

## 2 PROGRAM ADMINISTRATIVE REQUIREMENTS

---

Community Development Block Grant - Disaster Recovery (CDBG-DR) funding is authorized under Title I of the Housing and Community Development Act of 1974, as amended. Public Laws are the appropriation acts that provide funding for each disaster. In addition to any requirements cited in the appropriation acts, the CDBG regulations in 24 CFR Part 570 apply to CDBG-DR funds. However, CDBG-DR appropriations generally grant HUD broad authority to issue waivers and alternative requirements, which are identified in a Federal Register Notice issued by HUD shortly following the announcement of allocations. HUD also provides guidance on the CDBG program through Community Planning and Development (CPD) Notices.

CDBG-DR grantees (i.e., DED) must also comply with the applicable requirements of 2 CFR Part 200, which provides the Federal government's guidance on administrative requirements, cost principles, and audit requirements. Additional details regarding these requirements are set forth in this Manual.

Similarly, the list of requirements set forth below apply to the use of federal funds, as applicable, and are not specific to CDBG-DR Programs. The summaries listed below are for the convenience of Subrecipients, Successful Applicants and other entities involved in Nebraska CDBG-DR programs. These summaries are not meant to be comprehensive, but rather an invitation to further research. Requirements specific to CDBG-DR or with detailed implementation instructions for CDBG-DR are laid out in the subsequent chapters of this Manual. Subrecipients and Successful Applicants are responsible for ensuring their projects follow all applicable requirements.

Requirement	Description
<p><b>Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act</b></p>	<p>The Americans with Disabilities Act (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, prohibits discrimination based on disability in any program or activity receiving federal financial assistance. A Subrecipient of Federal financial assistance may not, on the basis of disability:</p> <ul style="list-style-type: none"> <li>• Deny qualified individuals the opportunity to participate in or benefit from Federally funded programs, services or other benefits;</li> <li>• Deny access to programs, services, benefits or opportunities to participate as a result of physical barriers; or</li> <li>• Deny employment opportunities, including hiring, promotion, training and fringe benefits, for which they are otherwise entitled or qualified.</li> </ul>
<p><b>Certification Eligibility</b></p>	<p>By entering into a contract, contractors certify they are eligible. All subcontractors must also be eligible.</p>
<p><b>Complaints, Proceedings, or Testimony by Employees</b></p>	<p>The contractor shall not retaliate against employees or subcontractors if they make a complaint or intend to testify in labor standard proceedings.</p>
<p><b>Conflicts of Interest and Confidentiality</b></p>	<p>As stated in the Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, Federal regulations require that State grantees, in the direct grant administration and means of carrying out eligible activities, be responsible in complying with program administrative requirements, including those established in 24 C.F.R. § 570.489(h) related to conflicts of interest. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.</p>

Requirement	Description
<p><b>Contract Work Hours &amp; Safety Standards Act</b></p>	<p>Contract Work Hours and Safety Standards Act (CWHSSA) (40 USC §3701 et seq.; 29 CFR Part 5). This Act imposes liquidated damage (LD) assessments and is typically made by HUD or by the local contracting agency (i.e., public housing authorities, tribally-designated housing entities, community development agencies, etc.) to a contractor for failure to pay overtime compensation for workers who work over 40 hours in a 7-day workweek. Overtime compensation is typically at 1 ½ times the regular pay (in some areas it may be higher). When a contractor fails to pay overtime, then the agency should assess the contractor liquidated damages, as prescribed in 29 CFR § 5.8 per workday, per person, where the worker was permitted to work overtime without being properly compensated. CWHSSA is imposed on contracts greater than \$100,000 in value. Labor violations on contracts less than \$100,000 may be captured under the Fair Labor Standards Act, which is enforced by the US Department of Labor (DOL). See also <b>Chapter 14: Davis-Bacon and Related Acts (DBRA)</b>.</p>
<p><b>Health and Safety Regulations for Construction</b></p>	<p>In prime contracts that exceed \$100,000, no laborers or mechanics shall be required to work in unsanitary, hazardous, or dangerous conditions. Contractors and subcontractors shall comply with the Secretary of Labor regulations pursuant to 29 CFR Part 1926.</p>
<p><b>Copeland "Anti-Kickback" Act</b></p>	<p>Copeland "Anti-Kickback" Act (and related requirements), 18 U.S.C. 874 and its implementing regulations of the US DOL at 29 C.F.R. Part 3 and Part 5. All contracts must include a provision for compliance with the Copeland "Anti-Kickback" Act. The Act provides that each contractor or subcontractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.</p>
<p><b>Debarment</b></p>	<p>A debarment sanction means that an individual, organization, and its affiliates are excluded from conducting business with any Federal Agency. Depending upon the outcome of an investigation or legal proceeding, a suspension may lead to debarment.</p>
<p><b>Disputes Concerning Labor Standards</b></p>	<p>Disputes between the contractor and employees, subcontractors, or DOL shall be resolved according to 29 CFR Parts 5, 6, and 7.</p>

Requirement	Description
Equal Employment Opportunity (EEO)	As a condition for the receipt of CDBG-DR funds, each Subrecipient and Successful Applicant must certify that it and the contractors, subcontractors, subrecipients and consultants that it hires with CDBG-DR funds will abide by the Equal Employment Opportunity (EEO) Laws of the United States. Additionally, Subrecipients and Successful Applicants must incorporate the Equal Employment Opportunity clause set forth in 31 C.F.R. §60-1.4(b) into any contracts or subcontracts as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60.
Fair Labor Standards	The Fair Labor Standards Act of 1938, as amended (referred to as “the Act” or “FLSA”), provides minimum standards for both wages and overtime entitlements, and administrative procedures by which covered worktime must be compensated.
Limited English Proficiency (LEP)	For a person whose primary language is not English, this refers to their assessment of their ability to speak English as "not well" or "not at all."
Recapture	<p>Recapture allows the Grantee (i.e., DED) to recapture funds.</p> <p>For example:</p> <ul style="list-style-type: none"> <li>• Recapture in Housing: Recapture allows the Grantee (i.e., DED) to recapture a predetermined amount of the proceeds of the sale of any property before the affordability period ends. This method often fits better in stable markets, where the Grantee can use recaptured funds to help make another house affordable for an eligible homebuyer. Recapture can only be used where there is a direct subsidy to an individual homebuyer that can be repaid through a soft second mortgage or other lien on the property.</li> <li>• Recapture in Infrastructure: Recapture allows the Grantee (i.e., DED) to collect any funds determined to be duplicative through a Duplication of Benefits analysis to the extent that they are in excess of the need and duplicate other assistance received for the same purpose.</li> </ul>
Subcontracts	Contractors shall require all subcontractors to also follow the rules and regulations described in this table and in other chapters of this Manual.