

CDBG-DR INFRASTRUCTURE MATCH PROGRAM

Frequently Asked Questions

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PURPOSE

In early 2019, the State of Nebraska suffered record-breaking damage due to severe winter weather (Winter Storm Ulmer), straight-line winds, and flooding, all of which contributed to a major disaster declaration (DR-4420) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). The State is receiving a \$108,938,000 grant through the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Program to support long-term recovery efforts. A portion of these funds will be used to implement the Infrastructure Match Program described herein to meet the local match requirement for Federal Emergency Management Agency (FEMA) Public Assistance (PA) and Hazard Mitigation Grant (HMGP) Programs.

This document is intended to provide an overview of the Infrastructure Match Program to potential applicants, including details regarding program eligibility and applicable cross-cutting federal requirements. This document may be updated as the Infrastructure Match Program is finalized and implemented. See the Nebraska Department of Economic Development’s (DED) CDBG-DR website, https://opportunity.nebraska.gov/program/cdbg_dr/ for updates and additional program information.

Table of Contents

PURPOSE 1

PROGRAM OVERVIEW..... 3

 1. WHAT IS THE CDBG-DR INFRASTRUCTURE MATCH PROGRAM? 3

 2. DOES THE PROJECT NEED TO RELATE BACK TO WINTER STORM ULMER (DR-4420)? 3

PROGRAM ELIGIBILITY 4

 1. WHAT TYPES OF ENTITIES ARE ELIGIBLE FOR THE INFRASTRUCTURE MATCH PROGRAM? 4

 2. ARE CERTAIN AREAS OF THE STATE RECEIVING FUNDING PRIORITY?..... 4

 3. WHAT TYPES OF ACTIVITIES ARE ELIGIBLE FOR THE INFRASTRUCTURE MATCH PROGRAM? 4

 4. IF WE HAVE PROJECTS THAT ARE NOT APPROVED BY FEMA, ARE THEY STILL ELIGIBLE FOR THE INFRASTRUCTURE MATCH PROGRAM? 5

5.	THE PROJECT WORKSHEET IS IN PROCESS WITH FEMA BUT NOT APPROVED. CAN WE STILL QUALIFY FOR THE INFRASTRUCTURE MATCH PROGRAM?	5
6.	DOES THE MATCH COVER ANY INSURANCE DEDUCTIBLES NOT COVERED BY FEMA?.....	5
7.	ARE ADMINISTRATIVE COSTS ELIGIBLE? WILL COSTS ASSOCIATED WITH THE COMPLIANCE OF THE CDBG-DR REQUIREMENTS, SUCH AS HIRING A CONSULTANT OR FIRM TO CONDUCT ADMINISTRATION, BE ELIGIBLE FOR REIMBURSEMENT THROUGH THE INFRASTRUCTURE MATCH PROGRAM? IF SO, IS THE COST REQUIRED TO BE REFLECTED IN THE PROJECT WORKSHEET?	5
	CROSS-CUTTING REQUIREMENTS	6
1.	IS AN ENVIRONMENTAL REVIEW REQUIRED FOR THE INFRASTRUCTURE MATCH PROGRAM?	6
2.	ARE THE REGULATIONS THE SAME FOR CDBG-DR AND FEMA PA/HMGP?.....	6
	National Objective	6
	Service Area Determination and Beneficiary Data	7
	Section 3.....	7
	Davis-Bacon.....	8
	Labor Compliance	9
	Civil Rights	9
	Procurement and Contracts.....	10
	Duplication of Benefits.....	10
	Elevation.....	10
	Uniform Relocation Act.....	11
3.	Illustration of the Application of HUD Requirements to a FEMA PA Project Assisted by CDBG-DR Funds	11
	PROGRAM TIMELINE & NEXT STEPS	13
	Timeline.....	13
	Next Steps	13
	Questions	13

PROGRAM OVERVIEW

1. WHAT IS THE CDBG-DR INFRASTRUCTURE MATCH PROGRAM?

FEMA provides funding to repair or rebuild infrastructure under its PA program. However, recipients, such as local governments, are required to pay 10%-25%¹ of the eligible costs to repair or rebuild infrastructure under FEMA PA. Similarly, the FEMA HMGP program provides funding for projects that mitigate risks from future disasters but requires a 25% match from recipients. The CDBG-DR Infrastructure Match Program alleviates this burden and utilizes CDBG-DR funds to support communities in meeting these match requirements. CDBG-DR funds may be used as match to offset the non-federal share of PA- or HMGP-funded projects that demonstrate an unmet recovery need remains, that other avenues for funding have been exhausted, and that the project is critical to restoring and making the community more resilient.

CDBG-DR funds are limited to the non-federal cost share match for FEMA PA and HMGP projects. Additionally, the portion of funds applied as match for any project must meet CDBG-DR eligibility requirements (e.g., it must be an eligible activity, meet a national objective, and comply with all applicable rules and regulations) in addition to the requirements of the federal and state agency administering the project. CDBG-DR funds may not be used to expand a project beyond what is approved by FEMA in a Project Worksheet.

Finally, all potential applicants must be located *either* in the HUD-defined *or* state-defined “most impacted and distressed” (MID) areas. The HUD-defined MID area includes Sarpy, Dodge, and Douglas counties. The state-defined MID area includes the remaining 81 counties that were included in the federal disaster declaration. See Appendix B of the [Action Plan](#) for a table summarizing the eligible areas. Per HUD requirements, 80% of CDBG-DR funding 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, the State has allocated up to 20% of CDBG-DR funding to support recovery in the broader-defined state MID area.

2. DOES THE PROJECT NEED TO RELATE BACK TO WINTER STORM ULMER (DR-4420)?

Yes. CDBG-DR funds address disaster recovery needs, including disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization, that are not met by other sources of Federal disaster assistance. Use of funds for CDBG-DR statutory purposes (e.g., relief, recovery – including resilient recovery, restoration, and revitalization) all require a “tie-back” to the qualifying event (i.e., Winter Storm Ulmer (DR-4420)) in that they respond to a need that arises from the disaster. Applicants must demonstrate the proposed project ties back to Winter Storm Ulmer (DR-4420) and subsequent flooding. Additionally, applicants must be located *either* in the HUD-defined *or* state-defined MID areas. The HUD-defined MID area includes Sarpy, Dodge, and Douglas counties. The state-defined MID area includes the remaining 81 counties that were included in the federal disaster declaration. See Appendix B of the [Action Plan](#) for a table summarizing the eligible areas.

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). See <https://www.fema.gov/press-release/20210528/president-joseph-r-biden-jr-amends-nebraska-disaster-declaration>.

PROGRAM ELIGIBILITY

1. WHAT TYPES OF ENTITIES ARE ELIGIBLE FOR THE INFRASTRUCTURE MATCH PROGRAM?

Units of general local government (UGLG) (i.e., cities, villages, and counties) may apply for the Infrastructure Match Program. Other entities, such as public schools (K-12), universities, and other local program applicants eligible to receive federal recovery funds, including eligible private non-profit organizations, are encouraged to apply in coordination with their UGLG. Coordination with a UGLG may require the UGLG and interested eligible entity to enter into a formal agreement memorializing their relationship, such as a Memorandum of Understanding outlining the expectations of each party.

All potential entities, including both the UGLG and potential partnering entities, must be located *either* in the HUD-defined or state-defined MID areas. The HUD-defined MID area includes Sarpy, Dodge, and Douglas counties. The state-defined MID area includes the remaining 81 counties that were included in the federal disaster declaration. See Appendix B of the [Action Plan](#) for a table summarizing the eligible areas.

2. ARE CERTAIN AREAS OF THE STATE RECEIVING FUNDING PRIORITY?

Yes. Per HUD requirements, 80% of CDBG-DR funding 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, the State has allocated up to 20% of CDBG-DR funding to support recovery in the remaining 81 counties that were included in the federal disaster declaration (i.e., the state-defined MID).

To establish the HUD-defined MID, HUD utilized damage estimates reported by FEMA and the Small Business Administration (SBA) to determine geographical areas to be served or prioritized using CDBG-DR funds. HUD identified three areas in Nebraska as the HUD-defined MID:

- Sarpy County (entirety);
- Dodge County zip code 68025 (Fremont, Inglewood, and Woodcliff); and
- Douglas County zip code 68064 and 68069 (Valley and Leshara).

Based on authorization from HUD, Nebraska expanded the HUD-defined MID areas to cover the entire counties of Dodge and Douglas.

3. WHAT TYPES OF ACTIVITIES ARE ELIGIBLE FOR THE INFRASTRUCTURE MATCH PROGRAM?

CDBG-DR funds must be used toward disaster recovery activities, addressing disaster relief, restoration of infrastructure, and housing and economic revitalization, directly related to Winter Storm Ulmer (DR-4420) and the subsequent flooding. CDBG-DR funds may be used for eligible CDBG activities; for the Infrastructure Match Program, this includes acquisition of real property, public facilities and improvements, clearance, public services, and planning. Payment of the non-federal share (local share or match) is eligible if the costs are for an otherwise eligible activity that complies with CDBG-DR requirements.

DED has allocated CDBG-DR funding to administer and assist local entities with the match share associated with eligible projects under the FEMA PA categories C-G. These categories include:

- Category C: Roads and Bridges
- Category D: Water Control Facilities
- Category E: Buildings and Equipment

- Category F: Utilities
- Category G: Parks, Recreational Facilities, and Other Facilities

Additionally, DED has allocated CDBG-DR funding to administer and assist local entities with the match share associated with eligible projects under FEMA HMGP. Activities may include, but are not limited to:

- Acquisition;
- Demolition;
- Structural elevations;
- Flood risk reduction; and
- Infrastructure retrofits.

For additional information, see Section 5.1 of the [Action Plan](#).

4. IF WE HAVE PROJECTS THAT ARE NOT APPROVED BY FEMA, ARE THEY STILL ELIGIBLE FOR THE INFRASTRUCTURE MATCH PROGRAM?

No. In order to be eligible for the Infrastructure Match Program, the project must be approved and funds obligated by FEMA with a Project Worksheet.

5. THE PROJECT WORKSHEET IS IN PROCESS WITH FEMA BUT NOT APPROVED. CAN WE STILL QUALIFY FOR THE INFRASTRUCTURE MATCH PROGRAM?

Yes; if FEMA is in the process of writing the Project Worksheet, then the Project Worksheet will be eligible for CDBG-DR matching funds once FEMA has approved and obligated the funds for the Project Worksheet.

6. DOES THE MATCH COVER ANY INSURANCE DEDUCTIBLES NOT COVERED BY FEMA?

No; only the local match is required as described in the FEMA Project Worksheets.

7. ARE ADMINISTRATIVE COSTS ELIGIBLE? WILL COSTS ASSOCIATED WITH THE COMPLIANCE OF THE CDBG-DR REQUIREMENTS, SUCH AS HIRING A CONSULTANT OR FIRM TO CONDUCT ADMINISTRATION, BE ELIGIBLE FOR REIMBURSEMENT THROUGH THE INFRASTRUCTURE MATCH PROGRAM? IF SO, IS THE COST REQUIRED TO BE REFLECTED IN THE PROJECT WORKSHEET?

At this time, the Infrastructure Match Program covers the amount of the match only and no additional costs associated with the administration of the program due to limited funding.

CROSS-CUTTING REQUIREMENTS

1. IS AN ENVIRONMENTAL REVIEW REQUIRED FOR THE INFRASTRUCTURE MATCH PROGRAM?

Yes. Before CDBG-DR program funds are expended, an environmental review must be completed. However, subrecipients² are permitted to adopt FEMA's (or another Federal agency's) review if that Federal agency has previously performed an environmental review for assistance under the Stafford Act. In those cases, the work performed by FEMA and by HUD must be exactly the same work.

The subrecipient must obtain a completed copy of that Federal agency's review and keep a copy in its records. The subrecipient must notify DED that another Federal agency review is being used and follow DED policies and procedures regarding source documentation requirements.

If a project has ANY scope changes beyond what was approved in the Project Worksheet, the project does not qualify, at this time. If additional work is anticipated, please seek guidance from DED for assistance. Do not execute any change orders or additional contracts that include work not listed in the approved and obligated Project Worksheet if you intend to request CDBG-DR funds as matching funds.

2. ARE THE REGULATIONS THE SAME FOR CDBG-DR AND FEMA PA/HMGP?

CDBG-DR and FEMA PA/HMGP are federal programs designed to help communities navigate disaster recovery. Though the programs are similar, there are multiple compliance requirements of the federal programs to consider. The **CDBG-DR** requirements that must be adhered to in order to be eligible for the Infrastructure Match Program funds, include but are not limited to:

- National Objective
- Service Area Determination and Beneficiary Data
- Section 3
- Davis-Bacon
- Labor Compliance
- Civil Rights
- Procurement & Contracts
- Duplication of Benefits
- Elevation
- Uniform Relocation Act

It is important to note that not all PA and HMGP projects may ultimately be eligible for CDBG-DR.

National Objective

To qualify for CDBG-DR funding, activities must meet one of the following national objectives set forth in section 104(b)(3) of the Housing and Community Development Act of 1974:

- Benefit low- and moderate-income (LMI) persons;

² Under the Infrastructure Match Program, the subrecipient must be a UGLG (i.e., city, village, or county).

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

LMI is the primary national objective. HUD requires that at least 70% of the CDBG-DR funds be allocated and spent to benefit LMI populations. Consult [Chapter 3 of the CDBG Administration Manual](#) for additional information regarding meeting a national objective and [Appendix A of Implementation Guidance for Use of Community Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for the Public Assistance Program](#) for specific information on activities benefiting LMI persons.

Service Area Determination and Beneficiary Data

The determination of the area served by an activity is critical. The inclusion or exclusion of a particular portion of a community’s jurisdiction can make the difference between whether or not the percentage of LMI residents in the service area is high enough to qualify under the LMI benefit national objective.

Based on information provided in the Project Worksheet, the subrecipient may work with DED to determine the beneficiaries of a project.

Section 3

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the federal funds are spent. When undertaking procurements for CDBG-DR-assisted activities that will satisfy local match, applicants should make every effort to provide economic opportunities to low- and very low-income persons and subcontracting opportunities to businesses that employ them.

Section 3 requirements apply to recipients of housing and/or community development assistance for housing rehabilitation, housing construction, and other public construction projects when the total amount of assistance to the project exceeds a threshold of \$200,000.

- *How do you document efforts to comply with Section 3?*

Efforts may include:

- Placing posters in churches, grocery stores, recreational centers, etc.;
 - Advertising on social media outlets; and
 - Contacting local community organizations.
- *Is the Section 3 requirement the responsibility of the subrecipient or the contractor?*

The subrecipient is responsible for ensuring that all contractors and subcontractors comply with Section 3 requirements.

- *Do temporary workers qualify as Section 3 workers?*

All types of employment opportunities qualify for Section 3, including seasonal, temporary, and long-term employment.

- *If a contract was awarded prior to notice of receiving CDBG-DR funding, can we assume Section 3 contracting goals have been met?*

No. All applicants must ensure that the contractors and subcontractors complied with Section 3 requirements.

- *Do contracts that have already been awarded need to be canceled and put out for bid again to include Section 3 requirements?*

No. Contracts do not have to be canceled and put out for bid again to include additional Section 3 reporting requirements. However, recipients will be required to collect additional information from the contractors and subcontractors related to Section 3 (e.g., labor hours). Therefore, contracts may need to be amended to include these additional requirements if the existing contracts do not provide for collection of this information.

Contracts that have not gone out to bid yet should state that Section 3 will apply. All contractors and subcontractors will have to meet Section 3 requirements, regardless of whether Section 3 was included in the original contract. If Section 3 is not included in a contract involving CDBG-DR funds, it must be amended to include such provisions. Such amendments would follow the processes laid out in the respective contract(s).

For more information, see [Section 3 of the Housing and Urban Development Act of 1968](#) and [24 C.F.R. Part 75](#).

Davis-Bacon

The Davis-Bacon and Related Acts apply to contractors and subcontractors performing on federally-funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the local prevailing wages and fringe benefits for corresponding work on similar projects in the area.

Examples:

- *Scenario 1: The construction project worksheet is valued at \$19,000, with a match requirement of \$1,900. Because the total CDBG-DR in the project is under \$2,000, is the project subject to Davis-Bacon wage requirements?*

Yes. The threshold applies to the total contract for the construction which is \$19,000 and is not limited to the amount of the CDBG-DR funds utilized for the match payment.

- *Scenario 2: If the construction project worksheet is valued at \$1,900, does Davis-Bacon apply?*

No. The total contract for construction does not exceed \$2,000 and is therefore not subject to the requirements.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 hours in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to Davis-Bacon-covered contracts.

For more information, see the [Davis-Bacon Act of 1931](#).

Labor Compliance

Applicants implementing projects involving construction contracts in excess of \$2,000 must comply with the following laws and regulations:

- Federal Fair Labor Standards Act
- Davis-Bacon and Related Acts (described above)
- Copeland Anti-Kickback Act
- Contract Work Hours and Safety Standards Acts
- Nebraska labor standards and local laws and regulations

Note that arbitrarily separating a project into individual contracts below \$2,000 in order to circumvent the Davis-Bacon and Copeland Anti-Kickback Act requirements is not permitted.

Each subrecipient is responsible for ensuring compliance with labor standards. The subrecipient should immediately appoint a Labor Standards Compliance Officer (LSCO), often a CDBG Certified Administrator,³ to delegate the tasks associated with compliance with labor standards, however, the subrecipient is ultimately responsible.⁴ Costs associated with appointing a LSCO may be reimbursed as an eligible CDBG-DR expense, determined on a project-by-project basis and based on project budget.

In addition, HUD has published a contractor's guide to prevailing wage requirements for federally-assisted construction projects. Applicants may use this "Davis-Bacon Labor Standards – A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects" guidebook to obtain a better understanding of Davis-Bacon laws and regulations and to determine how to comply with these laws and regulations.

The guidebook can be found at: https://www.hud.gov/program_offices/administration/hudclips/guidebooks/4812LR.

If Davis-Bacon was not factored into the project budget, then the cost of the project may increase and should be considered when preparing the estimated project costs prior to bidding.

Civil Rights

Several civil rights acts apply to the Infrastructure Match Program, including but not limited to:

- Title VI of the Civil Rights Act of 1964: Title VI of the Civil Rights Act of 1964 states that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of race, color, or national origin.
- Title VIII of the Civil Rights Act of 1968: Title VIII of the Civil Rights Act of 1968, as amended (referred to as the "Fair Housing Act") prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin. The applicant is required to administer at least one fair housing activity during the project period and maintain documentation of the activity that was or will be conducted.
- Section 504: Section 504 of the Rehabilitation Act of 1973, as amended, requires that no handicapped individual can be excluded from participation (including employment), denied program benefits, or subjected to discrimination based solely on his or her handicap.

³ A list of current CDBG Certified Administrators is available on DED's website at:

<https://opportunity.nebraska.gov/program/community-development-block-grant/#administrators>.

⁴ DED will strongly encourage CDBG-DR subrecipients to utilize CDBG Certified Administrators (or equivalent).

Procurement and Contracts

Procurement requirements are similar for both FEMA and HUD, with notable differences. For example, FEMA allows cost analysis to support cost reasonableness of expenditures if the applicant lacks proper procurement documentation. HUD does not allow cost analysis to be used as proof of compliance with procurement regulations.

Procurement must comply with both state and federal regulations. Subrecipients of CDBG-DR funds must comply with provisions of federal law including, but not limited to, 24 C.F.R. Part 85, 24 C.F.R. §570.489, and 2 C.F.R. §§ 200.318 through 200.327. Additionally, CDBG-DR assurances must be included in all RFPs, Request for Qualifications (RFQ), and all contracts. A cost price analysis must be performed and be on file to document the cost for the services are reasonable. An RFP or RFQ must be competitive and not contain limiting criteria, such as “20 years of experience” or “must have done previous work within the city.”

PA and HMGP applicants that procure goods or services before they know whether CDBG-DR grants are available for local match may wish to include 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 will allow the contract to be modified in the future to include terms mandated for CDBG-DR assisted contracts (e.g., Section 3, Davis-Bacon, etc.).

CDBG-DR funded contracts must also include certain provisions, including the period of performance or date of completion, performance requirements, and liquidated damages provisions. Further, subrecipients may contract for administrative support but may not delegate or contract to any other party any inherently governmental responsibilities related to management of the grant, such as oversight, policy development, monitoring, internal auditing, and financial management.

Duplication of Benefits

The Stafford Act requires that recipients of federal disaster recovery funding make certain that no “person, business concern or other entity” will receive duplicative assistance.

CDBG-DR funds are intended to supplement, not replace, other public, private, and nonprofit sector resources that have already provided for the same need or loss. The funds provide assistance to a person or entity only to the extent that the person or entity has a disaster recovery need that has not been fully met by funds that have already been, or will be paid, from another source. For additional information, see DED’s Duplication of Benefits Policy.

Prior to receipt of CDBG-DR funds, the subrecipient must have a duplication of benefits policy in place to ensure compliance. DED can provide a template the applicant can sign and use as a policy.

Elevation

DED’s priority is to support a resilient recovery. Section 6.2.2.7 of the [Action Plan](#) outlines the elevation standards for CDBG-DR funds as outlined in the Federal Register.⁵ The Nebraska Department of Natural Resources Floodplain Management Section will work with DED to support local community floodplain managers to ensure that all federal, state, and local floodplain regulations are met.

For additional information, see Section 6.2.2.7 of the [Action Plan](#).

⁵ Elevation standards are outlined in the Federal Register by HUD. See 83 Fed. Reg. No. 28 (February 9, 2018).

Uniform Relocation Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) requires that individuals, households, and businesses who are displaced as of the result of the use of Federal funds receive relocation assistance. This assistance may be provided to renters displaced temporarily while repairs are undertaken for rental units. For additional information, review HUD's Overview of URA, <https://www.hudexchange.info/programs/relocation/overview/#overview-of-the-ura>.

3. Illustration of the Application of HUD Requirements to a FEMA PA Project Assisted by CDBG-DR Funds

Generally, the CDBG-DR assisted portion of the FEMA PA project includes the work on structures, sites, or facilities that is *separable* from the PA-funded portions of the project, and which will result in a completed activity that satisfies criteria to demonstrate compliance with a CDBG-DR national objective and all other applicable CDBG-DR requirements. DED will assist the subrecipient in identifying which portions of the PA Project Worksheet are CDBG-DR-assisted and therefore subject to HUD requirements. All sites within the PA Project Worksheet are subject to PA's programmatic requirements.

Example: The City of Little Big Town, a FEMA PA applicant, is also a CDBG-DR subrecipient. The PA applicant just received FEMA approval for a \$1 million FEMA PA scope of work. The FEMA Project Worksheet includes 5 local road segments with 40 sites where washouts have been caused by flood damage. Before each road segment can be opened to serve traffic, all washouts along each road segment must be reconstructed.

FEMA requires the PA Applicant to provide a 25% local match for the Project Worksheet, or \$250,000. The FEMA PA Federal cost share is \$750,000.

The approved Project Worksheet is a standard Project Worksheet under section 406, and the CDBG-DR subrecipient (in this case, also the PA applicant) will be reimbursed for actual costs. The CDBG-DR subrecipient consults with the CDBG-DR grantee (DED) and determines that road segments #1 and #2 would meet the CDBG-DR national objective criteria for area benefit to low- and moderate-income persons because those two road segments are in primarily residential areas where at least 51 percent of residents are persons of low-and moderate- income.

The CDBG-DR subrecipient determines that it will set aside \$250,000 of CDBG-DR funds to meet the match requirement for the FEMA PA project and will apply those funds only to road segment #1 and road segment #2 in order to meet the low- and moderate-income national objective.

Cost Breakdown for Road Segment #1 and Road Segment #2	
Combined Cost of Planning, Design, and Permitting	\$100,000
Road Segment #1 (cost of washout reconstruction)	\$100,000
Road Segment #2 (cost of washout reconstruction)	\$100,000
<hr/>	
<i>Total Cost for Road Segments #1 and #2</i>	<i>\$300,000</i>

In this example, only certain portions of the FEMA PA project are CDBG-DR assisted and, therefore, subject to HUD requirements. The CDBG-DR assisted portions of this FEMA PA project are: 1) the planning and design costs for road segments #1 and #2; and 2) reconstruction of all washouts along both road segments #1 and #2. Although CDBG-DR funds are not used to pay the entire cost of washout reconstruction for road segment #2, the entirety of road segment #2 is part of the CDBG-DR assisted portion of the project.⁶ The CDBG-DR subrecipient must determine how all CDBG-DR

⁶ Reconstructing a single road washout on road segment #2 would be an eligible CDBG activity. That activity, however, would not meet the low- and moderate-income area benefit national objective since fixing a road washout along road segment #2 without opening the road (which cannot happen until all washouts in the segment are reconstructed) will not benefit the residents of the service area.

requirements (e.g., Davis-Bacon, Section 3, etc.) would apply to the entirety of the project (both road segment #1 and road segment #2).

DED and the CDBG-DR subrecipient will work together to determine which portions of the Project Worksheet are CDBG-DR assisted. Once the portions are determined, DED and subrecipient will determine how the CDBG-DR requirements apply to those portions of the project by considering:

- *Which contracts for goods and services cover work that will be done on the CDBG-DR-assisted portions of the Project Worksheet? Do those contracts include mandatory terms, and were they procured in accordance with CDBG-DR procurement requirements?*

In the example, the contracts may have been procured without regard to CDBG-DR requirements if the CDBG-DR subrecipient/PA applicant entered the contract before it identified CDBG-DR as the source of the local match. If the contract does not require the contractor to comply with CDBG-DR requirements, the contract must be amended or a new procurement completed to avoid noncompliance.

- *How will other cross-cutting requirements apply to the CDBG-DR assisted portions of the Project Worksheet?*

This example does not provide enough facts to determine how all cross-cutting requirements will apply. DED will assist the CDBG-DR subrecipient in identifying all cross-cutting requirements (e.g., URA, Section 3, and environmental review requirements).

- *If the CDBG-DR-assisted portion of the project includes construction work financed in whole or in part with CDBG-DR funds, what “construction work” would be subject to Davis-Bacon wage rates?*

Davis-Bacon wage rates would apply to any construction performed by laborers and mechanics employed by contractors to complete all of segments #1 and #2, even though CDBG-DR funds will not be used to pay for all of the work in segment #2. Davis-Bacon does not apply to any force account workers employed by the CDBG-DR subrecipient.

- *What practices can the CDBG-DR subrecipient adopt to help ensure compliance with the requirement that CDBG-DR funds can only pay for costs that cannot be reimbursed by FEMA?*

The CDBG-DR subrecipient should take measures to avoid spending more than 25 percent of actual costs in CDBG-DR funds (which is prohibited by CDBG-DR order of assistance requirements). In this case, the order of assistance provisions would be violated if the CDBG-DR subrecipient expended \$250,000 in CDBG-DR funds and the actual costs of the Project Worksheet are less than the estimated \$1 million scope of work approved by FEMA.

Some options that might help the CDBG-DR subrecipient avoid a violation include completing the CDBG-DR work last; or paying for all or a portion of the local match with non-Federal funds and then seeking reimbursement from DED once actual costs are known. For example, in this case, the CDBG-DR subrecipient could initially use \$200,000 in CDBG-DR funds towards the match and pay the remaining \$50,000 with non-Federal funds. Once the project is completed and actual costs are determined, the CDBG-DR subrecipient may seek additional reimbursement from DED for up to 25% of the actual project costs with CDBG-DR funds. This practice is useful when actual costs are not known at the outset of the project (e.g., the contract includes a performance bonus for early completion or penalty for late completion).

The reconstruction of the CDBG-DR funded washouts is an integral part of the overall reconstruction of road segment #2, so all of road segment #2 is part of the CDBG-DR-assisted project.

PROGRAM TIMELINE & NEXT STEPS

Timeline

This timeline is accurate as of the date of publication.



- **March 9, 2019 through July 14, 2019 – Disaster Incident Period (DR-4420)**
- March 21, 2019 – Disaster Declaration Date
- June 6, 2019 – Presidential designation
- December 3, 2019 – HUD announces Nebraska’s allocation amount
- January 17, 2020 – HUD publishes allocation notice
- January 27, 2020 – Release of Federal Register
- February 3, 2020 – Date of Applicability
- March 20, 2020 – HUD issues extension due to COVID-19
- April 11, 2020 – DED submitted Implementation & Risk Assessment (“HUD Certifications”) to HUD
- **June 23, 2020 – DED publishes Action Plan for public comment**
- June 30, 2020 – Action Plan presentation and public hearing
- July 16, 2020 – Action Plan presentation and public hearing
- **July 31, 2020 – DED submitted the State of Nebraska DR-4420 Action Plan to HUD for approval**
- September 14, 2020 – HUD issued letter to DED in response to Action Plan submitted in July, written comments followed two weeks later
- September 16, 2020 – DED established the regular coordination meetings with HUD staff
- November 10, 2020 – State of Nebraska’s CDBG-DR grant reassigned to DRSI Fort Worth
- November 24, 2020 – HUD assigned a TA provider to DED
- March 19, 2021 – following multiple coordination meetings with HUD staff and various informal submissions, DED submitted final revisions of HUD Certifications to HUD
- April 14, 2021 – After multiple coordination meetings with HUD staff and various informal submissions, DED submitted a revised version of the Action Plan for final approval
- April 26, 2021 – DED published the revised Action Plan on its website at HUD’s direction
- **May 3, 2021 – HUD approved the Action Plan**
- June 7, 2021 – DED received Grant Agreement, DED begins formal work on grant conditions
- June 14, 2021 – DED executed Grant Agreement and returned to HUD for full execution
- July 7, 2021 – DED received fully executed Grant Agreement; Six-year program term begins
- **Next Steps – Program setup and launch**

Next Steps

DED is currently developing application and program guidelines to prepare for program launch. DED will solicit feedback from community stakeholders to ensure program design best meets the needs of each of the most impacted communities. DED does not currently have a program launch date. DED will provide updates on program development through its CDBG-DR website, https://opportunity.nebraska.gov/program/cdbg_dr/, and email list. Sign up for the email list by completing the [online form](#), which is also linked on the DR website.

Questions

Please submit any questions to ded.cdbgdr@nebraska.gov by Monday, August 16, 2021. Following Monday, August 16, 2021, DED will update this document to address all questions and concerns. Updates will either take the form of additional questions or updates to similar existing questions.