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DEPT. OF ECONOMIC DEVELOPMENT

Homeowner Assistance Program Guide

State of Nebraska CDBG-DR Program

JANUARY 2022

RECORD OF CHANGES

The following table summarizes amendments to the Homeowner Assistance Program Guide.

Date Change Approved	Change Number	Description of Change

TABLE OF CONTENTS

1	EXECUTIVE SUMMARY	6
1.1	ASSOCIATED ALLOCATION(S).....	6
2	ACRONYMS.....	7
3	SCOPE	8
4	HOMEOWNER ASSISTANCE PROGRAM OVERVIEW	8
4.1	SUMMARY OF REQUIREMENTS AND PRIORITIES	9
4.2	SUB-PROGRAM OBJECTIVES	10
4.3	PROGRAM GOALS	11
4.4	ONGOING UNMET NEEDS ASSESSMENT	12
5	PROJECT FUNDING REQUIREMENTS.....	12
5.1	SUMMARY OF ELIGIBILITY REQUIREMENTS	12
5.2	ELIGIBLE APPLICANTS	13
5.3	ELIGIBLE ACTIVITIES	13
5.3.1	ELIGIBLE COSTS	14
5.3.2	COSTS OF COUNSELING.....	15
5.4	AWARD LIMITS	16
5.5	TOTAL ALLOCATION	16
6	CITIZEN PARTICIPATION	17
6.1	PUBLIC ENGAGEMENT	17
6.2	WEBSITE	17
6.3	MEETINGS.....	18

7	APPLICATION AND AWARD PROCESS	18
7.1	NON-SELECT AND REFERENCE TO COMPLAINTS AND GRIEVANCE PROCESS 20	
7.2	KEY ADMINISTRATIVE REQUIREMENTS.....	20
7.2.1	NONDISCRIMINATION	22
7.2.2	AFFIRMATIVE MARKETING	22
7.2.3	REASONABLE ACCOMMODATION.....	22
7.2.4	CONFIDENTIALITY.....	22
7.2.5	REPORTING	22
7.2.6	RECORDKEEPING	23
7.2.7	ANNUAL MONITORING OF PRIMARY RESIDENCE.....	24
7.2.8	PROGRAM INCOME	25
7.2.9	DEBARMENT/SUSPENSION.....	25
7.3	PROJECT SPECIFIC REQUIREMENTS	25
7.3.1	BUYER/HOUSEHOLD ELIGIBILITY REQUIREMENTS.....	25
7.3.2	INCOME	26
7.3.3	COUNSELING	27
7.4	BUYER UNDERWRITING REQUIREMENTS.....	27
7.4.1	REQUIRED BUYER INVESTMENT AND REMAINING ASSETS	27
7.4.2	LIQUID ASSET LIMIT	27
7.4.3	MINIMUM MONTHLY PAYMENT.....	28
7.4.4	MAXIMUM DEBT TO INCOME RATIO	28
7.5	FIRST MORTGAGE REQUIREMENTS	28
7.5.1	QUALIFIED MORTGAGE/CLOSING COSTS.....	29

7.5.2	INTEREST RATE.....	29
7.5.3	TERM	29
7.5.4	LOAN TO VALUE RATIO.....	29
7.5.5	PARTICIPATING LENDER LIST.....	30
7.6	STRUCTURE OF HAP ASSISTANCE.....	30
7.6.1	MAXIMUM ASSISTANCE AVAILABLE.....	30
7.6.2	STRUCTURE OF CDBG-DR LOAN.....	31
7.6.3	HAP HOMEBUYER AGREEMENT	31
7.6.4	PRINCIPAL RESIDENCY	31
7.6.5	MONITORING AND COMPLIANCE BY SUBRECIPIENTS	32
7.6.6	REFINANCING AND SUBORDINATION	32
7.7	PROPERTY STANDARDS	33
7.7.1	LOCATION.....	33
7.7.2	ENVIRONMENTAL REVIEW.....	33
7.7.3	SALES PRICE	33
7.7.4	APPRAISED VALUE	34
7.7.5	STRUCTURE TYPE.....	34
7.7.6	PROPERTY STANDARDS	34
7.7.7	LEAD-BASED PAINT	34
7.7.8	VACANT/OWNER-OCCUPIED	34
8	MONITORING AND COMPLIANCE.....	35
8.1	MONITORING REVIEWS.....	35
8.2	ANTI-FRAUD, WASTE, AND ABUSE	36
8.3	FINANCIAL MANAGEMENT	36

8.4	DUPLICATION OF BENEFITS	36
8.5	AFFIRMATIVELY FURTHERING FAIR HOUSING	37
8.6	RECORDS RETENTION	37
9	PROPOSED APPENDIX LIST	37

1 EXECUTIVE SUMMARY

The Homeowner Assistance Program (HAP) is made available through United States (US) Department of Housing and Urban Development’s (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) funds; administered under the supervision of the State of Nebraska’s Department of Economic Development (DED).

HAP provides grants to local units of government and qualifying nonprofit organizations to support income-eligible households with homeownership assistance. Eligible grantees are designated as Subrecipients and use CDBG-DR funding to provide down payment, closing cost, and “principal reduction” assistance to participating buyers in the form of a forgivable junior-lien (i.e., a second mortgage that is subordinate to the primary mortgage). In addition to other eligibility requirements, participating buyers are required to complete housing counseling, including homeownership education and financial management training.

This Guide is intended to outline the “rules of the road” for prospective HAP Subrecipients, including their overall administrative and compliance responsibilities and to provide uniform buyer eligibility criteria and project-specific requirements.

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.

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 “most impacted and distressed” (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 Low-to-Moderate Income (LMI) populations.

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

2 ACRONYMS

Acronym	Meaning
ADC	Activity Delivery Costs
AFFH	Affirmatively Furthering Fair Housing
AMI	Area Median Income
CDBG	Community Development Block Grant
CDBG-DR	Community Development Block Grant – Disaster Recovery
CFR	Code of Federal Regulations
CFPB	Consumer Financial Protection Bureau
CPD	HUD Office of Community Planning and Development
CPP	Citizen Participation Plan
DED	Department of Economic Development
DOT	Deed of Trust
DR	Disaster Recovery
DRGR	Disaster Recovery Grant Reporting System
EPA	Environmental Protection Agency
FAQs	Frequently Asked Questions
FR	Federal Register
QM	Qualified Mortgage
HAP	Homeowner Assistance Program
HCA	Housing Counseling Agencies
HUD	Department of Housing and Urban Development

Acronym	Meaning
IRA	Internal Revenue Service
LMI	Low to Moderate Income
LTV	Loan-to-Value
MID	Most Impacted and Distressed
NOFO	Notice of Funding Opportunity
OIG	Office of Inspector General
OMB	Office of Management and Budget
P&P	Policy and Procedure
PC	Project Cost
QM	Qualifying Mortgage
UPCS	Uniform Physical Conditions Standard
US	United States
USDA-RD	United States Department of Agriculture – Rural Development

3 SCOPE

This policy applies to all DED employees, providers, vendors, contractors, consultants, Subrecipients, partners, citizens, Applicants, 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.

4 HOMEOWNER ASSISTANCE 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 (FR) Notice followed on January 27, 2020 (85 FR 4681). 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 impacts of these disasters on Nebraska’s infrastructure, housing, and economy were widespread, with damage particularly focused in 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 (UNA) (section 2 of the **Action Plan**), DED is investing in homeowner assistance across the State of Nebraska.

HAP projects are administered by DED Subrecipients (units of government, and 501(c)(3), or 501(c)(4) nonprofit organizations) for the purposes of providing non-construction forms of assistance including down payment and closing cost assistance, gap financing, and housing counseling.

The overarching goal of the program is to provide assistance to homeowner participants impacted by the severe winter weather events of 2019, prioritizing Low- to- Moderate Income (LMI) populations and HUD-defined Most Impacted and Distressed (MID) areas (Sarpy, Dodge, and Douglas counties).

4.1 SUMMARY OF REQUIREMENTS AND PRIORITIES

Table 1 summarizes the HAP’s priorities in the context of Federal and State requirements.

Table 1: Summary of CDBG-DR Requirements and Priorities

Entity	Requirement/Priority	Citation
HUD	Tie Back to the Disaster	85 FR 4681
	Eligible Activity ¹	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
State	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

¹ HUD allows grantees to use up to 15% of the total grant award for planning activities. Planning expenditures can be counted towards the 80% expenditure requirement for spending in HUD-defined MID areas as long as there’s a clear tie regarding how planning activities benefit those areas.

Entity	Requirement/Priority	Citation
Homeowner Assistance Program	<ul style="list-style-type: none"> • Provide homeowner assistance to eligible households, prioritizing MID counties in alignment with HUD requirements of investing at least 80% of total CDBG-DR funding in MID counties. • Provide homeowner assistance to eligible households, prioritizing LMI households, in alignment with the HUD requirement of reserving at least 70% of total CDBG-DR funding for the benefit of LMI households. 	Section 5.2.3 of the State of Nebraska DR-4420 Disaster Recovery Action Plan
	<ul style="list-style-type: none"> • Provide assistance in alignment with the requirements outlined in the Action Plan, reserving 95% of housing funding to be invested in MID counties. • Provide assistance in alignment with the requirements outlined in the Action Plan, reserving 95% of HAP funding to be invested in LMI households. 	Section 5.2.3 of the State of Nebraska DR-4420 Disaster Recovery Action Plan

4.2 SUB-PROGRAM OBJECTIVES

Program funds through the HAP will be primarily directed to benefit the HUD-defined MID areas (Sarpy, Dodge, and Douglas counties) to promote the protection and benefit of homeowners and LMI households in disaster-impacted communities.

Following the disaster and through the federally guided Nebraska Housing Recovery Support Functions (RSFs), HUD coordinated a Housing Impact Assessment report that identified four key recovery considerations for housing.² As summarized in **Table 2** below and described in section 5.1 of the **Action Plan**,³ DED developed housing program objectives based on these four housing issues, which HUD developed based on the needs as communicated by local long-term recovery groups and through outreach efforts.

² Housing Recovery Support Function, “Nebraska Housing Impact Assessment, DR-4420,” August 27, 2019.

³ “State of Nebraska DR-4420 Disaster Recovery Action Plan.” DED. See: https://opportunity.nebraska.gov/wp-content/uploads/2021/04/StateofNebraskaDR-4420ActionPlan_04.26.2021.pdf.

Table 2: HUD Housing Impact Assessment and CDBG-DR Housing Program Objective Matrix

HUD-Identified Housing Issue	CDBG-DR Housing Program Objective
Increased need for affordable, accessible housing stock, particularly rental housing and subsidized rental housing for very- and extremely low-income renters.	DED will use CDBG-DR funds to leverage existing resources, including LIHTC, to increase the supply of affordable rental housing stock. Preference will be given to projects that target households earning less than 50% of AMI.
Improve housing resiliency.	DED will incorporate sustainability and resilience requirements within its CDBG-DR Affordable Housing Construction Program, including restricting building activity within the 100-year floodplain.
Increase availability of workforce housing, particularly near rural employment hubs, to support agricultural workers and reduce commute times.	DED will partner with NIFA to develop workforce housing in the areas that experienced significant flooding through the joint application process, layering CDBG-DR with the LIHTC Program. CDBG-DR funds will be used as gap funding for LIHTC developments in impacted communities, incentivizing developers to target these communities.
Improve housing rehabilitation and construction capacity in impacted communities, i.e., smaller communities with limited capacity will need assistance in housing rehabilitation and new construction.	DED will provide and make available technical assistance to facilitate project development.

4.3 PROGRAM GOALS

The need to rebuild communities with an emphasis on resiliency became apparent after the 2019 disasters. In an effort to promote recovery and to prevent future catastrophic disaster-related damages, the overarching goal of this program is to **support disaster-impacted homeowners and by doing so, increase community resiliency in the face of future natural disasters.**

As defined in **Table 1**, the HAP is structured to meet a series of Federal and State requirements. DED will review applications to evaluate their eligibility under CDBG-DR, using a scoring criteria determined by tiers (see section 7, **Application and Award Process**). Analysis will be conducted to verify that projects are compliant with CDBG-DR requirements as described in section 5, **Project Funding Requirements**. Following verification of eligibility and compliance, DED will select awardees and proceed with funding agreements with Subrecipients.

4.4 ONGOING UNMET NEEDS ASSESSMENT

As contemplated in the ***Action Plan***⁴ and discussed in the ***Citizen Participation Plan***,⁵ Nebraska will actively work to identify projects that address resiliency and achieve an equitable, effective recovery. DED will work with State partners to continually identify unmet needs that housing activities may be able to support, and similarly communicate emerging unmet needs that are ineligible for the HAP to programs that may be able to address them.

5 PROJECT FUNDING REQUIREMENTS

5.1 SUMMARY OF ELIGIBILITY REQUIREMENTS

Requirements for Subrecipient eligibility are summarized below in **Table 1**. Additional details described in section 7.3 ***Project Specific Requirements***.

⁴ “State of Nebraska DR-4420 Disaster Recovery Action Plan.” DED. See: https://opportunity.nebraska.gov/wp-content/uploads/2021/04/StateofNebraskaDR-4420ActionPlan_04.26.2021.pdf.

⁵ “State of Nebraska DR-4420 Disaster Recovery Citizen Participation Plan.” DED. See: https://opportunity.nebraska.gov/wp-content/uploads/2021/10/PPP-rev08312021_clean-StateofNebraskaDR-4420.pdf.

Table 3: Eligibility Requirements

Eligible Applicants	Units of local government (e.g., counties, cities, or villages)	
	501©(3) or 501(c)(4) nonprofit organizations	
Eligible Activities	Direct buyer assistance to <i>eligible households</i> ⁶	Award Limits
	Housing Counseling	
	Activity Delivery Costs	
		Generally, not to exceed \$50,000/beneficiary. Maximum of up to \$150,000 and must expend at least 80% of each Subrecipient’s grant for such costs. ⁷
		Not to exceed 10% of a Subrecipient’s award.
		Not to exceed 15% of a Subrecipient’s award.

5.2 ELIGIBLE APPLICANTS

The HAP is administered on a day-to-day basis by Subrecipients of DED. Eligible Subrecipients include:

- Units of local government (e.g., counties, cities, or villages); and
- 501(c)(3) or 501(c)(4) nonprofit organizations.

Under the conflict-of-interest provisions at 24 CFR § 570.489(h), if a HAP Subrecipient is the owner or developer of housing (including, housing developed with non-DR funds), it may not award buyer assistance to households purchasing units it owns without seeking a waiver. Such waivers must be approved by both DED and HUD.

5.3 ELIGIBLE ACTIVITIES

CDBG-DR funding under HAP may be used to provide:

⁶ See section 7.3.1, for **Buyer/Household Eligibility Requirements** (i.e., beneficiary) eligibility requirements.

⁷ Per the Action Plan, DED may provide up to \$150,000 to a given household and such costs must be reasonable and necessary. See section 7.6.1, **Maximum Assistance Available** for further discussion about maximum assistance.

- **Direct buyer assistance to eligible households**, including assistance with a buyer’s down payment and closing costs or assistance needed to “buy down” the first mortgage to a level that is affordable to the buyer. The applicable implementing notices for the State’s CDBG-DR award waive the standard CDBG requirement limiting down payment assistance to one-half of the lender-required down payment.⁸
- **Housing counseling** to prospective buyers, including those who may ultimately not be eligible to participate in HAP. All counseling must be provided by HUD-certified housing counselors employed by HUD-approved housing counseling agencies. (See section 7.3.3, **Counseling**, for further information regarding housing counseling requirements)
- **Activity delivery costs (ADCs)** of a Subrecipient related to providing direct assistance to prospective and participating buyers.

5.3.1 ELIGIBLE COSTS

HUD differentiates between **project costs** and **activity delivery costs**. In the context of HAP, PCs 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 HAP project or service to a beneficiary; these costs are not required to be tied to a specific address but must be tied to the delivery of eligible project costs. **Table 2** provides examples of both types of costs.⁹ **Not all PCs and ADCs listed below may be eligible in the context of the HAP program.**

See also **Financial Management P&P** for cost principles and other requirements.

Table 4: Project and Activity Delivery Costs

	Project Costs	Activity Delivery Costs
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; 	<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;

⁸ See 83 FR 5844, pg. 5861, waiving 42 U.S.C. 5305(a)(24)(A) and (D) to allow “down payment assistance” for up to 100 percent of the down payment.

⁹ 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.

	Project Costs	Activity Delivery Costs
	<ul style="list-style-type: none"> • 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"> • 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.
Cap	No cap, but costs must be reasonable. Public service activities are capped at 15% of the appropriation.	No cap, but costs must be reasonable.

5.3.2 COSTS OF COUNSELING

Consistent with section 7.3.3, **Counseling**, all counseling must be provided by a HUD-certified counselor employed by a HUD-approved housing counseling agency. HUD housing counseling agencies (HCAs) may be compensated for the cost of counseling in a variety of ways. Some HCAs receive grants from HUD to support the provision of counseling to individual households. Others may be supported by other funding streams (e.g., a “regular” CDBG grant from a local entitlement community), and still others may charge fees to the households receiving counseling services.

Depending on whether a Subrecipient is also an HCA and/or the manner in which HCA to which a Subrecipient refers clients, HAP funding *may* be expended by a Subrecipient as follows:

- If the Subrecipient is an HCA, it may charge its actual costs of providing counseling to prospective buyers less i) any participant fees charged, ii) less any reimbursements

expected from a HUD counseling grant; iii) any other public or philanthropic reimbursements expected from other funding sources.

- If the Subrecipient is referring prospective buyers to a third-party HCA that charges participant fees, the Subrecipient may require prospective buyers, as a condition of their participation in HAP, to pay those fees.
- Alternatively, the Subrecipient may pay the counseling fees (not to exceed the HCA's standard fee schedule pursuant to the requirements of ***HUD Handbook 7610.1 Rev 5***) on behalf of prospective buyers it refers to a third-party HCA.

Any counseling fees paid by participating buyers may be counted toward the minimum buyer investment requirement outlined in section 7.3.1, ***Buyer/Household Eligibility Requirements***. In all cases, counseling costs paid by a Subrecipient will also be subject to the award limits below.

5.4 AWARD LIMITS

The maximum award to a single Subrecipient is \$2,000,000. Awards are subject to the following additional restrictions:

- At least 80% of each Subrecipient's grant (excluding any budget for administrative funding) must be expended on direct buyer assistance. Absent specific approval by DED, direct buyer assistance to a given household may not exceed \$50,000;¹⁰
- Housing counseling costs may not exceed 10% of a Subrecipient's award; and
- Activity delivery costs may not exceed 15% of a Subrecipient's award.

Note: given DED's requirement that not less than 80% of a Subrecipient's total grant be used for direct buyer assistance, in combination counseling and activity delivery costs may not exceed 20% of the award. It is not therefore possible for a Subrecipient to use both 10% of its grant for counseling and another 15% for activity delivery costs.

5.5 TOTAL ALLOCATION

The total allocation for the Homeowner Assistance Program is up to \$11,000,000.

¹⁰ See Section 7.6.1, ***Maximum Assistance Available***, for further discussion.

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.¹¹ 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 Homeowner Assistance Program to, all relevant stakeholders throughout the life of the program. This approach 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 Homeowner Assistance Program will comply with the effective communications requirements of 24 CFR § 8.6¹² and other fair housing and civil rights requirements, such as the effective communications requirements under the ADA.

6.2 WEBSITE

DED has a website with CDBG-DR information on the Department’s website, located at <https://opportunity.nebraska.gov/>. The Disaster Recovery (DR) program-specific page is at <https://opportunity.nebraska.gov/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 Homeowner Assistance Program – must be posted and maintained. For more information, refer to the **Recordkeeping and Data Management Plan**.

DED will continue to update and release guidance (e.g., Frequently Asked Questions [FAQs]) for the Homeowner Assistance 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 Homeowner Assistance Program documents appropriately.

¹¹“State of Nebraska Citizen Participation Plan.” DED.

¹² 24 CFR § 8.6.

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-us/>, or write a letter to:

Nebraska's Department of Economic Development

301 Centennial Mall South, PO Box 94666

Lincoln, NE, 68509-4666.

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 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's Department of Economic Development

301 Centennial Mall South, PO Box 94666

Lincoln, NE, 68509-4666.

6.3 MEETINGS

Community meetings will be held as part of the Homeowner Assistance 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 Homeowner Assistance Program activities in their area and to provide input.

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

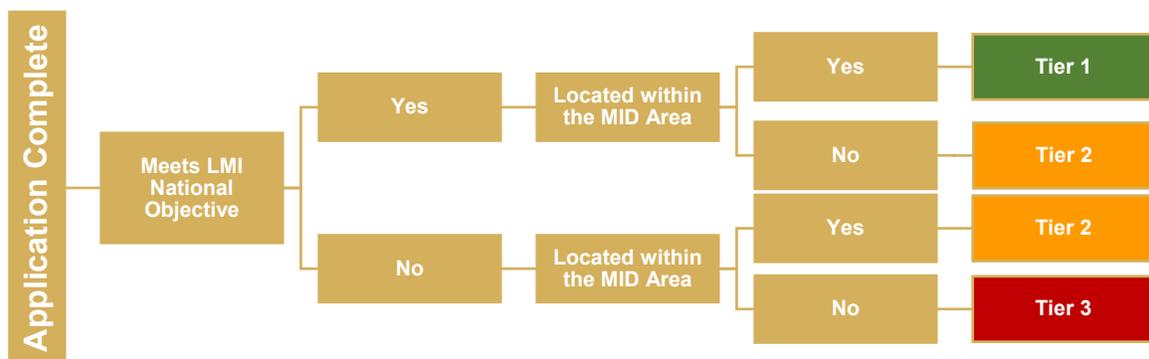
7 APPLICATION AND AWARD PROCESS

DED will issue one or more Notices of Funding Opportunity (NOFO) inviting applications from eligible Subrecipients. The NOFO outlines both threshold and competitive criteria, and awards

are made on a competitive basis. While each NOFO includes detailed scoring criteria, pursuant to the Action Plan, applications are tiered as follows (see also **Figure 1** below):

- Tier 1: Applications targeting LMI buyers purchasing homes in the MID counties.
- Tier 2: Applications targeting (i) LMI buyers in non-MID (but still flood-impacted) areas or (ii) non-LMI buyers in MID counties.
- Tier 3: Applications targeting non-LMI buyers in non-MID areas.

Figure 1: Tiering Process Flow



In practice, prospective Subrecipients should be aware that funding will overwhelmingly go to Tier 1 applications. This is due to the combination of two HUD requirements. First, at least 80% of the *total* CDBG-DR award must be invested in the MID counties. Second, at least 70% of *total* CDBG-DR funding must benefit LMI households. In order to provide additional flexibility in the use of CDBG-DR funding for infrastructure, including in non-MID counties, the Action Plan requires that at least 95% of *housing* funding be invested in MID counties and that at least 95% of HAP funding benefit LMI households.

Together this means that no less than 90% of HAP funding will be invested in Tier 1 applications and no more than 10% of available funding will remain for Tier 2 or Tier 3 applications. Since Tier 3 applications would not count toward either the MID or LMI targeting requirements, it is unlikely that any Tier 3 applications will be awarded.

Awarded Subrecipients will be required to submit program guidelines describing how their award for HAP will be administered, including how their program will comply with and address:

- Key Administrative Requirements,
- Project Specific Requirements,

- Buyer Underwriting Requirements,
- First Mortgage Requirements,
- Structure of HAP Assistance, and
- Property Standards.

These Subrecipient program guidelines will be the framework for monitoring compliance. See also section 8, **Monitoring and Compliance**.

7.1 NON-SELECT AND REFERENCE TO COMPLAINTS AND 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, **Project Funding Requirements**.

Applicants who wish to submit a complaint related to the HAP 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 HAP 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.

Consistent with HUD's requirements, all complaints will be responded to within fifteen (15) calendar days of receipt of the complaint. Complaints related to fraud, waste, or abuse of government funds should be forwarded directly to the HUD Office of Inspector General (OIG) Fraud Hotline at phone: 1-800-347-3735 or email: hotline@hudoig.gov.

7.2 KEY ADMINISTRATIVE REQUIREMENTS

On a day-to-day basis, Subrecipients will be responsible for operating the program subject to the requirements of their agreement with DED, CDBG-DR requirements in the applicable Federal Register notices, applicable CDBG regulations, and statutory provisions, including:

- Nondiscrimination requirements as described in 24 CFR § 570.602 and 24 CFR § 6;
- Reasonable Accommodation requirements as described in 24 CFR § 8 Subpart C - Program Accessibility; and

- Debarment and suspension requirements as described in 24 CFR § 570.609.

Specific Subrecipient responsibilities will include, but may not be limited to:

- Marketing HAP availability within the communities served by the Subrecipient, including taking steps to affirmatively market the program to populations determined least likely to apply;
- Intake and processing of applications from individual households seeking homeownership assistance which will include:
 - Documenting household composition and income;
 - Determining household eligibility;
 - Determining a household's need for assistance, including any duplication of benefits certification required by the Stafford Act;
 - Referring potential participants to qualified housing counseling agencies;
 - Reviewing preliminary loan disclosures and coordinating with participating lenders to ensure that buyer mortgages meet applicable HAP standards;
 - Reviewing properties to ensure they are not located in flood zones or airport clear zones;
 - Conducting inspections of properties, including completing lead-based paint visual assessments as applicable, and coordinating with buyers, sellers, and/or their real estate agents to address any deficiencies that are correctable; and
 - Providing Applicants with notice of approval (or denial as applicable);
- Preparing closing documents (i.e., CDBG-DR agreement, note, and mortgage/deed of trust), coordinating with closing agents, and ensuring documents are properly executed and recorded;
- Maintaining all applicable program and project-specific records;
- Reporting to DED on program progress;
- Monitoring ongoing compliance with the owner occupancy and recapture provisions of the CDBG-DR agreement, note, and mortgage/deed of trust during the five (5) year affordability period;

- Servicing CDBG-DR loans as needed, including processing requests for payoff and/or subordination; and
- Discharging liens following recapture or repayment of assistance by assisted buyers.

7.2.1 NONDISCRIMINATION

DED and its Subrecipients must provide equal opportunity and operate HAP without regard to race, color, national origin, sex, religion, familial status, disability, or sexual orientation of Applicants (see 24 CFR 570.602, 24 CFR 5, and 24 CFR 6).

7.2.2 AFFIRMATIVE MARKETING

Subrecipients are required to affirmatively market their individual local HAP program, including by identifying those populations least likely to apply and targeting outreach and advertising to those populations (see 24 CFR 570.601).

7.2.3 REASONABLE ACCOMMODATION

Administration of HAP is subject to the requirements of Section 504 of the Rehabilitation Act of 1973. When necessary to provide Applicants with disabilities reasonable access and participation to the program, Subrecipients must provide the opportunity for Applicants to request reasonable accommodations to allow for their participation in a local HAP program. Examples may include allowing an Applicant to complete an application at another location, providing an interpreter for meetings with program staff, etc. (see 24 CFR 570.602).

7.2.4 CONFIDENTIALITY

Except as may be required by law or regulation, Subrecipients must maintain client files, both electronic and paper, must be kept in a confidential manner to protect personal identifiable information. However, all files are made available to HUD, the HUD Office of Inspector General, the Government Accountability Office, or any of their designees for all monitoring and audit purposes (see 2 CFR 200.303(e)).

7.2.5 REPORTING

DED establishes procedures for Subrecipients to collect and report data relevant to HUD. On a grant or program level, DED requires Subrecipients to report on general program progress (e.g., applications received; pipeline of prospective buyers receiving counseling, preliminary qualified for assistance, and seeking a mortgage or shopping for a home; number of closings completed).

Additionally, Subrecipients are required to report on demographic information on all Applicants, including those not selected for benefits, including, but not limited to:

- Household income at the time of application/assistance;
- Household income as a percentage of AMI at the time of assistance, as defined by HUD;
- The race, ethnicity, and gender of the head of household;
- The household's familial status;
- The presence or non-presence of a household member with a disability; and
- The presence or non-presence of a household member that is a veteran.

7.2.6 RECORDKEEPING

Subrecipients are to contact DED to obtain an approved electronic record management system utilizing DED's Activity File Checklist (or similar form supplied by DED). All projects, program activity files, and Applicant information received must be maintained within DED's system of record (see **Appendix A: HAP Recordkeeping Package**).

Consistent with HUD requirements, at minimum, **Subrecipients must maintain all records for at least three years following the closeout of DED's CDBG-DR grant with HUD.** It is likely this will be some time after the expiration of the grant period between DED and its Subrecipients. **DED formally notifies Subrecipients when the closeout date is known.** To provide further clarity, DED is providing the following additional expectations for any locally maintained records not otherwise uploaded to DED's electronic system of record:

- General grant records including but not limited to written agreement(s) with DED, financial records, correspondence, local policies and procedures, records related to affirmative marketing or other cross-cutting federal requirements, and monitoring records must be retained for at least three years beyond the later of (1) HUD's closeout of DED's CDBG-DR grant or (2) DED's closeout of the Subrecipient's grant from DED.
- For ineligible individual Applicants, files shall be retained by Subrecipients for three- years after the client is determined ineligible.
- Subrecipients must keep records of advertisements, flyers, web site, public meeting, mailers, or other methods used to solicit participation from homebuyers and/or lenders, including all affirmative marketing records, for three- years beyond the later of (1) HUD's closeout of DED's CDBG-DR grant or (2) DED's closeout of the Subrecipient's grant from DED.
- Subrecipients must retain copies of any waiting list, lottery results, or other process used to prioritize and select individual Applicants for at least three- years beyond the later of (i) HUD's closeout of DED's CDBG-DR grant or (ii) DED's closeout of the Subrecipient's grant from DED.

Additionally, in all cases:

- If any litigation, claim, negotiation, audit, monitoring, inspection, or other action starts the expiration of the required record retention period, records are retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.
- If any other applicable state or local requirements, including locally adopted record retention procedures, call for a longer retention period, Subrecipients must retain records for such longer period.

For further detail regarding policies related to recordkeeping, see the **Recordkeeping and Data Management Policies and Procedures**.

7.2.7 ANNUAL MONITORING OF PRIMARY RESIDENCE

Subrecipients are required to verify occupancy of HAP-assisted units during a five (5) year affordability period. Homebuyers who do not comply with occupancy requirements during the affordability period are required to pay back the full amount of CDBG-DR direct assistance received. In general, Subrecipients can meet this obligation as follows:

- Each year either on the anniversary of the closing of the loan or a standard schedule for all such HAP projects, the Subrecipient sends a letter to the owner (i.e., the DR-assisted household) requesting they provide evidence that the property continues to be owner-occupied (e.g., by providing a copy of their driver's license, voter registration, utility bills, or sworn statement evidencing the owner occupies the property).
- If the owner does not respond within a reasonable timeframe (e.g., thirty (30) days), the Subrecipient must take other steps to contact the owner (e.g., phone calls, email, etc.) to obtain a response. This may include conducting a "drive-by" physical inspection and/or knocking on the door. If the owner is still not responsive or evidence suggests the assisted buyer no longer occupies the property, the Subrecipient must advise the owner in writing that they are in violation of their agreement and they have no more than sixty (60) days to return to the home and provide evidence that they have moved back in the property.
 - If the owner moves back within the sixty (60) days, the Subrecipient must amend the Homebuyer Agreement (along with the Note and Mortgage) and change the date of the affordability period to include the time that the owner was out of compliance.
 - If the owner cannot provide evidence that they have moved back to the home within sixty (60) days, the Subrecipient must coordinate with DED staff and issue a letter that the owner is in violation of the Homebuyer Agreement and explaining how

compliance can be re-established and establishing a further deadline (not to exceed another 60 days) by which compliance must be achieved.

- If no corrective action is taken within sixty (60) days, after consultation with DED, the Subrecipient must take legal action to obtain repayment of the full CDBG-DR investment in the project or to compel the owner to reoccupy or sell the property.

7.2.8 PROGRAM INCOME

Program income is not anticipated in the HAP. Via the SRA, DED has included program income requirements set forth in the applicable Federal Register Notice (see [83 FR 5844](#), February 9, 2018). The SRA shall also specify that, at the end of the program year, the Grantee may require remittance of all, or part of any program income balances (including investments thereof) held by the Subrecipient (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for Section 108 security needs).

Owing to the forgivable nature of the assistance to eligible, assisted households, DED does not anticipate the receipt of program income during the term of its HUD grant for DR-4420. To the degree a Subrecipient receives program income (i.e., from the payoff of an assisted buyer's loan resulting from either a sale or non-compliance prior to the end of the affordability period described below) DED requires the Subrecipient to remit the program income to DED within thirty (30) days of receipt.

7.2.9 DEBARMENT/SUSPENSION

In contracting for any services associated with their operation of the program, Subrecipients must follow the requirements of 24 CFR Part 2424, including checking SAM.gov to ensure that contractors (including service providers) are not precluded and maintaining records of such checks (see 24 CFR § 5.105(c)).

7.3 PROJECT SPECIFIC REQUIREMENTS

7.3.1 BUYER/HOUSEHOLD ELIGIBILITY REQUIREMENTS

In providing assistance to homebuyers, DED has to balance potentially competing perspectives. First, DED wants to ensure that participating buyers are successful homeowners. The program should target households who are ready for homeownership and provide sufficient assistance to make the home affordable (i.e., the program shall assist mortgage-ready, income-eligible homebuyers). To ensure the program is targeting households prepared for homeownership, participating buyers are required to attend and complete a pre-purchase homebuyer counseling class provided by a HUD-approved counseling agency. At the same time, buyers should only be provided with the assistance they “need” so that the program can serve as many households as

possible with the state's limited CDBG-DR funds. Finally, DED seeks to ensure that assisted buyers are informed consumers and avoid the use of risky lending products.

To qualify for HAP and to meet the LMI National Objective, an Applicant must meet the criteria for low-moderate income as defined in the HUD income limits (updated annually).

7.3.2 INCOME

To qualify for HAP and to meet the LMI National Objective, an Applicant must have a gross household income of at least 40% and no more than 80% of the Area Median Income (AMI).¹³

HUD publishes income limits, adjusted for household size, for the CDBG program annually.¹⁴ Homebuyer income eligibility is determined using the "Part 5" definition of income found at 24 CFR § 5.619 (often referred to as the "Section 8" definition). The gross household income is used for determining program eligibility and must be documented with at least two (2) months of source documentation (e.g., paystubs, benefit records, bank statements) or third-party verifications (e.g., verification of employment). Income attributable to all household members aged eighteen (18) years and older, whether related by blood or marriage or not, are included for eligibility purposes regardless of whether a given household member is on the title or is a party to the buyer's mortgage.

However, for underwriting purposes only (i.e., to determine the appropriate level of assistance), the following adjustments to income are made:

- The income of adults who do not have an ownership interest in the property are excluded.

For example, the income of an elderly parent that is part of the household but is neither listed on the title to the property nor included on the loan documents should not be included in calculations of the income available to make the mortgage payment. This exclusion for "non-purchasing" adults is not intended to optionally exclude the income of a household member with marginal credit. In the case of married couples, the income of both spouses are always included for underwriting purposes.

- Significant sources of income such as social security benefits, child support payments, or the like that are not expected to continue for three years are excluded. For example, child support received for a sixteen-and-a-half (16 ½) year old is included in the Part 5 definition

¹³ In the event DED does make a specific award that allows non-LMI beneficiaries, DED imposes an alternative maximum income level, likely not to exceed 120% AMI.

¹⁴ HUD's income limits are published and available at <https://www.huduser.gov/portal/datasets/il.html>.

of income because it continues over the upcoming twelve (12) months but is not counted in buyer underwriting as the income will cease when the child turns eighteen (18).

- Any imputed income from assets is excluded for underwriting purposes.

Income determinations are good for six (6) months. Applicants must be income eligible under the income limits in effect at the time of executing a “Homebuyer Agreement” with DED’s Subrecipient.

In defining and calculating income and assets for eligibility purposes, DED relies on the [Technical Guide for Determining Income and Allowances for the HOME Program](#) and encourages Subrecipients to use the [CPD Income Calculator](#).

7.3.3 COUNSELING

All adult household members who hold title and/or are party to the senior mortgage must complete a pre-purchase counseling provided by a HUD-certified counselor employed by a HUD-certified housing counseling agency acceptable to DED within the twelve (12) months prior to receiving HAP funding (see [HUD-approved Housing Counseling Agencies in Nebraska](#)).

7.4 BUYER UNDERWRITING REQUIREMENTS

7.4.1 REQUIRED BUYER INVESTMENT AND REMAINING ASSETS

Participating buyers must contribute at least 1% of the purchase price toward their down payment and closing costs. Additionally, it is DED’s policy that buyers must have sufficient cash resources (including savings, checking, money market, or other similar non-retirement accounts) such that after closing they have savings of at least three times their total monthly payment, including principal, interest, taxes, insurance, and any association fees.

7.4.2 LIQUID ASSET LIMIT

Buyers must invest any liquid assets in excess of \$25,000 toward the purchase of the home before receiving CDBG-DR assistance. For purposes of this requirement, liquid assets are those readily convertible to cash (including but limited to savings or checking accounts, certificates of deposit, stocks and bonds, etc.). Liquid assets, however, exclude life insurance policies and any savings held in a tax-preferred retirement account (e.g., pension, 401(k), Internal Revenue Service [IRA], etc.), educational savings account (e.g., 529), or health savings account recognized by the IRA.

7.4.3 MINIMUM MONTHLY PAYMENT

CDBG-DR assistance is limited to and shall not exceed that which is necessary to achieve homeownership. Put plainly, assisted buyers are expected to make reasonable contributions toward their monthly payment and should not be provided with more assistance than necessary to make their housing affordable.

As such, DED's initial expectation is that all buyers are expected to make monthly payments equal to 30% of the household's underwritten income. DED does not intend to artificially reduce front-end ratios below this target but recognizes that existing consumer debt may reduce some households' ability to qualify for and afford the full target payment of 30% of underwritten income. In such cases, and only to the extent that the payment is reduced to keep the back-end ratio at 43% of income, DED provides assistance necessary to further "buy down" the first mortgage to lower the monthly payment (not to exceed the maximum assistance limit in section 7.6.1, **Maximum Assistance Available**). In no case, however, does CDBG-DR provide assistance to bring a buyer's projected monthly mortgage payment to less than 24% of underwritten income.

Note, when the first mortgage is limited by the senior lender's Loan-To-Value (LTV) ratio (rather than a buyer's payment ability), these minimum front-end ratio requirements do not apply.

7.4.4 MAXIMUM DEBT TO INCOME RATIO

While the minimum payment provisions above set an initial target for a 30% front-end ratio, some buyers may wish to "stretch" and take on a larger mortgage, potentially to afford a given house within the maximum assistance available. Within some margin, this may be reasonable.

However, to ensure they are not over-leveraged, in all cases participating buyers must obtain a loan whose monthly payment (i.e., front-end ratio) does not exceed 33% of monthly income and that does not result in a total debt burden (i.e., back-end ratio) in excess of 43%. While changes in the mortgage market following the Great Recession have reduced the availability of lending products that allow buyers to take on excessive monthly payments, some such products are still available. Even when assisted buyers are willing to take on larger monthly payments, DED has determined that buyers with excessive payments are less likely to sustain homeownership.

7.5 FIRST MORTGAGE REQUIREMENTS

To ensure that buyers receive high quality loans that are sustainable over time, DED requires that the senior loan (i.e., first mortgage) of any buyer receiving CDBG-DR assistance towards closing costs, down-payment, or a portion of the purchase price meet the following criteria.

7.5.1 QUALIFIED MORTGAGE/CLOSING COSTS

Except for the exceptions noted, the loan must be a “Qualified Mortgage (QM)” under the requirements of the Consumer Financial Protection Bureau (CFPB) outlined at 12 CFR § 1026.431. QMs, among other features, limit total points and lender fees to reasonable levels. QMs also strictly limit pre-payment penalties and contain many other features intended to protect consumers.

- Federal regulations exempt state housing financing agencies from the QM standard. So, while Nebraska Investment Finance Authority (NIFA) loans are not, per se, “QM” as defined by CFPB, NIFA loans are otherwise subject to strong consumer protections, including limitations on excessive fees and clear underwriting standards that ensure consumers have a reasonable ability to repay the loans. Consequently, NIFA loans are acceptable first mortgage products despite being exempt from and therefore not technically meeting the QM definition.
- Similarly, loans from the US Department of Agriculture’s Rural Development (USDA-RD) program which are made directly by the Federal government to an individual borrower, particularly those under USDA-RD’s Section 502 Direct Loan Program, are not subject to the QM standard but are acceptable to DED as they also provide similarly strong consumer protections.

7.5.2 INTEREST RATE

Interest rates must be competitive and must NOT be a “Higher Priced” loan as defined by CFPB. Higher Priced loans are those that exceed the Average Prime Offer Rate by more than 1.5% as of the date of the loan’s rate lock. Loans can be checked against the Average Prime Offer Rate by visiting the following website: <https://ffiec.cfpb.gov/tools/rate-spread>.

7.5.3 TERM

Lending products must be fully amortizing 30-year fixed rate loans (or 33 years for USDA direct loans). While some buyers may prefer shorter loans (e.g., 15-year), DED only considers such loans on an exception basis if it determines that the buyer’s payment is sustainable and that the use of a shorter-term product does not require additional CDBG-DR assistance compared to a 30-year loan.

7.5.4 LOAN TO VALUE RATIO

The LTV of a buyer’s first mortgage cannot exceed 100%. Loan products used must generally allow LTV ratios of at least 95%. While assisted buyers are not required to be approved for loan amounts equal to 95% of the purchase price, buyers who use more restrictive lending products (e.g., those limiting the LTV to 80%) do not receive CDBG-DR assistance toward their purchase if they could otherwise afford the monthly payment on a larger loan. In short, buyers should obtain

the largest loan they can reasonably afford, and DED does not further subsidize purchases just to avoid mortgage insurance on higher LTV lending products.

7.5.5 PARTICIPATING LENDER LIST

Subrecipients **may** develop and maintain a “participating lender list.” To be placed on the participating lender list, Subrecipients should establish a process by which lenders indicate an interest in working with HAP buyers to provide first mortgage financing and have acknowledged HAP program requirements, including those related to acceptable first mortgage financing.

In all cases, individual Applicants are free to choose any lender from the participating lender list when seeking their first mortgage and are encouraged to shop around to obtain the best mortgage product for their personal circumstances. Additionally, Applicants wishing to obtain a first mortgage from another state-licensed lender may do so provided the loan product being offered meets all program requirements.

New lenders can be added to the participating lenders list at any time following an indication of interest, meeting with Subrecipient staff on program requirements, and acknowledgement of the first mortgage requirements in particular.

7.6 STRUCTURE OF HAP ASSISTANCE

This section describes how cost principles apply for HAP Assistance, including the maximum amount of assistance available to a beneficiary (i.e., buyer/household).

All costs charged to the Subrecipient Agreement or similar contract must be eligible as described in the **Financial Management P&P** and throughout the DR Manual. Eligible costs are those that conform to HUD CDBG-DR requirements, including limitations and waivers described in applicable Federal Register Notices, comply with federal cost principles, and align with all associated cross-cutting federal requirements (e.g., Davis-Bacon and Related Acts, Environmental requirements, etc.) and State and Local law.

7.6.1 MAXIMUM ASSISTANCE AVAILABLE

Subject to compliance with the underwriting standards described in section 7.4 **Buyer Underwriting Requirements**, the maximum assistance available toward the combination of down payment, closing cost, and direct financing assistance (together referred to as “direct buyer assistance”) to any given buyer is \$50,000 unless a lower level has been designated based on the Subrecipient’s application to and CDBG-DR grant agreement with DED.

Note that the Action Plan allows for up to \$150,000 in assistance to a given buyer. Based upon analysis of the expected purchasing power of targeted buyers with incomes between 40% and 80% AMI and the established purchase price limits, DED has determined that assistance in

excess of \$50,000 per household is likely to be unreasonable. Consequently, any projects requiring assistance beyond \$50,000 will require review and approval by DED. In addition to satisfying DED's obligation to ensure that assistance is necessary and reasonable, this will maximize the number of households served.

7.6.2 STRUCTURE OF CDBG-DR LOAN

All HAP funding is provided to buyers in the form of an interest-free deferred payment loan which is due upon any sale or transfer of the property within the loan term which runs concurrently with the required affordability period. The HAP loan is forgiven on a prorated basis over the five-year term of the loan.

During the affordability period, if the buyer sells or otherwise voluntarily or involuntarily transfers title to the property, including transfer as a result of foreclosure, then the direct CDBG-DR assistance to the buyer (i.e., *remaining, unpaid* balance of the loan amount) must be "recaptured" (i.e., repaid to) by the Subrecipient. However, if the net proceeds of the sale are insufficient to repay the loan, then the entire net proceeds are recaptured by the Subrecipient as full and complete repayment of the loan. If there are no net proceeds, recapture is waived. Any payments collected by a Subrecipient are Program Income (see section 7.2.8, Program Incomee).

The term "net proceeds" is defined as the sale price less the balance due on superior mortgages and closing costs. In calculating the net proceeds of sale, DED reserves the right to determine whether the sales price is comparable to the sales price in an arms-length transaction for a similar unit and to evaluate the closing costs be charged to seller (i.e., the assisted buyer who is now selling the home) to ensure they are reasonable and customary. Any net sales proceeds in excess of outstanding HAP loan balance are retained by the buyer.

For the note and deed of trust, Subrecipients are required to use standard form templates provided by DED.

7.6.3 HAP HOMEBUYER AGREEMENT

In addition to a mortgage and note securing the HAP investment, all buyers are required to execute a HAP Homebuyer Agreement with DED's Subrecipient. DED provides a standard form template which Subrecipients must use (see **Appendix M: Homebuyer Agreement Template**). The Homebuyer Agreement stands alone from the note and deed of trust, is independently enforceable, and applies largely overlapping provisions. In the event the buyer prepays the HAP note/deed of trust, the Homebuyer Agreement remains in effect through its term.

7.6.4 PRINCIPAL RESIDENCY

The buyer must agree to maintain the home as their primary place of residence. The property may not be leased, rented, or converted to commercial use. Nor may the buyer move from the

assisted property, establish residency at another location, and/or allow others to live in the home rent-free. If the buyer does not maintain the home as their principal place of residence, the Subrecipient, after consultation with DED, may declare a default in the HAP loan and/or independently seek to enforce the terms of the Homebuyer Agreement including by requiring the owner move back into, sell the home, or repay the entire HAP assistance.

7.6.5 MONITORING AND COMPLIANCE BY SUBRECIPIENTS

Subrecipients are required to annually monitor projects to ensure that assisted buyers continue to occupy HAP-assisted homes as their primary place of residence.

Buyers are required to cooperate with Subrecipient's annual monitoring efforts by providing a certification and/or other proof of ongoing principal residency as may be requested, at least annually.

Additional information is available in section 8, ***Monitoring and Compliance***, and the ***Monitoring and Compliance Plan***.

7.6.6 REFINANCING AND SUBORDINATION

After providing assistance to eligible homebuyers, DED and its Subrecipients have ongoing interests in the success of those buyers from the standpoint of both the CDBG-DR program and as a local stakeholder concerned about the impact of foreclosures on residents and neighborhoods. To help prevent future foreclosures and to protect the program's financial investment in assisted-units, subordination of HAP-funded liens to future refinancing by assisted buyers are considered under the following circumstances:

- The new loan must be for the sole purpose of improving the rate and/or extending the term of the existing loan and must result in a lowered monthly principal and interest payment for the homeowner. Subrecipients may not subordinate for "cash out" refinancing. For purposes of this requirement, the new loan may allow the assisted homeowner to finance their closing costs without being considered cash out. Additionally, nominal cash back at closing of less than \$500 resulting from last-minute adjustments to payoff figures, closing costs, tax/insurance escrows and the like is permitted without being considered "cash out."
- The proposed new loan must meet all requirements in section .5, ***First Mortgage Requirements***.
- The proposed new loan must result in a lowered monthly principal and interest payment for the assisted owner.

7.7 PROPERTY STANDARDS

To promote sustainable homeownership and comply with other federal requirements, DED requires that homes purchased with HAP funding be modest housing, meet certain minimum property standards, and not result in the displacement of any tenant. To qualify for HAP, an Applicant must be purchasing a home that meets the following criteria:

7.7.1 LOCATION

To be eligible, the home must be located within the geographic area identified in the Subrecipient's CDBG-DR grant agreement from DED. As noted at other points, overwhelmingly HAP funds are available in the MID counties of Dodge, Douglas, and Sarpy.

7.7.2 ENVIRONMENTAL REVIEW

Broadly, CDBG-DR funding is subject to the National Environmental Policy Act (NEPA). Pursuant to HUD's implementing regulations at 24 CFR § 58.35(b)(5), the homeownership assistance anticipated within HAP are classified as categorically excluded and not subject to the requirements of 24 CFR § 58.5. However, the requirements of 24 CR § 58.6 do apply, as modified by CDBG-DR requirements, resulting in the following requirements:

- **Floodplain:** In no case may HAP funds be awarded toward the purchase of homes within a Special Flood Hazard Area (generally, known as the "100-year floodplain").
- **Airport Hazard/Airport Clear Zones:** Buyers seeking assistance to purchase a home in a runway clear zone for either a civilian airport or military installation must be advised that the property is in a runway clear zone or clear zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of these disclosures.

For further information regarding NEPA, refer to the **National Environmental Policy Act Policies and Procedures**.

7.7.3 SALES PRICE

DED has elected to impose the purchase price limits of the HOME program. All purchases assisted by HAP must have a sales price less than or equal to the applicable [HOME Homeownership Value Limits](#) for the county in which the property is located. These vary for newly constructed homes and existing homes, and the value limits are updated by HUD annually. The home must be within the value limit in effect at the time the assisted buyer executes a Homebuyer Agreement with the Subrecipient (usually at closing).

7.7.4 APPRAISED VALUE

To ensure that HAP funds are not used to overpay for a home, DED requires that the sales price be supported by an independent appraisal prepared by a state licensed appraiser. In most cases, Subrecipients coordinate with the buyer's primary mortgage lender to obtain a copy of the lender-obtained appraisal, but, if necessary, Subrecipients may need to order their own appraisal. If the appraisal indicates the home has a value below the proposed sales price, HAP funding is provided if the seller agrees to a reduced sales price that does not exceed the appraised value.

7.7.5 STRUCTURE TYPE

To receive HAP funding, the buyer must be purchasing a detached, single-family home on a permanent foundation a duplex, townhome, or condominium. HAP funds cannot go to manufactured units.

7.7.6 PROPERTY STANDARDS

The home must be inspected by DED's Subrecipient no more than 90 days prior to the execution of the Homebuyer Agreement. It must comply with minimum standards, adapted from HUD's Uniform Physical Condition Standards (UPCS), to be promulgated by DED for the program. If the inspection identifies deficiencies, the seller may choose to correct them at the seller's expense. If the deficiencies are not corrected, the home may not be purchased with HAP funding.

7.7.7 LEAD-BASED PAINT

In addition to the other property standards, any residential structure built prior to 1978 must pass a "Lead-Based Paint Visual Inspection." Any deteriorated paint surfaces identified must be stabilized and repaired by the seller prior to approval of the unit for CDBG-DR assistance.

Subrecipients are required to provide homebuyers with a copy of [the most current EPA Protect Your Family from Lead in Your Home brochure](#).

7.7.8 VACANT/OWNER-OCCUPIED

To be eligible for purchase with HAP funding, the home must be either vacant as of the date of listing for sale or occupied by the seller. **In no case may a HAP-assisted buyer purchase a home that is currently occupied by tenants.** The sole exception is if a HAP-participant is purchasing a home they currently rent from the seller. Sellers are required to sign a certification acknowledging that the home is either vacant or owner-occupied and that the sale is voluntary.

8 MONITORING AND COMPLIANCE

Monitoring and evaluating Subrecipient performance and compliance is a HUD requirement for CDBG-DR funds. DED is responsible for monitoring and setting statutory and regulatory requirements in accordance with the **Monitoring and Compliance Plan**.

DED will monitor all HAP Subrecipients through a combination of desktop and on-site monitoring techniques. This will include the review of records, including:

- Program files, project/buyer-specific files, and financial records;
- Staff interviews;
- Property inspections; and
- Interviews with participating buyers.

DED will review Subrecipients for compliance with their program guidelines. It will also review individual buyer files for completeness and consistency with the Subrecipient's prior reporting to DED.

Additional information is available in section 7.6.5, ***Monitoring and Compliance by Subrecipients***.

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.¹⁵ All employees are responsible for reporting suspected instances of fraud, waste, and abuse in accordance with the **Anti-Fraud, Waste, and Abuse Policies and Procedures**.

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 as having conducted activity involving fraud, waste, or abuse, DED may immediately terminate the contract and take further legal action as necessary. To the extent that any substantiated actions violate Federal, State, or local laws, Nebraska officials shall evaluate pursuing appropriate criminal or civil penalties.

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 the **Financial Management Policies and Procedures**.

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 DED's **Duplication of Benefits Policies and Procedures**.

As it applies to the Homeowner Assistance Program, this means that activities funded through this program cannot be duplicated or matched by other funding sources intended for the same purpose (i.e., consolidating multiple funding sources for homebuyer assistance and/or housing counseling).

¹⁵ "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>.

8.5 AFFIRMATIVELY FURTHERING FAIR HOUSING

The State of Nebraska is required by Federal statute to “affirmatively further fair housing”. DED shall work to affirmatively further fair housing by conducting activities as per the ***Affirmatively Furthering Fair Housing Policies and Procedures***. In alignment with this policy, the Subrecipient will be provided resources to incorporate affirmative marketing considerations to the implementation process.

8.6 RECORDS RETENTION

Recordkeeping must be conducted as set forth by the general requirements set forth in the ***Recordkeeping and Data Management Policies and Procedures***. All program activity files and associated data will be maintained within DED’s system of record. DED and its Subrecipients must retain contract-related documents for at least five (5) years¹⁶ after closeout of the CDBG-DR grant for DR-4420.

9 PROPOSED APPENDIX LIST

The following appendices reflect tools and templates that will be developed throughout the course of program launch and implementation to support Subrecipients with carrying out the procedures set forth in this P&P. Items marked in gray indicate that the tool or template is still under development at the time of this document’s release. In many cases, a similar form exists under the regular CDBG program and will be adapted for CDBG-DR.

These tools do not reflect any additional policy or procedural element that is not described in the main P&P document. They will be added as appendices to this P&P for convenience of use by relevant stakeholders

Appendix A: HAP Recordkeeping Package

Appendix B: Project File Checklist

Appendix C: Income Determination

Appendix D: Buyer Prequal and Project Proforma

Appendix E: URA Disclosure and Acknowledgement To/From Seller

¹⁶ See <https://sos.nebraska.gov/sites/sos.nebraska.gov/files/doc/records-management/state-government/7%20-%20Department%20of%20Economic%20Development%20Website.pdf>.

Appendix F: Property Inspection Form

Appendix G: Mortgage Certification from Lender

Appendix H: CDBG-DR Agreement

Appendix I: CDBG-DR Deed of Trust

Appendix J: CDBG-DR Note

Appendix K: Annual Owner-Occupancy Monitoring Letter

Appendix L: Subrecipient Progress Report

Appendix M: Homebuyer Agreement Template