
BUYOUT & ACQUISITION

Program Manual



CDBG-DR

Table of Contents

Program Overview	4
Introduction	4
Program Manual Overview	4
Program Income.....	4
Buyout and Acquisition Program Activities	5
Buyout and Acquisition Plans	5
Eligible Local Government Applicants	7
Required Plan Components	7
1. Plan Summary	7
2. Buyout Area Designation	7
3. Maps.....	8
4. Disposition.....	8
5. Resettlement Incentives	9
DCA Review of Buyout and/or Acquisition Plan and Award	10
Outreach Activities.....	10
Homeowner Application Submission.....	11
<i>Voluntary Participation</i>	11
Eligible Properties	11
Buyout and Acquisition Activities Ineligible Properties	12
Homeowner Applicant Eligibility.....	12
Ownership of Subject Property.....	12
Citizenship and Eligible Immigrants	14
Meeting National Objectives	14
Review and Eligibility Determination.....	15
Ineligibility Determination Appeals	16
Appraisals.....	16
Appraisal Review Process.....	16
Appraisal Appeal Process	17
Environmental Review	Error! Bookmark not defined.
Step 1: Exempt Projects/Activities:.....	Error! Bookmark not defined.
Step 2: Categorically Excluded Projects/Activities:.....	Error! Bookmark not defined.

Categorical exclusions not subject to 58.5.	Error! Bookmark not defined.
Step 3: Complete the Environmental Assessment:.....	Error! Bookmark not defined.
Step 4: Public Notice: Finding of No Significant Impact and Intent to Request Release of Funds (Concurrent Notice)	Error! Bookmark not defined.
Environmental Impact Statement.....	Error! Bookmark not defined.
Floodplain and Wetlands Compliance Requirements.....	Error! Bookmark not defined.
Additional Wetland Compliance Requirements	Error! Bookmark not defined.
Outline of Historic Preservation Compliance.....	Error! Bookmark not defined.
Housing Activities Compliance with Section 106.....	Error! Bookmark not defined.
Environmental Review Record (ERR)	Error! Bookmark not defined.
Duplication of Benefits and Verification of Benefits.....	32
Duplication of Benefits.....	32
Verification of Benefits (VOB) Process.....	33
Subrogation.....	34
<i>Assignment Relation to Funds Received Under Program</i>	34
Award Calculations	34
Offer and Contract Execution	34
Uniform Relocation Act (URA)	35
Closing.....	36
Closing Meeting	36
Final Award Documentation	36
Property Tax ProRation.....	37
Policy for Subrecipient to Pay Proceeds to Agent Designated by Seller	Error! Bookmark not defined.
Property Stabilization and Demolition.....	37
Property Maintenance	37
Demolition	37
Property Disposition	38
Deed Restriction Monitoring Record Retention.....	39
Deed Restriction.....	39
Monitoring	40
Record Retention	40

Program Overview

Introduction

In response to the damage caused by the tornadic storm events and Hurricane Irma in 2017, HUD appropriated \$41 million in Community Development Block Grant Disaster Recovery (CDBG-DR) funds through Public Law 115-123 to the State of Georgia.

The Georgia Department of Community Affairs (DCA) allocated \$6,854,000 to the Buyout and Acquisition Program as outlined in DCA's 2017 Unmet Needs Action Plan. The Buyout and Acquisition Program is designed to help Georgians whose homes were damaged by the 2017 disasters (DR-4294, DR-4297, and DR-4338). Owners of property within the Most Impacted and Distressed (MID) zip codes (31520, 31548, 31701, 31705, 31707) who sustained damage as a direct result of one of these storms are invited to apply for assistance.

Program Manual Overview

This Manual is designed to outline the program policies that DCA uses to direct the operation of the Buyout and Acquisition Program (Program). This manual is intended to serve as a resource for local government subrecipients and other parties interested in details of how the Buyout and/or Acquisition Programs should be implemented, including basic information on who is eligible for assistance, the types of assistance offered, and program recipient obligations under State DCA policy determinations.

The Manual serves as a general reference guide for administrative staff and other interested parties, including property owner recipients, contractors, and units of general local government that are engaged as subrecipients to deliver the Program. The Program is designed to make CDBG-DR funds available for purchase of select property in one of the eligible disaster communities where storm impact occurred.

DCA reserves the right to edit this manual when necessary. DCA will mark all changes and will label the version of the Manual. All versions of the manual will be posted online at the following link: <https://www.dca.ga.gov/node/6603/documents/2254>. DCA will use the following formatting to mark all changes:

Additions: Font color red, underline

Deletions: ~~Font color red, strike-through text~~

Program Income

If program income is generated, DCA will follow guidance provided in the Program Income alternative requirement of 81 FR 39702 (2016). Per that guidance, income received prior to the grant closeout will be utilized as additional CDBG-DR funds in the same manner as other CDBG-DR funds referenced. Any income received after the grant closeout, will be transferred to DCA's annual CDBG award. All Program Income earned by subrecipient activities in the Buyout and Acquisition Program will be transferred to DCA.

Buyout and Acquisition Program Activities

The Buyout and Acquisition Program consists of two distinct activities:

1. Buyout activities (“Buyout”) include the voluntary purchase of properties within a qualified designated disaster risk area, often prioritizing residential occupied or damaged properties. Buyouts with CDBG-DR funding allow for the purchase of properties AND require that the purchased sites remain restricted from future uses and support mitigation as described in more detail later in this guide. *Note that for purposes of this program State policy determines that buyouts will be offered at current Fair Market value (FMV), otherwise known as post-storm value;* or 2. Acquisition activities (“Acquisition”) include the voluntary acquisition of properties that sustained damage from the 2017 Presidentially declared disasters. Under the Acquisition activity, purchase offers begin at the post-storm FMV of the property.

Buyout and Acquisition Program Basic Steps Summary		
Phase	Phase Description	Action
Phase 1	Create Buyout and/or Acquisition Plan	<ul style="list-style-type: none"> • Local government identifies Buyout and/or Acquisition Areas • Local government develops strategies and goals for buyout and/or acquisition areas • Determine alternative actions • Propose resettlement incentives • Create Disposition Plan • Buyout specific: Public outreach and engagement to determine willingness to participate and to define the proposed buyout Disaster Risk Reduction Area (DRRA) • Identify potential criteria for when Acquisition will be considered • Local government submits Buyout and/or Acquisition Plan to DCA for approval.
Phase 2	DCA Review of Plan and Award	<ul style="list-style-type: none"> • DCA review of submission (Note: the plan will be reviewed within 45 days of DCA’s receipt). • If deficiencies exist, DCA will send the applicant a letter detailing deficiencies and creating a timeline for resubmission. • If the Buyout and/or Acquisition Plan is sufficient, DCA will send letter approving the plan. • DCA will identify special/general conditions in the Subrecipient Agreement (SRA). • Subrecipient will execute New Sub-Grant Award paperwork.
Phase 3	Outreach Activities	<ul style="list-style-type: none"> • Identify property owners by address • Send initial contact letter to property owner • Send follow-up contact letter with deadline to respond

Phase 4	Homeowner Application Submission	<ul style="list-style-type: none"> • Homeowner submits application to local government subrecipient
Phase 5	Review and Eligibility Determination	<ul style="list-style-type: none"> • Local government reviews application for completeness • Local government makes eligibility determination • Initial Title Search (note that lack of clear title does not prevent property from being eligible)
Phase 6	Local Government orders Appraisal and Title Search	<ul style="list-style-type: none"> • Fair Market Value (FMV) Appraisal <ul style="list-style-type: none"> • Title Search to determine condition of deed, if there is a title issue, refer to Georgia Heirs Property Law Center, Inc. (“the Center”). The Center is a subrecipient of DCA and there will be no additional charge to the Local Government. • Conditional Offer
Phase 7	NEPA Environmental Review	<ul style="list-style-type: none"> • Subrecipient conducts environmental review based upon checklist provided by DCA
Phase 8	DCA Conducts Verification of Benefits (VOB) Review	<ul style="list-style-type: none"> • Third Party Review • Search databases to verify SBA and FEMA Benefits
Phase 9	Award Calculation	<ul style="list-style-type: none"> • Receipt Review • Subrecipient deducts DOB and calculates the award
Phase 10	Offer and Contract Execution	<ul style="list-style-type: none"> • Award Offer • Appraisal Appeals • Offer Revisions • Offer Meeting • Contract Execution • Title Clearance (note: Title clearance should be ongoing and obtaining clear title is a condition to closing. Title Clearing is provided by the Center at no additional cost to the Local Government.)
Phase 11	URA (if applicable)	<ul style="list-style-type: none"> • Tenant Relocation • Tenant Reassessment
Phase 12	Closing	<ul style="list-style-type: none"> • Clear Title Obtained • Property Vacancy Inspection and Utility Readings • Closing Meeting • Sales proceeds and • Deed Recordation with Buyout Restriction

Phase 13	Property Stabilization and Demolition	<ul style="list-style-type: none"> • Property Stabilization and Security • Pre-Demolition: Obtain permits, utilities Shut Offs, and Reviews & Inspections • Demolition: Abatements, Permits, Demolition, and Load Documents • Post Demolition and Closeout: Final Inspection, Document collection, and Closeout Submission
Phase 14	Property Disposition	<ul style="list-style-type: none"> • Buyout: Property left as open space in perpetuity • Acquisition: Property subject to various disposition or redevelopment options
Phase 15	Deed Restriction and Monitoring	<ul style="list-style-type: none"> • Record Retention & Audit Requirements • Deed Restrictions • Open Space Covenant

Buyout and Acquisition Plans

Eligible Local Government Applicants

Buyout Activities – Jurisdictions containing zip codes 31520 and 31548

Acquisition Activities – Jurisdictions containing zip codes 31520, 31548, 31701, 31705, 31707

Required Plan Components

To be considered for assistance under the Buyout and/or Acquisition Programs, eligible local governments are required to submit a Buyout and/or Acquisition Plan to DCA for approval. Local governments must demonstrate a firm grasp of the intended revitalization effort including the goals, priorities, locations, and timeframes. Buyout Areas are certain high-risk areas in the floodplain determined to be among the most susceptible to future disasters and therefore, present the greatest risk to people and property. The subsequent subsections include the required components of the Buyout and/or Acquisition Plan.

1. Plan Summary

Using this section, local government applicants must detail why Buyout and/or Acquisition activities are necessary. Subrecipients must also identify any alternative actions that could be used to achieve the goal(s) sought through buyouts or acquisitions and why other activities may be less feasible or cost effective. Narratives should include information that details racial and ethnic and low-income demographics and how buyout or acquisition program would lessen low-income concentrations, and/or promote affordable housing in low-poverty, non-minority areas in response to natural hazard related impacts.

2. Buyout Area Designation

The following selection criteria are used to evaluate potential buyout areas.

Selection Criteria:

- Areas have a history of flooding and/or damage caused by extreme weather events where there is a high risk of additional disasters.
- The area sustained damage from Hurricane Irma (DR-4338).

Local government applicants must submit data that explains and supports the need for buyout area designation. Buyout Areas should be formed using input from the local floodplain administrator, code enforcement department, residents, and other interested parties. Local governments must demonstrate the extent and degree of disaster damage over time.

Local government subrecipients are responsible for reviewing local data and consulting with their local flood plain administrator, citizens, and/or planning departments to identify Buyout Areas.

3. Maps

1. Area Map - The local government must submit maps that clearly delineate the intended buyout/acquisition area. The map must include existing land use information, (i.e., lot lines, housing units, commercial units, undeveloped land, etc.). If possible, please provide if the housing units are owner occupied or renter occupied.
2. Concentration of Low- and moderate-income persons – Please use DCA’s online mapping tool at <http://georgia-dca.maps.arcgis.com/home/> to create this map.
3. Concentration of minority persons - Please use DCA’s online mapping tool at <http://georgia-dca.maps.arcgis.com/home/> to create this map.
4. Concentration of housing deficiencies - Please use DCA’s online mapping tool at <http://georgia-dca.maps.arcgis.com/home/> to create this map.

4. Disposition

Buyout

Local Government Applicants must propose an appropriate end-use that meets community needs for public space and a CDBG National Objective. The subrecipient should improve Buyout properties in a manner that enhances or protects quality of life and increases community resiliency. Ideally, the local government will choose end-use activities that increase flood protection, improve drainage, or otherwise enhance environmental quality through water management strategies consistent with all applicable regulations and/or approved plans pertaining to floodplain management, water resources management, pollution reduction and land use.

Properties purchased through Buyout Activities are dedicated **in perpetuity** for uses compatible with open space, recreation, or wetlands management practices.

Uses compatible with open space may include, but is not limited to, maintaining greenspace, open fields, gardens, wetlands restoration, flood mitigation and/or water quality projects, parks, bike paths, sports and other recreational amenities.

The local government applicant shall work with local, county, and other agencies/groups/organizations to identify capable entities to maintain the properties in perpetuity. In some circumstances, homeowners’ associations and neighbors may be identified to maintain the property.

When local government applicants consider transferring the property to a non-profit entity, a due diligence review must be conducted by the local government applicant to determine the appropriateness of the entity. The local government applicants shall request proof of non-profit tax status, certification of incorporation, information on the organizations mission, and the proposed end use of the property to ensure the entity complies with eligibility requirements per 44 CFR 80.19. Evidence of this review must be submitted with the Buyout and/or Acquisition Plan.

Restrictions on improvements or re-use of land should be carefully documented and recorded for successful and proper long-term management assurance and maintenance. Deed covenants or restrictions with explicit re-use terms are the best means to reduce on-going monitoring or accidental re-disposition or re-use concerns.

Acquisition

The local government subrecipient applicant must include a narrative and supporting data that details their plans for stabilization and redevelopment/re-sale of the acquired property. Acquisition properties can be rehabilitated to create same type structures, transformed into low-income family homes, become community parks or playgrounds, and other types of eligible uses allowed under CDBG entitlement programs. It is important to re-state that acquisition alone does not meet a national objective. The stabilization and re-use strategies, whether conveyed to a third party to redevelop or whether re-used for an alternative use by a local agency, must demonstrate how they will achieve a program National Objective.

5. Incentives

Certain previous CDBG–DR Federal Register notices also waive 42 U.S.C. 5305(a) and associated regulations to allow grantees to offer housing incentives to resettle beneficiaries who were in disaster affected communities. For additional information on incentive programs and National Objectives, please refer to the "Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees" section located at: <https://www.govinfo.gov/content/pkg/FR-2020-01-27/pdf/2020-01204.pdf>.

DCA understands that residents within some neighborhoods or target areas may find it difficult to relocate due to the difference in the value of their current property and the price of the property located outside of the current residential area. To help resolve this issue, the local government can offer incentives to help bridge this additional unmet need gap to assist existing homeowners looking to resettle to maintain affordable homeownership. The local government must include in the Buyout and/or Acquisition Plan the proposed incentives for the target area. The local government will be required to perform, or have performed, a market study to substantiate the need and proposed resettlement incentive award amount(s).

For Example:

The average pre-storm value of the properties located within a hypothetical target area is no greater than \$80,000 and therefore most sellers are unlikely to net more than this amount in participating in the buyout/acquisition program sale of their homes. The average size of the homes are 1,500 square feet and have three bedrooms and two bathrooms. After a market study is conducted, it was determined that comparable homes of a similar size will cost at least \$100,000. In this situation, the incentive might provide a minimum of \$20,000.

DCA understands each target area has unique circumstances. Therefore, a separate market study and Buyout and/or Acquisition Plan will be required for each target area. The incentives may vary by target area, but the incentive determination method and where it is offered within a target area will be consistently determined and offered to all residents within the target area.

For example:

There are 50 homes in Buyout/Acquisition Zone A. The incentive (proposed by the local government subrecipient and approved by DCA) is \$25,000. All 50 homes in Zone A will be offered this \$25,000 incentive. There are 30 homes in Buyout/Acquisition Zone B. The incentive (proposed by the subrecipient and approved by DCA) is \$10,000. All 30 homes in Zone B will be offered the \$10,000 incentive.

For Incentives, assistance is determined by property purchased after accounting for all federal, State, local and/or private sources of disaster-related assistance, including, but not limited to, homeowners and/or flood insurance proceeds. DOB and other analysis will be documented to ensure no undue enrichment is created through incentives.

Pursuant to Federal regulations, FEMA flood insurance non-compliant applicants are not eligible to receive payment more than the post-storm FMV and therefore do not qualify for any incentives.

Note for Acquisition Activities: Property Owners whose property is a Second Home and/or FEMA non-compliant applicants are NOT eligible for an incentive.

DCA Review of Buyout and/or Acquisition Plan and Award

DCA will review the subrecipient's Buyout and/or Acquisition Plan within a specified number of days designated or required in the application and posting period of receipt of the plan. If the Buyout and/or Acquisition Plan does not meet the required standards, DCA will communicate the deficiencies in writing to the local government. DCA will also create a timeline for resubmission. Once the plan is approved, DCA will notify the local government in writing communicating the approval of the plan.

After DCA approval of the Local Government's Buyout and/or Acquisition Plan, DCA will draft a Subrecipient Agreement. This agreement contains the special and general conditions of the award, as well as critical scope of work responsibilities, and budget and timelines. Local governments shall review, sign, and return the agreement to DCA.

Outreach Activities

The local government must identify all property owners by address within the Target Area. Next, the local government must send initial contact letters to the property owner. This letter should detail program details, specifically noting that participation in the program is strictly voluntary. The letter should also include contact information for the program and steps on how the applicant should proceed.

If the homeowner does not respond after the initial letter, the subrecipient must conduct additional follow up efforts. These could include a call or email to the homeowner (if the contact information is known), or the subrecipient could mail another letter to the homeowner. DCA recommends sending the second letter in a manner that requires a signature upon delivery or a delivery receipt.

For unresponsive homeowners, local governments are required to issue final notice letters that give the homeowner one last opportunity to indicate interest in the program.

Prior to establishing a DRRA and discussing next steps, local government subrecipients must hold at least one public meeting to inform residents within the proposed buyout and adjacent areas, as well as provide information, such as the General Information and Voluntary Notices. *Note: This must take place after the buyout area and program is approved by DCA.*

Homeowner Application Submission

All property owners are required to complete the “Buyout and Acquisition Program Application”, with the assistance of the local government subrecipient. The application, along with supporting documentation, will be submitted digitally through DCA’s system of record.

Voluntary Participation

All property owners must voluntarily agree to sell the property to the Program. Any property owner of a recorded interest in the property who disagrees with the sale of the property can veto the purchase.

Eligible Properties

Buyout

Eligible Properties for Buyout include single family residences, multi-family residences, rental properties, and vacant land (adjacent vacant land under the same owner as a property with an eligible structure). DCA will determine the eligibility of commercial properties on a case-by-case basis. The criteria summarized below is used to determine if an applicant is eligible for buyout activities.

- The Property must be located in an eligible Most Impacted and Distressed (MID) Zip Code.
- The Property must be located in a designated Buyout Area.
- Property must be located in a floodway or floodplain.

Acquisition

Applicants with single family units, multi-family units, and rental property may be eligible for the Program. In addition, the Program may purchase vacant parcels that are adjacent to qualifying properties. Other types of vacant parcels may be considered on a case-by-case basis.

- The Property must be located in an eligible Most Impacted and Distressed (MID) Zip Code.
- The Property must be located in a designated Acquisition Area.
- Property must have sustained damage from qualified storm event - The property must have damage from the 2017 tornadic events (DR-4294 and DR-4297) or Hurricane Irma (DR-4338) as documented through photographs, assistance received from other funding sources, and/or a damage assessment conducted by the program.

Buyout and Acquisition Activities Ineligible Properties

Properties located where federal assistance is not permitted are ineligible for assistance. Nonresidential structures unattached to the residence are ineligible for program additional benefit determination and assistance or for the purpose of determining pre-storm value of the lot.

- Properties located where federal assistance is not permitted are ineligible for assistance. Properties that are non-compliant with FEMA flood insurance requirements are not eligible to receive payment more than the post-storm FMV. These applicants do not qualify for any incentives.

Homeowner Applicant Eligibility

1. The Applicant(s) must be the legal owner of the subject property and/or include consent from all legal owners.
2. The Applicant is required to be a U.S. citizen or a qualified alien.
3. Be able to provide clear title or correct and coordinate clear title before they execute a sales agreement through the relevant buyout or acquisition program.

Note: Applicants not eligible for funding through the Homeowner Rehabilitation and Reconstruction Program (HRRP) may be eligible to participate in a Buyout or Acquisition program.

Note: In the event that an applicant has title issues, Georgia Heirs Property Law Center (GHPLC) will be utilized to assist with clearing the title.

Ownership of Subject Property

Ownership is defined as holding a fee simple marketable title as evidenced by a warranty deed, which has the individual or entity claiming ownership of the Property listed as the Grantee. A quit claim deed or a limited warranty deed can be used if and only if they are accompanied by written proof that the grantor of the quit claim deed had legal ownership at the date and time of execution of said quit claim deed (proof can be in the form of prior deeds and/or a court's final order of heir's determination).

All deeds used for proof of ownership of subject property must be recorded in the office of the clerk of the superior court in the county where the subject property is located. A title search should be ordered to determine marketable title and that legal title is held by the individual or entity claiming ownership of the subject property.

The correct documents are essential for local government subrecipients to obtain good title to a property. All documents necessary to establish the seller(s) title and extinguish all other ownership interests and claims must be recorded in the office of the clerk of the superior court in the county where the subject property is located before (or together with) the closing documents for the purchase transaction. Examples include satisfaction of judgment, discharge of mortgage, affidavit of survivorship, change of owner name, etc.

Property Owners who purchased a property in the Buyout and/or Acquisition Area after the qualifying disaster event may be eligible to participate in the Program. However, these persons are not eligible to receive any added incentives.

At a minimum, the property owner must produce a deed for the subject property, as well as the following documentation (where applicable):

- 2017 Federal income taxes return showing Property Address as the damaged property address;
- 2017 State of Georgia income tax return, showing Property Address as the damaged property address;
- Verification, in the form of bills or a letter from the provider, that water, electric, gas, sewer services or other utilities were provided to the owner for six months immediately preceding the time of the incident in which the damage occurred and were mailed to the damaged property address. Usage must be consistent with residential uses; and/or,
- A lease or rental agreement from 2017 indicating that the property was rented if a rental property.

The following table provides information related to several situations that are common when providing ownership.

Topic	Description
Ownership by an Entity Rather than an Individual	<p>LLC, LP, LLP and Corporation ownership: Limited Liability Company (LLC), Limited Partnership (LP), Limited Liability Partnership (LLP) and Corporation ownership at the time of the storm are eligible forms of ownership so long as the property is an eligible property.</p> <p>Ownership by a Trust: Property held in trust for the benefit of natural persons can be eligible as long as at least one of the Applicants is a trustee of the trust. The trustee's powers must include the ability to encumber the Property with liens. If the trustee's powers do not include the ability to encumber the Property with liens, the beneficiaries with an interest in the damaged property must sign the closing documents along with the trustee.</p> <p>The Property Owner must provide a copy of the trust document; and the trust document or an abstract or extract of the trust must be recorded in the conveyance records of the county in which the damaged property is located and may be recorded post-storm, if necessary. The applicable contract and/or declarations must be executed by trustee(s) unless the trust distributes the property to a beneficiary, in which event the beneficiary receiving the property must execute the applicable contract and/or declarations.</p>
Deceased Owners and Properties held by an Estate	<p>If the owner on the deed at the time of the storm died after the storm; the documentation of the deceased person must meet all eligibility requirements. If the estate has not completed probate, then the applicant shall be executor of the estate. The executor of the estate shall attend the appointment, complete paperwork, and make the recovery repair. If the estate has completed probate, then the applicant must be a beneficiary of the estate or the current owner of the property.</p> <p>If the owner on the deed at the time of the storm passed away prior to the storm, the Program may assess such applications on a case-by-case basis. Property held by an estate or a descendent as a Gift of Property from the owner at the time of the storm is not considered a Second Home for Program purposes.</p>
Reverse mortgage	Homeowners with a reverse mortgage at the time of the storm are eligible for participation in the Program, provided the remainder of the term of the reverse mortgage is more than five years when the application is submitted.
Property owned with other individuals:	Property Owners who owned and occupied a structure at the time of the storm along with other individuals (e.g., owned together with their family) must be treated as a Property Owner on owned land and are eligible.

Gift of Property	<p>A Gift of Property is a form of property transfer without consideration. The beneficiary of the gift is eligible for the same award as the original Property Owner. The beneficiary of the gift is not considered to be a Subsequent Owner. For the purpose of the Program, a Gift of Property must be: in writing; notarized; and, recorded in the public record.</p> <p>The Program reserves the right to demand any award amount to be paid back in full to the State if, at any time, a determination is made that a transfer of money between the two parties had occurred in conjunction with the Gift of Property.</p>
Lost Ownership	<p>A property owner who lost ownership of their homes due to foreclosure is ineligible for assistance. Note that banks who foreclosed on homes within Buyout Areas may be eligible applicants in the Buyout component. Under these circumstances, banks are eligible to receive a grant equivalent to the foreclosed amount, capped at the post-storm FMV without incentives.</p>
Title Issues	<p>If any questions arise about clear, marketable title, please contact the Georgia Heirs Property Law Center, Inc. for guidance. If an applicant is unable to provide clear title to the property, please refer them to the Georgia Heirs Property Law Center (GHPLC) for assistance. DCA maintains an agreement with GHPLC for all title clearance matters. There is no cost to the applicant or the local government.</p>

Citizenship and Eligible Immigrants

Per O.C.G.A 50-36-1, one person on the application with an ownership interest in part or in whole of the property must be able to demonstrate lawful presence in the United States.

If the applicant is a citizen, one of the following documents is required to prove citizenship:

- Current or expired US Passport or US Passport Card matching name on application.
- Current or expired State of Georgia Driver’s License with Secure ID (Georgia driver’s license with gold star symbol in the upper right corner) or Enhanced Non-Driver Photo ID Card;
- Valid US Birth Certificate;
- Certificate of Naturalization;
- Certificate of Citizenship; or

If the applicant is a qualified alien, the applicant must provide an Alien Number, an I-94 Admission Number, or other acceptable documentation to facilitate a Systematic Alien Verification for Entitlements (SAVE) screening. Subrecipients can obtain a screenshot from the SAVE as proof of citizenship. The SAVE database is administered by the US Citizenship and Immigration Services. For more information, visit <https://www.uscis.gov/save/about-save/verification-process>.

Meeting National Objectives

All applicants must meet one of the National Objectives required under the authorizing statute of the CDBG-DR program. As outlined in the State of Georgia’s 2017 Unmet Needs Action Plan, 45% of funds are required to benefit low to moderate income (LMI) persons. Applicants are determined to be LMI if the total household income is less than or equal to 80 percent of the area median income. The table below provides information related to applicable national objectives.

National Objective	Description
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Low Moderate Area Benefit (LMA)	An area is considered to meet the test of being LMI if there is a sufficiently large percentage (51 percent) of LMI persons residing in the service area as determined by: The most recently available decennial Census/Community American Survey information, together with the Section 8 income limits that would have applied at the time the income information was collected by the Census Bureau; or a current survey of the residents of the service area.
Low/Mod Buyout (LMB)	This national objective shall be used when CDBG–DR funds are used for a buyout award to acquire housing owned by a qualifying LMI household, where the award amount (including optional relocation assistance) is greater than the post-disaster (current) fair market value of that property.
Low/Mod Housing (LMH)	Activity that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low- and moderate-income only to the extent such housing will, upon completion, be occupied by such persons. In addition, the State CDBG regulations at 24 CFR 570.483(b)(3), entitlement CDBG regulations at 24 CFR 570.208(a)(3), and Indian CDBG regulations at 24 CFR 1003.208(c) apply the LMH national objective to an eligible activity carried out for the purpose of providing or improving permanent residential structures that, upon completion, will be occupied by low- and moderate-income households. Applicants are determined to be low to moderate income if the total household income is less than or equal to 80 percent of area median income. In determining income, the Program uses federal income tax returns (e.g., IRS Form 1040). Where tax returns are not available other forms of income documentation such as pay stubs, etc. may be evaluated. <i>Please note that timeliness standards are enacted for use of the LMH National Objective. Subrecipients will be limited to 3 years from the date of closing to have the home occupied by a LMI eligible household.</i>
Low/Mod Housing Incentive (LMHI)	When CDBG–DR funds are used for a housing incentive award, tied to the voluntary buyout or other voluntary acquisition of housing owned by a qualifying LMI household, for which the housing incentive is for the purpose of moving outside of the affected floodplain or to a lower-risk area or when the housing incentive is for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household.
Urgent Need	Households with incomes greater than 80% AMI may be served under the Urgent Need National Objective, given the criteria for use of the Urgent Need National Objective is met. The CBDG certification requirements for documentation of urgent need, located at 24 CFR 570.483 (d), are waived for this program. In the context of disaster recovery, the standard urgent need certification requirements may impede recovery. Per the February 9, 2018 Federal Register Notice, HUD has allowed an alternative requirement for the documentation requirements for the urgent need national objective. Each activity that meets the urgent need national objective must document how it responds to a disaster-related impact.

Review and Eligibility Determination

The local government must review all information submitted by the homeowner and determine if the property and the applicant are eligible to receive CDBG-DR Buyout and Acquisition Program assistance. The process of determining eligibility for the Program is an ongoing process and occurs from commencement of the application process through the Verification of Benefits (VOB) process. The local government shall send a letter informing the homeowner of the eligibility determination.

Ineligibility Determination Appeals

Applicants deemed ineligible may request a review of the ineligibility determination within 60 days from the date of the notification of ineligibility letter, stating reasons they should be eligible pursuant to Program requirements.

Appraisals

DCA requires appraisals to establish fair market values and preliminary offer prices for all properties participating in the Program. Based on guidance and direction from HUD, statewide Buyout programs must choose to use either a pre-storm or post-storm appraisal valuation method across all buyout areas funded under a CDBG-DR allocation. The current DCA Action Plan requires a post-storm current Fair Market Value (FMV) appraisal is used to establish the initial offer price for participating properties. Subrecipients are responsible for ordering all appraisals from state licensed and certified appraisers. HUD further requires that there must be a review process of appraisals for accuracy and consistency.

Appraisal Review Process

Buyout

If or when using a pre-storm appraisal, it is important that the appraisal review ensures that the comparable sales listings used for the pre-storm valuation pre-dates the storm impact. This ensures that any change in real property valuation post-storm event is not applied to the pre-storm valuation method(s).

Pre-storm appraisal valuation also often implies that it will help generate a benefit award because it presumes that a pre-storm valuation will often be greater than the value post-storm. This presumption is not always accurate as often storm impact may remove less desirable or blighted property structures near a body of water leading to an increase valuation of newly vacated lands with waterfront access post-storm. Buyout programs that use pre-storm value may also presume that properties being bought have direct storm damage and therefore a pre-storm valuation may be greater than the storm damaged property value. However, due to the timing of federal funding and the launch of the buyout program some properties are already improved whereby post-storm values are greater. In other situations, post storm properties in a DRRA are eligible to participate in a buyout area because they are still at risk. These properties may not have had significant storm damage from the event and have retained value or appreciation beyond their pre-storm value. If these presumptions are accurate, then a pre-storm appraisal may also need to be adjusted and/or itemize any luxury or non-critical features for pre-storm benefit determination reasons. **GA DCA is currently seeking post-storm current fair market value (FMV) and therefore does not require these adjustments or concerns when reviewing appraisals.**

Acquisition

Current FMVs should be reviewed for accuracy and should ensure that comparable sales listings are current or at least recent. Home amenities and features such as finished basements or additional rooms should meet code to qualify as amenities considered in the FMV.

Appraisal Appeal Process

An appeal can be filed if an offer based on the appraisal is made and the property owner believes the offer is inadequate. If the property owner believes an appraisal is not accurately representing their property, a Request for Review should be filed with the subrecipient appraisal reviewer or DCA, along with an explanation of what items the appraiser may have missed or inaccurately attributed.

If the owner simply disagrees with the resulting value but the appraisal accurately represents the current property, a second appraisal may be obtained, at the homeowner's expense. Appraisal appeals should be processed through a formal appeal procedure. The subrecipient and DCA will work to review the appealed appraisal should it result in a value that is greater than the original program appraisal. Appeal procedures must ensure that the owner is informed to use a state licensed and certified appraiser and that the appraisal follow the program criteria for methodology.

Environmental Review

CDBG-DR funding is contingent on compliance with the National Environmental Policy Act (NEPA) as implemented through HUD's regulations set forth in 24 CFR Part 58, and related environmental and historic preservation legislation and executive orders. The federal regulation governing the environmental review process can be found at <https://www.hudexchange.info/programs/environmental-review/>.

A subrecipient may not drawdown, obligate, or expend funds for a covered activity until DCA has approved the Request for Release of Funds and Certifications, unless, however, the subrecipient has completed and/or submitted a Finding of Exemption and a Statutory Checklist (if applicable) as specified in this section.

Subrecipients must avoid any and all actions that would preclude the selection of alternative choices before a final decision is made – that decision being based upon an understanding of the environmental consequences and actions that can protect, restore and enhance the human environment (i.e., the natural, physical, social and economic environment).

Activities that have physical impacts or which limit the choice of alternatives cannot be undertaken, even with the subrecipient's own funds, prior to obtaining environmental clearance.

For the purposes of the environmental review process, "commitment of funds" includes:

- Execution of a legally binding agreement (such as a property purchase or construction contract);
- Expenditure of CDBG-DR funds;
- Use of non-CDBG-DR funds on actions that would have an adverse impact--- e.g., demolition, dredging, filling, excavating; and
- Use of non-CDBG-DR funds on actions that would be "choice limiting" --- e.g., acquisition of real property; leasing property; rehabilitation, demolition, construction of buildings or structures; relocating buildings or structures, conversion of land or buildings/structures.

All CDBG-DR projects must take certain actions to comply with this regulation before committing funds for acquisition or construction. This generally includes the completion of an environmental impact assessment, documenting actions taken to comply with other environmental laws, and public notices. The Subrecipient's Certifying Official, the Chief Elected Official or person designated as the Certifying Official

by resolution of the Subrecipient's governing body, is responsible for ensuring that all the project's environmental requirements are met.

Environmental requirements include an assessment, or written document, which evaluates both the negative and positive environmental effects of a project. The assessment examines the human, social and natural environment. At the planning stage, CDBG-DR subrecipients should consider potentially negative environmental effects and propose solutions which minimize or mitigate these effects.

Project Descriptions

Including a complete project description is essential for proper completion of HUD environmental reviews. Project descriptions should include the purpose and need for the project, exact geographic location of the project, the geographic footprint of the project, the estimated area of ground disturbance, and a general summary of the surrounding area where the project is proposed. The project description should include all activities that are geographically or functionally related or which are logical parts of composite actions. It should include the number of dwelling units, linear feet of pipeline to be installed, number of new service connections to be installed, number of beds to be installed, etc. The project description should also include the total estimated project cost and the total estimated HUD funds, and non-HUD funds to be used. If the project involves rehabilitation, the project should also include the estimated replacement value of the property after rehabilitation.

Inadequate project descriptions are one of the major causes of violations of Part 58 where activities are undertaken prior to environmental clearance. It can result in activities being overlooked which are not then later covered by the environmental review or project locations that are not specific are later found not be covered by an environmental review.

Environmental Review Record (ERR)

Each CDBG-DR program must have a written record of the environmental review undertaken. The purpose of the ERR is to document that the Subrecipient has complied with all environmental laws and regulations and considered the environmental effects of the project prior to committing funds for construction. This Environmental Review Record (ERR) must be available for public review. The ERR must contain a description of the program and of each of its activities, as well as any other document, notice or information, and public comments received pertinent to the environmental review carried out by the Subrecipient. The ERR will vary in length and content depending upon whether the activities are exempt from all environmental reviews, categorically excluded from NEPA requirements, are found to have no significant impact on the environment or require preparation of a full environmental impact statement.

The Environmental Review Record generally will contain the following documents:

- Environmental Review for Activity/Project that is Exempt or Categorical Excluded not subject to 24 CFR 58.5, or
- Environmental Review for Activity/Project that is Categorical Excluded subject to 24 CFR 58.5 and complete narrative and documentation (required maps, plans, etc.) for each Compliance Factor for all the laws and authorities, or
- Environmental Assessment and complete narrative and documentation (required maps, plans, etc.) for each Compliance Factor for all laws and authorities.
- Statutory Checklist and evidence of compliance with the laws listed at 24 CFR Part 58.5

- Compliance Documentation Checklist and evidence of compliance with the laws listed at 24 CFR Part 58.6
- Certification of Exemption for grant administration and design costs;
- Copies of Environmental Public Notices (including proof of publication), including:
 - Concurrent Notice of the Finding of No Significant Effect and Notice of Intent to Request Release of Funds,
 - Notice of Early Public Review (Floodplains and Wetlands);
 - Notice of Explanation (Floodplains and Wetlands).
- Correspondence with environmental regulatory agencies (including documentation that the Concurrent Notice was submitted);
- Comments received pursuant to the Public Notices and the response from the local government;
- Evidence the Request for Release of Funds was submitted to DCA, and
- Release of Funds Letter from DCA.

The basic compliance steps [compliance with the National Environmental Policy Act (NEPA)] in the environmental review process and other applicable environmental laws and regulations are as follows:

Step 1: Exempt Projects/Activities:

Determine if any activity or project is exempt from NEPA requirements and other environmental reviews. If it is exempt, the Subrecipient is only required to document in writing that the activity is exempt and meets the conditions for exemptions. This documentation must be maintained in the Subrecipient's ERR file. Use of the Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 form is required as a means of establishing documentation and compliance.

A copy of the Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 for grant administration and design costs does not have to be sent to DCA. The Subrecipient shall maintain this form for these activities in the program files.

All other activities found to be exempt or excluded must be included on an Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 form and sent to DCA. Once DCA has cleared the general conditions, funds may be drawn down using standard procedures for the activity exempted.

Exempt Activities Include:

- Environmental studies, including historic preservation clearances necessary to comply with applicable laws
- Design and engineering costs associated with carrying out an approved eligible CDBG-DR activity
- Eligible administrative costs σ Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, childcare, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs
- Inspections and testing of properties for hazards or defects σ Purchase of insurance σ Purchase of tools, and
- Technical assistance and training

Any of the categorical exclusions listed in Step 2, below, can also become exempt provided there are no circumstances which require compliance with any other environmentally related federal laws (such as floodplains, wetlands or historic preservation) listed in Chapter 2, Section 1 of the CDBG Recipients manual

https://www.dca.ga.gov/sites/default/files/2020_recipients_manual_-_combined_chapters_1-3.pdf

The Environmental Review for an Activity/Project that is Categorically Excluded Subject to 58.5 form must be submitted to DCA to document that they do not apply.

Step 2: Categorically Excluded Projects/Activities:

If the activity or project is not exempt from NEPA assessment requirements, the Subrecipient should next determine if it is categorically excluded from NEPA. Categorical exclusion refers to a category of activities for which no environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances [see 24 CFR 58.2(a) (3)] in which a normally excluded activity may have a significant impact.

The following activities are excluded from NEPA requirements **but not from the requirements of the “other environmental laws or regulations” which are listed at 24 CFR Part 58.5.** Part 58.5 includes flood plain, wetland and historic preservation compliance requirements.

- Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
- Activities funded because of imminent threats to health and safety, *if* they do not alter environmental conditions and are for improvements limited to actions necessary only to stop or control the effects of imminent threats or physical deterioration. This includes most Immediate Threat and Danger Grants. Consult with DCA prior to determining that an activity is exempt based on an imminent threat to health and safety.
- Special projects directed at the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
- Rehabilitation of buildings and improvements when the following conditions are met:
 - In the case of multifamily residential buildings:
 - Unit density is not changed more than 20 percent;
 - The project does not involve changes in land use from residential to nonresidential; and
 - The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - In the case of non-residential structures, including commercial, industrial, and public buildings:
 - The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- An individual action on a one to four-family dwelling or an individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site.
- Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.

- Combinations of the above activities.

Categorical exclusions not subject to Part 58.5.

When the following kinds of activities are undertaken, the responsible entity does not have to publish a NOI/RROF or execute a certification, and the subrecipient does not have to submit a RROF to DCA.

- Tenant-based rental assistance;
- Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, state, and federal government benefits and services;
- Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;
- Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
- Activities to assist homeownership of existing or new dwelling units not assisted with federal funds, including closing costs and down-payment assistance to home buyers, interest buydowns and similar activities that result in the transfer of title to a property;
- Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

The Environmental Review Record (ERR) must contain a well-organized written record of the process and determinations made under this section (STEP 2).

*Note: If a Project consists of several activities, some of which are categorically excluded from review and some of which are not excluded from review, the Subrecipient must conduct an environmental assessment on the **entire project**, (STEP 3).*

Step 3: Complete the Environmental Assessment:

If a project is neither exempt nor categorically excluded from review, the Subrecipient must prepare an Environmental Assessment using the *Environmental Assessment Determinations and Compliance Findings for HUD-assisted Projects 24 CFR Part 58* form for the entire project. Note that the project includes all activities, no matter what the funding source.

The Environmental Assessment form is found on DCA's website at: <https://www.dca.ga.gov/node/3757>

For assistance, the Subrecipient should contact its CDBG-DR Field Coordinator or the CDBG Compliance Manager.

When completing the environmental assessment, the Subrecipient should review the following essential points:

1. Complete one assessment for the entire project, including all component activities no matter what the source of funds. Define the project area and identify all potential impacts, whether beneficial or adverse.

2. Document how each item on the checklist was considered, including how determinations of "not applicable" were made. Determinations of "not applicable" must be supported with written explanations and all required documentation. Documentation should be verifiable and include the person(s) contacted, the date of contact, and/or the authority/report/map being used as documentation. Note maps and other documentation must be current and from the appropriate or required source (e.g., the National Wetlands Inventory (NWI) maps must be used to make initial determinations of wetlands status). Although web links are acceptable as part of the ERR, these documents must also be printed out and made part of the ERR to allow easy access for the public. Use the HUD Environmental Assessment Tool found at the following website for assistance with documentation: <https://www.hudexchange.info/programs/environmental-review/>
3. Consider and discuss all alternatives to the project, including different locations, and the "no build alternative".
4. Consider and discuss any possible mitigation measures to minimize or alleviate any possible negative effects.
5. Anticipate any possible citizen or public interest group objections and include an assessment of their concerns.
6. Coordinate the assessment with all agencies responsible for environmental compliance, such as Georgia Department of Natural Resources, U.S. Fish and Wildlife Service, etc.

Other Requirements:

In addition to the laws and authorities specified in 24 CFR Part 58.5, grantees must comply with and address the following requirements regardless of whether the activity is exempt or categorically excluded:

- Flood Disaster Protection Act of 1973
- Coastal Barrier Resources Act, and
- Runway Clear Zone as defined in 24 CFR part 51

The environmental review of multi-family housing with five or more dwelling units (including leasing) or the development of non-residential property (buildings such as Head Start Centers, Senior Centers, etc.) must include, as part of the environmental assessment, an evaluation of previous uses of the site or other evidence of contamination on or near the site to ensure that the occupants of proposed sites are not adversely affected by hazardous materials, contamination, toxic chemicals and gases, and radioactive substances. Typically, this would be a "Phase One Environmental Assessment" conducted in accordance with American Society for Testing and Materials (ASTM) E1527-05 Standard.

Grantees shall use current techniques by qualified professionals to undertake any investigations determined necessary [24CFR Part 58.5 (i)(2)(ii)].

The Environmental Professional must be a:

- Professional Engineer or Geologist with 3 years of relevant fulltime experience; or
- Licensed or certified to perform All Appropriate Inquiries (AAI) and three years of relevant fulltime experience; or
- Engineering of Science Baccalaureate degree or higher and three years of fulltime relevant experience; or
- The equivalent of 10 years relevant experience.

Step 4: Public Notice: Finding of No Significant Impact and Intent to Request Release of Funds (Concurrent Notice)

If the assessment indicates that the project will have no significant impact on the quality of the human environment, the Subrecipient should:

1. Have the Certifying Officer sign the "Finding of No Significant Impact",
2. Publish a "Concurrent Notice" in a local newspaper of general circulation. All environmental notices may be published either in the legal or non-legal section of the paper.

The Concurrent Notice is a notice to the public that the Subrecipient has conducted an environmental review and found that the project will have no significant environmental effects and intends to request from a release of funds from DCA. The public is given at least 15 days (not counting the day of publication) to comment before the Subrecipient requests release of funds. There is a provision for 30 days public comment and/or a Public Hearing for projects that are expected to generate local controversy.

Pay special attention to including the proper dates (comment periods) and the other required information that must be added to the Notice by the Subrecipient prior to publication.

3. Send copies of the published "Concurrent Notice" to the following:

Georgia Department of Community Affairs
Office of Community Development
ATTN – CDBG-DR
60 Executive Park South, NE
Atlanta, Georgia 30329-2231

The subrecipient should document in the ERR that the Notice has been sent to the above address.

4. No sooner than 16 days after publication, upon expiration of the 15-day local comment period, and after acting on any local comments received, the subrecipient should submit to DCA a signed Request for Release of Funds and Certification (RROF/Certification) form with a copy of the published Notice. The RROF must be properly completed and signed by the Certifying Officer of the Subrecipient. DCA cannot approve the RROF/Certifications before 15 calendar days have elapsed from the time of its receipt or from the time specified in the Notice, whichever is later. This time period is to allow DCA to consider any public objections. (See 24 CFR 58.75 for permissible bases for objections.)

If no public objections are received, and upon expiration of the period for objections to the Release of Funds, DCA will issue a letter releasing the funds for the activity and clearing the environmental general condition.

Required Documentation for Environmental Clearance (all review levels)

- CEO Signed and Dated Request for Release of Funds Form
 - Include the project description in the box provided and not the budget line item description.
 - Make sure to select the appropriate check box on page 2 to indicate whether an EIS is required or not. Most projects **do not** require an EIS.
 - Must be signed and dated after the end of the public comment period

- All newspaper notices – Actual notice newspaper tear sheets, not planned notices or text documents
 - Including Floodplain/Wetland (if applicable)
- HPD Clearance and Tribal Consultation Documentation

Re-evaluation of Assessment Findings (Amendments, Revisions, etc.)

A Subrecipient must re-evaluate its environmental assessment when:

1. An amendment to the activity or program is proposed,
2. New circumstances and environmental conditions are discovered during implementation which may affect the project or have a bearing on its impact, or
3. An alternative not considered in the original environmental assessment is selected for implementation.

The purpose of the re-evaluation is to determine if the original Finding of No Significant Effect is still valid. If it is valid, but data or conditions upon which it was based are changed, the subrecipient must amend its original assessment and update the ERR. The subrecipient's update must include the re-evaluation and its determination based on its findings. This update should be sent to DCA.

If the subrecipient determines that the original finding is no longer valid, the subrecipient must notify DCA and prepare a new Environmental Assessment according to the procedures specified in Step 3 above.

Environmental Impact Statement

If the Environmental Assessment indicates that the activity may significantly affect the quality of the human environment, and that an Environmental Impact Statement will be required, the Subrecipient should immediately contact DCA for assistance.

Endangered Species Act (ESA)

As a reminder, the U.S. Fish and Wildlife Service published a final 4(d) rule on January 14, 2016 that established prohibitions against the purposeful and incidental take of the Northern Long-Eared Bat (NLEB) as part of the Endangered Species Act.

Floodplain and Wetlands Compliance Requirements

In addition, HUD requires any community using CDBG-DR funds for any activity affecting a FEMA mapped floodplain to be a participating jurisdiction with the federal flood insurance program and to have FEMA approved local floodplain development restrictions. Any CDBG-DR funded activity affecting the floodplain must also be in compliance with these local ordinances.

Except for actions covered by 24 CFR Part §55.12(a), the decision-making process for making determinations on floodplain management and protection of wetlands contains eight steps, including public notices and an examination of practicable alternatives when addressing floodplains and wetlands.

The steps to be followed in the decision-making process are described in 24 CFR Part §55.20 and at the following link: <https://www.dca.ga.gov/node/3757>

A summary of the eight-step process is below.

Step 1. Determine whether the proposed action is located in the 100-year floodplain (500-year floodplain for critical actions) or results in new construction in a wetland.

Step 2. Notify the public and agencies responsible for floodplain management or wetlands protection at the earliest possible time of a proposal to consider an action in a 100-year floodplain (or a 500-year floodplain for a Critical Action) or wetland and involve the affected and interested public and agencies in the decision-making process.

Step 3. Identify and evaluate practicable alternatives to locating the proposed action in a 100- year floodplain (or a 500-year floodplain for a Critical Action) or wetland.

Step 4. Identify and evaluate the potential direct and indirect impacts associated with the occupancy or modification of the 100-year floodplain (or the 500-year floodplain for a Critical Action) or the wetland and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action.

Step 5. Where practicable, design or modify the proposed action to minimize the potential adverse impacts to and from the 100-year floodplain (or the 500-year floodplain for a Critical Action) or the wetland and to restore and preserve its natural and beneficial functions and values.

Step 6. Reevaluate the proposed action.

Step 7. (1) If the reevaluation results in a determination that there is no practicable alternative to locating the proposal in the 100-year floodplain (or the 500-year floodplain for a Critical Action) or the wetland, publish a final notice that includes: (i) The reasons why the proposal must be located in the floodplain or wetland; (ii) A list of the alternatives considered; and (iii) All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial functions and values.

Step 8. Upon completion of the decision-making process in Steps 1 through 7, implement the proposed action. There is a continuing responsibility on HUD (or on the responsible entity authorized by 24 CFR part 58) and the subrecipient (if other than the responsible entity) to ensure that the mitigating measures identified in Step 7 are implemented.

NOTE: HUD has implemented Regulatory Changes to the Floodplain Management and Protection of Wetlands.

A) Prohibition on Construction of New Structures and Facilities in Coastal High Hazard Areas (V Zones) [24 CFR part 551(c)].

Structures are defined by FEMA regulations at 44 CFR 9.4 to mean walled or roofed buildings, including mobile homes and gas or liquid storage tanks. Infrastructure includes roads, bridges, and utility lines.

B) Use of Preliminary Flood Maps and Advisory Base Flood Elevations [24 CFR part 55.2(b)(1)]

The change requires the use of FEMA preliminary flood maps and advisory base flood elevations, where available. The rule clarifies that, when available, the latest interim FEMA information, such as an Advisory Base Flood Elevation or preliminary map or study, is the best available information for the designation of flood hazard areas or equivalents. If the latest information has a lower Base Flood Elevation (BFE) than the effective Flood Insurance Rate Map (FIRM), the latest FEMA information is then used for Part 55 purposes and throughout the decision-making process. If FEMA information is unavailable or insufficiently detailed, other Federal, state, or local data may be used as "best available information" in accordance with Executive Order 11988. However, a base flood elevation from an interim or preliminary or non-FEMA source cannot be used if it is lower than the current FIRM and Flood Insurance Study (FIS).

C) Broadened use of the 5 Step Process for selected actions [24 CFR part 55.12(a)]

Rehabilitation of residential and nonresidential properties that is not a substantial improvement, does not significantly increase the footprint in a floodplain or wetland, does not result in a 20 percent increase in the number of dwelling units or in the average peak number of customers and employees, and does not convert a nonresidential to a residential land use may use the 5 Step process.

The 5 Step Process foregoes Steps 2, 3, and 7 of the 8 Step process.

If any activity is proposed to take place in a designated 100-year floodplain or a wetland area, the Subrecipient must do the following prior to completing the environmental review:

1. Provide early notice and information to the public and interested parties so they can comment. Publish "Notice of Early Public Review". It must be published at least 15 days prior to the Concurrent Notice, in the same manner and sent to the same agencies and groups, as well to as the Federal Emergency Management Agency (FEMA) (3003 Chamblee-Tucker Rd, Atlanta, Ga. 30341 Telephone: (770) 220-5224).
2. Identify and evaluate practical alternatives and possible adverse impacts. Use the Environmental Assessment Checklist to document this step.
3. Where avoidance of floodplains or wetlands cannot be achieved, design the project so as to minimize effect to or from floodplain or wetlands.
4. Prepare and circulate a "Notice of Explanation" that there is no practicable alternative to locating an action in or affecting a floodplain or wetland. The same audience and means of distribution used in #1 above should be used for this finding. This second notice can be published at the same time as the "Concurrent Notice" concerning environmental review.

Additional Wetland Compliance Requirements

All Subrecipients must also comply with Executive Order 11990 and Section 404 of the Clean Water Act which pertain to protection of wetland areas.

Executive Order 11990 is a public notification, planning, and review process similar to the process described for floodplain compliance (Notice of Early Public Review and Notice of Explanation). As part of that process, if a wetland must be affected, a Section 404 Permit from the Army Corps of Engineers may be required. The Section 404 Permit can be used in lieu of the first five steps of the 8 Step Process. The subrecipient can submit the Army Corps of Engineers Section 404 permit and will be required to complete only the last three steps of the 8 Step Process and avoid the requirements of §55.20 (a) through (e).

Proposed actions in both a floodplain and a wetland require the 8-step process regardless of the issuance of a Section 404 permit. If the Section 404 permit is required, it must be obtained prior to publication of the Notice of Explanation.

Only individual Section 404 permits issued by State Agencies may be used in lieu of the first five steps of the E.O. 11990 process under this regulation.

Each step must be documented in the Subrecipient's ERR and completed prior to publication of the Concurrent Notice or FONSI.

The initial step is to determine if the Subrecipient's project is located in a wetlands area. This is done by consulting the National Wetland Inventory maps that are available through the U.S. Fish and Wildlife Service for most of Georgia. Contact the U.S. Fish and Wildlife Service at <https://www.fws.gov/athens/staff.html>.

If the activity is located in a wetlands area, a mitigation plan to deal with possible adverse effects may be required by the Corps of Engineers as part of the Section 404 permit.

Historic Preservation (Section 106) Compliance Generally, CDBG-DR grants, no matter what the project, are subject to compliance with Section 106 of the National Historic Preservation Act and the Regulations of the Advisory Council on Historic Preservation (36 CFR Part 800).

The Advisory Council web site has additional information about the regulation at <http://www.achp.gov/work106.html>.

Outline of Historic Preservation Compliance

(Note this process has been modified by the HUD Addendum to the Programmatic Agreement for housing activities.)

1. Determine if National Register eligible properties are in the project impact area (Subrecipient and HPD).
2. Determine effect of project on eligible properties: (Subrecipient and HPD.)
 - a. If no effect, document the file and complete environmental review.
 - b. If effect is not adverse, report to Historic Preservation Division for concurrence. Document file and complete environmental review once concurrence is received.
 - c. If effect is adverse:
 - i. Examine alternatives and mitigation possibilities.
 - ii. Develop a Memorandum of Agreement (MOA) between the Subrecipient, HPD, and possibly the Advisory Council, to specify what steps will be taken to minimize or mitigate the identified adverse effect.
 - iii. Complete environmental review once MOA is signed. iv. Implement the MOA, including mitigation.

Housing Activities Compliance with Section 106

During 2020, DCA entered into a HUD Addendum to the Programmatic Agreement among the Federal Emergency Management Agency, the Georgia State Historic Preservation Office, the Georgia Emergency Management Agency, United Keetoowah Band of Cherokee Indians in Oklahoma, other tribes participating as signatories, DCA, and participating units of general local governments. This addendum

changes the way historic preservation compliance works for housing related projects and is applicable to all housing activities. A copy of the Agreement is on the DCA CDBG-DR website.

If eligible properties are affected, the Historic Preservation regulations must be followed as part of the environmental review process.

Compliance with Section 106 regulations must be completed prior to publication of the environmental public notice(s).

Special Conditions related to historic preservation concerns and compliance may be placed on grants identified by the HPD. These conditions must be cleared before funds are obligated for construction.

Requirement to Consult with Native Americans

On June 15, 2012, HUD published a notice stating that CDBG subrecipients “Must consult with tribes to determine whether a project may adversely affect historic properties of religious and cultural significance, and if so, how the adverse effect could be avoided, minimized, or mitigated.” This is applicable to projects on and off tribal lands and to many of Georgia’s CDBG subrecipients. The HUD Notice (CPD-12-006) and the HUD Assessment Tool describe in detail the required protocol. Note the revised Request for Release of Funds and Certification (form HUD 7015.15) includes a certification that this protocol was followed. Not all projects that require Section 106 review require consultation with Indian tribes. Consultation with federally recognized tribes is required when a project includes activities that have the potential to affect historic properties of religious and cultural significance to tribes. These types of activities include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building or structure with significant tribal association, or transfer, lease or sale of historic properties of religious and/or cultural significance.

A copy of the HUD Notice can be found on the web at the following website:

http://portal.hud.gov/hudportal/documents/huddoc?id=env_notice_tribe_con.pdf

If the tribe does not respond to the invitation to consult within 30 days (if e-mailed) or 35 days (if mailed), the grantee should document the invitation and lack of response in the ERR, further consultation is not required.

Tribal consultations must come from the chief elected official of the unit of general local government.

Further Guidance Regarding Environmental Review Requirements

<https://www.dca.ga.gov/node/3757>

<https://www.hudexchange.info/programs/environmental-review/>

<https://www.hudexchange.info/programs/environmental-review/federal-related-laws-andauthorities/>

HUD Notice (CPD-12-006):

http://portal.hud.gov/hudportal/documents/huddoc?id=env_notice_tribe_con.pdf

The revised Request for Release of Funds and Certification (form HUD 7015.15)

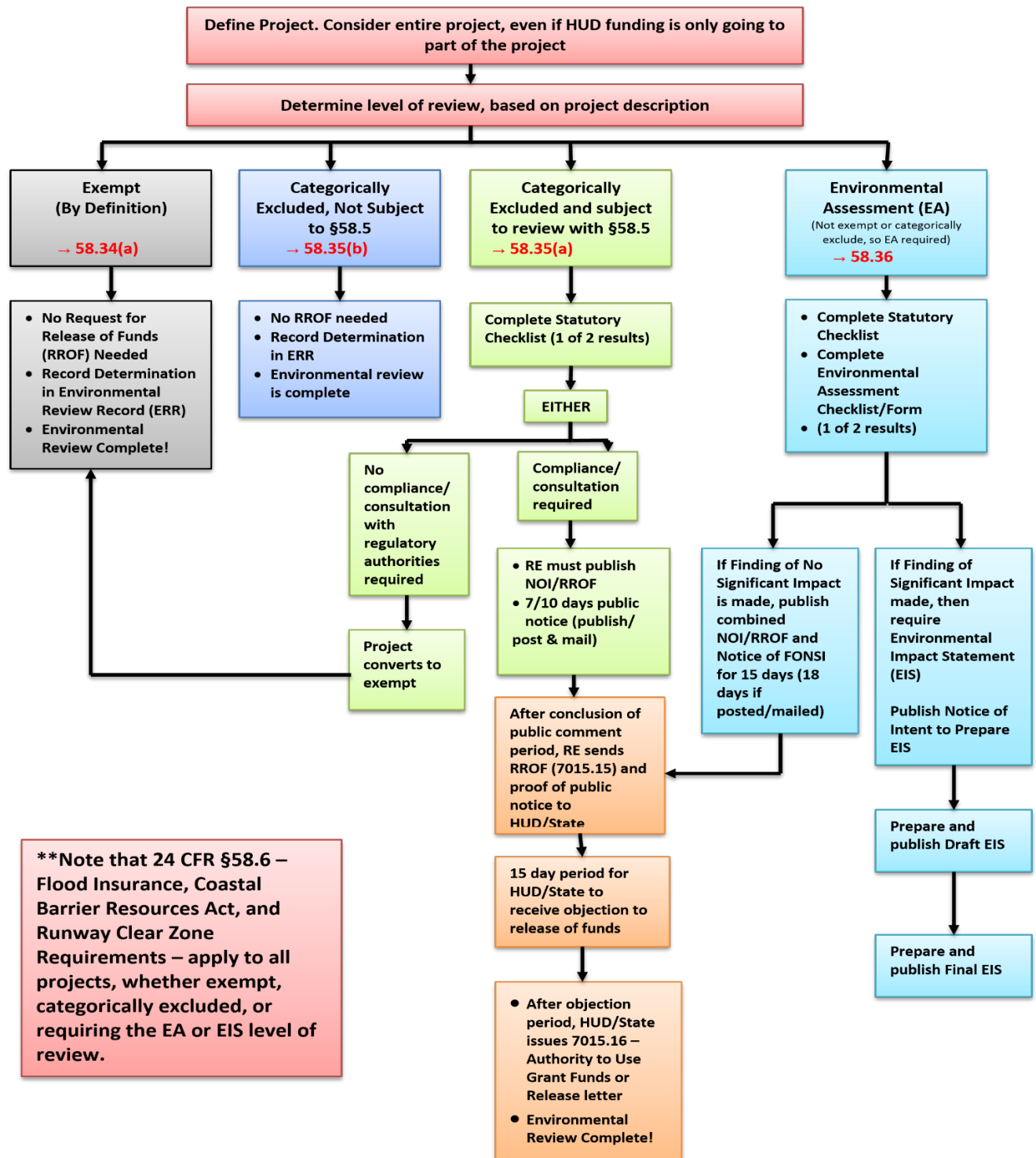
<https://www.hud.gov/sites/documents/7015.15.PDF>

NEPA Environmental Assessment Tool:

<https://www.hudexchange.info/programs/environmental-review>

Once and ERR is complete and the FONSI is published, it is important to note that any concerns of finding such as, but not limited to, lead based paint, potential underground fuel or storage tanks, or other historic concerns do not necessarily prevent a buyout or acquisition from proceeding or being eligible. However, these types of concerns should be accounted for in the consideration of the post-acquisition or buyout stabilization remediation and re-uses and budgets.

Environmental Review Process
(To Be Conducted by Responsible Entity)



Define Project. Consider entire project, even if HUD funding is only going to part of the project

Determine level of review, based on project description

Exempt (By Definition)
→ 58.34(a)

- No Request for Release of Funds (RROF) Needed
- Record Determination in Environmental Review Record (ERR)
- Environmental Review Complete!

Categorically Excluded, Not Subject to §58.5
→ 58.35(b)

- No RROF needed
- Record Determination in ERR
- Environmental review is complete

Categorically Excluded and subject to review with §58.5
→ 58.35(a)

Complete Statutory Checklist (1 of 2 results)

EITHER

No compliance/consultation with regulatory authorities required

Project converts to exempt

Compliance/consultation required

- RE must publish NOI/RROF
- 7/10 days public notice (publish/post & mail)

After conclusion of public comment period, RE sends RROF (7015.15) and proof of public notice to HUD/State

15 day period for HUD/State to receive objection to release of funds

- After objection period, HUD/State issues 7015.16 – Authority to Use Grant Funds or Release letter
- Environmental Review Complete!

Environmental Assessment (EA)
(Not exempt or categorically exclude, so EA required)
→ 58.36

- Complete Statutory Checklist
- Complete Environmental Assessment Checklist/Form (1 of 2 results)

If Finding of No Significant Impact is made, publish combined NOI/RROF and Notice of FONSI for 15 days (18 days if posted/mailed)

If Finding of Significant Impact made, then require Environmental Impact Statement (EIS)
Publish Notice of Intent to Prepare EIS

Prepare and publish Draft EIS

Prepare and publish Final EIS

Duplication of Benefits and Verification of Benefits

Applicants are required to disclose all sources of disaster recovery assistance received, and the Program is required to verify the amount received. Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42U.S.C. § 5155) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster for which they have received financial assistance under any other program, insurance, or any other source. In accordance with the Stafford Act, Disaster Recovery funds issued through HUD's CDBG-DR program may not be used for any costs for which other disaster recovery assistance was previously provided for the same purpose. Financial assistance received from any source that is provided for the same purpose as the CDBG-DR funds is considered a Duplication of Benefit (DOB).

The State's policy is in accordance with HUD's guidance on DOB found in 84 FR 28836. To this end, the Program verifies DOB information for each applicant from eligible government and third-party sources.

Duplication of Benefits

Duplication of Benefits (DOB) is unlikely to occur in the Buyout and Acquisition Program due to the use of post-storm FMV. The information provided below would be implemented if a pre-storm valuation and benefit is used. Examples are provided under each sub-title as it relates to the possibility of a DOB occurring.

The most common sources of disaster recovery assistance are from homeowner's insurance, FEMA, and SBA. However, assistance may also come from non-profit organizations, faith-based organizations, other disaster relief organizations, and other governmental entities. Duplicative Assistance includes, but is not limited to, the following benefits:

1. National Flood Insurance Program (NFIP): Insurance proceeds received must be disclosed by the Owner(s) and verified by the Program.
2. Private Insurance: All insurance proceeds received must be disclosed by the Owner(s) and verified by the Program by contacting insurance companies.
3. Federal Emergency Management Agency (FEMA): FEMA proceeds received must be disclosed by the Owner(s) and must be verified by the Program.
4. Small Business Administration (SBA): SBA proceeds received must be disclosed by the Owner(s) and verified by the Program.
5. Other: Funds received from other sources must be disclosed by the Applicant and verified by Program. Examples include nonprofits, other governmental agencies, and social groups.

Non-duplicative Expenditures

Funds that were received in other programs may not always be determined to be a duplication of benefit. The Property Owner must provide documentation to support these expenditures.

Examples of allowable expenditures:

- Funds not available to the Property Owner. For example, when insurance funds received must be used for a forced mortgage payoff based on the terms of the mortgage.
- Funds received from a private loan and not guaranteed by SBA are not duplicative.
- Assets or line of credit available to the Property Owner, e.g., checking or savings accounts, stocks are not duplicative.

Examples of unallowable expenditures that may continue to be considered a DOB (this list is not exhaustive):

- Non-essential appliances (washer/dryer);
- Food, clothes, household goods;
- Sheds, fences (any structure not under common roof);
- Funeral costs; and/or
- Insurance premiums.

Verification of Benefits (VOB) Process

To comply with the DOB requirement and make an accurate award determination, the Program obtains third party verification of financial assistance provided or available from other programs, insurance, and elsewhere for the same purpose as the benefits in this Program. VOB will not be conducted due to post-storm FMV being the basis for award calculation. If award is based on pre-storm value and benefits are awarded, procedures will be updated and applied to comply with Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42U.S.C. § 5155).

The first goal of the VOB process is to compare applicant's self-reported benefit amount and purposes, with the benefit amounts and purposes reported by third-party verification sources. The second goal is to detect DOB process errors and initiate their correction. The VOB process is a practical technique for prevention of waste, fraud, and abuse as specifically mandated for this Program. It is also intended to prevent mistaken benefit calculations that could provide too little assistance or too much assistance. Verification can also prevent fraud or errors that might occur if property owners intentionally or unintentionally claim in-accurate amounts or forget to disclose benefits not yet received from other sources.

The property owner must execute a general Consent and Release of Information form to allow the program to share personal information with vendors, contractors, and state and local government for the purpose of coordinating a purchase and making any benefit award determinations. A special release letter may be required from the Property Owner's insurers to release insurance payment information to a specific designee in the program.

VOB Process Overview

1. Review Federal government sources of aid given to applicant
2. Review State government sources of aid given to applicant
3. Review Local government sources of aid given to applicant
4. Review Private sources of aid given to applicant such as insurance or non-profit assistance

Subrogation

The homeowner will be required to sign a Subrogation Agreement. Subrogation is the process by which duplicative assistance paid to the Applicant after receiving an award, which reimburses the applicant twice for the same loss, is remitted to the Program to rectify a duplication of benefit.

Assignment Relation to Funds Received Under Program

In consideration of the property owner's award of funds and the commitment by the subrecipient to evaluate the property owner's application for the award of funds under the Buyout and Acquisition Program, the property owner assigns to the Program all future rights to reimbursement and all payments received under any insurance policy, including but not limited to any type of casualty or property damage insurance (the Policies); any reimbursement or relief program related to or administered by FEMA or the SBA for physical damage to the property (not including proceeds received to cover contents); any other assistance from non-profit organizations, faith based organizations, or disaster relief entities, and other governmental entities, that was the basis of the calculation of the Property Owner's award to the extent of the proceeds paid under the Program.

The proceeds or payments from the above-described duplicative assistance are referred to herein as "Proceeds." The rights the property owner assigns to the Program are specific to the property with respect to which the Proceeds were paid. The Proceeds paid, as described in the property owner's application with the Program, arise out of physical damage to the property originally caused by the federally declared disaster, but also includes Proceeds received for damage to the property caused by any subsequent event that occurred (until the time of purchase of the Property using Program funds).

The policies include, but are not limited to, policies characterized as damage, flood, or any other type of casualty or property damage insurance coverage held by the property owner which provides coverage for physical damage to the property.

Once the Program has recovered an amount equal to the award proceeds, the Buyout and Acquisition Program reassigns any rights assigned to the subrecipient pursuant to this Agreement to the property owner. In the case of an incentive program, DOB VOB policy will be updated.

Award Calculations

Once the VOB review is complete, an approved, signed copy of the Duplication of Benefits Calculation Sheet will be provided to the subrecipient for inclusion with the homeowner application in the system of record. The subrecipient will determine an award based upon the post-storm FMV, as determined by appraisal, and will calculate any incentives the applicant is eligible for to calculate the total award. Offer at FMV does not designate award. Noted in VOB section above, no pre-storm benefit is anticipated. Because there is no buyout benefit and acquisition does not create a benefit, an award formula is not required for those activities. Please note that an offer to purchase at current FMV does not constitute an award but is referred to as the purchase offer. In case of incentive there would be award.

Offer and Contract Execution

Once all verification steps are completed, the subrecipient provides an Offer Package to the property owner, which includes an award calculation outlining the benefits available to the property owner, a contract for sale and other relevant information concerning the offer. Offer will be based upon appraisal. Property owners have 30 days to accept and return to the offer, after which date the offer expires. Subrecipients can extend or waive the expiration on a case-by-case basis. In some cases, offers are modified due to modifications in award calculations, increased duplicating benefits, incentives offered to applicant or additional receipts provided by the applicant. Additionally, incentives may occur at closing or later.

The local government subrecipient will execute the offer, already signed by the property owner, promptly after it arrives.

Uniform Relocation Act (URA)

All buyout and acquisition plans approved by DCA must be voluntary. Subrecipients must provide evidence that both public notification meetings to establish DRRAs and initial discussions around proposed Acquisitions explicitly state the decision to sell is voluntary. All property owners who express interest in the program shall receive a voluntary notice letter via certified mail. A copy of the voluntary notice signed by the property owner shall be kept on record. Because the programs and decision to sell are explicitly voluntary displacement will not have occurred and homeowners are not eligible for Uniform Relocation Assistance (URA). However, tenants who are displaced as a result of the homeowner's sale of the property to the subrecipient are entitled to URA assistance. The subrecipient shall request rent roll from the applicant upon the initiation of negotiations, if rent roll indicates that a tenant is present, a notice of intent to acquire as well as a voluntary participation notification shall be issued to the tenant via certified mail and the program will be responsible for all URA procedures.

If a tenant household qualifies as "displaced" under URA policy, a tenant is eligible for two types of replacement housing assistance based on need: a moving allowance, and a replacement housing allowance. The replacement housing allowance can take two forms one that supports ongoing affordable rental until reviewed and approved by the URA policy and program or they can take the rent subsidy and convert it to a down payment towards homeownership. If the displaced tenant elects to receive lump sum down payment assistance, their award cannot exceed what they would have been eligible for had they continued to rent a unit. Subrecipient is responsible for any repayment due to failure to provide proper notification in advance of start of Buyout or Acquisition process.

For the purposes of promoting the availability of decent, safe, and sanitary housing and expediting disaster recovery and rehousing efforts, and to allow DCA to apply similar rules and award amounts to similarly situated homeowners without regard to which Program received the application, HUD is waiving under the March 5, 2013 Federal Register Notice, the following URA and Section 104(d) requirements:

- 24 CFR 42.350 – Without this waiver, disparities exist in relocation assistance associated with buyouts and relocation activities typically funded by HUD.
- Sections 204(a) and 206 of the URA, 49CFR 24.2(a)(6)(viii), 24.402(b)(2) and 24.404 – Waived to the extent that they require a grantee to use 30 percent of a low-income displaced person's household income in computing a rental assistance payment if the person had been paying

more than 30 percent of household income in rent plus utilities without “demonstrable hardship” before the project.

- URA §204 and §205, 49CFR 24.2(a)(6)(ix) and 24.402(b), as it relates to tenant based rental assistance housing programs.
- Section 202(b) of the URA, and 49CFR 24.302 – Moving expenses.

The local government subrecipient must explain benefits available to displaced residential tenants, assist with tenants’ relocation needs, and verify that eligible tenants receive the Notices and information required. HUD Handbook 1378 contains additional guidance on URA assistance. Subrecipient must document direct outreach to tenants indicated on rent roll.

Closing

Closing Meeting

The local government subrecipient must evaluate each signed offer and verify proper execution of the documents by the property owner. Next, the local government subrecipient must forward the documents to the appropriate recipients and verify the completion of required follow-up activities. Next the local government subrecipient must schedule the real estate closing to finalize the property purchase.

DCA policy prohibits closing the purchase of any parcel that is occupied or that may be contaminated with hazardous materials. A pre-closing walk through will be conducted to ensure information for utility meter readings is gathered, No Trespassing signs are posted, and that the property is clear of moving items, debris and/or occupants on the day of closing. Property stabilization should be carefully coordinated to occur day of or next day of settlement to prevent hazard or squatter activity post-closing.

Final Award Documentation

For all files that close (execute a sale to subrecipient) there is a complete review of the property file to ensure that all required program documents/files are present. The subrecipient is responsible for reviewing their respective files. Additionally, DCA will monitor and audit the files for completeness. This process includes the following:

Review Signed Offer Package to ensure it contains all required documents, including:

- Offer to Buy Real Estate
- Eligibility for Incentive Award Statement;
- Statement of Interest to Sell Real Property;
- Individual Property Hazardous Materials Form;
- IRS W-9 Form;
- FEMA Declaration and Release Form;
- Appraisal;
- HUD-1 Settlement Statement; and,
- All Other Relevant Real Estate Sale Agreements and Documents.
- Review and confirm that application includes all required signed documents, including:
 - Completed Program Application;
 - Government Issued Identification (for all owners);
 - Proof of citizenship/eligible immigrant status;

- Deed;
- Property tax receipts (most current);
- Copy of any liens or encumbrances against the deed;
- Documentation of the status of mortgage payments (mortgage statement);
- Proof of residency;
- Household income information, (not applicable to trusts, estates, and business entities);
- DOB documentation; and;
- Environmental Review.

Both the subrecipient and DCA program representative may identify missing documentation and missing signatures, and note observations of any major errors or issues, if any.

These issues are summarized and forwarded to the applicant so that the subrecipient and applicant can reach a resolution. For Property Owners in the program that decide to rescind their application to the program before closing there is an “Opt-Out Form”. The date on the Opt-Out Form is the last date that new documentation is added to the file. If the file includes an Opt-Out Form, it is noted on the top of the file checklists used.

Property Tax Proration

CDBG-DR funds will not be used to pay any outstanding property real estate taxes, liens, or penalties. To avoid using federal funds to pay taxes owed to State or local entities, state and local transfer tax fees may be waived. If they are not waived, the seller will be required to pay this portion of the closing costs at time of closing. Property Owners who have applied to the Program must pay all outstanding property taxes or liens due at closing as identified by the title search presuming there is sufficient equity and net proceeds to cover the costs. Otherwise, sellers must pay in full outstanding taxes prior to closing. Payment arrangements will not be accepted. Title will pro-rate any taxes paid in advance whereby Sellers will be refunded pre-paid property taxes as determined on the HUD1 Settlement Sheet.

Property Stabilization and Demolition

Property Maintenance

All properties purchased under the Buyout activity shall be maintained by the local government subrecipient until transfer of title to another organization is finalized. Property maintenance tasks include, but are not limited to, debris removal, pest control, security, changing locks, and fencing and boarding of the property for safety measures. The local government subrecipient shall maintain the properties in accordance with local codes and regulations. The subrecipient shall include a stabilization component within their disposition plan. If conveying acquisition directly to a nonprofit or landbank via Acquisition for redevelopment strategy, then subrecipient must provide proof of insurance and should include basic fire/hazard insurance coverage up to value of FMV appraisal and liability insurance to levels appropriate for program/project.

Demolition

Structures located on the property purchased under the Buyout activity must be demolished. Structures that are prone to fires or structurally unsound are prioritized for demolition for safety precautions. Local Government Subrecipients must comply with all local, State, Federal and environmental regulations and

will ensure all required permits are obtained. Demolition must occur within the timeframe identified in the subrecipient's stabilization plan.

The demolition work must be performed by a state-licensed demolition contractor. The contractor must comply with all applicable HUD CDBG-DR regulations and reporting requirements, including those related to M/WBE subcontracting, Section 3 employment efforts, Davis Bacon wage compliance, and workforce utilization. The demolition contractor must:

- Ensure the utilities are properly disconnected prior to the demolition;
- Manage an air quality management plan;
- Oversees site specific health and safety plans; and
- Manage the disposal process of all building materials associated with the demolished structures including the handling and disposal of identified asbestos containing material or hazardous material.

Property Disposition

Where a national objective is not met on the disposition of certain properties, the funds used for buyout or acquisition activities must be refunded to HUD. Additional revenue from disposition or re-sale of a site and after netting standard conveyance expenses is considered ("Program Income") that must be returned to HUD. If program income is realized, a request may be made of HUD to allow that PI be retained by the State for other eligible CDBG-DR activities.

Buyout

The goal of a buyout program is to maintain the acquired land as open public or preserved space that prevents future development and uses that could create future risks to the life and safety of the surrounding community as well as those that might otherwise inhabit the new development. Therefore, each Disaster Risk Reduction Area must have a long-term re-use and maintenance strategy and a designated entity that has the capacity to maintain title to the deed restricted site and coordinate ongoing care and maintenance of the land. Some limited recreational re-uses may be considered such as farming, community gardening, park and recreational fields with non-habitable structures or other public amenities such as restrooms. Any improvements to the buyout site will seek to maximize resiliency and seek to prevent unintended negative impacts to adjacent property owners. The local unit of local government may choose to take title and retain ownership, take title, and re-convey land once improved or coordinate the direct sale to the long-term property management entity determined in advance. Future landholders might include landbanks, nonprofits, or other state or local government agencies.

Acquisition

Properties purchased as Acquisitions are eligible for redevelopment and resale to new homeowners. Acquisition for redevelopment of residential use requires that either the grantee, subgrantee or selected developer ensure the site is built in a resilient manner to protect future occupants of this property from future storm events. In some cases, the properties are transformed into parks or other non-residential

uses and are redeveloped in a resilient manner that meets a CDBG-DR national objective and consist of an eligible use or activity.

The local government subrecipient shall ensure that properties are returned to the municipal tax rolls and that they promote production of resilient structures in communities at high risk of flooding, and/or, increase affordable housing stock for low- and moderate-income residents or in some circumstances are changed to open space or other eligible uses such as side yards to adjacent residents.

The repopulation of blighted and/or distressed neighborhoods and the creation of new housing stock is expected to enhance property values and promote economic growth. Additionally, the increased tax base allows counties, municipalities, and school districts to provide a broader range of public services.

Acquisition Properties Sold to Public Agencies

The Subrecipient can sell properties purchased through the Acquisition activity to government agencies at the Purchase Price equivalent to the minimum bid of the property if it were to be sold at auction. The public agency taking ownership of the property may be subject to terms & conditions, which include but are not limited to rehabilitating and elevating to State and local building code within three years.

Properties sold to public entities meet a CDBG National Objective.

Open Space in Perpetuity

In some circumstances, properties purchased through the Acquisition activity that do not conform to the surrounding area and/or are of greater use to the community as open space are sold to local units of government with a deed restriction mandating that they remain open space in perpetuity. The process of using a property purchased through the Acquisition Component as an open space (“Open Space”) is called “Change of Use”. Once a property has been identified for Open Space, the Subrecipient conducts public outreach for the “Change of Use”.

Acquisition for Affordable Housing

The local government may use the acquired property to increase the availability of affordable housing or create homeownership options for low- and moderate- income families. Per Program requirements, the properties must possess affordable housing units to be sold to low- or moderate-income families within three years of the date of property transfer. The homes will be sold with income deed restrictions in accordance with the LMI income levels associated with CDBG-DR funding and meet a CDBG National Objective of LMI.

Deed Restriction | Monitoring | Record Retention

Deed Restriction

Properties purchased using the Buyout activity must remain as permanent open space. To ensure compliance with this requirement, a deed restriction is required. The following conditions and restrictions must be recorded on the deed:

- Compatible uses – The Property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include, but is not limited to, parks for outdoor recreational activities; wetlands management; nature reserves; cultivation; grazing; and buffer zones.
- Structures – No new structures or improvements shall be erected on the Property other than a public facility that is open on all sides and functionally related to a designated open space or recreational use, a public restroom, or a flood control structure, provided that structure does not reduce valley storage, increase erosive velocities, or increase flood heights on the opposite bank, upstream, or downstream and that the local floodplain manager approves, in writing, before the commencement of construction of the structure.

Monitoring

DCA reserves the right to perform periodic on-site monitoring of the Local Government Subrecipient to ensure compliance with program requirements. DCA will notify the Local Government Subrecipient of deficiencies and the proper corrective action to be undertaken. If action to correct such substandard performance is not taken in the timeframe, DCA may carry out one or more of the following actions:

- Impose additional conditions on the Subrecipient and its use of CDBG-DR funds consistent with 2 CFR 200.207
- Suspend or terminate the Subrecipient Agreement
- Initiate other remedies for noncompliance as appropriate and permitted under 2 CFR 200.338.

Record Retention

The Subrecipient must maintain books, records, documents, and other evidence pertaining to all costs and expenses incurred and revenues received in sufficient detail to reflect all costs, direct, and indirect, of labor, materials, equipment, supplies, services, and other costs and expenses of whatever nature, for which payment is claimed. Records are maintained for a minimum of three years beyond the date of the State's final Quarterly Performance Report (QPR). Records are retained beyond the prescribed period if any litigation or audit is begun or if a claim is instituted involving the grant or agreement covered by the records. In these instances, the records are retained until the litigation, audit or claim has been finally resolved.