

# AMENDMENT 3: SUMMARY OF CHANGES

Substantial, Draft Published for Public Comment: October 16, 2023

Public Comment Period (30 days): October 16 – November 15, 2023

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*Updated for Record of Public Comment: November 17, 2023*

*Date Sent to HUD for Approval<sup>1</sup>: November 17, 2023*

*Date of HUD Approval: January 3, 2024*

This document constitutes the **Third Amendment (Substantial)** (“APA3”) to the State of Nebraska CDBG-DR Action Plan Severe Winter Storm, Straight-line Winds, and Flooding (DR-4420). The following changes are proposed to the Affordable Housing Construction Program (AHCP), Infrastructure Match Program (“Match”), Planning activities, and Homeowner Assistance Program (HAP) as described in the approved Action Plan. The purpose of this amendment is to:

**1. Reallocate program funds from one program to another;**

- a. move \$15M from Match to AHCP.
- b. **REASONING:** These changes follow application cycles under AHCP and Match, reflecting (1) a higher than anticipated interest in funding for housing construction and (2) a lower than anticipated interest in funding to support local cost-share needs for FEMA Public Assistance projects. As reflected in Table 2-10: First Rounds of LIHTC and HPP Applications for Funding, applications have exceeded funding available under the amount allocated to AHCP in the current HUD-approved Action Plan, as amended. DED cannot launch the “subprogram” of AHCP-Small Rental without making additional funding available under AHCP. This change is to existing programs; no new program is created from this change nor is a program removed.

**2. Remove standalone housing program for non-construction housing activities (Homeowner Assistance Program or “HAP”) and reallocate \$11M to AHCP;**

- a. **REASONING:** Coordination and outreach efforts indicate there is no interest in a funding resource for a standalone non-construction housing program. As AHCP was launched, applications received, and technical assistance and other outreach conducted, it became clear there was no need for a standalone program for non-

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<sup>1</sup> In accordance with the applicable Federal Register Notice(s) to fulfill requirements related to Community Development Block Grant – Disaster Recovery (CDBG-DR) Funds in Response to the 2019 Disaster (FEMA DR-4420), Substantial Action Plan Amendments are submitted to the U.S. Department of Housing and Urban Development (HUD).

construction housing activities. HAP would only give financial assistance to buy *existing* homes, but due to a housing shortage there are few homes to buy that would meet requirements. Meanwhile, AHCP helps build affordable housing to serve the needs of the community, expanding the existing housing stock, and makes available funding to support homebuyers, should there be such funding gap.

Consultations were done with eligible entities in the HUD-identified MID area having the capacity to carry out the funding activities available under HAP. These would-be subrecipient agencies expressed no interest in applying citing several reasons including, but not limited to, the cost to meet the additional program requirements (e.g., the need to hire additional staff to coordinate and manage the program); lost production on current programs, including construction of new affordable housing, to meet the additional requirements of CDBG-DR funded non-construction housing activities; and general support for additional funding of additional housing units and home repair where they can serve more people. These agencies noted a decline in applications for similar down payment assistance (DPA) programming due to the lack of affordable homes on the market for low-to-moderate income (LMI) homebuyers and affordable rentals units; for example, estimates range from a housing shortage of 17,000 in the HUD-identified MID counties<sup>2</sup> to more than 40,000 homes across the state<sup>3</sup>. The three “subprograms” within AHCP address the program activities and beneficiaries of HAP and more. Furthermore, as evidenced by outreach to organizations having the capacity to be a HAP subrecipient for these types of activities, there is a lack of interest by organizations for additional program funding through CDBG-DR.

In further support of this decision, DED’s annual programs, including the Affordable Housing Trust Fund, have seen a decline in interest in funding these types of non-construction housing activities<sup>4</sup> and a recent statewide study found housing to be a critical area for investment. The study, conducted by the University of Nebraska-Omaha Center for Public Affairs Research (CPAR) as part of Nebraska's 2022

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<sup>2</sup> Per June 2023 conversations with Carol Bodeen, Director of Policy & Outreach for Nebraska Housing Developers Association (NHDA). In June 2023, NHDA, which runs a similar DPA program, saw a decrease in subscriptions to that program. Ms. Bodeen equated the downturn to the current economy – with sales prices high and low housing stock availability, there are not enough houses that are affordable to LMI buyers. Ms. Bodeen estimated the HUD-MID counties are short about 17,000 affordable homes.

<sup>3</sup> National Low Income Housing Coalition. Housing Needs by State: Nebraska. Retrieved November 15, 2023. <https://nlihc.org/housing-needs-by-state/nebraska>.

<sup>4</sup> In May 2023, DR Housing Program Manager met with Lynn Kohout, DED’s Director of Housing who oversees administration of annual housing funding opportunities, to discuss current trends in the context of other DED housing programs that provide DPA. Ms. Kohout noted: (1) a decrease in DPA application requests versus applications for new construction (for single- and multi-family) and (2) most DPA applications have been from non-profit housing developers. The latter characteristic would disqualify those entities from the HAP program, which doesn’t allow for the sale of homes to LMI homebuyers that the applicant entity owns or finances.

Strategic Housing Framework<sup>5</sup>, stated that 71% of Nebraskans that moved within a county cited housing related concerns for moving, specifically "wanting new or better housing." Among those that left Nebraska altogether, 34% reported their move was tied to the lack of housing options, which has now surpassed job related reasons for moving.<sup>6</sup> Furthermore, the 2022 Strategic Housing Framework prioritizes the investment towards development or rehabilitation of 35,000 affordable units available to LMI owners or renters by 2028.<sup>7</sup>

Therefore, considering the above reasoning, APA 3 eliminated HAP, reallocating the planned \$11,000,000 budget to AHCP. This decision reflects the feedback received by DED.

**3. Allow additional cost-share flexibility in Match projects to allow the program to cover FEMA funding shortfalls and other eligible gap funding needs;**

- a. **REASONING:** Account for additional infrastructure needs, including instances of FEMA project overruns. Applicable under the limited instances of cost overruns, FEMA has indicated that the expected ratio for cost-share will increase the fiscal burden on the local matching requirements for PA and HMGP projects that have come in higher than originally budgeted because of the increase in construction costs due to macroeconomic issues including inflation and labor shortages.

**4. Add flexibility for Planning activities;**

- a. **Risk Awareness Planning Program.** Renamed to Risk Awareness and Resiliency Planning to more clearly capture the overarching goal; remove Nebraska Department of Natural Resources (NeDNR) from the administering entities to simplify implementation; clarify eligibility to activities serving the HUD- and State-defined MID to acknowledge the emphasis on identifying risk in those areas most impacted and distressed while also acknowledging the nature of flood hazard vulnerabilities; and clarify the allocation amount towards these activities.
- b. **Housing Resilience Planning Program.** Removed "program", renaming this funding opportunity to Housing Resilience Planning; expand eligibility to applicants and activities serving the State-MID; expand eligibility to include universities; and raise the maximum award amount for activities serving multiple jurisdictions to \$500,000.

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<sup>5</sup> Nebraska Investment Finance Authority. Nebraska's 2022 Strategic Housing Framework. Retrieved November 15, 2023. <https://www.nifa.org/housing-framework>.

<sup>6</sup> University of Nebraska-Omaha, College of Public Affairs and Community Service, Center for Public Affairs Research (CPAR). Nebraska by the Numbers. Retrieved November 15, 2023. <https://www.unomaha.edu/college-of-public-affairs-and-community-service/center-for-public-affairs-research/documents/housing-availability-and-quality-in-nebraska.pdf>.

<sup>7</sup> Ibid.

- c. **REASONING:** interest identified from universities and entities located in or otherwise serving areas in the State-MID. A higher award amount encourages and allows for more comprehensive projects. Removing instances of the term “program” from the funding dedicated to planning activities aims to simplify execution of all planning activities supporting Nebraska’s long-term disaster recovery.
5. **Account for certain eligible planning costs associated with the Action Plan and amendments thereof, as allowed by HUD guidance, including [Notice CPD-23-06](#);**
- a. **REASONING:** charge eligible and allowable costs appropriately.

- The abovementioned CPD Notice, published August 2023, *Notice CPD-23-06: Allocating Costs between Program Administration Costs, Activity Delivery Costs, and Planning Costs for CDBG-DR Grantees, CDBG-MIT Grantees, and CDBG-NDR Grantees*, is attached to this document.
6. **Incorporated Action Plan Amendment ‘Summary of Changes’ for APA1 (Substantial), APA2 (Non-Substantial), and the immediate APA3;**

**REASONING:** incorporates the summary of changes, which includes a record of public comment for Action Plan Amendments within the body of the ‘consolidated Action Plan’. Prior to these changes, the records of public comments for Action Plan Amendments were maintained in separate Summary of Changes documents. By bringing these documents together within the consolidated Action Plan, this change improves access and readability.

The above enumerated changes follow application cycles under AHCP and Infrastructure Match, reflecting (1) a higher than anticipated interest in funding for housing construction, (2) a lower than anticipated interest in funding to support local cost-share needs for FEMA Public Assistance projects, (3) unmet needs in infrastructure not met by the current program parameters and (4) help fulfill a more comprehensive approach for planning activities.

Table 1 below includes a summary of abovementioned supporting material(s) supplied as attachment(s) to this amendment (APA3).<sup>8</sup>

**APA3 Summary of Changes Table 1. Supporting Attachment(s)**

Attachments	
No.	Document Name
APA3-01	Notice CPD-23-06: Allocating Costs between Program Administration Costs, Activity Delivery Costs, and Planning Costs for CDBG-DR Grantees, CDBG-MIT Grantees, and CDBG-NDR Grantees, published August 2023.

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Table 2 below details program allocation and budget updates by amendment.

**APA3 Summary of Changes Table 2. Program Allocation Updates by Amendment**

Program Allocation Updates (\$) by Amendment								
Program	Initial AP & APA1 (Substantial)		APA2 (Non-Substantial)			APA3 (Substantial)		
	Allocation Amount	%	Change Amount (\$)	New Total (\$)	%	Change Amount (\$)	New Total (\$)	%
Affordable Housing Construction	\$26,000,000	23.87%	\$4,800,000	\$30,800,000	28.27%	\$26,000,000	\$56,800,000	52.14%
Homeowner Assistance (HAP)	\$11,000,000	10.10%	\$-	\$11,000,000	10.10%	(\$11,000,000)	\$-	0.00%
Infrastructure Match	\$63,491,100	58.28%	(4,800,000)	\$58,691,100	53.88%	(\$15,000,000)	\$43,691,100	40.11%
Planning	\$3,000,000	2.75%	\$-	\$3,000,000	2.75%	\$-	\$3,000,000	2.75%
Program Administration	\$5,446,900	5.00%	\$-	\$5,446,900	5.00%	\$-	\$5,446,900	5.00%
<b>Total</b>	<b>\$108,938,000</b>	<b>100.00%</b>	<b>\$-</b>	<b>\$108,938,000</b>	<b>100.00%</b>	<b>\$-</b>	<b>\$108,938,000</b>	<b>100.00%</b>

<sup>8</sup> In accordance with the Citizen Participation Plan, this document has been translated and made available in Spanish. However, these attachments are documents created by other agencies and not currently available in Spanish.

**DED published the Proposed Substantial Amendment on October 16, 2023 for the associated 30-day public comment period from October 16, 2023 to November 15, 2023. Comments are received as described in the Citizen Participation Plan and Notice of Public Hearing and, following the last day of the requisite public comment period, are published with this Summary of Changes. These policies and procedures conform with the requirements of a Substantial Amendment under the applicable Federal Register ([83 Fed. Reg. 29 \(February 9, 2018; FR-6066-N-01\)](#)); VI.A.4.a.).**

The following bullets identify the specific changes to be made to the Action Plan by this Substantial Amendment<sup>9</sup>:

- Executive Summary
  - Add detail about the purpose of Amendment 3
  - Add line-item, Table 0-1
  - Simplified Program Design list and updated Funding Allocation, Table 0-2
  - Updated Method of Distribution, Figure 0-2
- 2 | Unmet Needs Assessment
  - 2.1 Changes by Amendment
    - Added details of Amendment 3
    - Added Table 2-1, Program Allocation Changes by Amendment
  - Updated figures, Table 2-2
  - 2.2.2.5 Remaining Serious Unmet Housing Needs
    - Clarified additional housing needs as revealed by applications to Housing programs to date
    - Replaces previous housing program budget figures with details of applications to Housing programs to date, Table 2-10
  - 2.2.2.7 Unmet Infrastructure Needs
    - Updated total PA project dollar amounts, Table 2-12
    - Described changes in PA project dollar amounts
  - 2.2.3 Unmet Needs Assessment Scope

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<sup>9</sup> Record of Amendments, Table of Contents, List of Tables, and List of Figures are also updated to reflect these changes.

- Updated parameters of Unmet Needs Assessment as compared to Initial Action Plan
- 2.5.1.1 Roads and Bridges
  - Updated PA project values, Table 2-17
- 2.5.1.2 Water Control and Wastewater Treatment Facilities
  - Updated PA project values, Table 2-18
- 2.5.1.3 Utility Systems
  - Updated PA project values, Table 2-19
- 2.5.1.4 Parks, Recreational, and Other Facilities
  - Updated PA project values, Table 2-20
- 2.5.4.1.3 Hazard Mitigation Assistance
  - Changed tense from Initial Action Plan
- 3 | Method of Distribution
  - 3.1 Changes by Amendment
    - Added details of Amendment 3
    - Updated program budgets, Figure 3-1
  - 3.2 Program Budget
    - Updated program budget figures, Table 3-1
- 4 | Program Priorities
  - 4.1 National Objectives
    - Added flexibility to Infrastructure Match Program, Table 4-1
    - Updated LMI spending requirements by program, Table 4-2
  - 4.2 Prioritization of HUD-Defined MID Areas
    - Updated MID spending requirements by program, Table 4-3
- 5 | Program Design
  - 5.1 Infrastructure
    - Added flexibility to Infrastructure Match Program



- 5.1.2 Infrastructure Match Program
  - Updated program summary graphic
  - Detailed cases where projects might be reimbursed for a match amount other than 10% or 25%
  - Removed table of PA projects by MID county, Table 5-2
  - Removed table of HMGP projects by MID county, Table 5-3
  - Updated maximum award per project
- 5.2.2 Affordable Housing Construction Program
  - Updated program summary graphic
  - Estimated Benefit, updated number of units to reflect program budget increase
- 5.2.3 Housing Assistance Program
  - Described lack of demand for the program and deleted the remaining program details.
- 5.3 Planning and Capacity Building
  - Revised to reflect planning funds being made available for allowable Planning Costs associated with Action Plan development and Action Plan amendments, as allowed by HUD Notice CPD23-06.
  - Revised to remove instances of the term “program” in context of funding for planning activities.
- 5.2.4 Risk Awareness Planning Program
  - Changed the name of this funding opportunity to Risk Awareness and Resilience Planning (RARP).
  - Removed ‘program’ summary graphic.
  - Clarified eligible area by using language consistent with other programs. Expanding eligibility for activities serving the HUD- *and* State-defined MID acknowledges that flood risk and mitigation options transcend jurisdictional borders (e.g., municipal, county) while still maintaining an emphasis on identifying risk and flood hazard vulnerabilities in those areas most impacted and distressed.
  - Removed NeDNR as an Administering Entity to simply implementation.
  - Revised Program Objective and Description.



- Clarified allocation amount.
- 5.3.2 Housing Resilience Planning Program
  - Changed the name of this funding opportunity to Housing Resilience Planning (HRP).
  - Added ability for organizations in the State-defined MID area, and universities, to apply for a grant.
  - Increased maximum award for projects involving multiple jurisdictions to \$500,000.
- 6 | Program Administration
  - 6.1.2 Expenditures, Table 6-1
  - 6.1.4 Administrative Requirements
  - 6.5.2 Citizen Participation updated to include reference to public comment periods and comments received for action plan amendments, as detailed in Appendix E. Summary of Changes by Amendment.
  - 7 | Appendices Updated Appendix C to include Table 2-0.
  - Retitled Appendix D. Record of Public Comment to Record of Public Comment – Initial Action Plan.
  - Added Appendix E. Summary of Changes and Record of Public Comment by Amendment and incorporated Summary of Change documents describing Amendments 1, 2, and 3.

Total allocations defined within the approved Action Plan are adjusted under this **Third Amendment (Substantial), “APA3”**. DED will undertake necessary revisions to policies and procedures to implement changes made by this amendment.

**NOTE** to readers of the “red-lined” copy of the Action Plan, as amended: the consolidated, “clean” version of the Action Plan is the authority document. The red-lined version is a reference document to be read alongside the Summary of Changes. In some instances, the names of enumerated figures, tables, and subsections may appear as changed in the red-lined copy where they are not actually changed.

# RECORD OF PUBLIC COMMENT

**30-DAY PUBLIC COMMENT PERIOD: OCTOBER 16, 2023 – NOVEMBER 15, 2023.**

**CDBG-DR PUBLIC HEARING: NOVEMBER 1, 2023.**

Names and organizations omitted for privacy.

The following table summarizes public comments received during the public comment period. Comments received during the public hearing are noted as such. As described in the CPP and in the press release announcing the public comment period, DED accepts public comments by mail, [email](#), or [website](#). Questions and answers are not directly transcribed and have been lightly edited for clarity.

Question	Answer
<i>Received During the Public Hearing, November 1</i>	
<i>How soon will the Infrastructure Match – PA awards be announced?</i>	DED is working with NEMA (and FEMA) to complete eligibility reviews and expects to provide notification this week to the first round of projects that are eligible to close out and receive approval for CDBG-DR reimbursement for eligible and allocable costs.
<i>Are any of the communities that submitted infrastructure pre-apps not included in the awardees?</i>	Yes, projects that came out with an under-run (meaning the FEMA award was more than the cost of the work) have been notified that they are not included in the awardees. CDBG-DR funds cannot be used for projects that do not have a documented local match requirement, which includes those considered “underrun”.
<i>Where is the \$11M in infrastructure that is being transferred to housing coming from?</i>	One proposed change in APA3 was to combine previous “subprogram” allocations (or “set asides”) for PA/HMGP-specific activities into one “umbrella” allocation for Infrastructure projects. This change provides flexibility to better address the needs identified in the initial applications, and the \$11M being transferred will come from this combined allocation. Of the total allocation to the Infrastructure Match Program, no amount is “earmarked” or set aside for PA, HMGP, or other projects. This approach is similar to that of the AHCP.



Question	Answer
<p><i>Thanks for the great presentation, I appreciate your thoughtfulness around this change. Can you provide any details on specific aspects of affordable housing financing these new funds would target? For example, multifamily homes (quantity), single family homes (quality), or openness to new technology for all types of buildings...</i></p>	<p>The funds newly allocated to affordable housing will be used to supplement our existing gap financing programs – the Low-Income Housing Tax Credit (LIHTC) program, the Homeownership Production Program (HPP), and the upcoming Small Rental Program. Details of each program are available in the Action Plan and related program materials on DED’s CDBG-DR web page. While we do not anticipate creating new programs within these existing affordable housing programs, we encourage potential applicants to reach out with ideas related to new technology that can be used in these or future affordable housing programs. There is no “set aside” for each of these three areas.</p>
<p><i>Will there be a set aside of funds for nonprofits, like CRANE program for LIHTC funds?</i></p> <p><i>Thanks for your answers! I am working to build single family homes with new construction materials that can reduce overall build costs. I am trying to figure out the best way that would fit into this funding opportunity. I would be happy to speak in a separate conversation if you all are interested. You can email me at xxxx@xxxx.com, thanks!</i></p>	<p>At this time DED has not created a set aside for nonprofits like CRANE exactly; however, nonprofits can apply for LIHTC funds, and nonprofit developers are also eligible applicants for single-family and small rental program funds via HPP and Small Rental.</p>
<p>Received via DED.PublicComment@nebraska.gov</p>	



Question	Answer
<p><i>On behalf of the Nebraska Game and Parks Commission, an agency that manages numerous public properties and infrastructure across the state, including properties that lie adjacent to Nebraska’s important streams and waterways, I wish to express appreciation to the Nebraska Department of Economic Development for the opportunity and flexibility under consideration, to expand the flood mitigation program to include local/special district disaster mitigation projects. This action will allow consideration of a greater range of projects and provide greater benefit to individuals and the public impacted by the historic flood events in recent years.</i></p> <p><i>Our agency has benefited by assistance from FEMA and NEMA, but those benefits have not always extended to the various impacts we have experienced. Ability to make application for “stand alone” projects will allow us to address damage and mitigate impacts, past and future, to public facilities within qualifying zones. Projects that presently are left in a holding pattern for lack of funding.</i></p> <p><i>Thank You.</i></p>	<p>Thank you for your public comment. Your support is noted and well appreciated. Nebraska Game and Parks Commission and others seeking gap funding should be advised that under the increased funding flexibility, projects will still need to meet CDBG-DR eligibility requirements, including a “tie-back” to Winter Storm Ulmer (DR-4420).</p>
<p><i>End of Public Comments Received.</i></p>	

