



# NON-FEDERAL MATCH PROGRAM

POLICY AND PROCEDURES MANUAL

HURRICANES LAURA/DELTA/IDA AND MAY 2021  
SEVERE STORMS RECOVERY PROGRAM



**RESTORE**  
LOUISIANA

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# VERSION HISTORY

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS

# I. PROGRAM OVERVIEW

## A. INTRODUCTION

In the wake of the multiple disasters that hit Louisiana in 2020 and 2021, the U.S. Dept. of Housing and Urban Development (HUD) has allocated approximately \$3.1 billion in Community Development Block Grant – Disaster Recovery (CDBG-DR) funds to the state Louisiana for four of the major disaster declarations under Docket No. FR 6303-N-01, FR 6326-N-01, and FR 6368-N-01. Hurricane Laura (2020) resulted in 21 parishes being declared eligible for Federal Emergency Management Agency (FEMA) Individual Assistance (IA); Hurricane Delta (2020) resulted in 12 parishes being declared for FEMA IA – nine of which were also declared for Hurricane Laura; Hurricane Ida (2021) resulted in 25 parishes being declared for FEMA IA, with all 64 parishes receiving some level of FEMA Public Assistance (PA); and the May 2021 Severe Storms resulted in five parishes being declared eligible for FEMA IA, with six parishes receiving FEMA PA.

The FEMA PA program is designed to provide immediate assistance to the impacted jurisdictions for emergency protective measures and permanent repairs to infrastructure and community facilities. Since FEMA provides funding for the majority of public infrastructure repairs following a disaster, HUD used the FEMA PA non-federal cost-share match requirement for projects in categories C – G [permanent repairs] as a proxy to determine the infrastructure unmet needs when calculating CDBG-DR funding allocations.

As of February 2021, \$2.7 billion has been identified in PA need for Hurricanes Laura, Delta and Zeta. Based on this data, the current unmet need, or PA non-federal share estimate is \$242 million (\$217 million for Hurricane Laura and \$13 million for Hurricane Delta). As of October 2021, \$2.8 billion has been identified in PA need for Hurricane Ida and the May 2021 Severe Storms. Based on this data, the current unmet need, or PA non-federal cost share, is estimated at \$251 million (\$250 million for Hurricane Ida and \$1 million for the May 2021 Severe Storms). Federal funding allocated to the state of Louisiana to address these recovery needs under FR 6303-N-01, FR 6326-N-01, and FR 6368-N-01 have a six-year performance period, which began with HUD approval of the state’s action plan.

The objective of this document is to outline the program policies and procedures that the Louisiana Office of Community Development (OCD) and its partner agencies will use to manage the implementation of the Non-Federal Match Program. Through the Non-Federal Match Program, the state will provide non-federal match funding for FEMA PA grants to offset the burden of local match requirements for infrastructure repair and rebuilding projects as part of recovery efforts following the eligible 2020-21 Storms.

Additionally, OCD maintains a Disaster Recovery CDBG Grantee Administrative *Manual* that provides guidance to grantees regarding the general requirements related to receiving CDBG-DR funds. The manual is generally applicable to any project receiving CDBG-DR funds in whole or in part, as is applicable to this program. The manual is located at [doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx](http://doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx). Another resource for information on CDBG-DR regulations is [hudexchange.info/](http://hudexchange.info/).

## B. AUTHORITY AND PURPOSE

OCD is the grantee and administrator of CDBG-DR funds for the state of Louisiana. In the event of a conflict between policies and procedures contained herein and the OCD's CDBG Grantee Administrative Manual located at [doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx](http://doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx), the Administrative Manual will take precedence in the administration of awarded grants unless specifically noted otherwise in these policies or as required within Docket No. FR-6303-N-01, FR 6326-N-01, and FR 6368-N-01, as may be amended or waived by HUD.

For CDBG-DR funds, OCD is responsible for the management of programs, reporting, and compliance measures. In general, the non-federal match requirement may not be met with funds from other federal sources; however, HUD has included authorizing language that explicitly allows CDBG-DR funds to be used as a cost share for other federal grants. In this case, the CDBG-DR funds used to meet a non-federal match requirement must meet the purpose and eligibility requirements of both CDBG-DR as well as the program to be matched. As such, the implementation and provision of match funds generally requires the coordination with other state agencies and separate federal funding sources. OCD has the primary role to confirm that the expenditure of CDBG-DR funds meets all of the associated HUD CDBG requirements per the allocating Federal Register Notice and applicable guidelines. The partnering agencies maintain a role in ensuring compliance with other federal funds that are being matched, as applicable.

## C. FEMA PA FRAMEWORK

The Non-Federal Match Program provides eligible entities with non-federal match funding for FEMA PA projects. FEMA's PA program provides supplemental grants to state, tribal, territorial and local governments, and certain types of private non-profits so that communities can quickly respond to and recover from major disasters or emergencies. FEMA also encourages protection of these damaged facilities from future events by providing assistance for hazard mitigation measures during the recovery process.

The assistance FEMA provides through its PA program is subject to a cost share, which ensures local interest and involvement through financial participation. The federal share is not less than 75 percent of the eligible costs, and FEMA may recommend an increase of up to 90 percent if actual federal obligations, excluding administrative costs, meet or exceed a qualifying threshold. For Emergency Work specifically, the federal cost share may be increased in limited circumstances, and for limited periods of time, if warranted.

FEMA applies the cost share at the project level. Therefore, any other federal agency's funds must be applied at the project level and may not be used across multiple projects (with the exception of Permanent Work Alternative Procedure projects as described in Chapter 8:VIII. *Capped Projects of the FEMA Public Assistance and Policy Guide*). Further, if the applicant uses funds from another federal agency to meet the non-federal share, it must comply with all requirements of the other agency as well as all PA program requirements. The applicant cannot apply PA funds toward the non-federal cost share of other federal agency awards.

## i) FEMA PA CATEGORIES

FEMA has a detailed process outlined in the [Public Assistance Program and Policy Guide](#) that categorizes eligible projects by the type of work that needs to be repaired, restored or removed following a disaster. FEMA PA projects are described as either being for Emergency Work (response related), or for Permanent Work (recovery related). To facilitate the processing of PA funding, FEMA separates Emergency Work into two categories (A and B) and Permanent Work into five categories (C – G) based on general types of facilities. Through the Non-Federal Match Program, only Emergency Work categories will be eligible for funding.

### Emergency Work: Response Related

Category A: Debris Removal

Category B: Emergency Protective Measures

### Permanent Work: Recovery Related

Category C: Roads and Bridges

Category D: Water Control Facilities

Category E: Buildings and Equipment

Category F: Utilities

Category G: Parks, Recreation Facilities and Other Facilities

## ii) PROJECT SIZE THRESHOLDS

FEMA establishes a dollar threshold – defining a project as large or small – for each federal fiscal year for the implementation of Simplified Procedures under Section 422 of the Stafford Act. The threshold applies to incidents declared within that fiscal year, and determined by using the annual Consumer Price Index. For example, for disasters declared in fiscal year 2020, which includes Hurricane Laura (DR-4559) and Hurricane Delta (DR-4570), the small project maximum for any eligible work, either emergency or permanent, is \$131,100. For disasters declared in fiscal year 2021, which includes Hurricane Ida (DR-4611) and the May 2021 Severe Storms (DR-4606), the small project maximum is \$132,800. Projects above these thresholds are classified as large projects.

On August 3, 2022, FEMA published a Public Assistance Program's Simplified Procedures Large Project Threshold available at [federalregister.gov/documents/2022/08/03/2022-16555/public-assistance-programs-simplified-procedures-large-project-threshold#citation-30-p47361](https://www.federalregister.gov/documents/2022/08/03/2022-16555/public-assistance-programs-simplified-procedures-large-project-threshold#citation-30-p47361). This notice increased the small project maximum to \$1,000,000.

As shown in the table, the new rule increases the small project maximum for the FEMA PA program to \$1,000,000. The \$1,000,000 threshold applies to the major disaster and emergencies declared on or after March 13, 2020, and on project worksheets (PWs) obligated on or after August 3, 2022.

ITEM	CURRENT	CHANGE	IMPACT
Maximum threshold for	\$132,800 in FY 2021, adjusted	\$1,000,000 for unobligated PWs processed on or after	<ul style="list-style-type: none"><li>The annual average benefit will be \$6,464,964. The total net 3-year benefit discounted at 3 percent and 7 percent,</li></ul>

Simplified Procedures	every fiscal year using CPI-U	the effective date of the rule for major disasters and emergencies declared on or after March 13, 2020, adjusted every fiscal year using CPI-U	<p>respectively, are 18,286,871 and \$16,966,108. The annualized benefit is \$6,464,964 and \$6,464,964 at the 3 and 7 percent discount rates, respectively.</p> <ul style="list-style-type: none"> <li>• The annual cost will be \$10,454 for just the first year. The total 3-year net cost discounted at 3 percent and 7 percent, respectively, are \$10,150 and \$9,770. The annualized cost is \$3,588 and \$3,723 at the 3 and 7 percent respective discount rates.</li> <li>• The total 3-year transfer payments from FEMA to the recipients discounted at 3 and 7 percent are \$40,803,651 and \$37,856,623, respectively. This estimated transfer is \$14,425,330 annualized.</li> </ul>
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## II. ELIGIBILITY

Before any activity can be funded completely or in part with CDBG-DR funds, it must be determined that the activity is eligible under Title I of the Housing and Community Development Act (HCDA) or otherwise eligible pursuant to a waiver or alternative requirement. Additionally, all projects receiving CDBG-DR funds must meet a national objective in accordance with the general CDBG framework. Per CDBG regulations, a project does not meet a national objective until it is complete. These requirements apply to cost share or match projects, even if the majority of funds for the project are from another source.

### A. NATIONAL OBJECTIVE

To ensure the eligibility of all Non-Federal Match Program projects using CDBG-DR funds, OCD program records must demonstrate that funded activities meet one of the national objectives required by HUD. The types of records to be maintained for each CDBG-DR funded activity depend on the national objective category for which they qualify. The national objectives under the Non-Federal Match Program include:

- Low-to-Moderate Income (LMI)
- Urgent Need

**OCD expects applicants to work with OCD to make reasonable efforts to meet the low-to-moderate income benefit national objective, whenever possible.**

### B. ELIGIBLE ACTIVITIES

HUD allows grantees to use CDBG-DR funds to address the non-federal cost share, as noted in the authorizing FRN, but requires that the funded project meet at least one additional HUD eligible activity and national objective. For the first phase of funding, OCD will only provide a match for Emergency Work (categories A and B) with specific eligible activities that correspond to payments being made in the Non-Federal Match Program.

	FEMA CATEGORY	CATEGORY DESCRIPTION	DRGR ELIGIBLE ACTIVITY (CAN BE UN OR LMI)
Emergency Work	A	Debris Removal	105(a)(4) — Clearance
	B	Emergency Protective Measures	105(a)(8) — Public Services



## C. ELIGIBLE APPLICANTS AND PROJECT SIZE

All entities determined eligible by FEMA may receive Non-Federal Match Program funding. The funds for the Non-Federal Match Program will be administered in the initial phase of funding will not accept applications for any small PWs and/or for any match less than \$100,000. If additional funds are available after the initial phase of funding is administered, OCD may consider adjusting the eligible categories, PWs size or minimum match amount.

## D. GEOGRAPHIC ELIGIBILITY

### Most Impacted and Distressed Area (MIDs)

The state’s Action Plan identifies geographic eligibility as the areas that received federal disaster declarations from HUD for Hurricane Laura (DR-4559), Hurricane Delta (DR-4570), Hurricane Ida (DR-4611), and/or the May 2021 Severe Storms (DR-4606). In addition to HUD’s defined MID areas, the Action Plan also includes the state’s defined MID areas.

The following table lists the eligible HUD and state MIDs.

HUD MIDS	
LAURA/DELTA	IDA/MAY FLOOD OF 2021
Acadia (70526,70578)	Ascension
Allen	Assumption
Beauregard	Calcasieu
Caddo	East Baton Rouge
Calcasieu	Iberville (70764, 70788)
Cameron	Jefferson
Jefferson Davis	Lafourche
Lafayette	Livingston
Natchitoches	Orleans
Ouachita	Plaquemines
Rapides	St. Bernard
St. Landry (70570)	St. Charles
St. Martin (70517)	St. Helena
Vermilion (70510)	St. James
Vernon (71446)	St. John the Baptist
	St. Mary
	St. Tammany
	Tangipahoa
	Terrebonne

Washington  
West Baton Rouge (70767)

## STATE MIDS

LAURA/DELTA	IDA/MAY FLOOD OF 2021
Acadia	East Feliciana
Grant	Iberia
Iberia	Iberville
Jackson	Point Coupee
La Salle	St. Martin
Lincoln	West Baton Rouge
Morehouse	West Feliciana
Sabine	
St. Landry	
St. Martin	
Union	
Vermilion	
Vernon	
Winn	

# III. AGENCY COLLABORATION

The **Non-Federal Match Program** is designed to assist eligible applicants through leveraging CDBG-DR funds with FEMA PA resources provided to Louisiana to facilitate and ensure recovery. In this program, CDBG-DR funds are limited to covering the non-federal portion of FEMA PA eligible PWs and may not be used to expand a project beyond what is approved by FEMA.

Additionally, in order for CDBG-DR funding to be used toward the non-federal portion, the activity must be a HUD eligible activity and must meet one of the national objectives named in the previous section. Similarly, the project must fully comply with all applicable CDBG-DR rules and regulations, as well as cross-cutting, state and local applicable statutes, rules and regulations. All non-federal match payments will be reimbursed based on actual costs incurred.

OCD will work internally with the Governor’s Office of Homeland Security and Emergency Preparedness (GOHSEP) to identify the most efficient methodology for administering the Non-Federal Match Program. State agencies will share information whenever possible to minimize collecting duplicative documentation from state agency and local FEMA PA recipients. However, if requested, grantees under the Non-Federal Match Program will provide OCD with all requisite support documentation and application information in order for OCD to ensure the files contained within the program’s system of record are complete and accurate.

Details and budget for the Non-Federal Match Program were submitted to HUD and approved through the state’s Action Plan as a result of CDBG-DR funding received in response to eligible 2020-21 Storms.

## A. FUNDING SOURCES

The Non-Federal Match Program enables OCD to leverage CDBG-DR funding with other federal disaster recovery funding sources that act as the primary funding source. This section briefly describes the federal funding source.

### i) FEMA PUBLIC ASSISTANCE

In federally declared disasters, FEMA provides grants to affected communities, allowing them to address immediate post-storm response, repair, recovery and resilience needs while assisting displaced individuals. The FEMA PA program generally requires a 25% non-federal match, that can be reduced to 10% when a qualifying threshold as outlined in 44 CFR § 206.47 is met.

## ii) FEMA PA FLEXIBLE MATCH ALTERNATIVE

In October 2020, HUD and FEMA jointly issued the *Implementation Guidance for Use of Community Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for the Public Assistance Program* (Notice CPD-20-10). This guidance outlines a flexible match approach, which streamlines the administrative costs related to using CDBG-DR funds to satisfy the non-federal cost share of PA match projects.

Using this approach, FEMA or the PA applicant can group sites/facilities, in a logical manner, into a single PW. The flexible match concept allows CDBG-DR funding to be applied to distinct facilities or sites within a PA project. Applying the flexible match concept reduces the number of sites that must meet both FEMA PA and CDBG-DR requirements. While all the sites and facilities must comply with FEMA PA requirements, only the CDBG-DR assisted portion of the project must comply with CDBG-DR requirements.

Using the flexible match approach requires early and ongoing coordination and communication to ensure both FEMA PA and HUD CDBG-DR compliance. **This approach is NOT required and any grantees wishing to explore the flexible match alternative should contact OCD for technical assistance.**

## iii) CDBG-DR

As described in section II.C.3 of FR-6303-N-01, CDBG-DR funds may be used to satisfy a match requirement, non-federal cost share, or contribution for any other federal program when used to carry out an eligible CDBG-DR activity. This includes programs or activities administered by FEMA or the U.S. Army Corps of Engineers (USACE). By law, (codified in the HCDA as a note to section 105(a)) only \$250,000 or less of CDBG-DR funds may be used for the non-federal costshare of any project funded by USACE. Appropriations acts prohibit the use of CDBG-DR funds for any activity reimbursable by, or for which funds are also made available by, FEMA or USACE.

In response to a disaster, FEMA may implement, and grantees may elect to follow, alternative procedures for FEMA's Public Assistance Program, as authorized pursuant to Section 428 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). Like other projects, grantees may use CDBG-DR funds as a matching requirement, share, or contribution for Section 428 Public Assistance Projects. For all match activities, grantees must document that CDBG-DR funds have been used for the actual costs incurred for the assisted project and for costs that are eligible, meet a national objective and meet other applicable CDBG requirements.

## iv) DETERMINING THE NON-FEDERAL COST SHARE AMOUNT

The FEMA non-federal cost share match payment amount varies by disaster. Under this program, OCD only provides reimbursement for the local match, and then only for the portion of a project that meets HUD and CDBG-DR eligibility requirements, as described above. The table below shows the current match percentage by disaster and federal program. As such, the match rates below represent the maximum non-federal share that OCD may provide. OCD will review each project on a case-by-case basis. OCD may match less than the full match amount if any components are deemed ineligible.

Additionally, to prevent a duplication of benefits, matching funds from other sources (i.e. local funds or grants) are considered before OCD funding decisions are confirmed.

**TABLE 1: FEDERAL PROGRAMS AND SHARE RATE ELIGIBLE UNDER THE STATE’S MATCH PROGRAM**

DISASTERS	FEDERAL COST SHARE	STATE OR LOCAL COST SHARE
DR-4559 Laura	90%	10%
DR-4570 Delta	75%	25%
DR-4606 May 2021 Severe Storms	75%	25%
DR- 4611 Ida	90%	10%

## IV. DUPLICATION OF BENEFITS

OCD will work closely with other state and federal agencies to ensure that a duplication of benefits does not occur prior to a match payment being made. For the Non-Federal Match Program, prior to funds being made available to applicants, the agencies should conduct a duplication of benefits analysis. If applicants are awarded PA Match assistance from other sources, they are expected to disclose all awards to the OCD Match team. OCD strongly encourages applicants to reserve CDBG-DR funds for eligible Category A and B projects that are submitted to the Non-Federal Match Program.

### A. DONATED RESOURCES

As per the FEMA Public Assistance Program and Policy Guide (PAPPG), individuals and organizations often donate resources (equipment, supplies, materials or labor) to assist with response activities. The grantee may use the value of donated resources to offset the non-federal share of its eligible Emergency Work projects and Direct Federal Assistance.

FEMA prepares the donated resource project separate from the Emergency Work projects for the grantees incurred costs. FEMA does not obligate the donated resource project until after it obligates all of the grantee's Emergency Work projects. The value of the donated resources paid by FEMA will be deducted from the match amount on any Categories A and B PW.

# V. CDBG-DR AND FEDERAL CROSS-CUTTING REGULATIONS

The following is a summary of key cross-cutting requirements and their application to the Non-Federal Cost Share Match Program. Because of the distinct implementation process for the Non-Federal Cost Share Match Program, a number of standard OCD policies and procedures contained in the Disaster Recovery CDBG Grantee Administrative Manual are being waived or modified, particularly as related to the review of the FEMA PA projects.

Alternative requirements applicable to the Non-Federal Match Program are highlighted in italics. The alternative requirements provide flexibility in program implementation while ensuring HUD CDBG-DR requirements are met.

Eligible work according to FEMA is classified as either Emergency Work or Permanent Work. Emergency Work responds to immediate threats to public health and safety and does not include construction; therefore, Davis-Bacon and Related Acts and Section 3 does not apply to Emergency Work. Procurement, Section 504 and Fair Housing (jurisdictions and housing authorities) are still applicable.

For a comprehensive understanding of the CDBG-DR and federal cross-cutting requirements, please refer to the Disaster Recovery CDBG Grantee Administrative Manual, which can be located at: <http://www.doa.la.gov/Pages/OCD/DRAdminManual.aspx>.

While a grantee may be subject to all compliance areas, the compliance areas that have presented the most challenges to program recipients in the past and require additional attention to detail include the following:

- Environmental Review
- Procurement
- Acquisition
- Records Management

**OCD will provide technical assistance upon request.** Failure to fully comply with the CDBG-DR and federal cross-cutting requirements may result in the project being ineligible and/or a recapture of funds.

## A. ENVIRONMENTAL REVIEW

Every project undertaken with CDBG-DR funds, and all activities related to that project, is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as to the HUD environmental review regulations at 24 CFR Part 58. The primary purpose of this act is to protect and enhance the quality of our natural environment. The HUD environmental review process must be completed before any funds may be committed for eligible program activities.

Environmental clearance must be obtained for each project prior to the firm commitment of federal or non-federal funds to any expenses or contracts related to a project. **No work may start on a proposed project before the environmental review process is completed, even if that work is being done using non-HUD funds.** A violation of this requirement may jeopardize federal funding to this project and disallow all costs that were incurred before the completion of the environmental review.

*Grantees under the Non-Federal Match Program may adopt the FEMA Environmental Review and should state such in the Request for Release of Funds Certification, form 7015.15 for construction projects.*

Per HUD requirements, before CDBG-DR program funds are expended, an environmental review must be completed. However, HUD grantees are permitted to adopt FEMA's (or another federal agency's) environmental review if that federal agency has previously performed an environmental review for assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. In those cases, the work performed by FEMA and by HUD must be exactly the same work. The recipient of HUD funding does not need to supplement FEMA's environmental review to comply with HUD regulations, and all environmental obligations are considered complete when the recipient adopts the agency's review.

When adopting another federal agency's review, the grantee must obtain a completed copy of that federal agency's review and keep a copy in its records. The grantee must notify the state CDBG-DR specialist that another federal agency review is being used. The notification must be stated on a Request for Release of Funds (RROF) Form 7015.15. The RROF must indicate that another federal agency's review is being adopted and include the name of the other federal agency, the name of the project and the date the project's review was prepared by the other federal agency.

If a project has any scope changes beyond what was approved in the PW, an additional HUD environmental review must be completed. If additional work is anticipated, please seek guidance from a CDBG-DR specialist for assistance immediately. Do not execute any change orders or additional contracts that include work not listed in the approved and obligated PW if you intend to request CDBG-DR funds as matching funds.

## B. PROCUREMENT

Grantees are required to adopt written procurement procedures as required in 2 CFR 200.318 -327. All procurement transactions funded in whole or in part with CDBG-DR funds, regardless of dollar amount, must be conducted to provide "maximum open and free competition". 2 CFR 200.318(i) requires grantees and subgrantees to maintain records sufficient to detail the significant history of a procurement. These records must include, but are not limited to, the following:

1. Rationale for the method of procurement;
2. Selection of contract type;
3. Contractor selection or rejection; and,
4. The basis for the contract price.



## **Two critical areas of compliance under 2 CFR Part 200 to which grantees should adhere:**

1. Per 2 CFR Part 200.324, the grantee must make independent estimates before receiving bids or proposals.
2. The contract provisions for non-federal entity contracts listed in Appendix II to 2 CFR Part 200 must be incorporated into all CDBG-DR funded contracts. These provisions are included in the Grantee Administrative Manual as Exhibit 6-2 and Exhibit 6-16.

Grantees shall maintain a contract administration system to monitor contractor's performance against the terms, conditions and specifications of their contracts or purchase orders.

### **i) PROCUREMENT BY NONCOMPETITIVE PROPOSALS 2 CFR 200.320(C)**

Noncompetitive proposals are solicitation of a proposal from only one source. FEMA may reimburse costs incurred under a contract procured through a noncompetitive proposal only when one or more of the following apply:

- The item is only available from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- FEMA or the recipient expressly authorizes a noncompetitive proposal in response to a written request from the applicant; or
- After solicitation of a number of sources, competition is determined inadequate

FEMA reviews non-state<sup>1</sup> grantee's justification of circumstances that warrant an exception to competitive procurement. If FEMA determines that the situation did not preclude a non-state grantee from adhering to competitive procurement requirements, then they may disallow all or part of the non-state grantee's cost related to the contract. OCD will accept FEMA's review of these situations.

*Grantees under the Non-Federal Match Program are not required to obtain OCD approval prior to using the Noncompetitive Procurement Method as required in the Grantee Administrative Manual.*

### **ii) DEBARMENT AND SUSPENSION**

Both FEMA and OCD require compliance with 2 CFR 200.214, therefore, a Non-Federal Entity's contractor or subcontractor must not be debarred nor suspended from federal programs.

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<sup>1</sup> Non-state entities are eligible FEMA award recipients that do not meet the "state" definition at 2 CFR 200.1. Non-state entities include local and tribal governments, hospitals and Institutions of Higher Education that do not meet the definition of state, and other private non-profit organizations.

Grantees under the Non-Federal Match Program are not required to complete Exhibit 6-12, Verification of Contractor Eligibility Form or Exhibit 6-13, Verification of Professional Services Eligibility Form.

## C. ELEVATION OF NONRESIDENTIAL STRUCTURES

As outlined in the HUD FR-6303-N-01, nonresidential structures, including infrastructure, must be elevated or flood proofed, in accordance with FEMA flood proofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above the 100-year floodplain. All Critical Actions, as defined at 24 CFR 55.2(b)(3), within 500-year floodplain must be elevated or flood proofed (in accordance with the FEMA standards) to the higher of the 500 year floodplain flood elevation or three feet above the 100-years floodplain. If the 500-year floodplain or elevation is unavailable and the Critical Action is in the 100-year floodplain, then the structure must be elevated or flood proofed at least three feet above the 100-year floodplain elevation. Applicable state, local, and tribal codes and standards for floodplain management that exceed these requirements, including elevation, setbacks, and cumulative substantial damage requirements, will be followed. Grantees in this situation will be required to prove that they have elevated to the appropriate elevation height by providing an elevation certificate.

Grantees using CDBG-DR funds as the non-federal match in a FEMA-funded project may apply the following alternative requirement for the elevation of nonresidential structures. FEMA funded projects generally commence well in advance of the availability of CDBG-DR funds and when CDBG-DR funds are used as match for a FEMA project that is underway, the alignment of HUD's elevation standards with any alternative standard allowed by FEMA may not be feasible and may not be cost reasonable. For these reasons, HUD has established an alternative requirement that permits the use of an alternative FEMA-approved flood standard instead of the elevation requirements established by HUD. The alternative requirements apply when: (a) CDBG-DR funds are used as the non-federal match for FEMA assistance; (b) the FEMA-assisted activity, for which CDBG-DR funds will be used as match, commenced before HUD's obligation of CDBG-DR funds to the grantee; and (c) the grantee has determined and demonstrated with records in the activity file that implementation costs of the required CDBG-DR elevation or floodproofing requirements are not reasonable costs, as that term is defined in the applicable cost principles at 2 CFR 200.404.

## D. ACQUISITION

In executing CDBG-DR projects, grantees may need to acquire real property to complete specific activities. Prior to acquiring real property or attempting to undertake a relocation project, a determination must be made as to whether or not the requirements of the Uniform Relocation Assistance (URA) and Real Property Acquisition Act of 1970 (as amended in 1986) apply. Requirements for acquisition and relocation activities are described in the *Department of Housing and Urban Development's Handbook 1378: Real Estate Acquisition and Relocation Policy and Guidance*. Additionally, HUD has approved waivers that modify the URA and HCDA Section 104(d) requirements.

Real property includes:

- Permanent and temporary easements necessary for the project.
- Fee simple title/a parcel of land.

- Long-term leases of 15 years or more.
- Rights of way.

If CDBG-DR financial assistance is used in any part of the project, the URA governs the acquisition of real property for the project and any resulting displacement, even if local or private funds are used to pay the acquisition costs. Grantees should contact OCD for technical assistance if the project involves the acquisition of real property.

## E. CITIZEN PARTICIPATION

The requirements under 42 U.S.C. 5304(a)(2) and (3), 42 U.S.C. 12707, 24 CFR 570.486, and 24 CFR 91.115(b) with respect to citizen participation have been waived for disaster assistance associated with the federal declarations for disasters in 2020 and 2021 and replaced with alternate requirements. The waiver removes the requirements for public hearings or meetings as the method for disseminating information or collecting citizen comments.

*Grantees under the Non-Federal Match Program are not required to adopt a Citizen Participation Plan as described in the Grantee Administration Manual.*

## F. FAIR HOUSING

As a recipient of CDBG-DR funds, grantees must administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act (42 U.S.C.3608(e)(5));(E.O.12259(1-202));(24 CFR 570.601). Grantees must also agree to develop and maintain records of the efforts taken to assure fair housing.

*Grantees (Jurisdictions and Public Housing Agencies only) under the Non-Federal Match Program are required to conduct at least one Fair Housing activity during the life of the project.*

Exhibit 8-2 of the Grantee Administrative Manual offers suggestions of activities which can be undertaken in an effort to “further Fair Housing” and includes a sample Utility Bill Stuffer and a Fair Housing flyer.

## G. SECTION 504

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 754) requires that local grantees shall operate each program or activity receiving federal financial assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps.

If Section 504 applies, the grantee shall submit an assurance to the OCD that the CDBG- DR Program will be operated in compliance with Section 504 requirements (24 CFR 8.50(a)).

In addition, if the grantee employs fifteen or more persons:

3. The grantee must designate a responsible employee to coordinate the grantee's efforts to comply with Section 504;
4. The grantee must adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from grantees for employment or from grantees for admission to housing covered by this part.
5. The grantee shall publish a statement of compliance to notify participants, beneficiaries, grantees, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the grantee that it does not discriminate on the basis of handicap in violation of this part. The notification shall state, where appropriate, that the grantee does not discriminate in admission or access to, or treatment or employment in, its federally assisted programs and activities. The notification shall also include an identification of the responsible employee designated above.
6. A grantee shall make the initial notification required by this paragraph within 90 days of receipt of the executed contract with the OCD. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications, and distribution of memoranda or other written communications.

*Grantees subject to Section 504 requirements under the Non-Federal Match Program are not required to conduct a Section 504 Self-Evaluation, prepare a Section 504 Transition Plan or to complete Exhibit 8-4, Summary of Actions to Achieve Compliance with Section 504, as described in the Grantee Administrative Manual.*

## H. RECORD KEEPING

The grantee must maintain all program and project-related documentation such as financial records, supporting documents, and statistical records. These records must be retained for a period of five years after closeout of the state's grant from HUD.

## VI. PROGRAM PROCEDURES

The state, through its Action Plan process, has initially allocated \$240 million to the Non-Federal Match Program; \$100M for Hurricanes Laura and Delta, and \$140M for Hurricane Ida and the May 2021 Severe Storms. Due to the excessive amount of damages caused by the disasters in 2020 and 2021, resulting in a cumulative statewide non-federal cost share of approximately \$685.4 million, the state cannot fund all non-federal cost shares. As noted in its Action Plan, the state reserves the right to make determinations of a proration or other methodology mandated based on availability of funds.

OCD will generally review and process applications that have been closed by GOHSEP. Exceptions to this process may be made on a case-by-case basis, at OCD's discretion, as the need is determined. This may impact the timing in which a grantee receives funds from OCD. OCD will work with grantees to help ensure their projects are designed in a manner that complies with CDBG-DR rules and regulations.

### A. APPLICATION SUBMISSION PROCESS

Eligible grantees for the Non-Federal Match Program will be able to access the application through OCD's Intelligrants system.

The application submission triggers the project CDBG-DR eligibility review. Once an application is approved, an agreement and project forms will be generated. OCD staff completes the CDBG-DR review to capture all of the HUD specific information (national objective, eligible activity, target area, beneficiary information, etc.) for each project. Any additional information that may be required and is not available in the GOHSEP file on LouisianaPA.com is collected from the grantee by the OCD staff. It is understood that entities may not know the final dollar amount of their project at the time of submission since PWs may require versioning. PWs not yet obligated by FEMA at the time of application submission for the Non-Federal Match Program will not be accepted. Additional PWs may be added in the form of a project amendment at a later date, if funds are available.

#### i) PROJECT REVIEW PROCESS: ELIGIBILITY DETERMINATION

The Non-Federal Match Program is managed by FEMA and administered by GOHSEP.

For the purpose of the Non-Federal Match Program reimbursement eligibility, the PW is already processed through the FEMA system of approval and information has been input into GOHSEP's LouisianaPA system for review. In order to be deemed eligible for the Non-Federal Match Program the project has to meet the following requirements:

- Obligated in LouisianaPA at time of application submission
- Categorized as Emergency Work (Category A or B)
- Reaches the large project threshold amount
- Minimum match amount of \$100,000

## **ii) AREA BENEFIT DATA**

For projects that provide an area benefit, grantees will provide the service area for the scope of work, and OCD staff will review and confirm. OCD has created an instructional resource tool for mapping the service areas using the HUD Low and Moderate Income Summary Map Application.

<https://hud.maps.arcgis.com/home/item.html?id=ffd0597e8af24f88b501b7e7f326bedd>

## **B. NON-FEDERAL MATCH DETERMINATION AND PAYMENT**

### **i) NON-FEDERAL MATCH AWARD**

CDBG-DR funds are limited to the non-federal cost share of the FEMA obligated amount for each PW. CDBG-DR funds may not be used to expand a project beyond what is approved by FEMA in a PW.

OCD will work with FEMA recipients to identify eligible expenses under the Non-Federal Match Program. Furthermore, OCD will work with the recipients to make the payment and project processes as efficient as possible.

After the PW is closed with GOHSEP, OCD staff will conduct their review of all supporting project documents. OCD program staff may request additional information if the payment and support documentation provided by GOHSEP and/or supporting documentation that is available from grantees is determined to be insufficient.

If the information provided by GOHSEP and/or the grantee is insufficient and/or does not demonstrate full eligibility or how the project will meet a national objective, then the project may not be eligible for payment.

### **ii) MATCH AWARD COST ELIGIBILITY**

The PA Grant Program is managed by FEMA and administered within the state of Louisiana by GOHSEP. The initial eligibility for the Non-Federal Match Program is an approved PW in FEMA's PA Program. OCD will accept GOHSEP's procurement, environmental, property management, financial management and allowable cost review of large projects to reduce duplication of effort since FEMA and HUD both follow 2 CFR 200.

### **iii) DUPLICATION OF BENEFITS REVIEW**

OCD makes application and funding determinations based on data obtained from multiple sources including project specific information contained in GOHSEP's LouisianaPa.com system of record, a database that contains PA-related data obtained by FEMA, financial payment data that is maintained by GOHSEP, state vouchers showing payment of the Non-Federal cost share, and others. Financial data includes payments the grantees request from OCD for the non-federal share amount, which OCD reimburses. Financial payment data is maintained by OCD and reflects the most recent current

payment amounts, as of the date of project completion. OCD will make a final funding determination once the project is complete and the final FEMA payment has been made on the eligible PW. OCD may consider exceptions to this process on a case-by-case basis. Funding from alternate sources received prior to the disbursement of CDBG-DR funds should be addressed as outlined in the FEMA Public Assistance Non-federal Share Match Program Agreement. If additional funds are received from duplicative resources after the disbursement of CDBG-DR funds, FEMA PA recipients are required to notify OCD. OCD will conduct an additional duplication of benefits review and will require repayment of any funds found to be duplicative. Please note, FEMA payments for donated resources are considered a duplication of benefits. Please see Section 5 for additional information.

#### **iv) REQUESTING PAYMENT**

OCD will make the Non-Federal Match Program payment as a direct payment to grantees. The match payment amount will be paid as a single lump sum per project after the following actions:

1. FEMA closeout of the project
2. GOHSEP closeout and review of match documentation

OCD will review all monitorings and audits to ensure compliance prior to closeout.

OCD will provide instruction and technical assistance to grantees regarding the process for requesting payment.

## VII. MONITORING

Monitoring and evaluation of program performance and compliance by recipients of CDBG-DR funds is a requirement of the Department of Housing and Urban Development (HUD). Monitoring program, statutory and/or regulatory requirements is the responsibility of OCD. Grantees are responsible for carrying out their programs to meet these compliance requirements, including monitoring their project administrators, contractors and subcontractors.

*Grantees under the Non-Federal Match Program are not required to develop a Grantee Monitoring Plan as required in Section 12 of the Grantee Administrative Manual.*



## VIII. CLOSEOUT

Program or activity (“project”) closeout is the process by which the OCD determines that all costs paid with CDBG-DR funds have been incurred, the work has been completed and all responsibilities of the grantee have been completed in accordance with the terms and conditions of the grant agreement and applicable laws and regulations.

Grantees are responsible for timely submission of closeout documents. A program/activity cannot be closed out until all funds have been expended, all activities associated with the program/activity have been completed, and the National Objective has been met.

## IX. ACRONYMS

**AMI:** Area Median Income

**CDBG-DR:** Community Development Block Grant- Disaster Recovery

**CEA:** Cooperative Endeavor Agreement

**CFR:** Code of Federal Regulations

**CP:** Citizen Participation

**DOB:** Duplication of Benefits

**DRGR:** Disaster Recovery and Grant Reporting System

**FEMA:** Federal Emergency Management Agency

**HCDA:** Housing and Community Development Act of 1974, as amended

**LMI:** Low-to-moderate income

**FIP:** National Flood Insurance Program

**PA:** (FEMA) Public Assistance

**RE:** Responsible Entity

**SBA:** U.S. Small Business Administration

**URA:** Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended

## **X. OCD COMMON ACRONYMS**

**AP:** Action Plan

**CDBG-MIT:** Community Development Block Grant-Mitigation

**CEA:** Cooperative Endeavor Agreement

**CPD:** HUD Office of Community Planning and Development

**DOA:** Louisiana Division of Administration

**DR:** Disaster Recovery

**FIRM:** Flood Insurance Rate Maps

**FRN:** Federal Register Notice

**NFIP:** National Flood Insurance Program

**NOFA:** Notice of Funding Availability

**OCD:** Louisiana Office of Community Development

# XI. DEFINITIONS

**Action Plan:** After HUD publishes the Federal Register Notice (FRN) for a congressional appropriation, the grantee (eligible government entity) must develop and submit an Action Plan describing the needs, strategies and projected uses of the allocated CDBG-DR funds.

**Applicant:** Entities submitting a request for assistance under the FEMA Public Assistance program.

**Community Development Block Grant Disaster Recovery (CDBG-DR) Program:** Similar in many ways to the CDBG program, these federal funds are administered by HUD but are specifically dedicated to assist with disaster recovery in areas impacted by presidentially declared events.

**Critical Action:** Any activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property. Critical actions include activities that create, maintain or extend the useful life of those structures or facilities that: (A) Produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials; (B) Provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations and roadways providing sole egress from flood-prone areas); or (C) Are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events (e.g., persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities and retirement service centers). Housing for independent living for the elderly is not considered a critical action. Critical actions shall not be approved in floodways or coastal high hazard areas.

**Code of Federal Regulations (CFR):** The Code of Federal Regulations is the annual collection of general and permanent rules and regulations that were published in the Federal Register Notice by executive departments and agencies of the federal government.

**Cross-cutting Regulations:** Regulations outside of CDBG-DR regulations that apply to CDBG-DR programs. These include regulations pertaining to financial management, procurement, environmental, labor, acquisition, relocation, fair housing and non-discrimination.

**Davis-Bacon Wage Requirements/Davis-Bacon and Related Acts (DBRA):** The DBRA require all contractors and subcontractors performing work on federal or District of Columbia construction contracts or federally assisted contracts in excess of \$2,000 to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts.

**Direct Administrative Cost (DAC):** Direct, administrative, or other expenses the grant recipient or subrecipient incurs in administering and managing Public Assistance awards that can be identified separately and assigned to a specific project.

**Duplication of Benefits (DOB):** Financial assistance received from another source that is provided for the same purpose as the CDBG-DR funds.

**Emergency Work:** FEMA's Public Assistance Program designation for disaster response tasks including Debris Removal (Category A) and Emergency Protective Measures (Category B) that occur immediately after a disaster.

**Environmental Review Record:** A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents.

**Fair Labor Standard Act of 1938 (FLSA):** Federal law that establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in federal, state and local governments.

**Federal Emergency Management Agency (FEMA):** An agency of the U. S. Department of Homeland Security (DHS). The agency's primary purpose is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.

**FEMA Public Assistance (FEMA PA):** Provides grants to state, tribal, territorial and local governments, and certain types of private non-profit organizations so that communities can quickly respond to and recover from major disasters or emergencies. Through the program, FEMA provides supplemental federal disaster grant assistance for debris removal, life-saving emergency protective measures, and the repair, replacement, or restoration of disaster-damaged publicly owned facilities, and the facilities of certain private non-profit organizations.

**FEMA Transitional Shelter Assistance (FEMA TSA):** Provides short-term lodging assistance for evacuees who are not able to return home for an extended or indeterminate period following a disaster.

**Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP):** A Louisiana governmental agency of the Division of Administration that administers federal disaster response, recovery and mitigation funds allocated to the state of Louisiana.

**Grantee:** The term "grantee" refers to any jurisdiction receiving a direct award from HUD. The state of Louisiana is identified as the grantee in Hurricanes Laura/Delta, Ida and May 2021 Severe Storms award.

**Housing and Community Development Act (HCDA):** HCDA is a US federal law that authorizes funds to be awarded directly to the state or unit of general local government, as a grantee, at the discretion of the Secretary of Housing and Urban Development.

**Large Project:** FEMA designation for PA projects that exceed the small project threshold (\$131,100 for 4559, \$132,800 for 4570, 4577, and 4611). For large projects, payment is made on the basis of actual costs determined after the project is completed, although interim payments may be made as necessary. FEMA will continue to monitor the recovery progress to ensure the timely delivery of eligible assistance and compliance with the law and regulations.

**Louisiana Office of Community Development (OCD):** A Louisiana governmental agency of the Division of Administration that administers CDBG-DR funds allocated by HUD to the state of Louisiana.

**Low-to-Moderate Income (LMI):** Low-to-moderate income people are those having incomes not more than the "moderate income" level (80% Area Median Family Income) set by the federal government for

HUD-assisted housing programs. This income standard changes from year to year and varies by household size, county/parish, and the metropolitan statistical area.

**Most Impacted and Distressed (MID):** Areas determined by HUD or the state as the most impacted and distressed by a natural disaster using the best available data sources.

**Permanent Work:** FEMA's Public Assistance Program designation for "recovery work" which restores or rebuilds a damaged asset and falls under one of five categories: Roads and Bridges (Category C), Water Control Facilities (Category D), Buildings and Equipment (Category E), Utilities (Category F), and Parks, Recreation Facilities, and other facilities (Category G).

**Project Worksheet (PW):** FEMA form used to document the scope of work and cost estimate for a FEMA Public Assistance project. This form supplies FEMA with the information necessary to approve the scope of work and itemized cost estimate prior to funding. The PW may include mitigation measures up to 100% of the eligible PW value.

**Project Manager (PM):** The individual designated as the contact person with decision making authority and the authority to supervise and direct activities of others.

**Quality Assurance/Quality Control (QA/QC):** Quality Assurance refers to the system of activities designed to ensure that quality control is done effectively. Quality Control is the use of established procedures to achieve standards of measurement for the three principle components of quality: precision, accuracy and reliability.

**Request for Proposal (RFP):** A formal competitive procurement procedure used to solicit qualifications and/or pricing for goods and services.

**Request for Release of Funds (RROF):** An environmental review term for a process used by Responsible Entities (the state) when requesting the release of funds and the authority to use such funds for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and states. The approval of the RROF is required before environmental clearance may be provided to a recipient of CDBG-DR funds.

**Section 3:** A provision of the Housing and Urban Development Act of 1968 that requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment and contracting opportunities for low- or very low-income residents in connection with projects and activities in the areas they reside.

**Section 504:** A provision of the Rehabilitation Act of 1973, which provides that no qualified individual with a disability should, only by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**Scope of Work (SOW):** The work to be performed or completed by the applicant.

**U.S. Department of Housing and Urban Development (HUD):** HUD is the agency that administers the Community Development Block Grant-Disaster Recovery and Mitigation funds made available to Louisiana from congressional appropriations.



# XII. EXHIBITS