass-through entity to the Subrecipient(s).

DED is responsible for designing and implementing all recovery programs funded under CDBG-DR; this includes:

- developing specific program materials,

- communicating program requirements,
- ensuring Subrecipient grant compliance, and
- communicating key program information.

DED will also establish internal controls for financial management and to ensure performance and compliance, monitors Subrecipients; distribute funds to Subrecipients; review project applications to ensure that all activities are eligible; and provide technical assistance to Subrecipients. Applicants will enter into a Subrecipient agreement with DED for the CDBG-DR portion of selected projects.

NEMA and DED, along with local governments, will coordinate to fund the Match requirement of both FEMA PA and HMGP projects. DED will be responsible for on-going and direct communication to applicants, Request for Information(s) (RFIs), monitoring the status of project eligibility, and all items related to the implementation and closeout of the Match Program. DED will also coordinate with other stakeholders (e.g., NIFA, Nebraska Department of Natural Resources (NeDNR)) to ensure appropriate information sharing across state programs.

DED is required to report to HUD on a quarterly basis, including the Quarterly Performance Report (QPRs), Action Plan, Amendment and QPRs are submitted via the DRGR system. Reporting and information management will be conducted as described in CDBG-DR Manual **Chapter 17: Recordkeeping and Data Management** and **Chapter 16: Monitoring and Compliance Plan**.

4.3 NEBRASKA EMERGENCY MANAGEMENT AGENCY (NEMA)

NEMA implements and is responsible for the oversight of obligated projects for both PA and HMGP. It also functions as the sole Subrecipient for the PA Match Program. As outlined in the Interagency Agreement (IAA) between DED and NEMA, NEMA is expected to share documentation and information as it relates to the project's status, SOW, and meeting FEMA PA and HMGP requirements. In addition, NEMA will work with DED to provide critical updates throughout the lifecycle of the project and closeout.

Collaboration between FEMA and NEMA for the PA and HMGP occurs through Grants Portal, EMMIE and Smartsheets. DED will have access to Grants Portal and coordinate with NEMA for updates on project progress through reports NEMA uploads to EMMIE. DED and NEMA will meet monthly to update each agency on the state of the program and projects. In addition, NEMA will assist DED in the tiering and prioritization of projects for the Match Program based on FEMA requirements, HUD requirements, and State goals for recovery and resiliency. NEMA is responsible for document retention as it relates to the PA project, see CDBG-DR Manual **Chapter 17: Recordkeeping and Data Management** for more information.

4.4 NEBRASKA INVESTMENT FINANCE AUTHORITY (NIFA)

DED will coordinate with NIFA as projects are tiered and selected for funding to identify efforts that complement other projects identified in the NIFA portfolio, while also ensuring that there is no DOB. It is not anticipated that NIFA will have a significant role in the Match Program. DED recognizes the importance of outreach to NIFA as they identify community development needs and opportunities that increase resilience and housing recovery throughout the State. This coordination aligns with the goals of DED's recovery as contemplated in the Action Plan.

4.5 NEBRASKA DEPARTMENT OF NATURAL RESOURCES (NEDNR)

DED will coordinate with NeDNR as projects are tiered and selected for funding to identify efforts that complement other projects identified in the NeDNR portfolio, while also ensuring that there is no DOB. It is not anticipated that NeDNR will have a significant role in the Match Program. DED recognizes the importance of outreach to NeDNR as they collect and share data related to floodplains, enhancing opportunities to increase resilience and recovery throughout the State. This coordination aligns with the goals of DED's recovery as contemplated in the Action Plan.

4.6 SUBRECIPIENTS

A Subrecipient is a public or private nonprofit agency, authority or organization, or community-based development organization receiving CDBG-DR funds from the Grantee or another Subrecipient to undertake CDBG-DR eligible activities (see CDBG regulations 24 CFR § 570.500(c)). A Subrecipient is a Grantee's partner in disaster recovery and carries out the recovery activities defined in the Action Plan.

In the PA Match Program, NEMA is the sole Subrecipient and functions as the conduit for passing information to DED for review. NEMA is responsible for passing funds back to local applicants after a project has been HUD approved and paid to NEMA by DED. All funds will be disbursed at or after FEMA closeout is completed. The State opted for this method of distribution because the non-federal cost share is 10% (5% State/5% Locals) and the mechanism to distribute funds locally is already set up through NEMA and the PA applicant. DED and NEMA will use that agreement to distribute CDBG-DR funding to reimburse the locals. Local applicants are required to provide additional information to DED as needed and to follow CDBG-DR rules as required. Under the HMGP Match Program, the Subrecipient is the local applicant and applies for reimbursement for the entire 25% non-Federal match amount.

Subrecipients are required to comply with all terms and conditions of the Subrecipient Agreement which will incorporate Federal statutes, regulations, program requirements, and are required to meet all established performance goals. An SRA between DED and the Subrecipient will be

required and will outline the relationship between the Grantee (DED) and Subrecipient (the FEMA PA or HMGP applicant).

Subrecipients have the responsibility for executing activities and programs, providing day-to-day administrative management and oversight of CDBG-DR activities in accordance with CDBG-DR requirements and DED policies and procedures. Subrecipients are responsible for establishing and maintaining financial accountability for CDBG-DR funds, complying with CDBG-DR regulations, and establishing and maintaining project files and records (see **Section 6.4: Stage Four: DED Subrecipient Selection and Setup** for further details). To help Subrecipients comply with these requirements, DED staff will provide training, technical assistance, and support to Subrecipient staff and contractors. The nature and extent of training and technical assistance will vary based on the specific needs of each Subrecipient. For additional details regarding training and technical assistance, see CDBG-DR Manual **Chapter 3: Program Management Guide** and **Chapter 16: Monitoring and Compliance Plan**.

5 PROJECT FUNDING REQUIREMENTS

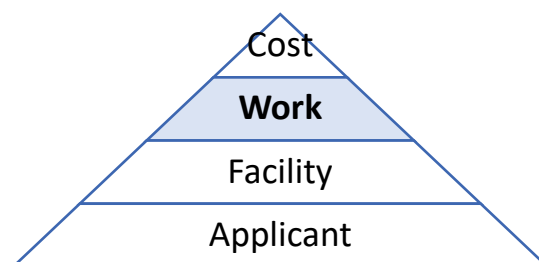
5.1 ELIGIBILITY CRITERIA

Eligibility characterizes the criteria that applicants must meet in order to receive funding through the CDBG-DR program. This section sets forth the criteria used to determine applicant eligibility for the Match Program, both as defined by requisite eligibility criteria for FEMA programs, as well as for the CDBG-DR program.

5.1.1 ELIGIBILITY FOR FEMA PROGRAMS

Inherent to an applicant's eligibility for the CDBG-DR Match Program is an applicant's eligibility for FEMA's PA and/or HMGP program. FEMA determines the eligibility of the based on an eligibility pyramid framed under four main blocks: Applicant, facility, work, and cost. FEMA evaluates each building block, starting at the foundation (applicant) and working up to the top of the pyramid (Cost) (see **Figure 2**).

Figure 2: FEMA Cost Pyramid



Eligible FEMA program applicants include States, federally recognized tribal governments (including Alaska Native villages and organizations so long as they are not privately owned), US territories, local governments, and certain private non-profit (PNP) organizations. Work performed on an eligible facility must be required as a result of the declared incident, be located within the designated area, and be the legal responsibility of an eligible applicant. FEMA provides funding for both Emergency Work (e.g., emergency protective measures and debris removal) and Permanent Work (e.g., permanent restoration of damaged facilities, including cost-effective hazard mitigation to protect the facilities from future damage).

The final component of eligibility is cost. Costs must be directly tied to the performance of the eligible work; documented; and reduced by all applicable credits (e.g., insurance); authorized and not prohibited under other Federal, state, territorial, tribal, or local laws and regulations, consistent with the applicant's internal policies and regulations.

The costs of compliance with state and local codes and standards are eligible so long as the code or standard meets PA's five eligibility criteria:

- Applies to the type of restoration required;
- Is appropriate for the pre-disaster use of the facility;
- Is reasonable, in writing, and formally adopted by the State, Territorial, Tribal, or local government on or before the declaration date, or is a legal Federal requirement;
- Applies uniformly; and
- Was enforced during the time it was in effect

While other eligibility requirements are met at the facility, or site level, the Flexible Match approach allows FEMA applicants to meet local requirements at the PW or sub-applicant level.¹²

5.1.2 ELIGIBLE USE OF FUNDS

CDBG-DR funds address disaster recovery needs that are not met by other sources of Federal disaster assistance. Using funds for CDBG-DR statutory purposes (e.g., relief, recovery, restoration, and revitalization) requires a tie-back to the qualifying event (i.e., Winter Storm Ulmer) in that these activities respond to a need that arose from the disaster (see also **Section 4.4: Tie to the Disaster**). Applicants must demonstrate the proposed project ties back to addressing damage from Winter Storm Ulmer and subsequent flooding. Funds must prioritize spending in HUD- identified MID areas and LMI populations. Per HUD requirements, 80% of funds must

¹² "Notice CPD-20-10: Implementation Guidance for Use of Community Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for FEMA's Public Assistance Program."

address needs in the HUD-identified MID and 70% of funds must support LMI population. Application tiering will be classified based on whether the project is in a HUD-identified MID and/or meets the LMI National Objective.

To be eligible for CDBG-DR Match funding, the FEMA applicant must be eligible to apply under Infrastructure Match provisions of the Action Plan and the project must meet the following criteria:

- Have an obligated FEMA PW (PA Only);
- Be in compliance with FEMA’s program eligibility criteria;
- Meet a CDBG-DR eligible activity;
- Meet a HUD National Objective; and
- Have a direct tieback to the declared disaster.

While 80% of the total CDBG-DR allocation must benefit HUD-defined MID areas, the remaining 20% may be directed to benefit the State-defined MID area. The portion of the funds applied as a match for any project must meet the above criteria, in addition to the requirements of DED. To determine eligibility, DED will review projects for the following (not necessarily in this order):

Federal/HUD	State Priority	Program Objective
Tie to DR-4420; Unmet Needs; Project service area; CDBG-DR Eligible activities; DOB issues/concerns; Determination of a CDBG-DR National Objective; and Compliance with Federal cross-cutting requirements.	Payment date of Federal and Local match; and Compliance with applicable State and local laws.	FEMA PA Categories C through G eligibility; and Benefiting LMI persons.

Ineligible activities include, but are not limited to, the following:¹³

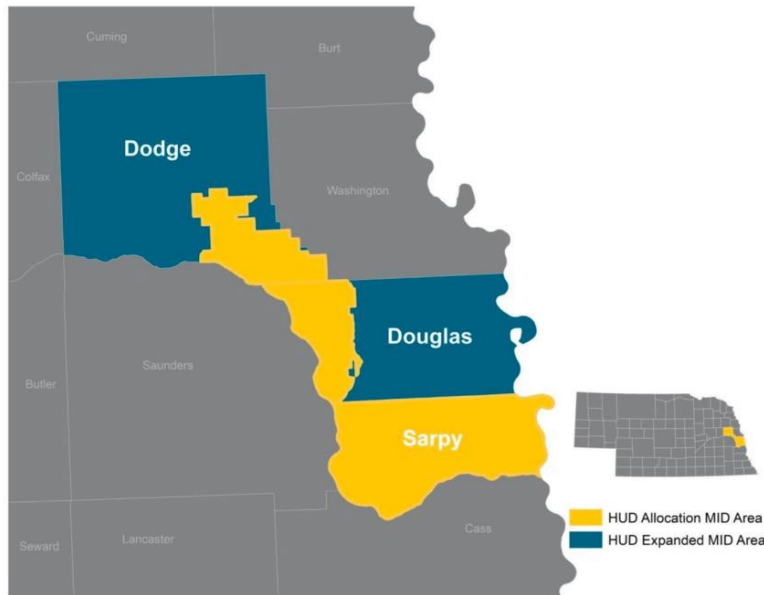
- General government expenses;
- Mitigation planning and any mitigation-focused projects not related to the current disaster (PA Only);

¹³ 24 CFR § 570.207.

- Repair, replacement, or relocation of private roads and bridges or of public utilities not directly damaged by the qualifying disaster and not necessary for the repair or reconstruction of damaged housing;
- Political activities;
- Operations and maintenance;
- Income payments;
- Assistance to second homes;
- Replacement of lost business revenue as a result of the storm;
- Assistance to private utilities;
- Purchase of equipment (with several exceptions, e.g., as part of an eligible economic development activity, public service activity, solid waste disposal facility, or public facility project); and
- Any assistance to a business or property owner who received FEMA assistance in the past where required flood insurance has not been maintained.

CDBG-DR funds may not be used to expand a project beyond what FEMA approves in a PW. CDBG-DR funds may only be used to expand a project's scope if FEMA approves of the expansion in a PW. Additionally, all potential applicants must be located either in the HUD- or State-defined MID areas, as described within the Action Plan. The HUD-defined MID area consists of Sarpy, Dodge, and Douglas counties (see **Figure 3**). See the [Action Plan](#) for a list of State-defined MID areas.

Figure 3: HUD-defined MID Areas



5.2 ELIGIBLE ACTIVITIES

All projects funded in whole or in part by CDBG-DR must meet a HUD eligible activity as defined in Section 105(a) of the Housing and Community Development Act (HCDA), as amended, (42 USC 5305(a)).¹⁴ When CDBG-DR funds are used as non-Federal match for another Federal funding sources, HUD requires that the project meet both the primary Federal agency requirements and be an eligible activity under CDBG-DR. For the Match Program, this includes:

- Acquisition of real property;
- Public facilities and improvements;
- Code enforcement;
- Clearance;
- Public services;
- Structural elevations;

¹⁴ 42 USC 5305.

- Flood risk reduction;
- Infrastructure retrofits;
- Non-Federal share; and
- Planning.

5.2.1 ELIGIBLE APPLICANTS

Applicants eligible to receive Match Program funding include:

- Local governments;
- State agencies, departments, and authorities, including housing agencies;
- Tribal Territory governments;
- Public schools (K-12);
- Universities;
- Critical infrastructure facilities as defined by FEMA (e.g., wastewater and potable water facilities);
- Natural Resource Districts (NRDs); and
- Other local program applicants are eligible to receive Federal recovery funds, including but not limited to eligible private and public non-profit organizations.




5.2.2 ELIGIBLE COSTS

HUD differentiates between **project costs** and **activity delivery costs** (ADCs). In the context of the Match Program, project costs are the direct costs of undertaking a project that can be tied to a final cost objective and eligible activities. ADCs are the costs incurred directly related to delivery of a specific Match project; these costs are not required to be tied to a specific address but must be tied to the delivery of eligible project costs. **Table 4** provides examples of both types of costs.¹⁵ **Not all project costs and ADCs listed below may be eligible in the context of the Match Program.**

¹⁵ For a complete list, refer to HUD Guidance, CDBG-DR Cost Types Summary – Guidance on CDBG-DR Costs, <https://www.hudexchange.info/programs/cdbg-dr/toolkits/program-launch/>. This may include costs not eligible under Nebraska’s CDBG-DR Program pursuant to the UNA and Action Plan.

See also CDBG-DR Manual **Chapter 4: Financial Management** for cost principles and other requirements.

Table 4: Project and Activity Delivery Costs

		Project Costs	Activity Delivery Costs	
Infrastructure Match Program Eligibility	PA			<ul style="list-style-type: none"> NEMA as DED's Subrecipient
	HMGP			<ul style="list-style-type: none"> NEMA acting as agency partner Subrecipient local jurisdictions
Examples		<ul style="list-style-type: none"> Environmental Reviews (if completed by developer for review and approval by the Responsible Entity); Acquisition costs; Construction hard costs; Demolition and site clearance; Architecture, engineering, and permits, when paid by the beneficiary; Developer fees, contractor overhead, and profit; and Loans to businesses to assist with repairs. 	<ul style="list-style-type: none"> Environmental Reviews (if completed by Grantee or Subrecipient); Development of program policies and procedures necessary to implement the program; Duplication of Benefits review and analysis; Completing work writeups; Conducting underwriting or applicant selection; Leased office space for single program operation; Equipment and supplies necessary for carrying out eligible activity; and Applicant intake/eligibility screening for a specific program that does not result in eligible project or beneficiary. 	
Who can incur these costs?		Grantees, Subrecipients (if operating the program directly), Developers, Contractors, and program beneficiaries (e.g., individuals).	Grantees and Subrecipients.	

	Project Costs	Activity Delivery Costs
Infrastructure Match Program Cap	No cap, but costs must be reasonable.	<ul style="list-style-type: none"> • Cost Reasonableness applies • For an eligible Subrecipient, DED will work with the Subrecipient to determine the appropriate cap; based on criteria such as how many projects the Subrecipient will implement and manage.

5.3 NATIONAL OBJECTIVES

To meet HUD requirements, all projects funded in whole or in part by CDBG-DR must meet at least one National Objective as described in the applicable Federal Register Notice (see 83 FR 5844, February 9, 2018)¹⁶ 24 CFR § 570.483(b) and HUD’s Guide to National Objectives and Eligible Activities for State CDBG Programs.¹⁷

- Benefitting LMI persons:
 - Area benefit basis (LMA);
 - Limited clientele basis (LMC);
 - Housing (LMH); or
 - Creation and/or retention of jobs (LMJ).
- Address an urgent need or imminent threat to the community (UN).

The slum and blight area (SBA) National Objective is generally not applicable to the Infrastructure Match Program due to the nature of the projects. Furthermore, SBA is rarely applicable in the CDBG-DR Program.

Eligible National Objectives under DED’s Match Program are limited to benefiting LMI persons and UN. To make an initial National Objective determination, DED should review project SOWs to determine whether the project and/or activities will, when complete, meet a National Objective through the pre-application and application for funding. Subrecipients will be required to identify which National Objective they meet in the pre-application. In most cases, the National Objective

¹⁶ 83 FR 5844.

¹⁷ “Guide to National Objectives and Eligible Activities for State CDBG Programs” HUD.

can be verified based on information provided within the PA and HMGP Pre-Application (e.g., service area) and Application for Funding though DED may request additional documentation as needed. For further detail, see ***Infrastructure Match Program Notice of Intent (NOI) Letter and Pre-Application Form*** and ***Application for Funding Template***.

The following sections describe the National Objectives LMI and UN in context of the Match Program and how a Subrecipient may demonstrate meeting of the appropriate National Objective.

5.3.1 BENEFITING LMI PERSONS

As per the HCD Act, Title 24, Section 101(c), Section 104(b), 570.1, 570.200(a)(3), 570.208(a)(d)(5) or (6), 70% of total CDBG-DR funding must go to projects that benefit LMI persons.¹⁸ The remainder of these subsections provide a basic description of the criteria associated with meeting the LMI benefit. It is anticipated that area benefit will be the most common approach, though the others may also be used depending on the nature of the project.

5.3.1.1 Area Benefit

The most common approach to demonstrating that public facilities activities meet CDBG-DR National Objective requirements is through area benefit as defined at 24 CFR § 570.483(b)(1).¹⁹ To demonstrate a project or activity meets the Area Benefit National Objective, DED must use the best available HUD-approved data, in conjunction with the FEMA PW, to assess the scope, location, and accessibility of the activity. LMI area benefit activities are those where at least 51% of beneficiaries in a service area are LMI persons, as determined by:

- The most recent Census or American Community Survey (ACS) data; or
- If the geographies provided do not adequately represent the service area, Subrecipients may consider conducting a survey to determine LMI compliance or reconsider the National Objective and activity.

5.3.1.2 Limited Clientele

Projects that provide assistance to a specific population approved by HUD meet the LMI limited clientele National Objective as defined at 24 CFR § 570.483(b)(2).²⁰ To qualify as a Limited Clientele activity, the supporting documentation in the Application for Funding must clearly explain how the project meets one of the following criteria:

¹⁸ "CDBG and CDBG-DR: A Comparison." HUD.

¹⁹ "Notice CPD-14-10: Transition Policy for Low/Moderate Income Summary Data Updates during Fiscal Year 2014 for the State Community Development Block Grant Program." HUD.

²⁰ 24 CFR § 570.483.

- Activities that exclusively serve a group of persons in any one or a combination, but not limited to, elderly persons, disabled individuals, homeless individuals, may be presumed to benefit persons of which at least 51% are LMI.
- Require information on family size and income, so it is evident at least 51% of the clientele are persons whose family income does not exceed LMI limits;
- Have income eligibility requirements that limit the activity exclusive to LMI persons; or
- Be of such a nature and in such a location that it may be concluded that the activity's population will primarily be LMI persons.

The Low- and Moderate-Income Limited Clientele (LMC) is most often used for public service activities benefiting specific populations. In contrast to the area benefit category, it is not the LMI concentration of the service area of the activity that determines whether the activity will qualify or not, rather the actual number of LMI persons-80% of the Area Median Income (AMI) that benefit from the activity. It may benefit persons without regard to their residence, or it may be an activity that provides a benefit to only particular persons (e.g., services for seniors, homeless shelters, micro loan programs) within a specific area.

Examples of activities that qualify under the limited clientele category include:²¹

- Acquisition of a building to be converted into a shelter for the homeless;
- Rehabilitation of a center for training severely disabled persons to enable them to live independently;
- Clearance of a structure from the future site of a neighborhood center that will exclusively serve the elderly; and
- Public services activities like the provision of health services.

The listed examples qualify under the limited clientele category because the beneficiaries can be identified as LMI residents.

5.3.1.3 Housing Activities

Low-to-Moderate Income Housing (LMH) is a household having an income equal to or less than Section 8 low-income limit established by HUD. DED will primarily conduct activities that meet this objective through its housing programs, including the Affordable Housing Construction Program and the Homeowner Assistance Program.

²¹ "Chapter 3: National Objectives." HUD.

Infrastructure activities may also support housing projects and therefore meet LMH benefit. Examples of activities that qualify under the LMH category include:

- Projects that increase draining capacity in order to lessen the likelihood of flooding in a residential neighborhood;
- HMGP-funded buyout projects; and
- Infrastructure projects that increase access to neighborhoods providing affordable housing (e.g., roads, bridges).

5.3.1.4 Job Creation and Retention Activities

Pursuant to 24 CFR § 570.483(b)(4)²², job creation and retention activities are designed to create or retain permanent jobs, at least 51% of which (computed on a full-time basis) will be made available to or held by LMI persons. Created or retained jobs are only considered available to LMI persons when:

- Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs or the business agrees to hire persons and provide training; and
- The Subrecipient takes action to ensure that LMI persons receive first opportunities to the jobs created by the project.

5.3.2 URGENT NEED

If a Subrecipient certifies a project responds to a disaster-related impact but does not meet the LMI National Objective, DED may categorize the project as UN. DED will rely on Subrecipient to submit the documentation supporting the use of the UN National Objective. Documentation requirements are set forth in the applicable Federal Register Notice (see [83 FR 5844](#) at 5856, February 9, 2018). To meet UN, DED must verify how each program and/or activity funded under UN responses to a disaster-related impact.

DED will make maximum efforts to qualify projects/activities as meeting the LMI benefit National Objective. Only when LMI cannot be met will DED consider UN.

5.4 TIE TO THE DISASTER

All entities applying to the Match Program must have been impacted by Winter Storm Ulmer (DR-4420) to receive assistance. Pursuant to the Stafford Act, FEMA PA and HMGP can provide grants in response to disasters. Applicants will document that they demonstrate a tie-back to the

²² 24 CFR § 570.483.

disaster in the form of a narrative description, with supplemental information provided if available such as:

- Damage or insurance estimates for physical losses; or
- Post-disaster analyses or assessments documenting the relationship between the loss and the disaster.

Narratives will be maintained in the DED system of record, as described in CDBG-DR Manual **Chapter 17: Recordkeeping and Data Management**. In addition, the State will pre-identify beneficiaries for FEMA-PA and/or HMGP funds who may be eligible for Match. The State will release a Notice of Intent (NOI) to eligible applications. The Match Program may not provide assistance for activities that:

- Address a need that arises solely from a disaster other than Winter Storm Ulmer; or
- Address a need that has already been met in full by some other financial resource and the provision of CDBG-DR would constitute a duplication of benefit.

Applicants to the Match Program will submit and maintain tie-back documentation. This documentation can be found in the **Application for Funding Template**.

5.5 TIERING CRITERIA

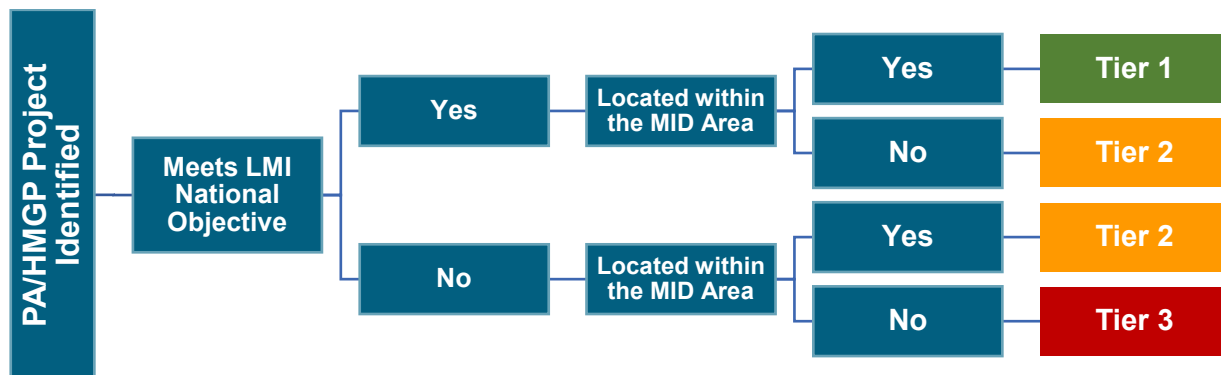
As per DED’s Action Plan, projects are sorted into three tiers according to their impact on HUD-defined MID areas and whether they meet the LMI National Objective (see **Table 5**).

Table 5: Project Tiering

Tier	Description
1	Project is located in a HUD-defined MID area and meets the LMI National Objective.
2	Project is located in a HUD-defined MID or meets the LMI National Objective.
3	Project is not located in the HUD-defined MID and does not meet the LMI National Objective.

Upon working with State partners and reviewing obligated FEMA projects, and before applying any other scoring criteria, all submissions are categorized into Tier 1, Tier 2, or Tier 3. Each tier is scored independently. Projects that fall within Tier 1 are recommended for an award before Tier 2 projects are considered. Tier 3 projects are not considered until the program has reviewed all Tier 1 and Tier 2 projects (see **Figure 4**).

Figure 4: Match Program Tiering Process Flow



DED will conduct project tiering by obtaining project information from Grants Portal and utilizing the pre-application form see **Infrastructure Match Program Notice of Intent (NOI) Letter and Pre-Application Form**. At the State level, DED monitors the overall program budget to maintain sufficient progress in meeting LMI and MID spending targets for the full life of the grant.

Projects that have been prioritized by the tiering system are further evaluated for the following:

- Support to LMI communities as 70% of the State’s CDBG-DR funding is designated to benefit LMI populations;
- Support to MID communities as 80% or more of funding is designated for HUD-defined MID counties;
- Service area;
- Meeting Federal cross-cutting requirements, see CDBG-DR Manual **Chapter 2: Program Administrative Requirements**;
- Total project cost in proportion to total projected beneficiary population;
- Project cost reasonableness that demonstrates costs do not exceed what would be incurred by a prudent person under prevailing circumstances at the time the decision was made²³;
- Demonstrated tie to housing recovery needs;
- Project readiness, considering Environmental Review, implementation timeline, and demonstrated progress under current funding;

²³ NEMA’s analysis verifies reasonableness during the initial review (to be validated through use of PWs to perform independent cost analysis and reasonableness when reviewing applications).

- Total proportion of the applicant’s local match (i.e., prioritizing projects that reflect a significant percentage of the total match); and
- Alignment with other resiliency projects and State policy objectives.

The Match Program also aims to invest in projects that increase the strength and resilience of the State. Specifically, this includes considering hazard risk (e.g., flood risk) when determining resource allocation during the planning phase, adopting and enforcing modern or resilient building codes, and mitigating hazard risk, including possible high winds and flooding. Projects under the Match Program implement mitigation and resilience measures to protect against future hazards. Aligned with the CDBG-DR Program priorities, DED shall work to actively identify projects that:

- Emphasize green infrastructure;
- Increase capacity for resilience by upgrading stormwater and drainage infrastructure;
- Demonstrate a tie to housing recovery;
- Align with local planning efforts; and
- Align with needs outlined in the UNPs and Nebraska’s Baseline Conditions and Impact Assessment Report.

The DR-4420 Action Plan establishes a 10% funding target for investment in mitigation and resiliency measures for CDBG-DR activities. This target corresponds with a target allocation of \$6,349,110 for mitigation and resilience under the Infrastructure Match Program.

6 CITIZEN PARTICIPATION

As defined within the state’s Citizen Participation Plan, DED recognizes the importance of public participation in the process of disaster recovery, particularly those most vulnerable to the impacts of the disaster.²⁴ This includes residents of impacted areas, LMI individuals, and people with access and functional or limited English proficiency.

For more information, see the *Citizen Participation Plan*.

6.1 PUBLIC ENGAGEMENT

DED is dedicated to soliciting feedback from, and providing timely, accessible information about the Match Program to, all relevant stakeholders throughout the life of the program. This approach

²⁴“State of Nebraska Citizen Participation Plan.” DED.

is rooted in DED's Citizen Participation Plan applicable to the CDBG-DR grant. For more information, see the ***Citizen Participation Plan***.

All publications and communication related to the Match Program will comply with the effective communications requirements of 24 CFR § 8.6²⁵ and other fair housing and civil rights requirements, such as the effective communications requirements under the American with Disabilities Act (ADA).

6.2 WEBSITE

DED has a website with CDBG-DR information on the Department's website, located at <https://opportunity.nebraska.gov/>. The DR program-specific page is at <https://opportunity.nebraska.gov/programs/community/cdbg-dr/>. Pursuant to Federal requirements as described in the FR published on February 9, 2018 (83 FR 5844), some information – including contractor information related to this Match Program – must be posted and maintained. For more information, refer to CDBG-DR Manual ***Chapter 17: Recordkeeping and Data Management***.

DED will continue to update and release guidance (e.g., FAQs) for the Match Program to provide the community an opportunity to learn more about the program's requirements. DED will utilize public outreach, meetings, public comment periods to request questions and comments related to the materials and update Match Program documents appropriately.

DED updates their website in a timely manner to ensure the most current information is available publicly. At a minimum, the website is updated monthly. All program materials on the website will be available in both English and Spanish.

The program materials on the website are available upon request to people with disabilities. The Action Plan and other materials on the DED CDBG-DR website are already uploaded in accessible formats for people who use screen readers. For assistance with website accessibility or translations into language other than English or Spanish, call 800-426-6505, email DED using the contact form at <https://opportunity.nebraska.gov/contact/#form>, or write a letter to:

Nebraska Department of Economic Development
PO Box 94666
245 Fallbrook Blvd, Suite 002
Lincoln, NE 68521

Los materiales del programa disponibles en la página web están disponibles previa petición para personas con discapacidades. El Plan de Acción y otros materiales en la página web de DED CDBG-DR ya han sido subidos en formatos accesibles para las personas que usan lectores de pantalla. Para obtener ayuda con temas de accesibilidad de la página web o traducciones a otros

²⁵ 24 CFR § 8.6.

idiomas que no sean inglés o español, llame al 800-426-6505, envíe un correo electrónico al DED usando el formulario de contacto en <https://opportunity.nebraska.gov/contact-us/>, o escriba una carta a:

Nebraska Department of Economic Development
PO Box 94666
245 Fallbrook Blvd, Suite 002
Lincoln, NE 68521

6.3 MEETINGS

Community meetings will be held as part of the Match Program implementation in a variety of formats, including in-person and online. These meetings will provide residents of MID areas and other stakeholders or interested parties with an opportunity to learn more about Match Program activities in their area and to provide input.

For more information, see the *Citizen Participation Plan*.

7 APPLICATION AND AWARD PROCESS

This section describes in detail the method for implementing the Match Program, as defined in the following six (6) stages, **Table 6**.

Table 6: Six (6) Stages and Outcomes

Stage	Outcomes
Stage One: Identify FEMA-Obligated PA and HMGP Projects	<ul style="list-style-type: none"> • DED conducts a preliminary review of PA and HMGP projects. • DED issues an NOI and Pre-Application to confirm initial eligibility.
Stage Two: Project Analysis	<ul style="list-style-type: none"> • DED reviews Pre-Applications. • DED tiers Pre-Applications based on LMI and MID. • DED notifies applicants if they are moving into the Detailed Eligibility Review.
Stage Three: Detailed Project Vetting	<ul style="list-style-type: none"> • DED conducts a Detailed Eligibility Review of PA and HMGP projects. • DED reviews FEMA’s environmental review for adoption.

<p>Stage Four: DED Subrecipient Selection and Setup</p>	<ul style="list-style-type: none"> • DED completes PA and HMGP Application for Funding on behalf of the applicant. • Applicants review, verify, and sign the Application for Funding. • For approved projects, DED initiates SRA process.
<p>Stage Five: Subrecipient Payment</p>	<ul style="list-style-type: none"> • DED and Subrecipient submit their RROF to HUD. • If approved, HUD grants an AUGF.
<p>Stage Six: Reconciliation and Closeout</p>	<ul style="list-style-type: none"> • DED closes out the CDBG-DR grant. • Subrecipient reimbursed for local match cost.

7.1 STAGE ONE: IDENTIFY FEMA-OBLIGATED PA AND HMGP PROJECTS

DED will conduct the Match Program’s preliminary review by generating a list of eligible projects based on the eligibility and prioritization review. If DED needs more data to make a decision, outreach can be made to the applicants. DED will issue a Notice of Intent (NOI) and PA and HMGP Pre-Application to invite applicants to submit additional information to confirm eligibility, see ***Infrastructure Match Notice of Intent (NOI) Letter and Pre-Application Form*** .

7.1.1 IDENTIFYING FEMA OBLIGATED PROJECTS

The full SOW identified in the PW must comply with all FEMA PA and HMGP requirements. FEMA will obligate funds to a PW once it has been identified as in compliance with the program(s). DED will have access to Grants Portal, where all projects are entered, reviewed, approved, and obligated by FEMA.

The criteria for identifying match projects in addition to LMI and MID, is Project Size. When FEMA obligates a PW, it provides funds to an applicant to initiate work. To facilitate how FEMA processes and reimburses applicants for work, FEMA categorizes the work into two categories, “Small” and “Large” projects, based on the total dollars provided to the project. The split between the Small and Large categories is determined by using the annual Consumer Price Index, resulting in project threshold size varying by year. DED, through its project review process, collects documentation equally for Small and Large projects to determine eligibility; however, it may decide to use the project size categorization to prioritize reviews for an applicant.

It is important to note that via the Flexible Match strategy, the sites, facilities, or structures that are part of the CDBG-DR-assisted portions of the PW must comply with CDBG-DR, PA, and

HMGP requirements for the CDBG-DR-assisted activities to satisfy Local Match. The CDBG-DR requirements do not apply to the remainder of the PW that is not CDBG-DR assisted.²⁶

7.1.2 STATE-ISSUED NOTICE OF INTENT (NOI)

The purpose of the Notice of Intent (NOI) is to capture all pre-application information to confirm eligibility. The benefit of using an NOI is to aid in project selection and ensure Subrecipients fulfill all CDBG-DR eligibility requirements (e.g., service area, National Objective, DBRA).

Project pre-applications are drafted by applicants with assistance from DED. The purpose of the pre-application process is to document the following:

- How the project meets HUD's National Objectives of Low to Moderate Income (LMI) and Urgent Need (UN);
- How the project is an eligible activity; and
- How the project is tied to the disaster.

The State will pre-identify beneficiaries of FEMA-PA and/or HMGP funds who may be eligible for the Match based on the LMI tiering. The pre-application consists of the following: a project description; tie to disaster; assigned National Objective; project eligibility review under 24 CFR § 570.483; project cost estimate; and statement of justification and recommendation.

Following the release of the NOI, applicants have 60 days to complete and submit the NOI detailing eligible Match Program projects. Applicants may choose to opt out at any given time if the applicant decides to not pursue CDBG-DR Infrastructure Match funding, see ***Infrastructure Match Program – Opt-Out Notification Letter***. If applicants deny the funding, they should notify the State. If applicants do not respond within 60 days, they are no longer eligible. See ***Infrastructure Match Program Notice of Intent (NOI) Letter and Pre-Application Form***.

Applicants can submit NOI response/pre-application to: ded.cdbgdr@nebraska.gov.

7.2 STAGE TWO: PROJECT ANALYSIS

During Stage Two, DED reviews the NOI Pre-Application to determine National Objective, LMI, non-LMI, HUD-identified MID (e.g., Sarpy, Dodge, and Douglas counties), non-MID, and eligible SOW.

²⁶ "Implementation Guidance for Use of Community Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for the Public Assistance Program." HUD.

7.2.1 SERVICE AREA DETERMINATION

To demonstrate the applicable National Objective for a project submitted under the Match Program, DED, with assistance from NEMA and PA or HMGP applicants, must determine the service area for the activity. To determine the project's service area, DED and its partners will review the information contained within the FEMA PW to assess the scope, location, and accessibility of the activity, in addition to current Census boundary data. The following should be considered when determining the service area of a project:

- **The nature of the activity:** The size of and equipment required for an activity must be taken into consideration. As an example, a small park with a limited number of slides and benches should not be expected to serve a large neighborhood. In the same way, a larger park that can accommodate a considerable number of people should not be expected to serve only immediately adjacent properties. The same applies to improvements or assistance to an alleyway versus a two-lane street versus a four-lane street in the same neighborhood. The service area for each of these infrastructure projects is different in size and population;
- **The location of the activity:** In general, the immediate area surrounding a facility or improvement should be included in the service area. Additionally, when a facility is located near the boundary of a particular block group, its service area could include portions of the adjacent block groups as well. If the activity's service area overlaps multiple block groups, the entirety of the data for all block groups may be used;
- **Accessibility issues:** Geographic barriers can separate and preclude persons residing in a nearby area from taking advantage of a facility or improvement. Other limits to accessibility can include access fees, language barriers, time, access to transportation and parking or duration that an activity is available;
- **The availability of comparable activities:** Comparable activities within the service area should be considered so that the service area does not overlap with the service area of another comparable activity; and
- **Boundaries for facilities and public services:** The service area for some public facilities and services is based on specified and established boundaries or districts. Examples of such services and facilities are police precincts, fire stations, and schools.

CAUTION: An activity that serves an area that is **not** primarily residential in nature does not qualify as a CDBG assisted activity under the National Objectives.²⁷

²⁷ 24 CFR § 570.483.

7.2.2 FINAL TIERED PROJECT LIST

DED will review and finalize the list of projects that have been vetted by all partners and those that have been prioritized based on the tiering system (see Section 4.5: **Tiering Criteria**). To assist DED in determining the final list of projects, the following criteria are evaluated and documented on the Detailed Eligibility Checklist, see **Detailed Eligibility Checklist**.

- National Objective;
- Eligible activity;
- Project service area;
- Tie to the disaster;
- Connection to unmet housing needs;
- Overall impact, timeline, and cost; and
- Capacity of the applicant to manage funds responsibly.

After the pre-application review and project tiering is concluded, DED notifies applicants if they are moving into a Detailed Eligibility Review via the Pre-Application Tiering Outreach Letter. If a project is deemed ineligible, DED notifies applicants of ineligibility via an Ineligibility Letter. For the projects moving forwards, DED will conduct a more in-depth review of project applications and supporting documentation to further confirm eligibility, see **Detailed Eligibility Checklist**. As part of the Flexible Match approach, DED can review PWs, find CDBG-DR eligible components, and use CDBG-DR funding to reimburse the match request.

7.3 STAGE THREE: DETAILED PROJECT VETTING

7.3.1 DETAILED PROJECT VETTING

Following the pre-application review, DED will conduct a detailed eligibility review utilizing the Detailed Eligibility Checklist, see **Detailed Eligibility Checklist**, which includes, but is not limited to, the following reviews:

- Project information;
- Financial management;
- Federal and cross-cutting requirements;
- Force Account Costs;
- Procurement requirements; and

- Match share amount.

DED will request any missing documentation in writing, with the request that applicants provide the requested documents or an appropriate plan to retrieve the requested documentation within 14 calendar days of receiving the request. **Applicants who do not respond within the 14-day response period may be subject to dismissal from the program, at DED's discretion.**

A full list of applicable cross-cutting requirements is included in CDBG-DR Manual **Chapter 2: Program Administrative Requirements**. Additional details are also provided below in **Section 7: Monitoring and Compliance**.

7.3.1.1 Procurement Requirements

FEMA PA and HMGP applicants and DED Subrecipients must comply with Federal procurement standards at 2 CFR § 200.318 through 2 CFR § 200.327²⁸ as a condition of receiving FEMA and HUD funding. In addition to the requirements set forth below, these standards are outlined in **Chapter 5: Procurement and Eligibility Checklist**. To conduct this review, DED will:

- Obtain the applicant's procurement policy and maintain an electronic copy.
- Determine the costs associated with the Match obligation and record this on the PA and HMGP Pre-Application, see **Infrastructure Match Program Notice of Intent (NOI) Letter and Pre-Application Form**.
- Review the applicable procurement policy and record approval on the Detailed Eligibility Checklist.
- Collect Force Account Labor documentation and record, review, and approve on the Detailed Eligibility Checklist, see **Detailed Eligibility Checklist**. Applicants may use Force Account Labor and materials to perform work.
- If the work is completed using only force account resources, procurement documentation is not required; however, supporting documentation contained in the file supports the use of force account labor.
- If the work is completed in part or in whole using contracted resources, DED determines if the contracted resources were procured before or after the Subrecipient was notified.
- If the work is ongoing or has not started at the time of notification, the Subrecipient must adhere to procurement requirements that conform with HUD requirements when and where practical.

²⁸ 2 CFR § 200.318.

- Document the results of the review as part of the Detailed Eligibility Checklist.

There are PA and HMGP applicants who will procure goods or services before they know whether CDBG-DR grants are available through the Match Program. For these applicants, the DED recommends including language in the procurement solicitation documents that the contract may be amended from time to time to expand the scope to include work funded by other Federal sources, subject to applicable requirements. This allows the contract to change in the future to include terms mandated for CDBG-DR assisted contracts (e.g., Section 3, DBRA, etc.).

7.3.1.2 National Environmental Policy Act

Every CDBG-DR-assisted project must comply with NEPA and other related Federal and State environmental laws. HUD's implementing regulations for environmental requirements are found at 24 CFR § 58.²⁹ An Environmental Review is necessary for all assisted projects, including projects funded partially or in full by CDBG-DR. In addition to the requirements set forth below, these standards are described in further detail in CDBG-DR Manual **Chapter 8: National Environmental Policy Act**. The subrecipient responsibility entity (RE) must complete the Environmental Review before DED obligates any funds to the project, regardless of the source. For more information, see *Chapter 8: National Environmental Policy Act* and *Chapter 9: Environmental Review*.

7.3.1.2.1 FEMA Environmental Adoption Process

The Subrecipient does not need to supplement FEMA's Environmental and Historic Preservation (EHP) review to comply with HUD regulations, and all Environmental Review obligations are considered complete when the Grantee adopts FEMA's review. HUD Subrecipients may adopt FEMA's review if it previously performed one for assistance under the Stafford Act. To adopt another Federal agency's review, DED and Subrecipient must request a complete electronic or paper copy of the FEMA Environmental Review Record (ERR), the RE will review the FEMA ERR to ensure the scope of work includes all elements of the project proposed for HUD funding, and lastly, DED and the Subrecipient confirm in writing that they will adopt FEMA's NEPA review using a RROF form. The process for adopting FEMA's Environmental Review can be found in *the Environmental Review Adoption Process*.

7.3.1.3 Program Income

Following the requirements of 24 CFR § 570.489(e)(3)(i) regarding program income (i.e., gross income that is directly generated from a CDBG-funded activity).³⁰ All program income must be returned to the State. As part of a standard Subrecipient agreement, any CDBG-DR funded projects will require Subrecipients to submit a preliminary plan on program income, if applicable. The plan will include preliminary income projections, options for dilution and offset, as well as

²⁹ 24 CFR Part 58.

³⁰ "Smart Management of Program Income." HUD.

options to spend program income. A more detailed program income plan may be requested from the Subrecipient as part of the closeout process. For more information on Program Income, refer to CDBG-DR Manual **Chapter 7: Program Income**.

7.3.1.4 Force Account Labor

To complete a Force Account Labor review, DED will:

- Review the fringe and benefits calculation for accuracy;
- Review and confirm all timesheets have signatures;
- Review and confirm employee names, titles, and standard time and overtime hours by day, work order, description of work performed, and hourly rate;
- Review unions, labor, or bargaining agreements, if applicable;
- Review invoices and supporting documentation for compliance; and
- Review proof of payments (i.e., detailed payroll register) for accuracy and compliance.

To complete a Force Account Equipment and Material review, DED will:

- Review any applicable procurement, contracts, and purchase orders;
- Review equipment listing, ID numbers, equipment descriptions, and hourly rates for compliance;
- Review usage documentation; equipment references or ID numbers; and hours by day, employee or operator, hourly rate, and sign off;
- Review list of materials, quantity, and pricing for accuracy;
- Review and confirm an explanation of inventory, actual material costs, and average of material costs;
- Review invoices and supporting documentation for compliance; and
- Review proof of payment for purchase materials.

Further details regarding Force Account Labor is provided in CDBG-DR Manual **Chapter 14: Davis-Bacon**.

7.3.1.5 Capacity and Risk Assessment

HUD requires a capacity assessment to determine whether an entity has the necessary capacity, established systems, and protocols in place to prevent waste, fraud, and abuse (see **Risk Assessment Form**.) A capacity assessment is a prerequisite for an entity to receive and administer HUD funds as a Subrecipient. Entities must complete and submit the form for review and evaluation before funds can be allocated to a PW. If the Subrecipient does not have adequate capacity, DED may decline their project funding or include additional clauses and special conditions in the SRA that ensure the Subrecipient can manage the project's logistics.

The capacity assessment focuses on whether the Subrecipient is capable of conducting the project in its current scope, the risk assessment (see **Risk Assessment Form**) determines, based on prior experience, how likely the Subrecipient is to complete the project without waste, fraud, and abuse.

A full description of the capacity and risk assessment processes is provided in CDBG-DR Manual **Chapter 16: Monitoring and Compliance Plan**.

7.4 STAGE FOUR: DED SUBRECIPIENT SELECTION AND SETUP

Once Subrecipients have been selected, DED will conduct a capacity assessment to evaluate overall systems and management capacity to implement program activities, as well as a risk assessment to evaluate potential exposure to fraud, waste, and abuse. While outcomes of these processes may inform final Subrecipient selection, they can also inform technical assistance from the State to support successful program implementation. This stage is completed with an SRA and establishment of key standards for Subrecipient performance.

7.4.1 SUBRECIPIENT SELECTION

After applicants have been fully vetted and verified as eligible for the program, DED will proceed with Subrecipient selection. DED will identify applicants as CDBG-DR Subrecipients that have the capacity to receive the CDBG-DR funding and reimburse eligible work. Prior to the detailed eligibility review, the DED will review the NOI pre-application to determine if the project is eligible based on the criteria outlined above.

DED will also review the organization or local government for the following:

- Past experience in grants management. Additional consideration may be given to entities that have experience implementing or administering Federal funds;
- Staff's past experience in implementing or administering a similar type of project;

- Sufficient staffing level available to implement and administer the project. Staff capacity will be evaluated on existing levels or a proposed reasonable timeline for expanding staff capacity to meet the project or program needs;
- Financial management systems and capacity to support, track, document, and implement a cost-reimbursement program or project. Items that will be considered when reviewing an entity's financial management systems and capacity may include an assessment of the entity's audited financial statements, record-keeping methods, financial systems, or written procedures manual for financial management;
- Past performance related to any local, State, or Federal funding program (if available), and general financial standing; and
- Other criteria, as required by the complexity and nature of the project.

7.4.2 APPLICATION FOR FUNDING

Concurrent to the completion of the Detailed Eligibility Checklist, DED will complete the PA and HMGP Application for Funding on behalf of the applicant. However, the applicant will be required to review, verify, and sign the Application for Funding and submit it to DED via ShareFile, see ***Application for Funding Template***. The complete Application for Funding will be located in both DED's and the Subrecipient's file, noting that the match funding has been approved. The Application contains and further evaluates all the CDBG-DR eligibility components of the Match Program. The application for funding cannot be approved until the SRA is executed. For projects deemed ineligible, applicants will receive a ***Notice of Non-Selection***.

The primary method for communicating the status of the payment request is within the AmpliFund system. Only Subrecipients will have access to the AmpliFund system. Vendors/contractors must submit invoices and all other required documents to the Subrecipient.

7.4.3 HMGP SUBRECIPIENT AGREEMENT PROCESS

Before funds are allocated to a Subrecipient, the Subrecipient must establish the Grantee-Subrecipient relationship through a Subrecipient Agreement (SRA). The SRA:

- Establishes the relationship between DED and the Subrecipient;
- Defines roles and responsibilities;
- Lays out the requirements of the grant; and
- Allows for CDBG-DR grant funds to follow the Grantee through the Match Program.

Before disbursing any CDBG-DR funds to a Subrecipient, DED shall sign a written SRA with the HMGP applicants. The SRA shall remain in effect during any period that the Subrecipient has oversight and responsibility to distribute the CDBG-DR funds. To inform a Subrecipient that they

are being awarded funds, see **Notice of Award**. For projects receiving CDBG-DR funding, individual amendments may be utilized to update the original SRA. As appropriate, each amendment will include the scope, budget, time and performance metrics of the applicable phase. Should scope and budget change significantly during construction, change orders will be considered on a case-by-case basis.

Once obligated projects are closed out under FEMA, an SRA may be amended to reflect the updated match amount and final SOW. All amendments to the SRA will be incorporated by written amendment and will not be effective until signed by both DED and the Subrecipient. While amendments may be made prior to project closeout, DED encourages for amendments to be made once the project SOW has been finalized (i.e., at project closeout).

7.4.4 NON-SELECTS AND REFERENCE TO COMPLAINTS/GRIEVANCE PROCESS

Not all applications may be selected for an award. All non-select applicants will be issued a notice of non-selection that describes reasoning for DED's determination (e.g., ineligible activities, project location, etc.). See also **Section 5.1: Eligibility Criteria**.

Applicants who wish to submit a complaint related to the Match Program or any other matters related to CDBG-DR funded programs, may do so using contact information provided on DED's website available at https://opportunity.nebraska.gov/program/cdbg_dr/#citizen-participation-complaint. A complaint form is also available at <https://opportunity.nebraska.gov/cdbg-dr-citizen-complaint-form/>.

Questions regarding the Match Program and other CDBG-DR programs should be directed to the DED DR Team via email at ded.cdbgdr@nebraska.gov or by calling toll free 800-426-6505.

7.4.5 POST-AWARD REQUIREMENTS

Once funding is awarded and the SRA is executed, DED will monitor the project for compliance with requirements set forth in the SRA and all applicable Federal and State regulations. The expected period of performance following the award is two (2) years. Subrecipients must maintain documentation related to their plans as set forth in **Section 7.5: Records Retention**.

DED also ensures compliance in accordance with the reporting requirements of the CDBG-DR Program. This includes collecting all information and reports as required under the SRA and demographic data, other information, and project documentation from the Subrecipients. For more information about post-award requirements, refer to **Section 8: Monitoring and Compliance**.

For a summary of reporting requirements, see CDBG-DR Manual **Chapter 17: Recordkeeping and Data Management**.

7.5 STAGE FIVE: SUBRECIPIENT PAYMENT

7.5.1 REQUEST FOR RELEASE OF FUNDS

All HUD assisted projects are required to undergo an Environmental Review to evaluate environmental impacts of the Federal investment prior to being able to request the RROF. As applicable to their Match Program award, DED can provide technical assistance for Subrecipients – characterized here as Responsible Entities (REs) – on the use of HEROS. Subrecipients and applicants will submit RROFs to DED, and DED will submit RROFs to HUD through HEROS. This process is described in CDBG-DR Manual **Chapter 8: National Environmental Policy Act**. See also **Environmental Assessment for HUD-funded Projects Template**.

Note that DED may adopt FEMA’s ER and will be determined on a project-by-project basis. Subrecipients do not need to supplement FEMA’s Environmental and Historic Preservation (EHP) review to comply with HUD requirements. All Environmental Review obligations are considered complete when the Grantee adopts FEMA’s review. At the completion of the Environmental Review, Subrecipients may complete a RROF to request the authority to use grant funds.

7.5.2 INVOICING

All Subrecipient payments are expended on a reimbursement-based payment process. “Reimbursement-based” means that project costs must be incurred by the Subrecipient and documented as required by the terms of the SRA for payment of invoices. Reimbursement ensures proper documentation is in place before Subrecipients receive funding.

For PA and HMGP projects receiving funds under the Match Program, DED makes payments directly to the Subrecipients while documenting the match payment to NEMA.

See CDBG-DR Manual **Chapter 4: Financial Management** and SRA for details regarding frequency of payment and payment milestones.

7.6 STAGE SIX: RECONCILIATION AND CLOSEOUT

DED will determine if a project is eligible for closeout for the CDBG-DR funded portion of the project. Note that project closeout under CDBG-DR may not necessarily correlate to project closeout under FEMA. A project cannot close until the Subrecipient has submitted their last full invoice, completed all activities, and met the National Objective. If an SRA covers multiple projects, the SRA cannot be closed out until all projects are complete and closed out.

DED’s closeout process for PA Match Program projects is initially triggered by a notification from NEMA that a project’s status has been updated to “Closed.” DED also determines all requirements of the SRA between DED and the Subrecipient for a specific project have been completed in accordance with the terms and conditions of the SRA.

Steps for the PA Match Program closeout:

1. Once a PW has a “Closed” status in Grants Portal, DED will determine if any additional Match will be paid to the Subrecipient for other PWs.
 - a. If it is determined that a PW is “Closed” by FEMA, and that DED will not be paying any further match to the SR, the following steps will be followed:
 - i. A final review of the PW’s file, which will require locating a Final Inspection Report (FIR), FEMA’s P4 Form, or the closing letter between FEMA and NEMA (noting that Small PWs may have less FEMA closing documentation than other projects); and
 - ii. Send a letter to the Subrecipient requiring the Subrecipient to sign-off on the specific documentation that DED used to make their funding recommendation and explain to the Subrecipient how long they should maintain their files in accordance with applicable regulations.
 - b. If it is determined that a PW is “Closed” by FEMA but DED will be paying more match to the SR, DED will collect closing documentation as it becomes available but will wait to send the letter to the Subrecipient until the Subrecipient will no longer receive any match from DED. DED will work with NEMA to check quarterly for changes in EMMIE status to identify which PWs have moved to the “Closed” status.
2. Infrastructure Program Manager sends Closeout Notification Letter to Subrecipient that states what documents the Subrecipient must submit when it requests Project Closeout and Final Payment or reconciliation of funding.
3. Program Manager begins Project Closeout Review for project.
 - a. DED completes a file audit and communicates results to Subrecipients any outstanding documents required.
 - i. If the Subrecipient is in good standing with all documentation, the Program Manager informs Subrecipient and NEMA that Subrecipient may proceed to Project Closeout.
4. Program Manager tells Subrecipient that when it is ready, it may submit a Request for Project closeout.
 - a. Subrecipient submits Request for Final Payment/Reconciliation Cover Letter and Final Invoice with Request for Project Closeout and all related or missing documentation.

5. Program Manager ensures that Project Closeout is fully completed and signed by all applicable DED staff, and that all required documents have been completed and submitted.
6. Project is closed out.

Subrecipients receive the final payment for the project or dollars are reconciled with DED.

Project's status must be updated in HUD's Disaster Recovery Grant Reporting (DRGR) system, and a final HUD quarterly narrative report must be submitted to reflect the project's status. For projects composed of CDBG-DR match funds as well as other funds, project closeout occurs when all funds are spent.

Subrecipients are required to retain all project documents for a minimum of five years post closeout.

Steps for the HMGP Match Program closeout:

1. Contracts for the project are paid as vendors request payment.
 - a. Through the Payment Request Review, additional scrutiny is paid to final payment requests from Subrecipient's vendors, final request for payment on Project from Subrecipient, and final request for payment for Subrecipient.
 - b. Subrecipient initiates contract closeout with Contractors. Infrastructure Program Manager sends Closeout Notification Letter to Subrecipient that states what documents the Subrecipient must submit when it requests Project Closeout and Final Payment or reconciliation of funding.
2. Program Manager begins Project Closeout Review for project.
 - a. DED completes a file audit and communicates results to Subrecipients any outstanding documents required.
 - i. If the Subrecipient is in good standing with all documentation, the Program Manager informs the Subrecipient and NEMA that the Subrecipient may proceed to Project Closeout.
3. Program Manager tells Subrecipient that when it is ready, it may submit a Request for Project closeout.
 - a. Subrecipient submits Request for Final Payment/Reconciliation Cover Letter and Final Invoice with Request for Project Closeout and all related or missing documentation.

4. Program Manager ensures that Project Closeout is fully completed and signed by all applicable DED staff, and that all required documents have been completed and submitted.
5. Project is closed out.
 - a. Subrecipients receive the final payment for the project or dollars are reconciled with DED.
 - b. Project's status must be updated in HUD's Disaster Recovery Grant Reporting (DRGR) system, and a final HUD quarterly narrative report must be submitted to reflect the project's status. For projects composed of CDBG-DR match funds as well as other funds, project closeout occurs when all funds are spent.
 - c. Subrecipients are required to retain all project documents for a minimum of three years post closeout.

CDBG-DR project closeout begins when all the following conditions are met:

- DED has paid all projects expenses related to the CDBG-DR match payment except closeout costs, if any;
- When the Federal share for the project has been paid and FEMA will provide no more Federal share funds for the project;
- When the Subrecipient certifies that all project work is complete and no future work will take place;
- All responsibilities detailed in the SRA and other binding agreements with DED or FEMA are fulfilled; and
- All monitoring and audit findings have been cleared, whether with HUD or FEMA.

During CDBG-DR project closeout:

- The Subrecipient submits a closeout request, with applicable project documents attached, to DED for review;
- DED reviews closeout documents and resolves outstanding issues;
- DED places a closeout letter or memo in the project file;
- DED submits a final QPR to HUD to reflect the project's status;
- The project's status is updated in HUD's DRGR system; and
- DED and the Subrecipient reconcile and, if necessary, recoup the non-Federal share of any funds FEMA de-obligated during PW closeout.

8 MONITORING AND COMPLIANCE

Monitoring and evaluating Subrecipient performance and compliance is a HUD requirement for CDBG-DR funds. The primary purpose of monitoring and compliance is to assess compliance with State and Federal rules and regulations. DED is responsible for monitoring and setting statutory and regulatory requirements in accordance with CDBG-DR Manual **Chapter 16: Monitoring and Compliance Plan**.

DED will monitor all Subrecipients through a combination of desktop and on-site monitoring techniques, see the **Chapter 16: Monitoring and Compliance Plan** for more information.

8.1 MONITORING REVIEWS

The monitoring and compliance review process informs reporting to DED and, as applicable, the Nebraska APA and HUD. A monitoring review and report may indicate one or more of the following:

- The performance complied with the requirements of the program;
- Certain findings require corrective actions by the Subrecipient;
- Concerns about the performance of the projects or activities;
- Observations about efficiencies or items of note; or
- Technical assistance is necessary.

8.2 ANTI-FRAUD, WASTE, AND ABUSE

DED does not support or condone the commission or concealment of acts of fraud, waste, and abuse. According to HUD's **Buying Right CDBG-DR and Procurement: A Guide to Recovery**, Grantees and Subrecipients procuring goods and services with grant funds must follow all applicable statutory and regulatory requirements.³¹ All employees are responsible for reporting suspected instances of fraud, waste, and abuse in accordance with CDBG-DR Manual **Chapter 19: Anti-Fraud, Waste, and Abuse**.

DED leverages existing investigative and corrective action within State of Nebraska guidelines, among others, to meet HUD requirements. If fraud, waste, and/or abuse are identified, DED shall pursue investigation, including taking legal action where warranted. If the Contractor is identified

³¹ "Key Internal Controls Related to Disaster Recovery Procurement." HUD OIG. Accessed December 9, 2021 via: <https://www.hudoig.gov/sites/default/files/2021-03/Key%20Internal%20Controls%20Related%20to%20Disaster%20Recovery%20Procurement.pdf>.

as having conducted activity involving fraud, waste, or abuse, DED may immediately terminate the contract and take further legal action as necessary.

8.3 FINANCIAL MANAGEMENT

OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) establish financial management requirements for the CDBG-DR funds. DED will maintain compliance with these requirements, as described by the processes held within CDBG-DR Manual **Chapter 4: Financial Management**.

For the Match Program, DED maintains financial management documentation based on requirements set forth by HUD. The PW file contains the following: obligation procedures, record amounts budgeted for eligible activities, accounting for DOB, and insurance proceeds.

Financial reporting prepared by the Subrecipient must be accurate, timely, and current and represent complete disclosure of the financial activity and status of CDBG-DR grants. A Subrecipient must have the capacity to provide the following:

- Amount budgeted;
- Reimbursements received to date;
- Program income and other miscellaneous receipts in the current period and year to-date; and
- Actual expenditures/disbursements in the current period and cumulatively to-date, for both program income and regular CDBG-DR grant funds.

8.4 DUPLICATION OF BENEFITS

Duplication of Benefits (DOB) refers to a situation where assistance is received from multiple funding sources and the total assistance amount exceeds the need for a particular recovery purpose. DED and its Subrecipients must comply with DOB rules and regulations as described in CDBG-DR Manual **Chapter 18: Duplication of Benefits**.

8.5 RECORDS RETENTION

Pursuant with 2 CFR § 200.334 and 24 CFR § 570.490, all official records on programs and individual activities shall be maintained for a minimum three (3)-year period beyond the closing of a grant between DED and HUD. Subrecipient records must be maintained electronically. Subrecipients should establish and maintain an electronic record management system utilizing DED's Activity File Checklist. All projects, program activity files, and applicant information received must be maintained within DED's system of record. For more information about record retention, see CDBG-DR Manual **Chapter 17: Recordkeeping and Data Management**.

9 TOOLKIT DOCUMENTS

In order to facilitate program implementation, in addition to this program guide, DED established a toolkit. This toolkit includes documents, forms, and templates for the state's CDBG-DR program generally and the Match program specifically. Such documents help the state, its subrecipients, and other stakeholders work within the policies and procedures of the program and set expectations for successful outcomes. These documents include, but are not limited to, those listed below.

Infrastructure Match Program Toolkit List:

- Process Flowchart
- NOI Outreach Letter
- NOI Opt Out Letter
- NOI PA Pre-Application Form
- NOI HMGP Pre-Application Form
- Application for Funding
- Notice of Award or Notice of Non-Selection