

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)



STATE OF MISSOURI CDBG-DR POLICY STATEMENT

IN EFFECT FOR GRANT(S):

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Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Table of Contents

19.1 Introduction.....	5
19.2 Program Overview	5
19.2.1 Applicable Disaster: DR-4451	6
19.2.2 Scope	7
19.3 CDBG-DR Waivers from 85 FR 4681	7
19.4 Definitions	11
19.5 Cross-cutting Regulations and CDBG-DR Applicability	18
19.5.1 Section 504	18
19.5.2 Equal Employment Opportunities	19
19.5.3 Citizen Participation Plan.....	20
19.5.4 Duplication of Benefits	21
19.5.5 Environmental Review.....	22
19.5.6 Uniform Relocation Assistance and Section 104(d).....	25
19.5.7 Davis Bacon and Related Acts (DBRA)	28
19.5.7.1 Wage Classifications	28
19.5.8 Fair Labor Standards Act (FLSA)	29
19.5.9 Missouri Prevailing Wage Law	29
19.5.10 Section 3	31
19.5.11 Minority and Women-owned Business Outreach.....	34
19.5.12 Cost Verification	35
Cost Verification Process.....	36
19.6 Category Compliance: Homeowner Rehabilitation and Reconstruction Program.	38
19.6.1 Marketing Plan	38
19.6.2 Fair Housing	38
19.6.3 Procedures to Protect Personally Identifiable Information (PII).....	38
19.6.5 Limited English Proficiency	39
19.6.6 National Objective Determination.....	41

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

19.7 Homeowner Rehabilitation and Reconstruction Program	42
19.7.1 Program Delivery	42
19.7.2 Rehabilitation Program Description	42
19.7.2.1 Eligible Repairs.....	42
19.7.3 Reconstruction Program Description	43
19.7.3.1 Eligible uses of Reconstruction Program Funds.....	43
19.7.4 Eligible Activities – Rehabilitation and Reconstruction.....	44
19.7.5 Ineligible Activities – Rehabilitation and Reconstruction	45
19.7.6 Ineligible Property Types – Rehabilitation and Reconstruction	45
19.7.7 Minimum and Maximum Awards	46
19.7.8 Inspection and Design	47
19.7.8.1 Procurement of Professional Services	47
19.7.8.2 Damage Assessment Inspection	48
19.7.8.3 Inspection Procedures.....	50
19.7.8.4 Design Requirements.....	52
19.7.9 Contract and Construction Management	55
19.7.9.1 Contractor Procurement	56
19.7.9.2 Construction Contract	56
19.7.10 Homeowner Responsibilities during Construction.....	64
19.7.11 Final Inspection and Certificate of Occupancy.....	64
19.8 Overview of HRRP Process	65
19.8.1 Prioritization of Service	66
19.8.2 Phase 1: Application Intake	67
19.8.2.1 Minimum Applicant and Property Eligibility Threshold Criteria	68
19.8.2.2 Proof of Ownership, Occupancy & Primary Residence	69
19.8.2.3 Citizenship Verification	71
19.8.2.4 Document Unmet Needs from DR-4451 Disaster event.....	71
19.8.2.5 Geographic Eligibility and Project Location	72

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

19.8.2.6 Mortgage Obligations.....	73
19.8.2.7 Flood Insurance Covenant.....	73
19.8.2.8 Certification Requirements to Receive Assistance	73
19.8.2.9 Ownership Residency Requirement.....	74
19.8.2.10 Income Eligibility Determination	75
19.8.3 Phase 2: Post-award Construction.....	76
19.8.4 Phase 3: Post-construction Compliance & Closeout.....	76
19.8.5 Funds Disbursement.....	76
19.8.6 Temporary Relocation Assistance	77
19.8.6.1 Moving Expenses.....	78
19.8.6.2 Monthly Rent.....	78
19.8.6.3 Hotel Expenses.....	79
19.8.6.4 Lease Enforcement and Termination of Tenancy	80
19.8.6.5 Temporary Relocation Assistance Duplication of Benefits (DOB)	80
19.8.6.6 Temporary Relocation Expenses – not Pre-Approved.....	80
19.8.6.7 Temporary Relocation Assistance Appeals	81
19.9 Recapture of Funds.....	81
19.10 Recordkeeping.....	81
19.10.1 Subrecipient Responsibilities.....	82
19.10.2 Confidentiality.....	82
19.11 Appeals.....	83
19.12 Applicable CDBG-DR Laws and Regulations.....	84

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

19.1 Introduction

This Chapter details the use of Community Development Block Grant-Disaster Recovery (CDBG-DR) funds for the Homeowner Rehabilitation & Reconstruction Program in the aftermath of the applicable disaster. In response to damages caused by the natural disaster that impacted the State of Missouri in 2019, the Department of Housing and Urban Development (HUD) allocated approximately \$30.7 million as a response for DED's CDBG-DR Program (per 85 FR 4681). Applicable counties may utilize this funding for their homeowner rehabilitation activities.

This Chapter serves as a resource for all entities, such as local governments or non-profit organizations, looking to receive funding to develop and execute rehabilitation & reconstruction-related activities. This Chapter is organized into five broad categories: Introduction and Category Compliance, CDBG-DR Cross Cutting Requirements, Homeowner Rehabilitation and Reconstruction, Application Intake and Program Closeout.

The initial sections of this Chapter provide a thorough introduction to the rules and requirements that apply to the Homeowner Rehabilitation and Reconstruction Program. The Homeowner Rehabilitation and Reconstruction Program section describes all activities eligible under this program as authorized under DR-4451. These projects will address unmet housing needs for single-family homeowners that are not funded by other federal recovery programs.

19.2 Program Overview

The Homeowner Rehabilitation and Reconstruction (HRRP) offers recovery assistance to low-income homeowners with unmet needs resulting from the DR-4451 disaster.

To be eligible for the program, applicants must own a single-family home located in Cole County, Holt County, or St. Charles County. The property must have suffered documented damage from a 2019 disaster, such as from flooding or a tornado. The program will prioritize assistance to LMI households earning 80% or less of the average median income for their county, and vulnerable populations.

The Missouri Department of Economic Development (DED) has developed this policy for the HRRP, to be utilized by the HUD designated MID Subrecipients.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

These Subrecipients will submit a proposal to DED that identifies the programs they wish to implement in their jurisdiction, based on unmet needs.

Eligible Subrecipients are Units of General Local Government (UGLG). UGLGs may apply to the State for CDBG-DR funding via the proposal process, in which recovery activities that the UGLG will undertake are identified and determined to be eligible.

Once approved by DED, the Subrecipient UGLG will administer the rehabilitation and/or reconstruction program to assist disaster-impacted, low-income homeowners. The UGLG will open an application intake period, for homeowners (as Beneficiaries) to apply to the program. Homeowners must provide an application and required documents during application intake, to administering UGLG.

Participating in and accepting any grant award from the HRRP is completely voluntary and up to the total discretion of the homeowner.

19.2.1 Applicable Disaster: DR-4451

Between April to July of 2019, the State of Missouri was hit with heavy rains, straight-line winds, flooding, and tornadoes that resulted in a federally declared disaster—DR-4451. On May 22, 2019, an EF-3 tornado touched down and stayed on the ground for more than 32 miles, destroying numerous homes, businesses, and infrastructure, particularly in Cole, Holt, and St. Charles Counties.

On June 1, the Mississippi River crested at the second highest stage on record (30.15 feet with several counties topping the historical flood stages observed in 1993, 2011, and 2015). By June 3, at least 28 levees had breached across the state, more than 380 roads were closed in 56 counties due to significant, damaging floods, and more than 600 homes had been affected by severe storms.

More than 1,400 households requested and received assistance in disaster recovery. The disasters took their greatest toll on housing, especially that of vulnerable low-to moderate income (LMI) citizens.

In January 2020, HUD allocated \$30,776,000 in CDBG-DR funding (per 85 FR 4681) as a response to the 2019 disasters (DR-4451). HUD designated St. Charles County, zip code 64437 (Holt County), and zip code 65101 (Cole County) as Most Impacted and Distressed (MID) and mandated that 80% of the allocation

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

be used to their benefit. HUD further mandated that 70% of the allocation go to the benefit of Low- to Moderate (LMI) citizens.

19.2.2 Scope

This chapter provides the primary guidance for implementation of the HRRP for Subrecipients, employees, consultants, and contractors working with the program. Subrecipients awarded funding under HRRP are responsible for carrying out all program activities and complying with all CDBG-DR regulations as well as many other federal requirements. DED will provide technical assistance, develop program policies, manage the funding and distribution process, monitor subrecipient compliance with program requirements, and report to HUD on the use of funds.

The chapter may be supplemented or modified to address changes to rules or regulations, and may be updated periodically by DED to provide additional guidance or clarification. DED retains final discretion to issue case-specific determinations related to this program.

19.3 CDBG-DR Waivers from 85 FR 4681

The Secretary of HUD has the authority to waive, or specify alternative requirements for, any provision of statute or regulation in connection to the CDBG funds that HUD administers. This section details the waivers from 85 FR 4681. DED has not requested any additional waivers.

Per 85 FR 4681, IV.A. Incorporation of Waivers and Alternative Requirements for Local Governments states:

The Secretary amends the following sections of the February 9, 2018 notice to expand waivers to include waivers of the regulations that apply to local government grantees: In Section VI.A.2., *Action Plan for Disaster Recovery waiver and alternative requirement*, the Secretary waives [24 CFR 91.220](#); in section VI.A.4., *Citizen participation waiver and alternative requirement*, the Secretary waives [24 CFR 91.105\(b\)](#) and [\(c\)](#); and in section VI.A.12, *Use of the urgent need national objective*, the Secretary waives [24 CFR 570.208\(c\)](#). Grantees are responsible for ensuring that all citizens have equal access to information about the programs, including persons with disabilities and limited English proficiency (LEP). This waiver does not affect the statutory and regulatory obligations of

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

CDBG-DR grantees to affirmatively further fair housing. As part of the CDBG-DR action plan, all grantees must certify that they will affirmatively further fair housing. For CDBG-DR grantees, this means conducting an Analysis of Impediments to Fair Housing Choice (AI), taking appropriate actions to overcome the effects of any impediments identified through that analysis, and keeping records of these actions.

The preceding paragraph waives specific provisions of the program requirement to have a consolidated Citizen Participation Plan and further waives provisions regarding activities designed to meet urgent community development needs. However, grantees are still responsible for providing equal access to information and fair housing.

IV.B. Grant Administration states:

IV.B.7. The waiver and alternative requirement in section VI.A.6. of the February 9, 2018 notice is replaced with the following language to include 2018 and 2019 disaster grantees: "HUD is temporarily waiving the requirement for consistency with the consolidated plan (requirements at [42 U.S.C. 12706](#), [24 CFR 91.325\(a\)\(5\)](#) and [91.225\(a\)\(5\)](#)), because the effects of a major disaster alter a grantee's priorities for meeting housing, employment, and infrastructure needs. In conjunction, [42 U.S.C. 5304\(e\)](#), to the extent that it would require HUD to annually review grantee performance under the consistency criteria, is also waived. Grantees are encouraged to incorporate disaster-recovery needs into their consolidated plan updates as soon as practicable, but any unmet disaster-related needs and associated priorities must be incorporated into the grantee's next consolidated plan update no later than its Fiscal Year 2020 update for 2017 disasters and Fiscal Year 2022 for 2018 and 2019 disasters."

The preceding paragraph waives specific provisions regarding exceptions on the maximum amount of assistance and the requirement for a grantee to adopt policies and procedures outlining those exceptions. Through the implementation of this waiver, HUD is providing flexibility and allowing changes to the consolidated plan to meet program-specific housing, employment, and infrastructure needs.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

IV.C. Clarifications and Amendments for Grants Under Public Law 115-56, 115-123, 115-254, and 116-20 states:

IV.C.2. Clarification and Amendment on Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ([42 U.S.C. 5121](#) et seq.). The Federal Register notice published on February 19, 2019 ([84 FR 4842](#)) provided a waiver and alternative requirement of Section 414 for all grantees receiving a grant for a major disaster occurring in 2015, 2016, and 2017. This waiver and alternative requirements allowed grantees that received a grant(s) under Public Laws 114-113, 114-223, 114-254, and 115-31 to carry out its programs under the same Section 414 requirements as its grant(s) under Public Laws 115-56 or 115-123. To clarify this provision and extend the Section 414 waiver and alternative requirement to include grantees under those older Public Laws that are now receiving a grant under the 2018 and 2019 Appropriations Acts for a major disaster in 2018 or 2019, HUD is amending paragraph IV.2 of the February 19, 2019, notice by replacing it in its entirety with the following:

"2. Waiver of Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ([42 U.S.C. 5121](#) et seq.). Section 414 of the Stafford Act ([42 U.S.C. 5181](#)) provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646) [[42 U.S.C. 4601](#) et seq.] ["URA"] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by [the URA]." Accordingly, homeowner occupants and tenants displaced from their homes as a result of the identified disaster and who would have otherwise been displaced, as a direct result of any acquisition, rehabilitation, or demolition of real property for a federally funded program or project, may become eligible for a replacement housing payment, notwithstanding their inability to meet occupancy requirements prescribed in the URA.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Grantees that received a CDBG-DR grant for a major disaster in 2015, 2016, or 2017 under Public Laws 114-113, 114-223, 114-254, or 115-31, and a CDBG-DR grant for a 2017, 2018, or 2019 major disaster under Public Laws 115-56, 115-123, 115-254, or 116-20 are subject to different alternative requirements with respect to protections afforded to tenants and homeowners under Section 414 of the Stafford Act.

To avoid the administrative burden of implementing two different URA alternative requirements, HUD is authorizing grantees under Public Laws 114-113, 114-223, 114-254, and 115-31 that also received a CDBG-DR grant under [Public Law 115-56](#), 115-123, 115-254, or 116-20 to either: (a) Continue to follow Section 414 of the Stafford Act (or any grantee-specific alternative requirement previously authorized by HUD) for its Public Laws 114-113, 114-223, 114-254, and 115-31 CDBG-DR grants; or (b) follow the waiver and alternative requirement described in the following paragraph for its Public Laws 114-113, 114-223, 114-254, and 115-31 CDBG-DR grants. The grantee's programs under the most recent Public Laws ([Pub. L. 115-56](#), 115-123, 115-254, or 116-20) are already required to follow the waiver and alternative requirement defined below. If a grantee chooses to follow option (b) above then it must identify this approach in its policies and procedures related to that particular activity, and consistently apply that option for all displaced persons affected by that activity.

The waiver and alternative requirement is as follows: Section 414 of the Stafford Act (including its implementing regulation at [49 CFR 24.403\(d\)\(1\)](#)), is waived to the extent that it would apply to real property acquisition, rehabilitation, or demolition of real property for a CDBG-DR funded project, undertaken by the grantee or Subrecipient, commencing more than one (1) year after the Presidentially declared disaster, provided that the project was not planned, approved, or otherwise underway prior to the disaster. For purposes of this paragraph, a CDBG-DR funded project shall be determined to have commenced on the earliest of: (1) The date of an approved Release for Request of Funds (RROF) and certification, or (2) the date of completion of the site-specific review when a

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

program utilizes tiered environmental reviews, or (3) the date of sign-off by the approving official when a project converts to exempt under [24 CFR 58.34\(a\)\(12\)](#). The Secretary has the authority to waive provisions of the Stafford Act and its implementing regulations that the Secretary administers in connection with the obligation of CDBG-DR funds covered under this waiver and alternative requirement, or the grantees' use of these funds. The Department has determined that good cause exists for a waiver and that such waiver is not inconsistent with the overall purposes of title I of the HCDA. The waiver will simplify the administration of the disaster recovery process and reduce the administrative burden associated with the implementation of Stafford Act Section 414 requirements for projects commencing more than one (1) year after the date of the Presidentially declared disaster, considering the majority of such persons displaced by the disaster will have returned to their dwellings or found another place of permanent residence. This waiver does not apply with respect to persons that meet the occupancy requirements to receive a replacement housing payment under the URA nor does it apply to persons displaced or relocated temporarily by other HUD-funded programs or projects. Such persons' eligibility for relocation assistance and payments under the URA is not impacted by this waiver."

The aforementioned waiver regarding Section 414 of the Robert T Stafford Disaster Relief and Emergency Assistance Act summarizes past and current public laws and appropriations. Eligible individuals shall not be denied assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. These individuals may be eligible for relief in the form of payments. To avoid administrative burden, depending on relevant public law, grantees may choose to follow the requirements of their choice whether it be the previous version of Section 414 or the current version of Section 414 (see direct references above).

19.4 Definitions

Definitions outlined in this section are intended to provide more clarity on the terminology used throughout this policy document. Adequate knowledge of these definitions will provide the reader with sufficient information to maintain program compliance.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Applicant UGLG: Lead UGLGs identified by MID areas to submit proposals for Disaster Recovery funding under DR-4451.

Area Median Income (AMI): The median (middle point) household income for an area adjusted for household size as published and annually updated by the United States Department of Housing and Urban Development (HUD). Once household income is determined, it is compared to HUD's income limit for that household size.

Base Flood Elevation (BFE): Base Flood Elevation as determined by the Federal Emergency Management Agency (FEMA), is the relationship between the BFE and a structure's elevation. It is used to determine flood insurance premiums. The Federal Register sets the minimum elevation requirements for homes that will be assisted with CDBG-DR funding and which require elevation. HUD has determined that structures designed principally for residential use and located in the 100-year floodplain that receive assistance for new construction repair of substantial damage or substantial improvement must be elevated with the lowest floor, including the basement, at least two feet above the BFE.

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

Common Area Under Roof: The total area under the common roof is primarily interior, conditioned spaces, and for single-story homes, equal to the footprint of the house. The term is also synonymous with the eligible area. In addition, exterior spaces such as detached porches and garages are not considered in the eligible area.

Completed Repairs Estimate (CRE): The CRE is used to verify flood damages to the property and determine repairs that have already been completed. This estimate may be used to verify the appropriate use of funds received from insurance or other federal disaster recovery assistance for repair and be used to reduce Duplication of Benefits (DOB), in the absence of receipts.

Damage Assessment/Pre-Rehab Inspection: The process utilized to verify that damage at a property can reasonably be attributed to the DR-4451 Disaster event and the quantification of damages that results in the dollar value and scope of repairs necessary to repair a structure. It results in a Completed Repairs Estimate (CRE) and, if applicable, a Scope of Work Estimate (SWE) or Residential Valuation Report (RVR).

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Demolition: Clearance and proper disposal of dilapidated buildings and improvements.

Disability: For the purposes of the program, “disability” is consistent with federal law under The Social Security Act, as amended, 42 U.S.C. §423(d), The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12102(1) -(3), and in accordance with HUD regulations at 24 CFR §§5.403 and 891.505.

Duplication of Benefits: A Duplication of Benefits will occur if the Housing Assistance Program assists a homeowner for the same purpose (repair, replacement, or reconstruction) as any previous financial or in-kind assistance provided to a property owner for the repair, replacement, or reconstruction of his or her home. The State of Missouri CDBG-DR Housing Assistance Program is prohibited from creating a Duplication of Benefits. This prohibition comes from the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) and therefore, these other sources of funds must be deducted from any potential award.

Elevation: All structures, defined at 44 CFR 59.1, designed principally for residential use and located in the 1% annual (or 100-year) floodplain that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined at 24 CFR 55.2(b) (10), must be elevated with the lowest floor, including the basement, at least two feet above the 1% annual floodplain elevation. Residential structures with no dwelling units and no residents below two feet above the 1% annual floodplain, must be elevated or flood-proofed in accordance with FEMA flood-proofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above the 1% annual floodplain. Elevation will be conducted by means of pier and beam construction. Fill to achieve proper elevation height will not be eligible.

Family: A household composed of two or more related persons. The term “family” also includes one or more eligible persons living with another person or persons who are determined to be important to their care or well-being.

Federal Register: The official journal of the Federal government of the United States that contains government agency rules, proposed rules, and public notices. It is published daily, except on Federal holidays. A Federal Register Notice (FRN) is issued for each CDBG-DR funded disaster. The FRN outlines the rules that apply to each allocation of disaster funding.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

FEMA-Designated High Risk Area: Areas designated by FEMA as vulnerable to significant wind and/or storm surge damage and areas located in 100-year flood zones. These areas will be identified during the environmental review process for each participating jurisdiction.

Floodplain: FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area:

- 100-year floodplain — the geographical area defined by FEMA as having a one percent chance of being inundated by a flooding event in any given year. No new construction will occur in the “100-year floodplain”
- 500-year floodplain — the geographical area defined by FEMA as having a 0.2 percent chance of being inundated by a flooding event in any given year.

Household: A household is defined as all persons occupying the same housing unit, regardless of their relationship with each other. The occupants could consist of an individual living alone, a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the Low- to -Moderate Income objective is based on the LMI of households.

HUD: United States Department of Housing and Urban Development.

Increased Cost of Compliance (ICC): Structures damaged by a flood may be required to meet certain building requirements to reduce the risk of future flood damage before the structure can be repaired or rebuilt. To help cover these costs, the National Flood Insurance Program (NFIP) includes Increased Cost of Compliance coverage for all new and renewed Standard Flood Insurance Policies.

Individual Mitigation Measures (IMM): Activities designed to mitigate and/or reduce risk beyond the pre-disaster condition of a housing unit when the activities are above and beyond federal, state, or local construction or code requirements. In accordance with HUD's guidance, repair of housing units and the payment of flood insurance are not IMM activities. Examples of IMM activities include: elevation above the base flood elevation level or the addition of storm shutters, disaster proof windows, roof straps, etc. as long as those

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

improvements are not required to comply with local code requirements and did not exist on the housing unit prior to the disaster damage.

Low to Moderate Income (LMI) National Objective: Activities that benefit households whose total annual gross income does not exceed 80% of Area Median Income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance with HUD Guidance. The most current income limits, published annually by HUD, will be used to verify the income eligibility of each household applying for assistance at the time assistance is provided.

- Extremely low: Household's annual income is up to 30% of the area median family income, as determined by HUD, adjusted for family size.
- Very Low: Household's annual income is between 31% and 50% of the area median family income, as determined by HUD, adjusted for family size.
- Low: Household's annual income is between 51% and 80% of the area median family income, as determined by HUD, adjusted for family size.

Mobile/Manufactured Housing Unit (MHU): A structure, transportable in one or more sections which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. Sometimes referred to as mobile homes. Mobile homes or manufactured housing units that are real property will be considered for this program when they are titled with the land and owned by the same individual or household. Mobile homes or MHUs located on land not owned by the owner of the home are considered personal property and therefore not eligible for funding under this program.

Modular Housing: A home built in sections in a factory to meet state, local or regional building codes. Once assembled, the modular unit becomes permanently fixed to one site. The program will treat modular homes as traditional, site, or stick-built construction.

Most Impacted and Distressed (MID) Areas: Areas of most impact as determined by HUD or the state using the best available data sources to calculate the amount of disaster damage. The MID-designated areas include Zip Codes: The

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

state-identified MID areas also include those counties that received both Individual Assistance (IA) and Public Assistance (PA) through the Federal Emergency Management Agency (FEMA).

NFIP: National Flood Insurance Program. When the program refers to NFIP in the context of eligibility or Duplication of Benefits, the program is referring to private and public flood insurance programs that cover structural repairs resulting from flood damages.

Not Suitable for Rehabilitation: The State defines “not suitable for rehabilitation” as one of the two following definitions:

1. Residential properties that have experienced repetitive losses under FEMA’s National Flood Insurance Program (NFIP).
2. Dwellings that are considered substandard and do not meet the recovery program’s housing repair standards and/or federal, state, and local code requirements will not be deemed suitable for rehabilitation, as determined by the program and consistent with the program guidelines. The determination may be established based on the calculation that the cost of repair is close to or exceeds the cost to reconstruct.

Property Casualty Insurance: Insurance that covers structural repairs to a home as a result of wind, fire, hail, wind-driven rain, tornado, hurricane, or natural disaster, other than a flood.

Reconstruction: The demolition, removal, and disposal of an existing housing unit and the replacement of that unit on the same lot, and in the same footprint, with a new unit that complies with the International Residential Codes (IRC). The number of units on the lot may not increase and the total square footage of the original, principal residence structure to be reconstructed may not be substantially exceeded; however, the number of rooms in a unit may be increased or decreased.

Rehabilitation: Repair or restoration of housing units in the disaster-impacted areas to applicable construction codes and standards.

Residential Valuation Report (RVR): When a structure has already been demolished or cannot otherwise be evaluated for repair and a Scope of Work Estimate cannot be prepared, a Residential Valuation Report may be prepared.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

This report takes into account the information about the previous structure that is available and yields a rough valuation of reconstruction for the structure.

Scope of Work Estimate (SWE): A documented line item by line item estimate of the damages observed during an onsite visit to a homeowner's property that quantifies the materials and labor necessary to repair observed damages.

Second Home: A second home is defined as a home that is not the primary residence of the owner, a tenant, or any occupant at the time of the storm or at the time of application for assistance. Properties that served as second homes at the time of the disaster, or following the disaster, are not eligible for repair assistance or housing incentives.

Stick-built home: A home that has been built on-site using traditional construction materials and methods.

Subrecipient: A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program, but does not include an individual that is a beneficiary of such program. Cities, counties, Indian tribes, local governmental agencies (including COGs), private non-profits (including faith-based organizations), or a for-profit entity authorized under [24 CFR 570.201\(o\)](#). The definition of Subrecipient does not include procured vendors, private grant administrators, or contractors providing supplies, equipment, construction, or services and may be further restricted by Program rules or other guidance including applications. See vendor definition for further clarification.

Subrogation: Subrogation is a legal doctrine that allows one person to take on the rights of another. In the context of disaster recovery grants, a homeowner must enter into a subrogation agreement where the funding agency (the State) obtains the right to collect any additional disaster recovery or insurance payouts the homeowner receives for Irma damages after the homeowner has entered into a grant agreement for HRRP benefits.

Substantial Improvement: As defined in 24 CFR 55.2(b) (10) and as applicable to the HRRP, substantial improvement means any repair, reconstruction, modernization, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored before the damage occurred. Substantial improvement determinations are

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

made by local code enforcement, permitting, building, and/or floodplain officials. The program will abide by these determinations.

Unit of General Local Government (UGLG): The term unit of general local government means a city, county, town, village, or other general-purpose political subdivision of a state.

Vulnerable Populations: HUD defines vulnerable populations as individuals and families (including subpopulations) that are homeless and at-risk of homelessness; low-income individuals and families with children (especially those with incomes below 30 percent of the area median income; persons who are not homeless but require supportive housing (e.g. elderly, persons with disabilities, persons with alcohol or other drug addiction, persons with HIV/AIDS and their families); and public housing residents.

19.5 Cross-cutting Regulations and CDBG-DR Applicability

There are many requirements outlined in federal, state, and local statutes, regulations, notices, and handbooks, which apply to the use of CDBG-DR funding. These requirements surround topics of financial management, environmental review, labor standards, acquisition, relocation, fair housing, and more. These requirements are considered “cross-cutting”, given that they are applicable to—and have actions tied to—several activities within each project. The Missouri State CDBG Program utilizes HUD Handbook 1344.1 to measure the applicability of federal statutory provisions to the State CDBG Program, see the MO DED CDBG Administrative Manual for more information. Subrecipients of the CDBG-DR program are subject to these “cross-cutting” requirements.

Additionally, there is a “cross-cutting” toolkit provided by HUD that can be accessed at: <https://www.hudexchange.info/resource/34/cdbg-crosscutting-issues-toolkit-contents/>. DED will ensure Subrecipient compliance with the federal cross-cutting requirements according to the CDBG Administrative Manual. A summary list of the cross-cutting issues is provided as an Appendix to this document.

19.5.1 Section 504

Activities that receive CDBG-DR funding are subject to Section 504 of the Rehabilitation Act of 1973, a federal law that prohibits discrimination on the basis of disability in federally assisted programs or activities. Section 504 states that “No otherwise qualified individual with a disability in the United States, shall,

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service."

Section 504 also requires any federally funded new construction of non-housing facilities be designed and constructed to be readily accessible and usable by individuals with handicaps. Any federally funded alterations to existing non-housing facilities must be designed and constructed with the same accessibility goals, to the maximum extent feasible.

Please see Chapter 12, Civil Rights and Section 3, of the CDBG Administration Manual for more information and applicable forms regarding Section 504 compliance.

19.5.2 Equal Employment Opportunities

In addition to Fair Housing, Section 3, and Section 504, all facets of every CDBG-DR funded activity are subject to Equal Employment Opportunity (EEO) laws. Equal Opportunity is a protection measure supported by a number of laws including:

- Section 109 of Title 1 of the Housing and Community Development Act of 1974 which provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.
- The Americans with Disabilities Act of 1990 which modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against a qualified individual with a disability.
- The Equal Employment Opportunity Act which empowers the Equal Employment Opportunity Commission to bring civil action in Federal court against private sector employers who have been investigated by the EEOC and found probable cause of discrimination and have failed to obtain a conciliation agreement acceptable to the EEOC.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

- The Immigration Reform and Control Act of 1986 which provides employers may only hire persons legally allowed to work and requires verification of the same.
- The Uniform Guidelines on Employee Selection Procedures, which applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal, and referral.
- Section 3 and the provision of opportunities for employment and training for low- and moderate-income residents of the project area.
- The Jobs for Veterans Act of 2002 which ensures equal opportunity for qualified disabled veterans and veterans of the Vietnam War.
- Executive Order 11246 which applies to all contracts and provides that no person shall be discriminated against on the basis of race.
- [24 CFR 85](#) which provides that grantees shall take affirmative steps to encourage contracting with small minority and female owned businesses.
- Section 504 of the Rehabilitation Act of 1973 which makes it unlawful to discriminate based upon disability in Federally assisted programs.

19.5.3 Citizen Participation Plan

Local government recipients of CDBG funds must comply with the State Citizen Participation Plan requirements as found in [24 CFR 570](#). All applicants and recipients of grant/loan funds shall be required to conduct all aspects of the program in an open manner with access to records on the proposed and actual use of funds for all interested persons.

All records of applications and grants must be kept at the recipient's offices and be available during normal business hours. Any activity of the Grantee regarding the CDBG project, with the exception of confidential matters relating to housing and economic development programs, shall be open to examination by all citizens.

The applicant/recipient must provide technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals at the level of expertise available at governing offices. All application materials and instructions shall be provided at no cost to any such group requesting them.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Residents shall be provided adequate and timely information to enable them to be meaningfully involved in important decisions at the various stages of the program, including at least:

1. The determination of needs.
2. The review of the proposed activities.
3. And the review of past program performance, in the following manner:
 - a. At least two public hearings shall be scheduled at times and locations felt to be most likely to make it possible for the majority of impacted persons to attend without undue inconvenience, addressing the three items above. At least one hearing must be held to address items (1) and (2) above prior to the submission of the application for housing and/or non-housing needs. Item 3 must be addressed in a public hearing to review performance of the recipient in a previous program and must occur prior to closeout of any loan or grant for which performance evaluation has not occurred in a previous hearing.
 - b. Notification of any and all hearings shall be given a minimum of five full days in advance to allow citizens the opportunity to schedule their attendance. Notification shall be in the form of display advertisements in the local newspaper with the greatest distribution. Additional advertisement may be conducted by posting letters, flyers and any other forms, which seem practical; however, publication is required.
 - c. All hearings must be accessible to persons with disabilities. Provisions for interpretation shall be made at all public hearings for LEP residents if such residents are expected to be in attendance.

The full DED Citizen Participation Plan created for Disaster Recovery may be found at: <https://ded2.mo.gov/media/pdf/2017-and-2019-disaster-citizen-participation-plan-and-language-access-plan>

19.5.4 Duplication of Benefits

In accordance with the Stafford Act requirements, all activities funded by the CDBG-DR program must undergo a Duplication of Benefits (DOB) review prior to

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

an award of funds and again at project close out. DOB occurs when a program subrecipient or beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. It is the Subrecipient's responsibility to ensure that the program provides assistance only to the extent that the disaster recovery need has not been fully met by funds that have already been awarded from another source. Both the application and project proposal submitted by the Subrecipient must document all funds obtained from any source from the date of the disaster until the date of the application. These funds include, but are not limited to, FEMA payments, the Small Business Administration (SBA), private insurance payments, grants, and/or any other source of funds dedicated to the HRRP project.

DED will review and verify the DOB information provided by the Subrecipient with partner agency databases prior to issuing an award to ensure that duplicative assistance is not provided for homeowner rehabilitation and reconstruction. When monitoring for DOB, DED will complete a spot check to ensure that calculations were completed correctly using risk assessment procedures, and if DED finds it necessary, will complete a comprehensive monitoring. DED will sign the DOB workbook after calculations have been completed.

To address any potential duplication, the agreement will include provisions requiring repayment of any assistance later received for the same purpose as the CDBG-DR funds. This agreement must also include the following language:

Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.

For more information on DOB and related processes, please refer to Chapter 7 - Duplication of Benefits, of the CDBG-DR Administrative Manual.

19.5.5 Environmental Review

An environmental review must be performed on the property prior to federal funds being committed by Subrecipients and the State (24 CFR Parts 50, 58, 574, 582, 583, and 970). Generally, CDBG-DR appropriations acts prohibit HUD from waiving these requirements. HUD regulations at [24 CFR 58](#) allow the assumption of authority to perform the environmental reviews by Responsible Entities, which are units of general local government (UGLGs), such as a town, city, county,

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

tribe, or state. For the HRRP, the Subrecipient is the Responsible Entity for the purpose of environmental review.

No commitment or disbursement of funds will occur prior to the completion of this review. The environmental review shall document compliance with 24 CFR Part 58 and all related laws, authorities, and executive orders. The CDBG-DR Program will not reconstruct homes that have been determined to be in a floodway or inside the 100-year floodplain.

Compliance with 24 CFR 58, the National Environmental Policy Act (NEPA), and all related state/local/federal laws, authorities, and executive orders shall be documented. The program will not proceed with the construction or rehabilitation of homes that have been determined to have a Finding of Significant Impact (FOSI). No work may start on a proposed project, or proposed site acquisition, until the environment review process is complete and the Authority to Use Grant Funds (AUGF) has been issued by DED. All awards are contingent on a successful environmental review.

The program will perform an on-site inspection of damages upon completion of all other verification required by the Program. Environmental reviews are conducted at the UGLG level. This will include coordination with federal, state and local agencies where applicable. Additionally, all applications must pass a federally required, site-specific environmental review which contains a statutory checklist of required review items. The review will be performed at the program's expense. Site-specific review will include a review of HUD defined environmental review topics, each of which may result in a site visit to the homeowner's property for further investigation.

Any issue that cannot be cleared through the environmental review will need to be mitigated either before or during program construction. The program may pay for mitigation of issues identified during the environmental review if it is deemed an eligible activity. Homeowners will receive all federally required notifications.

The responsible entity manages the scope and content of the environmental review. Generally, the following steps are necessary to complete a review:

- Determine the appropriate level of review
- Complete the environmental analysis, including compliance with the related federal laws and authorities

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

- Coordination with Federal/State Environmental agencies to obtain concurrences or approval of proposed project scope and corresponding environmental impacts (if any)
- Publish or post a Notice of Intent to Request a Release of Funds (NOI-RROF)
- Publish or post a Finding of No Significant Impact (FONSI), if necessary
- Wait for the applicable comment period to elapse
- Submit the Request Release of Funds and Certification (RROF/C) (HUD form 7015.15) to DED for their review. Following DED approval, the responsible entity must submit the RROF/C to HUD
- HUD will approve the release of funds with an Authority to Use Grant Funds after the HUD 15-day objection period if no valid objections are received
- Revisit the review to address mitigation measures, reevaluate the project, or add another funding source, if applicable

The following categories are the different levels of Environmental Review:

- CEST: Categorically Excluded, Subject To §58.5 (also subject to §58.6)
 - Includes Continuum of Care Program leasing, sponsor-based and project-based rental assistance, minor rehabilitation
- EA: Environmental Assessment
 - Includes new construction, demolition, and major rehabilitation
- EIS: Environmental Impact Statement
 - Applies to projects affecting 2,500 or more units or where a Finding of Significant Impact was made

The table below shows the Level of Review and Length of Comment Period that is required for each type of Notice:

Type of Notice	Level of Review	Length of Comment Period
Notice of Intent to Request Release of Funds (NOI-RROF)	CEST, EA, and EIS	7 days when published or 10 days when only mailing and posting
Notice of FONSI	EA only	15 days when published or 18 days when mailing and posting

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Concurrent or combined notices	EA only	15 days when published or 18 days when mailing and posting
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Following the Determination of Level of Review, the responsible entity will submit all applicable findings and forms to DED for the agency's review. When applicable, the certifying officer of the responsible entity (the chief elected official) signs the RROF/C and takes legal responsibility for the review. DED must review and approve the responsible entity's RROF/C before it is submitted to HUD. HUD responsibilities under Part 58 are very limited. HUD will receive the RROF/C from the responsible entity, accept public comments during the HUD objection period, and approve the use of HUD assistance through the Authority to Use Grant Funds (HUD form 7015.16). HUD will also periodically conduct in-depth monitoring of responsible entities' environmental review records.

Normally, CDBG-DR grantees are permitted to charge to grants the pre-award and pre-application costs of homeowners, businesses, and other qualifying entities for eligible costs these applicants have incurred, but this is contingent on meeting the environmental requirements at 24 CFR 58 and not committing environmental harm. For more information on the environmental review process, please refer to Chapter 8 – Environmental Review of the CDBG-DR Policy Manual.

19.5.6 Uniform Relocation Assistance and Section 104(d)

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) establishes minimum Federal requirements for the acquisition of real property and the displacement of persons from their homes, businesses, or farms as a direct result of acquisition, rehabilitation, or demolition for Federally assisted programs and projects.

The Act applies to the following types of project acquisitions:

- Permanent easements and temporary easements necessary for the project
- Parcel of land
- Long-term leases of 50-years or more
- Rights-of-way

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

The key objective of the URA is to establish fair and equitable treatment of people whose property is acquired or who must move for a Federally funded project. The URA regulations at [49 CFR 24](#), in part, establish minimum requirements for:

- Real property acquisition, including but not limited to, valuation, negotiations, and the payment of just compensation.
- Residential and nonresidential relocation.
- Temporary relocation.

The CDBG-DR Consolidated Notice modifies the following URA regulatory requirements by providing waivers and alternative requirements:

1. URA Voluntary Acquisition – Homebuyer Primary Residence Purchase: The requirement at 49 CFR 24.101 (b)(2) is waived in connection with a homebuyer’s voluntary purchase of their primary residence. This waiver reduces the burdensome administrative requirements for homeowners following a disaster. This waiver has no effect on a displaced tenant’s eligibility for URA relocation assistance as a result of the Federally assisted acquisition.
2. URA Replacement Housing Payments for Tenants: The URA replacement housing payments requirements are waived only to the extent necessary to allow the grantee to meet all or a portion of a grantee’s replacement housing payment obligation to a displaced tenant by offering rental housing through a rental housing program subsidy (e.g. housing choice voucher), if certain conditions are met.

Section 104(d) refers to a section of a federal law called the “Housing and Community Development Act of 1974,” as amended. Section 104(d) applies to the demolition or conversion of lower-income dwelling units in connection with a CDBG- or HOME-assisted activity. Section 104(d) regulations are found at [24 CFR 42](#).

Objectives of Section 104(d):

- Minimize displacement by requiring grantees to create and follow a Residential Anti-displacement and Relocation Assistance Plan (RARAP) which includes but is not limited to, steps taken to minimize displacement of persons from their homes and neighborhoods.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

- Provide relocation assistance for displaced lower-income persons as an alternative to URA-based payments.
- Replace lower-income dwellings demolished or converted to a use other than lower-income housing in connection with a CDBG-assisted activity.

The CDBG-DR Consolidated Notice modifies section 104(d) requirements by providing the following waivers and alternative requirements:

1. Section 104(d) one-for one replacement of lower-income dwelling units: One-for-one replacement requirements are waived for owner-occupied lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. This waiver does not apply to tenant-occupied and vacant occupiable lower-income dwelling units demolished or converted to another use other than lower-income housing in connection with a CDBG-DR assisted activity, which are generally subject to one-for-one replacement requirements.
2. Section 104(d) relocation assistance: Section 104(d) eligible displaced persons may choose either section 104(d) relocation assistance or URA relocation assistance. This waiver eliminates the persons' choice and limits the available relocation assistance to the amounts and types of assistance for displaced persons under the URA, as may be modified by the waivers and alternative requirements in the CDBG-DR Consolidated Notice.
3. RARAP Section 104(d): Section 104(d) RARAP requirements are modified to add certain descriptions and steps that grantees must add to their RARAP for CDBG-DR activities. In addition, CDBG-DR grantees must either amend their existing RARAP or create a new RARAP for CDBG-DR purposes. See below for additional guidance.

Properties that are to be purchased for the purpose of the HRRP must gain title using the notification and fair market value evaluation processes established in the URA. Applicants may submit their applications under the HRRP demonstrating proof of site control, however, if awarded funds, no activities may occur until an Environmental Review is completed and the acquisition of the property is finalized. Acquisition is considered a "choice-limiting" activity, regardless of the source of funds and if performed in the wrong order, may cause a loss of CDBG funding.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

If the property is already owned and rehabilitation is to be pursued, the property must be assessed for occupancy. Every attempt shall be made to minimize the displacement of individuals and families from their home and/or neighborhood. If displacement is necessary (permanent or temporary), the URA outlines the process for providing rental assistance and moving costs. The aforementioned process needs to be documented as applicable to the project.

Per [24 CFR 42.350](#), a displaced person may choose to receive any of the following assistance (but not limited to): advisory services, moving expenses, security deposits and credit checks, interim living costs, and/or replacement housing assistance.

The applicability of URA for the purposes of the HRRP would most often be in cases of Temporary Relocation Assistance (TRA). Please see section 19.8.6 for additional information on TRA.

Please refer to Chapter 14 - Acquisition and Relocation, of the CDBG-DR Administrative Manual for more information on the URA requirements as well as for information regarding the displacement of businesses.

19.5.7 Davis Bacon and Related Acts (DBRA)

The Davis-Bacon Act (DBA) applies only to the construction / rehabilitation of projects involving eight or more contiguous units, therefore is generally not applicable to the Homeowner Rehabilitation and Reconstruction Program.

Please refer to CDBG-DR Administrative Manual Chapter 11 – Labor Standards for labor standards guidance.

19.5.7.1 Wage Classifications

Each labor classification (laborers and mechanics) has a wage determination list that contains a basic hourly wage rate and fringe benefit rates that have been determined to be prevailing for the same type of construction activities within the county covered by said wage determination. The classification is determined based on the type of work being performed by the laborer during the pay period.

If the work being performed by the laborer is not included in the classifications listed in the wage determination, an SF-1444 form will need to be completed and submitted to DED along with any accompanying required documentation.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

DED will forward the form to the U.S. Department of Labor for concurrence with the requested wage rate. This process can take four to six weeks for approval, so it is recommended that requests for new classifications be made as early as possible.

19.5.8 Fair Labor Standards Act (FLSA)

The FLSA governs such matters as Federal minimum wage rates and overtime. It requires employers to pay covered employees who are not otherwise exempt at least the federal minimum wage and overtime pay of one-and-one half times the regular rate of pay. These standards are generally applicable to any labor performed and may be pre-empted by other (often more stringent) Federal standards such as the DBRA prevailing wage requirements and CWHSSA overtime provisions. The authority to administer and enforce FLSA provisions resides solely with DOL.

19.5.9 Missouri Prevailing Wage Law

In addition to the Davis-Bacon and Related Act (DBRA), prevailing wage laws may be applicable as well as overtime pay requirements under State and local laws.

The Missouri Prevailing Wage Law is comparable to the Federal law in requiring payment of prevailing wages, as determined each year by the Missouri Division of Labor Standards, to all laborers and mechanics on public works construction projects for both straight time and overtime as defined by the authorizing State statute. As determined in the Missouri House Bill 1729; public works projects valued \$75,000 and under are not subject to the Prevailing Wage Law and projects valued at \$10,000 and below are not subject to a competitive bidding process. No project may be split up into smaller projects valued at less than \$75,000 for the purpose of evading the requirement to pay a prevailing wage or public works contracting minimum wage.

Additionally, when the project is advertised for bid, a "Prevailing Wage Project Notification Contractor Information Notification" (PW-2) must be filed with the Missouri Division of Labor Standards. Subrecipients are encouraged to review other related documents such as the Prevailing Wage Law Check-Off list, and the Affidavit of Compliance with the Prevailing Wage Law which contractors must submit to the Missouri Department of Labor prior to requesting final payment of public funds. These forms are provided electronically in conjunction

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

with the Annual Wage Order through the Missouri Division of Labor Standards website at <http://www.labor.mo.gov/DLS/PrevailingWage/>.

In addition, between Missouri's prevailing wage law and the federal wage law, the stricter/higher of the two requirements must be followed. Further requirements may include the completion of form WH-347, provided by the Department of Labor (DOL) or a similar format with all the required information as shown in WH-347. This weekly payroll form is required to be filled out by contractors and subcontractors for their federal or federally aided construction contracts and subcontracts. If completed properly, the WH-347 form will satisfy the requirements of Regulations, Parts 3 and 5 of 29 CFR, Subtitle A (payrolls submitted in connection with contracts), subject to the DBRA.

Regarding signatures on the applicable and relevant payrolls forms, the DOL and HUD permit the use of electronic submittals and electronic signatures for the contractor's weekly payroll and the "Statement of Compliance" submittals. However, there are stipulations on what counts as an electronic signature. If not submitting payrolls through an accepted electronic payroll system the Subrecipient will need originally signed "statement of compliance" for payrolls in their files.

The Department of Labor allows the filing of certified payrolls via electronic payroll systems that meet certain requirements.

1. The main requirement is that the contractor submitting the payroll uses an official digital signature, typically a unique PIN number and password that verifies the identity of the contractor.
2. Certified electronic payroll systems allow for electronic submissions of both payroll documents and certification statements.
3. A digital signature is only available through an electronic payroll system.
 - b. If they complete the WH-347 online, it must be printed out and hand signed. Once the WH-347 is in paper form, it remains in paper form, and the original paper certified payroll must be sent to the Subrecipient.

For additional details on prevailing wage, please see Chapter 11 - Labor Standards, of the DED CDBG Administrative Manual.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

19.5.10 Section 3

Section 3 of the Housing and Urban Development Act of 1968 requires recipients of HUD funding to direct employment, training, and contracting opportunities to low-income individuals and the businesses that employ these persons within their community. Section 3 is a provision of the HUD Act of 1968 and is found at 12 U.S.C. 1701u; the regulations are found at [24 CFR 75](#).

A Section 3 worker is a worker who currently fits or when hired within the past five years fits at least one of the following categories:

- An LMI worker that fell below HUD income limits for the previous or annualized calendar year.
- Employed by a Section 3 business concern.
- A YouthBuild participant.

A Targeted Section 3 worker is a worker who meets the definition of a Section 3 worker, plus one of the following:

1. A worker employed by a Section 3 business concern, or
2. A worker who currently fits or when hired was living within the service area, neighborhood of the project, or is a YouthBuild participant. The grantee should document that the worker meets this definition within the past five years.

A Section 3 Business Concern creates a contracting priority for businesses that provide economic opportunities to LMI workers. This is accomplished by prioritizing Section 3 business concerns in the awarding of contracts. A business concern can be any type of business such as a sole proprietorship, partnership, or a corporation, properly licensed and meeting all legal requirements to perform the contract under consideration. Grantees must certify that they are making efforts to prioritize contracting with Section 3 business concerns and are responsible for verifying that businesses meet the definition.

A Section 3 Business Concern is defined as a business that meets at least one of the following (documented within the last 6-month period):

1. At least 51 percent owned or controlled by low-or very low-income persons;
2. More than 75 percent of the labor hours performed for the business over the previous 3-month period are performed by Section 3 workers; or

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

3. At least 51 percent owned and controlled by current residents of public housing or residents who currently live in Section 8 assisted housing.

Section 3 requirements apply when Projects that are financed with state, local or private matching or leveraged funds used in conjunction with HUD funds are covered by Section 3 if the amount of HUD funding for the project exceeds the \$200,000 project threshold. For example, Section 3 applies to training or employment arising in connection with HUD-funded housing rehabilitation, housing construction, or other public construction projects, and related contracting opportunities if the amount of HUD funding exceeds the \$200,000 project threshold.

To meet the requirements, grantees must include Section 3 language in any agreements or contracts for qualifying projects. However, contractors and subcontractors must meet the regulation's requirements, regardless of whether their agreements or contracts include Section 3 language. A contractor must complete and submit a comprehensive Section 3 Plan to the Section 3 Administrator and Compliance Specialist for review and approval. The Section 3 Plan will include the Section 3 goals of DED and the Contractor, as well as identifying how these goals will be achieved. CDBG-DR grantees are encouraged to offer training to any contractors or subcontractors who may be new to Section 3 requirements.

Grantees should also be regularly monitoring for contractor compliance; assisting contractors to obtain compliance; penalizing non-compliance; providing incentives for good performance; and refraining from entering into contracts with any contractor that previously failed to comply with the requirements of Section 3. DED monitors Section 3 goals weekly, as each contractor that is subject to Section 3 must report on their compliance when submitting weekly payroll and costs. To review a sample Section 3 plan provided by HUD, please see the following link:

https://files.hudexchange.info/resources/documents/Section3_SamplePlanTemplate.pdf

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Section 3 requirements do not apply to projects that do not include housing rehabilitation, housing construction or other public construction. For example, if CDBG-DR funds are used for direct homebuyer assistance or tenant-based rental assistance, the Section 3 requirements do not apply. Section 3 requirements also do not apply to “materials-only” contracts or contracts that do not require any labor. An example of a materials-only contract is a contract for office or janitorial supplies only.

Grantees must track and report labor hours for three categories of workers on Section 3 projects: all workers, Section 3 workers, and Targeted Section 3 workers. “Labor hours” means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Grantees will report Section 3 data at the activity level data in DRGR. In instances where there are multiple funding sources, grantees must collect and report the same data across programs for consistency. For purposes of reporting the labor hours for Section 3 workers, an employer may choose whether to define the workers as Section 3 workers for a five-year period at the time of the workers’ hire, or when the workers are first certified as meeting the Section 3 worker definition. The five-year period for a worker cannot begin before November 30, 2020; therefore, Section 3 workers hired prior to November 30, 2020 may be certified for a five-year period beginning November 30, 2020. Section 3 Benchmarks are as follows:

1. Benchmark 1: Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project must be done by Section 3 workers (Section 3 Labor Hours/Total Labor Hours = 25%), and
2. Benchmark 2: Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project must be done by Targeted Section 3 workers (Targeted Section 3 Labor Hours/Total Labor Hours = 5%).

HUD will consider grantees to have complied with Section 3 benchmarks, in the absence of evidence to the contrary if they certify to the prioritization of effort in 24 CFR 75.19 and meet or exceed the applicable Section 3 benchmarks.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

HUD will monitor CDBG-DR grantees for compliance with Section 3 using exhibits in the Community Planning and Development (CPD) Monitoring Handbook. To prepare for potential monitoring, grantees must establish and maintain documentation that:

1. Demonstrates the workers meet the definition of a Section 3 worker or Targeted Section 3 worker,
2. Reports total labor hours worked, and
3. Certifies the employee met the requirements to receive the Section 3 worker status.

Grantees should retain documentation either at the time the employee is hired or the first reporting period. Grantees are reminded that recordkeeping and record retention requirements continue to apply.

19.5.11 Minority and Women-owned Business Outreach

Section 281 of the National Affordable Housing Act requires each participating jurisdiction to prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program. In the state of Missouri, a business must meet the following requirements to become a certified Minority/Women Owned Business Enterprise (M/WBE):

- At least 51 percent of the business must be owned by a minority and/or a woman;
- The minority and/or woman owner must be a U.S. citizen or lawfully admitted permanent resident of the U.S.;
- The minority and/or woman owner must hold the highest position in the company and be capable of exercising direct control over the daily, as well as long-term decisions regarding the management, policies and operations of the firm; and
- The business must be organized as a for-profit business.

The minority outreach program shall include minority and woman-owned businesses in all contracting activities entered into by the participating jurisdiction to facilitate the provision of affordable housing authorized under this Act or any other federal housing law applicable to such jurisdiction. Therefore, minimum HUD standards require that each participating jurisdiction's outreach effort to minority and women-owned businesses be:

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

- A good faith, comprehensive and continuing endeavor;
- Supported by a statement of public policy and commitment published in the print media of widest local circulation;
- Supported by an office and/or a key, ranking staff person with oversight responsibilities and access to the chief elected official; and
- Designed to utilize all available and appropriate public and private sector local resources.

Under the minimum HUD standards cited above, the following guidelines are provided for use by participating jurisdictions in implementing outreach programs to ensure the inclusion, to the maximum extent possible, of entities owned by minorities and women. Each participating jurisdiction should:

- Develop a systematic method for identifying and maintaining an inventory of certified minority and women's business enterprises (MBEs and WBEs), their capabilities, services, supplies and/or products;
- Utilize the local media, electronic and print, to market and promote contract and business opportunities for MBEs and WBEs;
- Develop informational and documentary materials (fact sheets, program guides, procurement forecasts, etc.) on contract/subcontract opportunities for MBEs and WBEs;
- Develop procurement procedures that facilitate opportunities for MBEs and WBEs to participate as vendors and supplies of goods and services;
- Sponsor business opportunity-related meetings, conferences, seminars, etc., with minority and women business organizations; and
- Maintain centralized records with statistical data on the utilization and participation of MBEs and WBEs as contractors/subcontractors in all HUD-assisted program contracting activities.

Each participating jurisdiction, utilizing the standards and guidelines listed above, shall prescribe procedures and actions it will undertake in implementing a minority and women's business enterprise outreach program. The above items represent basic outreach-related activities and are not all-inclusive actions a participating jurisdiction may undertake.

19.5.12 Cost Verification

Cost controls measures must be implemented to ensure that all program costs are consistent with market conditions at the time and place of construction.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Each local government subrecipient must require that all vendors and contractors implement cost control measures or verify that reimbursable costs are correctly controlled during the project. The method and degree of analysis may vary dependent upon the circumstances surrounding a particular project (e.g., project type, risk, costs), but the description must address controls. HUD may issue guidance to Subrecipients and may require a Subrecipient to verify cost reasonableness from an independent and qualified third-party architect, civil engineer, or Project Manager.

Examples of cost control measures include:

- the development of thorough, detailed costs estimates;
- limiting change orders and requiring cost verification and justification for change orders;
- on-site inspection and reports;
- third party evaluation of costs;
- use of construction management software;
- use of familiar, quality subcontractors;
- efficient communication practices including daily reports and updates;
- strong solicitation and procurement of competitive bids; and
- pre-determination of industry standards with the development of a cost control plan that is designed to avoid cost overruns by providing guidelines for estimates and forecasts of labor, material and overhead costs.
 - The purpose of the plan is to make sure the project is delivered on time, within budget and accomplishing the defined scope of work.

Cost Verification Process:

A cost verification, or cost analysis, is the review and evaluation of any separate cost elements of a proposal, as needed to determine a fair and reasonable price. Some cost analysis techniques may include, but are not limited to, the following:

- Verification of the necessity for, and reasonableness, of proposed cost
- Projections of cost trends on the basis of current or historical data
- Comparison of proposed costs from other proposals for the same or similar terms

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Cost verification is always required when noncompetitive proposals are used and necessary when price competition is lacking. For additional details, please see 48 CFR 15.404-1 (c)(1).

According to 2 CFR 200 – Reasonable Costs – procurements related to CDBG-DR projects must undergo cost analysis procedures prior to award of contract. The following is an outline of cost analysis methods used for professional service contracts, construction contracts, and contract modifications:

- Professional Service (A/E and Consulting) Contracts: Cost analysis methods for A/E contracts include but are not limited to:
 - a. Comparing proposed contracts to industry averages using RS Means as a benchmark for A/E contracts
 - b. Comparing proposed contracts to prior contracts with similar scopes of work
 - c. Comparison of prices through market research for similar or same projects or items
- Construction Contracts: Cost analysis methods for construction contracts include but are not limited to:
 - a. Comparing bids to industry averages using RS Means as a benchmark
 - b. Comparing bids to contracts to prior contracts with similar scopes of work
 - c. Comparing bids to the engineer's estimated cost
 - d. Comparison of prices through market research for similar or same projects or items using bid tabs
- Contract Modifications: Cost analysis methods for contract modifications include but are not limited to:
 - a. Comparing specific scope of work to industry averages using RS Means as a benchmark
 - b. Comparing specific scope of work to prior contracts with similar scope
 - c. Comparing specific scope of work to the engineer's estimated cost for a similar scope
 - d. Comparison of prices through market research for similar or same projects or line items

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Each element of a contract must be analyzed for reasonableness. As an example, a construction contract may be made up of materials, labor, profit and overhead costs. Each one of those costs separately must be part of the determination of reasonableness.

19.6 Category Compliance: Homeowner Rehabilitation and Reconstruction Program

19.6.1 Marketing Plan

The Subrecipient must submit a marketing plan to DED that details all planned outreach efforts to ensure citizens are informed and aware of the program. These outreach efforts include, but are not limited to: advertising using local media outlets, newspapers, broadcast media, public meetings, websites, etc. The marketing plan must be approved by DED before any program activities can begin.

19.6.2 Fair Housing

Housing projects, to the extent possible under the law, should ensure all Americans have equal access to the housing of their choice. HUD-funded grant recipients and Subrecipients are obligated under various laws not to discriminate in housing or services both directly or indirectly on the basis of race, color, religion, sex, national origin, age, familial status, or disability. Design and construction documents for each development shall comply with all Fair Housing Laws, including Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA). The Fair Housing Act contains requirements for the design of multifamily dwellings which contain four or more attached units ready for first occupancy after March 13, 1991, to ensure accessibility to disabled persons.

19.6.3 Procedures to Protect Personally Identifiable Information (PII)

DED's PII Policy will be adhered to by all program participants, including DED staff, Subrecipient staff, and contractors or any other party administering any part of the program. The purpose of the policy is to ensure the confidentiality and integrity of PII information provided in a hard copy format and/or electronically stored or transmitted using DED, Subrecipient, and contractor computer networks and systems.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

The policy outlines the methods to collect, document, and properly dispose of applicant hard copy paperwork containing PII, as well as established acceptable use and methods of transmission of PII data. All program staff, including DED, Subrecipients, and contractor staff will be provided a copy of DED's PII Policy and will be required to sign an acknowledgment of understanding of this policy.

The protection of PII data applies to all CDBG grantees, Subrecipients and contracted agents. Requirements of PII protection must be adhered to and as such are set forth in:

- Grant agreements
- Subrecipient contracts and agreements

All of the aforementioned entities participating will indicate their recognition, acceptance and concurrence with this policy by executing the required documentation and providing the executed copy to DED. The existence of a signed copy for all entities will be a monitoring function and non-compliance may cause penalties for future grant awards.

Retention and protection of PII data is the same as all CDBG grant data and shall be held for at least 5 years following the closing of the grant. Destruction of PII data shall follow shredding protocols and other destruction of records prescribed by the State Archives.

Databases or data sets that include PII may be breached inadvertently or through wrongful intrusion. Upon becoming aware of a data breach, the CDBG Program will notify the DED legal team and implement a notification of all affected individuals whose PII data may have been compromised. The notice will be accompanied by a description of action being taken to reconcile any damage as a result of the data breach. Notices will be provided as expeditiously as possible.

19.6.5 Limited English Proficiency

Per Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and Executive Order 13166, all recipients who administer Federal funds are required to take responsible steps to ensure meaningful access by persons with limited English proficiency (LEP persons).

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Counties with LEP populations that meet the threshold for provision of written and/or oral translation set forth by HUD will be monitored to ensure they are meeting the LEP requirements. To meet LEP requirements, the local government Subrecipient must prepare a Language Assistance Plan (LAP) by conducting a four-factor analysis to determine the actions taken to ensure meaningful access to agency services, programs, and activities by LEP persons. The four-factor analysis must consider the following:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the Agency or its federally funded programs.
2. Frequency with which LEP persons come into contact with the Agency's program.
3. The nature and importance of the program, activity, or service to people's lives.
4. The resources available and the associated costs.

After completing the four-factor analysis and deciding what language assistance services are appropriate, subrecipients must use the findings to create an LAP that addresses the identified needs of the LEP populations it serves. An effective LAP should include the following:

- Points and types of contact the agency and staff may have with LEP persons
- Procedures the subrecipient will use to identify LEP individuals who need language assistance
- Ways in which language assistance will be provided by the subrecipient
- List of vital documents to be translated (if necessary)
- Subrecipient's plan for training staff members on LEP guidance and the LAP
- Subrecipient's plan for monitoring and updating the LAP
- Plan for complaints and appeals

When completed, the Subrecipient must submit their LAP to the local CDBG field rep. The LEP and LAP requirements are further detailed in the DR-4451 Action Plan on DED's website.

Language assistance that a Subrecipient might provide to LEP persons includes, but is not limited to, the following:

- Oral interpretation services

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

- Bilingual staff
- Telephone service line interpreter
- Written translation services
- Notices to staff about the availability of LEP services
- Referrals to community liaisons proficient in the language of LEP persons

Under the DR-4451 Action Plan, the identified LEP populations in St. Charles County include Spanish- and Vietnamese-speaking persons.

19.6.6 National Objective Determination

There are two means to achieve the required National Objective under the Program:

- (1) Benefitting low- and moderate-income households (LMH)
- (2) Urgent Need

Benefitting low- and moderate –income households: HUD requires that 70% of program funds meet the LMI National Objective. LMI households are those with an income less than 80% of the Area Median Income.

While only households with incomes at or less than 80% of the area median income will count toward the total aggregate threshold requirement for the program, households with less than 120% of the AMI may be eligible to receive the rehabilitation/reconstruction benefit.

All of the households (100%) served under the Low Mod Housing (LMH) National Objective must meet the income eligibility test.

Urgent Need. This use of this National Objective is rare. It is designed only for activities that alleviate emergency conditions. Urgent Need qualified activities must meet the following criteria: (1) The existing conditions must pose a serious and immediate threat to the health or welfare of the community (2) The existing conditions are of recent origin or recently became urgent (generally, within the past 18 months) (3) The grantee is unable to finance the activity on its own; and (4) Other sources of funding are not available.

For each activity that will meet an Urgent Need national objective, the Subrecipient must document how each activity funded under the Urgent Need national objective responds to a disaster-related impact.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

An activity not meeting a national objective is considered ineligible. Any associated expenses related to the activity are not eligible and will not be paid, or if already paid, may require repayment.

19.7 Homeowner Rehabilitation and Reconstruction Program

The Homeowner Rehabilitation and Reconstruction Program (HRRP) is designed to restore owner-occupied housing to applicable construction codes and standards. The program seeks to achieve this through the rehabilitation or reconstruction, of existing or destroyed housing units.

19.7.1 Program Delivery

The Subrecipient will submit a Proposal to the State of Missouri CDBG describing the intent to include Homeowner Rehabilitation & Reconstruction Program for Single Family Units as an Activity.

If the Proposal is approved for funding, the Subrecipient may opt to directly administer the Program, to include delivery and construction management services, or may procure for administration under contract. Procurement methods must meet criteria under OMB guidance as found in 2CFR Part 200. Subrecipients may opt to adopt the State CDBG procurement standard, as found in in the CDBG Administration Manual, or follow locally documented compliant methods.

19.7.2 Rehabilitation Program Description

This program includes repair of owner-occupied primary residence homes impacted by DR-4451 that occurred April 29 to July 6, 2019. Flooding and tornado damage impacted housing in the HUD Most Impacted and Distressed (MID) areas of Cole County, Holt County, and St. Charles County. Eligible repairs include storm related damages, environmental remediation (lead based paint and asbestos removal), code enforcement / housing safety, and accessibility.

19.7.2.1 Eligible Repairs

All property improvements must be for unmet housing needs resulting from DR-4451. For eligible housing units, the HRRP may fund additional repairs not directly caused by the disaster but are deemed necessary to meet current building codes or to increase the property's resiliency against future disasters. Eligible repairs include but are not limited to:

- Roofs;

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

- Interior and exterior walls;
- Foundations;
- Framing and structural support components;
- Critical systems including HVAC, water heaters, water pumps, and related systems;
- Interior flooring;
- Doors/windows;
- Electrical and Plumbing; including well/septic repairs (when necessary);
- Interior and exterior finishes;
- Replacement of appliances essential to the home including stove/oven;
- Any necessary or required Americans with Disabilities Act (ADA) improvements, including special tubs/showers, access ramps, special cabinets/counters;
- Sidewalks/walkways providing access to the structure, which pose a health and/or safety hazard;
- Any and all necessary site work required to complete the rehabilitation;
- Construction material/waste removal and disposal;
- Abatement activities for materials containing lead; and
- Abatement activities for any materials containing asbestos.

19.7.3 Reconstruction Program Description

The Reconstruction Program includes the demolition and re-building of an owner-occupied housing unit on the same lot in substantially the same footprint and manner, so long as flood mitigation measures (such as elevation) are undertaken. Determination of eligibility for the Reconstruction Program is based on one of two criteria:

1. The cost to rehabilitate the property exceeds the allowable Rehabilitation Program threshold (defined as cost to rehabilitate the unit may not exceed 75% of the cost to reconstruct or replace the unit), or
2. The property is determined with a high level of certainty to require reconstruction during initial site inspection (for example, housing unit is destroyed or structurally unsafe to enter, or existing conditions are such that the building cannot be rehabilitated)

19.7.3.1 Eligible uses of Reconstruction Program Funds

1. Demolition of the existing structure and foundation
2. Construction labor and associated costs (overhead, etc)

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

3. Reconstruction materials
4. Increase or decrease in number of rooms under common roof
5. Dumpsters for debris
6. Excavation
7. Fencing
8. Temporary toilets
9. Sidewalks and/or pathways to the home
10. Seeding the lot
11. Septic Tanks repair or replacement
12. Water Wells repair or replacement
13. Installation of ADA lifts/and or ramps

19.7.4 Eligible Activities – Rehabilitation and Reconstruction

- Reconstruction in the floodplain is permissible after determination that is the most cost reasonable relative to other alternatives, such as rehab, or buyout and when the construction meets all required elevation standards.
- Implementing cost-effective energy measures and improvements made to meet local zoning and code, Decent, Safe and Sanitary (DSS) standards, or required Housing Quality Standards (HQS).
- Making improvements that add enhanced resilience, such as elevation of major electrical components, roof strapping and other measures.
- Mold remediation, if necessary.
- Section 106 activities to mitigate adverse effects of repair or reconstruction as required by the Missouri State Historic Preservations Office (SHPO).
- Ventilation and energy efficiency items such as ceiling fans, window screens, and screen doors if they are missing or not functional at the time of inspection.
- Structural elevation changes to assure the lowest finished floor is at least two feet above the base flood elevation for homes in the 100-year floodplain that are substantially damaged, substantially improved, reconstructed or replaced. Elevation height requirements are governed by the applicable Federal Register Notice(s).
- Inspections for all electrical components including service, meter, wiring, and fixtures, even if no electrical work is being specified. Any unsafe components must be replaced while all exposed wiring, switches and light bulbs in living areas must be encased.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

- Equipping a home with smoke and carbon monoxide detectors installed in conformity with local code requirements.
- Associated Activity Delivery Costs (ADCs).

19.7.5 Ineligible Activities – Rehabilitation and Reconstruction

Use of CDBG-DR funds for rehabilitation and/or reconstruction of housing is prohibited if:

- The combined household income is greater than 120% AMI or the national median;
- Program funds may not be used to increase the number of dwelling units on the lot.
- Program funds may not be used to increase the total square footage of the original structure to be reconstructed (except in the case in which increased square footage is required to meet DSS Standards, such as adding the number of rooms in a unit).
- Installation of new driveways
- Installation of utility access points
- Installation of broadband access points
- The Missouri CDBG-DR Program will not fund reconstruction in the floodplain

The following activities are ineligible for use of CDBG-DR funds under the Homeowner Rehabilitation and Reconstruction Program:

1. Forced mortgage payoffs with program funds
2. Small Business Administration (SBA) home/business loan payoffs with program funds
3. Compensation payments
4. Purchase of construction equipment

19.7.6 Ineligible Property Types – Rehabilitation and Reconstruction

The HRRP does not allow the use of CDBG-DR funds for the rehabilitation or reconstruction of the following property types:

1. Garages, sheds and outbuildings that are not attached to the main dwelling unit are not eligible for repair. Improvements must be physically attached to the house and be permanent in nature.
2. Recreational Vehicles and camper trailers used as a residence.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

3. Houseboats used as a residence.
4. Second homes are not eligible under the single Homeowner Rehabilitation and Reconstruction program as described in these guidelines; However, second homes may be eligible under the affordable rental program if the second home is converted to affordable rental housing. The affordable rental program is detailed in Chapter 20 – Affordable Multi-family Rental Recovery of the CDBG-DR Administration Manual. This limited exception will be evaluated on a case-by-case basis and will require HUD approval.
5. Non-owner-occupied homes.
6. Homes which did not maintain flood insurance at the time of the DR-4451 disaster after receiving prior federal disaster assistance.
7. Seasonal, short-term, and vacation rental properties.
8. Housing units located where federal assistance is not permitted by federal regulation, including floodways, or within runway clear zones of either a civil or military airport.
9. Foreclosed homes.
10. Homes that did not sustain damage from DR-4451.
11. Homeowners who lost ownership of their homes due to foreclosure.
12. Persons found to be non-compliant with FEMA regulations or who failed to comply with the requirements of the National Flood Insurance Reform Act are not eligible for assistance. Noncompliance in this context means a person or persons who failed to obtain and maintain flood insurance after receiving federal funding for a previous disaster.

19.7.7 Minimum and Maximum Awards

The maximum possible award amount for Rehabilitation activities is \$50,000 per housing unit. The minimum possible award amount for Reconstruction activities is \$1,000 and Reconstruction awards cannot exceed \$100,000 per property. Exceptions to the maximum award amount may be granted on a case-by-case basis for Temporary Relocation Assistance.

To determine the award amount, the program will conduct an inspection with a cost estimate for repairs, and a cost feasibility analysis to assess the effectiveness of each proposed household rehabilitation. The award amount for each eligible property includes all construction costs, mitigation measures, elevation costs, site improvements, and construction standard conditions (dumpsters, on-site toilets,

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

permitting, variances). The cost to rehabilitate the unit may not exceed 75% of the cost to reconstruct or replace the unit.

Reconstruction estimates will be submitted to the State for cost reasonableness review. Accepted estimates will be reduced by any funding determined to be a duplication of benefit. The maximum award will apply to determine the net award.

If the asbestos abatement cost exceeds the maximum benefit, the work will be added and included in the benefit amount for reconstruction projects only.

If the extent of damage to the unit requires more than the maximum Rehabilitation assistance allowed, or more than the Reconstruction assistance allowed, eligible homeowners will need to fund the remainder of the project with private funds or other resources.

An exception to the maximum award may be permissible if a homeowner is unable to obtain a loan from private entities or other resources. Documentation of attempts to obtain a loan must be provided. In these instances, a forgivable loan may be provided from the program with CDBG-DR dollars. The loan will be forgiven in equal amounts each year that the homeowner remains in the home up to a five-year period. The decision for the exception lies solely with the subrecipient on a case-by-case basis.

19.7.8 Inspection and Design

19.7.8.1 Procurement of Professional Services

Subrecipients must comply with procurement policies and procedures based on full and open competition consistent with the requirements of 24 CFR 570.489(g), and shall require an evaluation of the cost or price of the product or service.

Homeowner Rehabilitation and Reconstruction projects require the services of engineers, contractors and inspectors and may also include other specialists depending upon the project. Section 9.2 of the CDBG Administrative Manual provides a detailed description of each of the procurement methods. Section 9.3 provides a step-by-step description of the procurement procedures.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

19.7.8.2 Damage Assessment Inspection

This section provides guidance on inspection protocols and the preparation of a damage assessment, scope write-up, and DOB verification (if applicable). This guidance establishes standardization when conducting assessments, to achieve the desired result of producing a complete and quality scope of work. The damage assessment, cost estimate, and environmental site questionnaire should be consolidated into a single coordinated inspection whenever possible.

Reconstruction estimates are based on the total area of eligible rooms of the home under a common roof, including attached garages but excluding breezeways, unattached structures, carports, and porches. The total eligible reconstruction square footage is derived from the property description and/or architectural (or similar) renderings of the home developed during the damage assessment.

If a structure has been demolished or partially demolished, and documentation from on-site inspection is unavailable, the Program may use other approved methods to establish the eligible reconstruction area and devise the reconstruction estimate. The damage assessor takes photos to document the condition and measures the footprint and area eligible for reconstruction. Information collected to verify the square footage of homes from sources other than the home estimate must be provided to the Program. Collection of the documentation is primarily the homeowner's responsibility.

If the area eligible for reconstruction cannot be established by the damage assessor (for example a 100% destroyed home with a cleared foundation), the Program will work with the Applicant UGLG to obtain the missing information from the following:

Pre-flood appraisal or real estate documents

1. County tax assessor information
2. Insurance estimates
3. Photographs
4. Collection of the documentation is primarily the applicant's responsibility.
5. Reconstruction Plans and Specifications

General contractors assigned to an applicant's reconstruction project may provide Subrecipient/Applicants with architectural drawings and a set of floor plans for reconstruction to rebuild a comparable dwelling in substantially the

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

same footprint of the damaged home. Floor plans include two-, three-, and four bedroom single-family units for review and consideration by the Applicant UGLG.

The criteria used to determine if a home requires rehabilitation or whether it requires reconstruction is based first upon the comparison of estimated, eligible rehabilitation costs to the estimated eligible reconstruction costs. The manner to accomplish that comparison is as follows:

1. Divide the inspector's rehabilitation cost estimate by the inspector's reconstruction estimate.
2. Multiply the amount x 100.
3. The calculated value represents the relative percentage of the cost to rehabilitate to the cost to reconstruct.
4. Determine if the percentage amount is more or less than 75%.
5. If the percentage is less than 75% proceed with the additional tests necessary to pursue rehabilitation of the home.
 - a. Is the cost to rehabilitate estimated at \$50,000 or less?
 - b. Does the inspection report comparison of alternatives conclude that rehabilitation is the most efficient and effective option?
 - c. Are the costs of rehabilitation eligible for the use of CDBG funds?
 - d. Has the property been proven to be a primary residence and not a secondary home?
 - e. Does the inspection conclude the need for elevation? (Does the estimated cost equal or exceed 50% of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored before the damage occurred? And is the property located within the 100 Year floodplain?)
6. If the percentage calculated is more than 75% proceed with the additional tests necessary to pursue a reconstruction of the home.
 - a. Is the damage to the home equal to or greater than 80% of the pre-disaster value?
 - b. Is the cost to reconstruct equal to or less than \$100,000?
 - c. Is the conclusion to reconstruct consistent with the alternative comparison findings of the inspector as the most efficient and effective option?

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

There are occasional exceptions that may convert a repair project to a reconstruction project. For instance, any unforeseen construction conditions identified after execution of the grant agreement may result in a project cost increasing to or above the threshold. Structures that are partially or wholly demolished may be considered for reconstruction. Additionally, structures that have been determined to be substantially damaged or condemned by a governing municipality, or structures that are determined to be unsafe to enter by program staff, may be converted to a reconstruction project. Files that meet any of the aforementioned criteria will be reviewed on a case-by case basis

Lead-based Paint Hazard Identification

Per Title 24 Subtitle A Part 35 Lead-Based Paint Poisoning Prevention in Certain Residential Structures, if the unit to be assisted was built prior to 1978, the assisted unit will be tested for the presence of lead-dust hazards. If present, the stabilization, encapsulation or removal of lead-based paint will be considered in the rehabilitation costs. Lead-based paint inspection provides two benefits:

1. The costs of mitigation measures are considerable and must be factored into the cost estimates for repair and
2. The health risks to residents, particularly children and the elderly, may be severe.

Note that for properties enrolled in the Reconstruction Program, a lead-based paint Risk Assessment will not be conducted unless the determination of reconstruction is changed to rehabilitation. For more information, please see Chapter 8 – Environmental Review of the CDBG Administration Manual

19.7.8.3 Inspection Procedures

During the application intake process, applicants will sign a Right of Entry form. The Right of Entry form authorizes the Subrecipient and contracted inspectors to enter in and onto the Applicant's property for the purpose of performing inspections. Applicants will be contacted by the Subrecipient or Inspector to schedule their site visit, with an at least 24-hour notice given prior to the site visit. Scheduling is made and tracked in the applicant's file. A joint site visit is conducted by the Subrecipient and an Inspector at the physical address of the Applicant's damaged property. The Applicant must be present during each site visit.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

During the site visit, an inspector will complete an initial damage assessment, environmental site questionnaire, and verify disaster damage. They will also observe, measure, and quantify the repairs for rehabilitation or reconstruction of the Applicant's structure in accordance with the program policies. The inspector must ensure any suggested repairs are in-line with local code and Housing Quality Standards. Note that HQS defines "standard housing" and establishes the minimum criteria for the health and safety of program participants. The inspector uses estimating software to produce the scope of work write-up and determine any allowable activities eligible to offset DOB (if applicable). The inspector must use estimating software with the most up to date construction prices by zip code or an approved universal price list that includes sales taxes, overhead, and profit to ensure that consistent and correct pricing is used throughout the project.

All property improvements must be for unmet housing needs resulting from the disaster event. Structures built before 1978 must be inspected for lead-based paint hazards. Where such hazards are detected, the homeowner(s) will be notified, and appropriate steps will be taken to mitigate dangers from lead-based paint.

The Scope of Work Estimate (SWE) provides a documented line by line, itemized estimate of the damages observed during an onsite visit to a homeowner's property that quantifies the materials and labor necessary to repair observed damages. The SWE is calculated using the classifications defined in the 2019 National Reconstruction Cost Book and incorporates costs necessary to ensure that the property meets the following standards: the Construction Code, the International Residential Building Code (IRC), and HUD's HQS. The SWE does not consider an exact replacement of the homeowner's original home in its evaluation. In contrast to insurance estimates that may be based on replacements costs, the SWE evaluation is based on standards for basic livability developed for the program and on costs developed by the construction industry for those items. The methodology used to prepare the SWE is to account for those scope items that can be counted, measured or observed. No destructive testing is performed during the estimation process; meaning that hidden damages are not accounted for during this process. For example, termite damage behind a wall would not be discoverable during the estimation process if the wall covering is intact.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

The SWE will be provided to the property owner for review and approval prior to any work beginning.

19.7.8.4 Design Requirements

The entire structure must be designed in compliance with minimum property standards established by the program, which are based on HUD's Decent Safe and Sanitary (DSS) Standard, HUD Green Building Retrofit Checklist (where applicable), and all state and local code requirements. These standards can be found here: <https://www.hudexchange.info/programs/cdbg-dr/toolkits/program-implementation/>

International Building Code (IBC) must be met for applicable projects. Homeowner Rehabilitation activities are required to comply with the HUD Green Building Retrofit Checklist. Additionally, the implementation of Green Building Standards will apply for all Reconstruction activities. Applicant UGLGs must identify which Green Building Standard will be used in the program's policies and procedures for replacement and new construction of residential housing.

19.7.8.4.1 Energy Efficiency and Green Building Standards

All rehabilitation and new construction projects should be designed to incorporate principles of sustainability such as water and energy efficiency, resilience, and mitigation measures. For more information, Subrecipients may refer to the U.S. Department of Energy's Guidelines for Home Energy Professionals – Professional Certifications and Standard Work Specifications at <https://www.energy.gov/eere/wipo/guidelines-home-energy-professionals> and the US Department of Housing and Urban Development's Green Housing Development Guide at <https://www.hudexchange.info/resource/4091/disaster-recovery-green-housing-development-guide/>.

According to [83 FR 5861](#), contractors are required to use Green Building Standards on all construction projects to meet an industry recognized standard that has achieved certification under at least one of the following programs:

- a) ENERGY STAR
- b) Enterprise Green Communities;
- c) LEED
- d) ICC–700 National Green Building Standard;
- e) EPA Indoor AirPlus (ENERGY STAR a prerequisite); or,
- f) Any other equivalent comprehensive green building program

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

acceptable to HUD.

19.7.8.4.2 Elevation Standards

All structures defined in 44 CFR 59.1 as being designed principally for residential use and located in the 100-year (or in a 1 percent annual chance floodplain), that receive assistance for new construction, repair of substantial damage, or substantial improvement (as defined in 24 CFR 55.2(b) (10)) must be elevated with the lowest floor, including the basement, at least two-feet above the base flood elevation. All structures located within the 500-year (or 0.2 percent annual chance floodplain), must be elevated to the higher of the 500-year floodplain elevation at least three-feet above the 100-year floodplain elevation. If the 500-year floodplain is unavailable, then the structure must be elevated or flood-proofed at least three-feet above the 100-year floodplain elevation.

The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance that are located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). The community must be participating in the NFIP to be able to purchase flood insurance, if they are not, federal assistance cannot be used in those areas.

19.7.8.4.3 Property Standards

This program does not pay for like-for-like replacement of amenities. The program will offer standard, basic amenities to meet decent, safe and sanitary standards. All improvements will be assessed for compliance with Decent Safe and Sanitary standards, local building codes, and Green Building Standards.

Standard appliances that are not functioning at the time of inspection such as refrigerators, stoves and/or ovens may be replaced. Luxury items, including but not limited to, granite, quartz, solid surface or similar countertops, appliances priced above median market price, stone flooring, garage door openers, security systems, swimming pools, fences and television satellite dishes are not eligible under the program. Washing machines and dryers are not eligible for replacement. All CDBG-DR assisted rehabilitation projects must meet DSS at completion, as well as all applicable local codes and ordinances.

19.7.8.4.4 Size of Unit

HUD guidelines provide minimum size of unit based on anticipated household size and occupancy policies that allow for two persons per bedroom as

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

reasonable. Missouri CDBG-DR follows the HUD HOME Program in determining household size. Household composition determinations should be made by communities early in the eligibility process as this may affect the applicant's decision to proceed with recovery assistance, as impacted unit may not meet HUD HOME Program standards.

Exceptions to this standard are based on the following factors:

1. No more than two persons are required to occupy a bedroom.
2. Persons of different generations (i.e., grandparents, parents, children), persons of the opposite sex (other than spouses/couples), and unrelated adults are not required to share a bedroom. Note: All persons over the age of 18 are considered adults.
3. Couples living as spouses (whether or not legally married) must share the same bedroom for issuance size purposes.
4. A live-in aide who is not a member of the family is not required to share a bedroom with another member of the household. Note: The need for a full-time live-in aide must be documented.
5. Individual medical problems (e.g., chronic illness) sometimes require separate bedrooms for household members who would otherwise be required to share a bedroom. Documentation supporting the larger-sized unit and related subsidy must be provided and verified as valid.
6. In most instances, a bedroom is not provided for a family member who will be absent most of the time. If individual circumstances warrant special consideration, a waiver request may be approved.
7. To comply with the standard, subrecipients and the state must follow and document the reason for a requested exception as noted in the issuance size exception section below.
8. When determining family issuance size, include all children expected to reside in the unit in the next year as members of the household. Examples include, but are not limited to, the following:
9. Pregnant women: Children expected to be born to pregnant women are included as members of the household.
10. Adoption: Children who are in the process of being adopted are included as members of the household.
11. Foster Children: Foster children residing in the unit along with families who are certified for foster care and are awaiting placement of children are included as members of the household. If children are anticipated to

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

occupy the unit within a reasonable period of time, they must be considered when determining the issuance size.

12. Joint/Shared Custody Arrangements: In most instances, children in joint/shared custody arrangements should occupy the unit at least 50 percent of the time. However, if individual circumstances merit special consideration, a waiver request may be approved as outlined in the section on Issuance Size Exceptions. The custody arrangement may be verified by the divorce decree/legal documents or by self-certification.
13. Custody of Children in Process: Children whose custody is in the process of being obtained by an adult household member may be included as members of the household. Evidence that there is a reasonable likelihood that the child will be awarded to the adult (e.g., within 3 months) must be provided for such child to be included.
14. Children Temporarily Absent from Household:
 - a) Children temporarily absent from the home due to placement in foster care may be included as members of the household. Evidence that there is a reasonable likelihood that the child will return to the household (e.g., within 3 months) must be provided for such child to be included.
 - b) Children who are away at school but live with the family during school recesses are included as members of the household.
15. Chronic Illness — An individual with an ongoing health problem who requires at least part-time assistance on a regular basis;
16. Pending Child Custody cases — Includes, but is not limited to, children in foster care who may be returning home, foster children, pending adoptions, etc.; and
17. Parental Custody Situations — Children physically occupy the unit less than 50 percent of the time as documented by a divorce decree and/or self-certification.
18. Issuance size exceptions may be granted by subrecipients and the state.

Waivers for other individual circumstances may be granted with pre-approval by Missouri CDBG-DR. The family must request a waiver in writing and explain the need and justification.

19.7.9 Contract and Construction Management

Contract and Construction management is the overall coordination and control of the Rehabilitation or Reconstruction of the subject property, including, at

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

minimum, procurement of contractors, time and cost management, and quality control. For Applicant UGLGs, staffing capacity is often stretched thin with large numbers of individuals off-site (inspectors, contractors), sizeable sum of funds processing through a system of checks and balances, and multiple partners engaged that need to be managed appropriately.

To ensure the success of the construction process, Applicant UGLGs must comply with the following:

1. Develop and agree with property owner and contractor upon a construction schedule at, or prior to, closing
2. Develop a robust QA/QC system for both construction oversight and invoice processing.
3. Act as liaison between contractor and homeowner, as UGLG is the main point of contact for the homeowner.

19.7.9.1 Contractor Procurement

As a UGLG will likely be implementing multiple housing projects simultaneously, the UGLG may opt to procure contractors using a pre-qualified pool of vendors. Through this method, a pool of potential contractors will be selected through a Request for Qualifications (RFQ) procurement method. This method will allow for an expedited process once construction is ready to begin. In order to implement this method of procurement, the following steps must be taken:

1. UGLG will issue an RFP or RFQ in order to establish a qualified pool of contractors that have been evaluated and selected based on criteria such as residential rehabilitation, reconstruction and manufactured housing units
2. All contractors selected to be included in the pool will be vetted for basic eligibility such as SAMs registration, check for debarments, certificates of insurance and contractor integrity.
3. Once design has been completed and construction activities are set to begin, projects will be bid out in batches and the pool of contractors will submit sealed bids. Award will be made to the low bidder for each batch of projects.

19.7.9.2 Construction Contract

The Subrecipient shall enter into a three party agreement contract with its contractor and homeowner, incorporating all applicable local, DED and

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Federal requirements. The three party agreement will clearly identify the responsibilities of each party involved. The subrecipient shall also ensure that the contractor enters into written agreements with each subcontractor who does work for the project. These subcontracts must incorporate all Contractor requirements, and shall be subject to review, upon request, by DED.

19.7.9.2.1 Contract Execution Documents

The following documents will be signed by the homeowner prior or at the time of the rehab contract execution. As required documentation may change, this list may be updated periodically.

1. Agreement to maintain flood insurance and notify future owners (if in 100 year floodplain)
2. Certification of Principal Residency
3. Limited Subrogation Agreement
4. Three Party Agreement
5. Work Write-Up Document
6. Escrow Agreement (if applicable)
7. Any other documents required by the Federal Register, State or Applicant UGLG

19.7.9.2.2 Contractor Responsibilities

According to the Byrd anti-lobbying amendment in [45 CFR 2543.87](#), Contractors who apply or bid for an award of \$100,000 or more are required to file a certification that they will not and have not used Federal appropriated funds to pay any person or organization in an attempt to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. This certification will be provided by the Contractor to the tier which contracted them. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Grantee.

Additional Contractor responsibilities include:

- a. All contractors will carry and provide proof of a current general liability policy in at least the aggregate amount of contracts awarded in this

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

program within 10 business days of award. Failure to do so may result in termination of award.

- b. All contractors must secure and provide proof of performance and payment bonds (payment bonds required for any contract \$100,000 and over) within ten 10 business days of award. Failure to do so may result in termination of award.
- c. Contractors will be responsible for documenting (with photographs and written reports) any pre-existing and pre-storm damage to the property that has not been included in the scope of work.
- d. Contractors are responsible to comply with HUD's Lead Safe Housing Rule, EPA Renovation, Repair and Painting Rule (RPR), and all other applicable rules and regulations. Project sites are required to be in full compliance at all times.
- e. All firms performing, offering or claiming to perform renovations for compensation in target housing must comply with EPA's Repair and Painting Rule and EPA's Lead-Pre Renovation Education Rule. Regulatory requirements can be found in 40 CFR Part 745 Subpart D – Residential Property Renovation. This means that all general contractors participating in this CDBG-DR program must be EPA certified. In addition, all individuals performing renovation work on behalf of the firm must be certified renovators.
- f. Contractor will be responsible for determining utility needs, providing sanitary facilities, safely operating equipment on site and obtaining any required local and state permits.
- g. The Contractor shall ensure compliance with all state and federal Labor Standards, prevailing wage laws, and assure that all employees and "self- employed" (1099 workers) are paid prevailing wages.
- h. Contractor is required to attend pre-construction meeting with the homeowner and a Subrecipient representative.
- i. Upon receiving a Notice to Proceed, work will begin within 15 days. Any contractors who disturb the site prior to receiving a Notice to Proceed will automatically lose their contract and funding with no recourse.
- j. Upon completion, the property must meet HQS and other applicable building standards.
- k. Each individual contract will specify a construction schedule with progress inspections included. The contractor will notify the Subrecipient and/or Project Manager when they have reached the

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

scheduled milestones.

- I. All work performed by the contractor will be guaranteed for the following periods:
 - i. One Year – general warranty for repairs to the home;
 - ii. One Year – electrical, plumbing, and other mechanical warranty (if such work is performed); and
 - iii. One Year – structural warranty (if structural work is performed).

Such a warranty will be stipulated in the construction contract. For the specified period in the warranty, from the time of final inspection, the assisted homeowner may require the contractor to correct defects or problems arising from his or her work under this contract. Should the contractor fail to do so, the assisted homeowner may take any necessary recourse by contacting the Applicant UGLG. A reasonable amount of time will be given to correct the problem; however, in no case will such time exceed two weeks to respond.

19.7.9.2.3 Notice to Proceed

Notice to Proceed is given after the Applicant UGLG and Subapplicant Beneficiary (if applicable) approve the contract and performs all administrative assignment procedures, the homeowner's personal property (belongings) are removed from the home (if necessary), the contractor obtains necessary permits, and utilities are terminated (if applicable).

19.7.9.2.4 Construction & Inspection

For grantees and applicants alike, the construction process is usually the most time-intensive and fraught with unforeseen issues. With large and small construction projects on-going in communities post-disaster, it can be difficult for the Rehab program to compete for raw materials, qualified contractors, quick permitting, etc.

For the applicant and tenant, the construction process often is too slow for their needs and extremely disruptive to everyday life. To ensure the success of the construction process, Applicant UGLGs must:

1. Provide on-going training for contractors on the program requirements, grantee's processes, and inspection standards
2. Include, where necessary, mitigation standards

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

3. Rehab is defined as non-emergency repair or renovation of a limited specified area or portion of a housing structure.
4. Compliance with local building codes
5. Compliances with HUD Minimum Property Standards or applicable Building Code being enforced
6. Meet Decent Safe and Sanitary (DSS) Standards

The State will monitor construction results to ensure the safety of residents and the quality of homes assisted through the program, with emphasis on high quality; and durable, sustainable and energy efficient construction methods and materials.

These include the following minimum standards:

1. Construction standards will be based on International Building Code (IBC) and must meet or exceed applicable requirements.
2. For repair projects, the Program will follow the Green Building Retrofit Checklist to the extent applicable to the repair work undertaken. This will include the use of mold resistant products when replacing surfaces such as drywall. When older or obsolete products are replaced as part of the repair work, repair is required to use ENERGY STAR-labeled when feasible.
3. Housing units assisted with CDBG-DR funds must meet all applicable local codes, repair standards, ordinances and zoning ordinances at the time of project completion. All deficiencies identified in the final inspection must be corrected before final payment is released.

19.7.9.2.5 Lead-based Paint Disturbance and Mitigation

Contractors must ensure the following minimum requirements are met at all times:

1. All sites are clean and protective covering is placed where required by applicable regulations during the renovation, especially when paint-disturbing activities are taking place.
2. All workers on-site are to have proper certifications with them while on site.
3. The Lead Renovator's certificate is required on-site at all times from the start of the renovation until the final lead clearance has been achieved.
4. Ensure proper techniques are being used when performing paint disturbing activities.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

5. At a minimum, the following two items are required to be posted at all times to be seen clearly by anyone approaching the site and all workers until final lead clearance is achieved.
6. Environmental Protection Agency (EPA) RRP required warning signage in English and Spanish
7. Occupational Safety and Health Administration (OSHA) required lead warning signage in English and Spanish

If site conditions are noncompliant, a stop work order will be issued until all issues are resolved and verified by program staff. The time the project is on hold will be included when calculating construction duration and is considered fault of the contractor. The stop all work order will also be taken into consideration when determining future assignments and participation in future projects.

19.7.9.2.6 Rehab and Reconstruction Progress Inspections

Site visits for each project will be performed at pre-determined stages during critical construction activities as described in the Contract Execution Documents. These visits will occur after all required municipal code enforcement, and/or third-party inspections, have taken place.

Beneficiary Subapplicant must be instructed to inspect the completed work and provide the Subrecipient with a written statement of acceptance or a written statement outlining deficiencies in the completed repairs. If deficiencies are noted, the Subapplicant Beneficiary and Applicant UGLG must work to address the deficiencies before closeout can occur. All additional documentation resulting from noted deficiencies must be provided to Subrecipient.

19.7.9.2.7 Re-inspections

Should the inspector observe any fault(s) during inspections, the contractor will be informed of the fault(s) and be provided a written report of the findings. When the contractor has remedied the fault(s), the contractor may request a re-inspections to be performed. Failed inspections may result in withholding of payment on Activities until violations are remedied.

19.7.9.2.8 Change Orders

After construction begins, circumstances may require a change in scope, timeline, or cost from the original contract. Change orders will be managed at the Subrecipient level and reviewed by DED. However, too many change orders may trigger monitoring of the Subrecipient by DED. If the Contractor discovers or

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

determines that a Change Order may be necessary, the following process shall be followed:

- a) The Contractor will submit the change order along with the cost reasonableness justification and all supporting documentation to the Responsible Entity for approval.
- b) The Responsible Entity will review the change order for any changes in scope that may result in new or additional impact on the environmental review not originally covered in the Finding. To approve and proceed with a change order, there must be an acknowledgment that it will not affect the environmental assessment.
- c) In the event that the change order causes an increase in the cost of the project, the Responsible Entity will review the budget for available funds to cover the costs.
- d) The Architect/Engineer will be responsible for any increase in cost based on any change order required due to errors and/or omissions.
- e) The Subrecipient will also ensure the established process for cost verification for the change order is deployed. (See Cost Verification section.)
- f) Upon approval of the change order by the Subrecipient, the Project Manager will provide the Contractor with written approval to proceed.
- g) The Subrecipient will provide documentation of the approved change order to DED, in compliance with DED procurement policies outlined in Chapter 10 – Contract Management of the CDBG-DR Administrative Manual. Copies of all change orders must be submitted to DED as they occur.
- h) The contractor must be notified (and held to performance in the contract) that no change order may be exercised without consultation and permission from the Subrecipient.

19.7.9.2.9 Emergency Change Orders

The Contractor and Project Manager shall each have the authority to issue Emergency Change Orders without the prior written approval of the Subrecipient. The Contractor and Project Manager shall:

1. Notify the Subrecipient that an Emergency Change Order has been issued within twenty-four (24) hours after issuance.
 - a. Each Emergency Change Order shall be accompanied with the reason

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

for its need and issuance.

2. Provide the Subrecipient copies of the Emergency Change Order.

Valid Emergency Change Orders shall be approved by the Subrecipient and submitted to DED. As with regular Change Orders, the Architect/Engineer will be responsible for any increase in cost based on any errors and/or omissions.

19.7.9.2.10 Contract Requirements

HUD may request periodic updates from any grantee that uses contractors. A contractor is a third-party organization from which the grantee acquires goods or services through a procurement process, consistent with the procurement requirements in the CDBG program regulations. HUD is establishing an additional alternative requirement for all contracts with contractors used to provide discrete services or deliverables only, as follows:

- a. The Subrecipient (or procuring entity) is required to clearly state the period of performance or date of completion in all contracts;
- b. The Subrecipient (or procuring entity) must incorporate performance requirements and liquidated damages into each procured contract. Contracts that describe work performed by general management consulting services need not adhere to this requirement;
- c. The Subrecipient (or procuring entity) may contract for administrative support but may not delegate or contract to any other party any inherently governmental responsibilities related to management of the grant, such as oversight, policy development, monitoring, internal auditing, and financial management.
- d. All services and activities paid for with CDBG funds require the execution of a formal contract. All contracts at minimum must detail: scope of work, total cost, duration of the contract, compliance requirements, and reporting responsibilities. To view a sample contract and a complete list of contract language requirements, please see Chapter 10 - Contract Management of the CDBG-DR Administrative Manual, Chapter 10's accompanying CDBG Contract Management Forms and Templates.

All construction contract fees shall be based on a lump sum or unit price and all professional service contracts shall be based on lump sum. Cost plus percentage and percentage of construct cost methods are prohibited.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

19.7.10 Homeowner Responsibilities during Construction

1. The State, Lead UGLG Applicant, and Program Administrator will not be responsible for lost or damaged belongings of the homeowner that may have occurred during construction.
2. The homeowner must secure or relocate his/her belongings until construction is complete.
3. Upon signing the contract, the homeowner will have 30 calendar days to move out of the property and remove all personal property, fixtures and appliances as necessary to complete construction. The removal of personal property is the responsibility of the homeowner.
4. The homeowner must arrange access to the property for building contractors providing construction services. If reasonable and timely access is denied to a building contractor who is attempting to make a good-faith effort to perform required repairs, the homeowner will be removed from the program.
5. During construction the homeowner must not interfere in repair areas, and must make a reasonable effort to stay away from the construction zone. The homeowner must let the contractor know if they need to return to the property for any reason during the construction period.
6. All debris, abandoned vehicles and buildings that pose a safety and /or health threat as determined by the local jurisdiction or person qualified to make such a determination, must be removed from the property prior to the start of construction. Homeowners must remove dilapidated personal property.
7. The homeowner must provide all existing utilities as needed for use by the building contractor during construction.

19.7.11 Final Inspection and Certificate of Occupancy

A. Final Inspection and Warranty Information

The final inspection is used to verify that the work was done according to the plans and specifications and meets the program construction standards. Once construction has been completed, the contractor will request a final site visit to guarantee that all work outlined in the contract has been satisfactorily completed according to the appropriate state and local codes and standards and the home meets the housing standards. The final site visit confirms that all

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

work has been completed and been accepted by building code enforcement and/or third party inspectors including all items on a punch list.

Contractors must provide all warranties prior to the inspector signing a final inspection form. Photographs will be taken for documentation purposes. At this time, the homeowner will be provided instruction booklets and warranty information.

B. Re-inspections

Should the inspector observe any fault(s) during inspections, the contractor will be informed of the fault(s) and be provided a written report of the findings. When the contractor has remedied the fault(s), the contractor may request a re-inspections to be performed. Failed inspections may result in withholding of payment on Activities until violations are remedied.

19.8 Overview of HRRP Process

The basic steps of the HRRP Process include:

Phase 1

1. Application Intake
2. Eligibility Review
3. Verification of documents
4. Duplication of Benefits check
5. Cost estimates
6. Cost feasible option check
7. Award determination
8. Contractor selection
9. Execute agreements

Phase 2

10. Pre-rehab meeting with homeowner/contractor
11. Notice to Proceed/Construction Management/Oversight and Inspection

Phase 3

12. Final approval of work – retainage payment – property closeout
13. On-going compliance

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

19.8.1 Prioritization of Service

CDBG-DR funding for Missouri’s disaster is limited, and the State of Missouri desires to prioritize those households which are the least likely to recover themselves. Households which typically are the least likely to recover from a disaster belong to one or more of Missouri’s vulnerable populations.

To prioritize these vulnerable populations in the recovery process, each household application will be scored during intake to determine a prioritization score, using the chart below. The maximum prioritization score a household can receive is 13. A score of 13 will be considered top priority while a score of 0 will be considered the lowest priority. Using the prioritization scores determined during intake, the Subrecipient will create a prioritization list that ranks Households, with scores of 13 at the top and descending to scores of 0. Household applicants that receive the same score will be prioritized by date of application completion; with the earlier application being considered higher priority and the later application being considered lower priority.

Vulnerable Population	Points
Low- to Moderate-Income < 30% AMI	4
Low- to Moderate-income 31 – 50% AMI	3
Low- to Moderate-income 51 – 80% AMI	2
Income AMI 81 – 120%	1
Households with children age 5 and under	2
Single Parent Households	1
Households with citizens 65 years of age or older	3
Female Head of Household	1
Disable / Special Needs Household	2

Process for Application Determination Review Request – “Request for Review”

Application denials at both the State to Local Government level and the Local Government to Beneficiary level deserve an explanation for the decision. Each denial letter sent to a local government from the State CDBG Program will contain an explanation for the denial which may help the local government improve their application in a manner that would allow for an award.

Both the Action Plan and the CDBG Disaster Application and Guidelines will contain the detailed criteria used to evaluate applications for assistance. The

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

goal of establishing that criteria is to allow for as much objectivity as possible and as little subjectivity as possible, in order to provide applicants a real possibility of scoring themselves prior to submission.

When applications are denied, the CDBG Disaster Recovery Program will also allow a means for requesting a review, either in-person or on the phone that will provide the opportunity for a verbal explanation of the content of the denial letter. It will also provide an opportunity for local governments to ask and answer questions with the goal of determining a possible path forward. That path may not be a subsequent approval of the same application but may allow for improved scope, impact, local participation and other content that may allow for an alternative approved funding request.

Applications that are ineligible or are not consistent with the laws or regulations may not be funded.

All Requests for Review related to the application made to the State CDBG are made by the local government. The CDBG Rating Team and the CDBG Program Manager will make up the review panel. Reviews are intended to solve issues and provide a level of understanding where the decisions are appreciated and accepted, while they may not necessarily be agreeable.

The Request for Review process also is a requirement of the local government and grantees. When a disaster survivor makes a request to participate in a program, and that request is denied, the denial will be made in writing with an explanation and reason for the denial. The disaster survivor may submit a Request for Review to the local government which will allow a similar in-person or phone discussion that outlines the reasons for denial. The disaster survivor may provide additional information to the local government to determine if participation is possible in any form.

19.8.2 Phase 1: Application Intake

The Subrecipient shall establish an application intake process to determine applicant eligibility. Guidance can be found under the CDBG-DR Administrative Manual Chapter 2. Each subrecipient should determine a set time period for application acceptance. This will include processing the individual household's application for assistance (thereon identified as Subapplicant Beneficiary). The following information must be obtained:

1. Names of homeowners and current contact information

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

2. Proof of Primary Residence – current and at the time of the storm
3. Proof of Ownership – current and at the time of the storm
4. Household make-up (composition) and characteristics – head of household and relationship of all others to head of household
5. Race and ethnicity of head of household
6. Determination and verification of LMI status via total adjusted gross income for all household members 18 and older pursuant to 24 CFR 570.3
7. DR-4451 Disaster Impact: a housing inspection must clearly indicate that the damage is a result of the DR-4451 Disaster.
8. FEMA floodplain status of property
9. FEMA flood insurance status
10. Citizenship or legal immigration status
11. DOB Verification: other federal, state, and local assistance, assistance from charitable organizations and insurance received by the applicant to address disaster related damages must be identified, documented, and deducted from eligible CDBG-DR project costs.

See example:

[https://files.hudexchange.info/resources/documents/Disaster Recovery Homeowner Rehab Intake Application.docx](https://files.hudexchange.info/resources/documents/Disaster_Recovery_Homeowner_Rehab_Intake_Application.docx)

After documentation and verification of eligibility, the damage assessment, and duplication of benefits check, the household applicant will be awarded individual housing assistance for Rehabilitation. If Rehabilitation is not the most cost feasible option, the household applicant may receive award for Reconstruction or opt out of the Homeowner Rehabilitation & Reconstruction Program

19.8.2.1 Minimum Applicant and Property Eligibility Threshold Criteria

The threshold criteria for the Homeowner Rehabilitation and Reconstruction program are:

1. DR-4451 impact, and property has unrepaired disaster-related damages
2. Location within federally disaster declared county, a minimum of 80% of total allocation received by the State must be expended in the MID area (HUD identified Most Impacted and Distressed)
3. Proof of ownership at the time the disaster damage occurred and have maintained ownership
4. Damaged structure is the principal place of residence

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

5. Property is a single-family owner-occupied home.
6. Property is not a second home
7. Household is income eligible
8. Property taxes are current
9. Property is not in foreclosure
10. Insurance has been maintained if they received prior financial assistance?

Details regarding each eligibility requirement are broken out in the following subsections:

19.8.2.2 Proof of Ownership, Occupancy & Primary Residence

The applicant must be an individual who owned and occupied the property as their primary residence at the time of the disaster event. The homeowner must currently be the owner of the damaged property in order to be eligible for the program.

Ownership:

Ownership will be verified through tax records, title searches and/or homeowner provision of warranty deed. Alternatively, the program may validate applicant ownership of the damaged property using third-party verification, such as FEMA/SBA/NFIP data.

The program may consider other documentation on a case-by-case basis. Note: All documentation must prove that the applicant had an ownership interest and occupied the home at the time of the disaster event, April 29 – July 6, 2019.

Most common proof of ownership:

- Deed or title for the home valid for the date of the disaster;
- Mortgage payment book or other mortgage documents;
- Real property insurance policy;
- Property tax receipts or tax bill dated at the time of the disaster

Alternative proof of ownership that may be considered:

- Life Estate Deed – must show the applicant as grantee of the damaged property (if transferred upon the death of another – death certificate of prior owner required);
- Probated will / court order / judgment granting applicant an ownership interest in the damaged property;

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

- Divorce decree – if ownership was obtained consequent to divorce the decree must specify that the damaged property was granted to the applicant;
- Contract for Sale / Deed (Rent to Own) – If the applicant purchased the property in a private owner sale via contract for deed / sale the contract must be satisfied. The original contract is required;
- Other documentation will be reviewed and considered on a case-by-case basis.

If there is a lien on the property, the Subrecipient will coordinate with lienholders to ensure the rehabilitation or reconstruction assessment is approved by the lender.

Occupancy

To confirm owner occupancy, the program looks for:

- A. Property tax records
- B. Copy of utility bill. The bill must confirm that service was provided in the month of or the month prior to the storm;
- C. Letter from electric, gas, or water company. The letter must confirm that service was provided in the month of or the month prior to the storm;
- D. Other qualified documents may be presented to the county for consideration of proof of occupancy.

Special Circumstances Related to Occupancy

The following exceptions apply under special circumstances related to occupancy:

Active duty military personnel who own a storm-damaged home in an eligible county or ZIP code, but are currently assigned to duty away from their home or were assigned to duty away from their home at the time of the storm are eligible to apply.

Homeowners incapacitated due to illness who own a storm-damaged home in an eligible county or ZIP code and are currently incapacitated or were incapacitated at the time of the storm are eligible to apply. If the homeowner is currently incapacitated, an authorized legal representative must apply for the benefit of the homeowner.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Homeowners who were in a nursing home at the time of the storm but are no longer in a nursing home are eligible to apply for the program. If the homeowner is in a nursing home at the time of application, the homeowner must give someone Power of Attorney on his or behalf.

19.8.2.3 Citizenship Verification

The homeowner must be a United States citizen, or an eligible immigrant as verified by a signed declaration of:

Documentation for U.S. Citizen:

- A. A United States Passport
- B. Birth Certificate
- C. In the absence of a birth certificate, an elderly applicant may substitute a Social Security Benefits Determination document for the birth certificate.
- D. Certificate of Naturalization

Documentation for Eligible Immigrant

- A. Form I-551 Alien registration receipt card
- B. Form I-94 Arrival Departure Record annotated with one of the following:
- C. Admitted as a Refugee Pursuant to Section 207
- D. Section 208
- E. Section 243 (h) or "Deportation" stayed by Attorney General
- F. Paroled Pursuant to Section 221 (s)(5) of the USCIS
- G. Form I-94 Arrival-Departure Record with no annotation accompanied by:
- H. A final court decision granting asylum (only if no appeal is taken)
- I. A letter from an USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from an USCIS district director granting asylum (application filed before 10/1/90)
- J. A court decision granting withholding of deportation
- K. A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90)

19.8.2.4 Document Unmet Needs from DR-4451 Disaster event

Only applicants with an unmet need directly or indirectly related to the CDBG-DR funded event will be eligible. Documentation that provides evidence of impact from the event will be required as part of the unmet needs determination. The applicant must show confirmation of damage to the

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

property and still have unfinished repairs or the need to rebuild due to the disaster. Disaster damage is defined as structural damage due to rain, wind, and/or flooding received as a direct result of the disaster to the damaged property in April – July 2019, plus subsequent damage related to the original disaster damage.

Verification of a benefit paid to the applicant for damage to their property may be attempted using third-party data through FEMA, SBA and NFIP. If a match is identified, no other documentation is needed. The purpose of applicant damage validation is to reasonably confirm applicant eligibility in advance of the on-site damage inspection.

If no match is identified using third-party data search, applicants must submit documentation that verifies their home received damage from the disaster. Proof of Event Damage may be documented by:

1. FEMA, Small Business Administration (SBA), NFIP, or Insurance Award Letter or documentation demonstrating payment for structural damage;
2. If FEMA, SBA, or Insurance Award Letters are not available, subrecipients may provide alternative evidence, such as neighborhood-level media reports or documentation of damage by disaster response/relief organizations. Approval by Missouri CDBG-DR program staff is required for this form of proof.
3. Photos submitted by the applicant, and attested to as disaster-damage. Approval by Missouri CDBG-DR program staff is required for this form of proof.

If an applicant was denied assistance by FEMA, assistance through the CDBG-DR Program may still be available. Applicants are not solely ineligible based on a denial by FEMA.

19.8.2.5 Geographic Eligibility and Project Location

In accordance with CDBG-DR funding requirements, projects must be located within a county designated by the DR-4451 Presidential disaster declaration as a recipient of CDBG-DR funds. The impacted counties for each disaster event can be found listed in the relevant Action Plan.

DED will prioritize projects located within the MID areas and those which qualify as LMI as the highest priority. LMI projects that are not located in MID areas will

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

be given second priority. Projects located in MID areas that do not serve LMI areas will be given third priority. Non-LMI and non-MID projects will be given fourth priority. For more information on impacted counties, please refer to the relevant Action Plan.

Additional location considerations require that a project shall not be located in an environmentally sensitive area without meeting all requirements implemented by the Federal Register, including but not limited to, elevation standards, floodplain guidance, and the completion of a successful Environmental Review Record.

19.8.2.6 Mortgage Obligations

The Program requires applicants to disclose any circumstances which may affect their homeownership status. The Subrecipient must verify mortgage status with the applicant. Third-party verification of ownership is preferred. If a mortgage obligation is identified, the Subrecipient must contact the lienholder to obtain written permission to replace or reconstruct the damaged home located on the property.

The Subrecipient must ensure the home is not in active foreclosure. If clear ownership cannot be established, an applicant may supply mortgage statements showing status on payments for program consideration.

19.8.2.7 Flood Insurance Covenant

Federal law requires that persons receiving Federal disaster funds for home repair, as the result of a flood, must carry flood insurance in perpetuity on that property. If an applicant is eligible for program assistance and subject to this requirement, a covenant must be placed on the property that requires flood insurance to be maintained on that property in perpetuity. The flood covenant will be drafted and filed with the county recorder of deeds by the Subrecipient.

Upon scheduling the final inspection, all contractors will be obligated to obtain an elevation certificate from the county flood plain manager. The certificate will be reviewed by the Subrecipient for signatures, correct address, and current photos. The elevation certificate will be provided to the applicant in order to obtain flood insurance from a broker. Upon project completion, the applicant must provide proof of flood insurance to the Subrecipient.

19.8.2.8 Certification Requirements to Receive Assistance

All homeowner(s) must agree to the following to receive assistance:

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

- A. Sign a release so that the information provided by the homeowner(s) can be shared with state, agencies, federal agencies, and certain third parties in order to verify information given to the program. The homeowner(s) are required to sign the release. The only exception to this requirement would be when one of the eligible owner-occupants has provided Power of Attorney to the other to represent them by signing the lease, then the eligible owner-occupant does not need to sign the release.
- B. Agree to verification of their ownership status, the amount of disaster-related damage to the home, and assistance received.
- C. Certify to the accuracy and completeness of all information provided to the program under penalty of law.
- D. Agree to stop all ongoing construction activities at the time of application.
- E. Maintain casualty insurance.
- F. Acknowledge that any overpayment of benefit will be subject to recapture.
- G. Maintain ownership of the property for five years after construction is completed.
- H. If property is located in a 100-year floodplain, the applicant must obtain flood insurance in perpetuity and comply with obligations to notify future owners of the flood-insurance requirement, secured via a flood covenant to be drafted and filed.
- I. Consent to Duplication of Benefits review and sign Subrogation Agreement, which provides provisions for recapture of any duplicative funds.

19.8.2.9 Ownership Residency Requirement

- A. The owner must have resided in the property at the time of the disaster event.
- B. The homeowner will be required to not transfer title of the property for a period of five (5) years from the date of completion of the rehabilitation or reconstruction.
- C. If a transfer of the title or non-occupancy occurs within a one (1) year period from the date of completion, the entire amount of the project will be required to be paid by the homeowner to the Subrecipient. If either occurs between one (1) and two (2) years, 80% will be required to be repaid. Between two (2) and three (3) years, 60% will be required to be

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

repaid. Between three (3) and four (4) years, 40% will be required to be repaid. Between four (4) and five (5) years, 20% will be required to be repaid.

- D. The Subrecipient will be responsible to file a property lien with this requirement.

19.8.2.10 Income Eligibility Determination

The income limits to be utilized to establish eligibility are area-specific (by county), established by HUD and are available at <https://www.huduser.gov/portal/datasets/il.html>

Income eligibility will be determined and verified using the household's total annual Adjusted Gross Income.

HUD defines adjusted gross income under 24 CFR Part 570.3 for the purposes of reporting on Form 1040 for income tax purposes. Household income will be based on the household's annual income data per the most recent IRS 1040 adjusted gross income definition, as verified by receiving a copy of the household members/most recent tax form(s).

The most current CDBG income limits, published annually by HUD, shall be used by Subrecipients to verify the income eligibility of each household applying for assistance upon completion of an application with all required document submissions. The date of completion will serve as the date income levels are verified. This initial verification of income limits shall serve for the entirety of the project.

Income must be recalculated by the program and recertified if the agreement for construction has not been executed within one year of the date of the original income certification. If income limits have been updated by HUD since the initial verification, the updated income limits must be used.

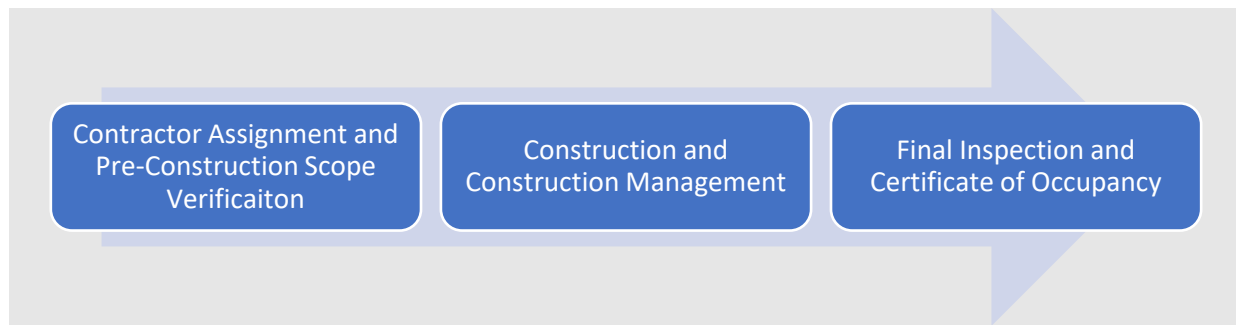
The process of income verification will require a signed copy of the most recent IRS federal income tax returns. If there is no IRS income tax return, or the income situation has changed since the tax return(s) was filed, any of the following applicable documents may be presented for every household member that is 18 or older:

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

1. Minimum of three current and consecutive months of check stubs if the household member is paid monthly or four current and consecutive check stubs if the household member is paid weekly, bi-weekly or bi-monthly.
2. A pension statement showing current monthly or yearly gross amount
3. A Social Security statement
4. An IRS Form 1099
5. An Unemployment Benefit statement
6. A verification of income provided by the Missouri Department of Revenue

19.8.3 Phase 2: Post-award Construction.



The construction and compliance phase are where repair is provided to the property owner through direct construction activities. The result of Phase 2 is a rehabilitated or reconstructed housing unit. Inspections will occur at dedicated intervals by the Subrecipient and/or Engineer during the construction phase, with a final inspection being completed prior to the homeowner signing certificate of completion and certificate of occupancy.

19.8.4 Phase 3: Post-construction Compliance & Closeout.

After final construction activities, the contract with the homeowner will be closed out. The Subrecipient will provide required information to DED in order to close out rehabilitation/reconstruction activities in DRGR. The Subrecipient will monitor the five-year compliance period with an annual letter to the homeowner.

19.8.5 Funds Disbursement

All CDBG-DR funds will be distributed on a reimbursement basis. Any escrowed funds for the project must be drawn and used first, before any CDBG-DR program funds are used.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Activities under both Rehabilitation and Reconstruction assistance will be distributed as reimbursement request on invoice for services rendered, per Chapter 4 - Financial Management and Reporting of the CDBG Administrative Manual.

19.8.6 Temporary Relocation Assistance

Understanding that it may be necessary for homeowners to remove themselves and their belongings from their homes during some periods of the repair, the Housing Rehabilitation and Reconstruction Program may provide Temporary Relocation Assistance (TRA) on a case-by-case basis. TRA is defined as an optional program activity designed to reduce the financial burden on owner-occupants when rehabilitation, reconstruction, elevation, or environmental remediation activities make it necessary for the owner-occupant to temporarily relocate. Temporary relocation is defined as twelve months or less. Assistance can include moving expenses, rent, or reasonable hotel costs, and storage of belongings. During the property inspection to determine the scope of work, an inspector will determine if TRA will be necessary while the rehabilitation work takes place. TRA for reconstruction projects will be determined on a case-by-case basis.

Consideration for TRA will include whether the homeowner is in a program-defined priority population and if program resources are available. The following costs associated with TRA are eligible for reimbursement if the homeowner is determined eligible for CDBG-DR funds:

- Moving Expenses
- Monthly Rent
- Hotel Expenses

However, as this is a voluntary program, it will be standard practice that the cost for temporary relocation of persons and belongings will be borne by the homeowner, unless a Demonstrable Hardship is proven. Demonstrable Hardship is considered a substantial or unexpected change in the Applicant's situation, after the disaster, that prohibits or severely affects their ability to provide a minimal standard of living or the basic necessities of life, including food, housing, clothing, and transportation. Such instances typically include, but are not limited to, job loss, business failure, divorce, severe medical illness, and disability. Assistance in excess of program caps may be provided for Applicants on a case-by-case basis in consideration of demonstrable hardship. If an Applicant

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

believes they are in a state of Demonstrable Hardship that makes them unable to comply with any program policy, the Applicant may present such evidence to the Subrecipient and DED, and it will be evaluated on a case-by-case basis after review of all the circumstances.

Applicants receiving Temporary Relocation Assistance are responsible for providing the Subrecipient with all documentation related to eligible expenses, including rental or storage leases, bills, paid invoices, cleared checks, etc. Undocumented expenses will not be reimbursed by the program.

The URA regulations require that any resident who has been temporarily relocated for a period beyond one year must be contacted by the Agency and offered permanent relocation assistance.

19.8.6.1 Moving Expenses

Moving expense allocations will be determined using the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 – Fixed Residential Moving Cost Schedule as prescribed by the Federal Highway Administration. The Cost Schedule is based on the “number of rooms of furniture” owned by a displaced individual or family. Receipts or paid invoices are not necessary for fixed moving payments. If required, all items must be removed from the house by the homeowner by the date identified in the signed construction contract.

The Residential Moving Expense and Dislocation Allowance Payment Schedule for Missouri, published on July 27th, 2021, shows the following payment limits per number of rooms:

1 Room	2 Rooms	3 Rooms	4 Rooms	5 Rooms	6 Rooms	7 Rooms	8 Rooms	Add'l Room	1 Room/ no furn.	Add'l Room/ no furn.
\$800	\$900	\$1000	\$1100	\$1200	\$1300	\$1400	\$1500	\$200	\$400	\$100

To view the full FHA Fixed Payment for Moving Expenses policy, please use the following link: <https://www.federalregister.gov/documents/2021/07/27/2021-15930/uniform-relocation-assistance-and-real-property-acquisition-for-federal-and-federally-assisted>

19.8.6.2 Monthly Rent

Temporarily displaced households may seek to rent a unit while CDBG activities are taking place. All rental agreements must be in writing and approved by the

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Subrecipient in advance, to ensure that the terms and conditions of the lease agreement are necessary, reasonable, and consistent with the anticipated length of time necessary for the construction activity outlined in the applicant's scope of work. This requirement includes agreements to compensate friends or family members who house temporarily displaced households.

For short-term temporary relocation (defined as less than 30 days), temporarily displaced households are encouraged to stay with friends or relatives. If the displaced household chooses to live with family or friends during temporary relocation, the amount charged for housing compensation must be reasonable and cannot exceed one half of HUD-published Fair Market Rent for the county in which the unit is located. To view the Fair Market Rent for a specific county, please use the following link: <https://www.huduser.gov/portal/datasets/fmr.html>. A notarized agreement should be provided for documentation of costs associated a stay with family or friends.

Rent for the temporary unit will be paid directly to the Landlord on the first of every month.

Security deposits may be paid up to a maximum of one month's rent for the unit and will be paid directly to the Landlord. An agreement should be made with the Landlord to use the security deposit on file towards the last month of rent (or used towards documented damage to the unit, if applicable). If a Subrecipient does receive a security deposit back, they must use the remittance towards other eligible CDBG-DR costs incurred prior to drawing down any additional funds.

Utility deposits may be made in conjunction with temporary rental assistance. Utilities include those required for water/sewer, heating, lighting, and trash collection. Under this policy, telephone, internet, and cable/satellite TV are not considered utilities. Utility deposits should be paid directly to the utility company. An agreement should be made with each utility company to use the deposit on file towards the last month of service. If a Subrecipient receives a remittance, the Subrecipient must use the remittance towards other eligible CDBG-DR costs incurred prior to drawing down additional funds.

19.8.6.3 Hotel Expenses

When staying with family/friends or entering into a lease is not feasible, the HRRP may reimburse hotel/motel expenses if they are necessary and reasonable. The

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Subrecipient must obtain 3 quotes for hotels/motels in the local area, the median of which will establish the ceiling for hotel/motel expenses to be reimbursed to the applicant. Paid invoices for all hotel/motel expenses must be documented.

19.8.6.4 Lease Enforcement and Termination of Tenancy

The Subrecipient is not a party to the tenant/landlord lease and will not be obligated to enforce or intervene in a tenant/landlord dispute. If the household is legally evicted for cause, the Subrecipient will terminate assistance to the participant and no further assistance for a replacement unit will be approved.

19.8.6.5 Temporary Relocation Assistance Duplication of Benefits (DOB)

All Subrecipients must comply with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5207) as amended. This Act prohibits any person, business concern, or other entity from receiving Federal assistance to the extent such assistance duplicates benefits available to the person for the same purpose from another source. Any funds a household received for temporary rental assistance (this includes but is not limited to private insurance, FEMA, or SBA assistance), must be accounted for when determining the amount of assistance that the homeowner is eligible for. If the household spent funds intended for temporary relocation assistance on anything other than temporary relocation assistance, the homeowner will have a duplication of benefits (DOB) and will be required to escrow the money prior to signing the lease. DOB under Federal law must be deducted from the assistance to be provided, unless receipts can be provided that show funds were used for temporary rent and that all funds have been expended for this purpose.

Any additional assistance received for temporary rental assistance while the tenant is receiving CDBG-DR rental assistance must be subrogated to DED. It is the responsibility of the tenant to report any such assistance to the program at the time of receiving the additional funds. Upon notification of additional assistance, the Subrecipient will recalculate continued assistance and/or possible repayment of CDBG-DR assistance.

19.8.6.6 Temporary Relocation Expenses – not Pre-Approved

Temporary relocation expenses beyond the parameters outlined above must be approved by the Subrecipient and DED. Any claims for TRA without documentation are ineligible for payment or reimbursement.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

19.8.6.7 Temporary Relocation Assistance Appeals

Homeowners that wish to appeal a TRA decision should follow the appeals procedure detailed in Section 19.15 - Appeals.

19.9 Recapture of Funds

A Subrecipient, Beneficiary and/or Contractor may be required to repay all, or a portion of the program funds received under certain circumstances. The reasons for recapture include, but are not limited to, the following:

- A Subrecipient does not comply with the terms of their SRA;
- A Beneficiary withdraws from the program prior to completion of the project and/or fails to meet a national objective;
- A Beneficiary and/or Contractor is found to have used program funds for an ineligible activity or cost;
- A Beneficiary does not report the receipt of additional insurance, SBA, FEMA, non-profit assistance, and/or any other Duplication of Benefits received after award; and/or,
- Funds remain after the project is completed, or the expenditure deadline has passed.

The method of recapturing funds and the timeframe for doing so are determined on an individual project basis. However, the recapture method and timeframe will be consistent with 2 CFR 200 or other applicable cost principles.

19.10 Recordkeeping

The purpose of this section is to ensure necessary records and documents are adequately protected and maintained and to ensure records that are no longer needed or of no value are discarded at the appropriate time. All applicant and program data will be retained for at least 5 years as required by the contract and regulations. Document retention, which includes scanning and uploading to the systems and the filing of Program documentation, are to provide both a physical and an electronic record of activities so that documentation is accessible for audit purposes.

Documentation standards allow for Program activities to be traced so that any possible audit issues are resolved. To protect all personal information, data security measures will be in place, such as hardware and software data security protocols and physical security for hard copy files. Documentation shall include, at minimum, all applicable materials as listed in the CDBG-DR Monitoring

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Checklist. Please refer to Chapter 6 - Risk Assessment and Monitoring of the CDBG-DR Administrative Manual for Disaster Recovery Monitoring checklists.

All files and records must be kept at the subrecipient's business offices and must be available to the public during regular business hours, except confidential files relating to housing and/or economic development. Subrecipients are required to control grant funds and establish adequate safeguards to protect the records that document CDBG transactions.

The records retention requirement applies to "source documentation", which refers to any writing that activates a flow of funds. Source documentation comprises of purchase orders, invoices, contracts, checks, budget transfer memoranda, and other transaction documentation. It also includes writings verifying compliance with nonfinancial aspects of program administration (i.e. inspection reports that confirm the fulfillment of applicable regulations).

For more information, please see Chapter 1, Introduction & Administration, of the CDBG Administrative Manual.

19.10.1 Subrecipient Responsibilities

Subrecipients participating in the Homeowner Rehabilitation and Reconstruction program must retain all records related to the projects and expenditure of funds for at least 5 years as required by the contract and regulations.

19.10.2 Confidentiality

All documentation which includes Personally Identifiable Information (PII) shall be maintained in accordance with the DED PII Policy detailed below.

The protection of PII data applies to all CDBG grantees, Subrecipients and contracted agents. Requirements of PII protection must be adhered to and as such are set forth in:

- Grant agreements
- Subrecipient contracts and agreements

All entities participating with CDBG shall indicate their recognition, acceptance and concurrence with this policy by executing it and providing the executed copy to the CDBG Program. The existence of a signed copy for all entities will be a monitoring function and non-compliance may cause penalties for future grant awards.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

Retention and protection of PII data is the same as all CDBG grant data and shall be held for at least 5 years following the closing of the grant. Destruction of PII data shall follow shredding protocols and other destruction of records prescribed by the State Archives.

Databases or data sets that include PII may be breached inadvertently or through wrongful intrusion. Upon becoming aware of a data breach, the CDBG Program will notify the DED legal team and implement a notification of all affected individuals whose PII data may have been compromised. The notice will be accompanied by a description of action being taken to reconcile any damage as a result of the data breach. Notices will be provided as expeditiously as possible.

19.11 Appeals

DED is required to have a systematic appeal process so that Applicants have recourse when they feel DED has made an adverse determination of eligibility or benefits. DED has adopted an appeal process that will apply for all recipients and will not be applied in a manner that discriminates against any Applicants based on race, color, national origin, religion, sex, sexual orientation, age, familial status, or disability. If, at any time, an Applicant requires reasonable accommodation to the established appeals process, DED staff will follow reasonable accommodation protocol.

The appeals procedure will be a formal process and may include but not be limited to informal hearings, third-party review, and director approval. The Applicant must appeal any issues regarding their award within 45 days of the date on the face of the determination letter.

- a. Upon Receipt of the appeal, DED will log the appeal and date of receipt.
- b. Within 15 business-days of receiving the appeal, DED will provide the Applicant confirmation that the appeal was received. DED will then review for completeness and accuracy.
- c. DED will log the appeal and assign it to a designated staff member (must not be the staff that made the Award decision).
- d. The program staff will contact the Applicant to give the Applicant the opportunity to provide evidence, information, or additional documentation necessary to determine an outcome.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

- e. DED will make a determination that the application was properly processed or will note any changes or corrections from DED to the file within 10 days of receipt.
- f. The Applicant will be sent a letter from DED with the appeal determination within 45 days of initial receipt of the appeal request.

The entire Appeals process shall be completed within a 45-day period from receipt of initial appeal. Documentation for each appeal must be maintained. Each file will include the following:

- Contact information for the Applicant;
- Initial appeal;
- Address and DED assigned project number (if applicable);
- Any communications to and from appellant;
- Results of the investigation, together with any notes, letters, or other investigative documentation;
- The date the appeal was closed; and
- Any other action taken.

19.12 Applicable CDBG-DR Laws and Regulations

- Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR Part 100 and the regulations at 24 CFR Part 107 (Equal Opportunity in Housing)
- Title VI of the Civil Rights Act of 1964, as amended in 1988 (42 U.S.C. 2000(d)) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR Part 1.
- The Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR Part 146 "Nondiscrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance."
- Affirmative Marketing Owner must create and comply with the affirmative fair housing marketing plan
- Section 109 of Title I of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR Part §570.602),
- Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794)
- CFR Part 8 "Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development."
- Title II of the Americans with Disabilities Act of 1990

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

- Housing for Older Persons Act of 1995 (HOPA)
- National Environmental Policy Act (NEPA) and Related Laws 24 CFR Part 58.6, including ongoing requirements related to any required mitigation for the project resulting from the NEPA review and clearance, and flood insurance as required by the National Flood Insurance Reform Act of 1994, if applicable.
- Lead-Based Paint Poisoning Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992 24 CFR part 35, subparts A, B, J, K, and R.
- Davis-Bacon Prevailing Wages 24 CFR Section 570.603, and the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. §276(a) to (a-7)
- Contract Work Hours and Safety Standards Act 40 U.S.C. 3141 et seq. Mechanics and Labors are paid wages of not less than one and one-half times their basic wage rates for all hours in excess of forty in a work week.
- “Anti-Lobbying” Restrictions (Restrictions on lobbying in 31 USC 1352 and implementing regulations at 24 CFR Part 87 “New Restrictions on Lobbying”.)
- 2 CFR Part 2424 “Non-procurement Debarment and Suspension” subpart C of 2 CFR Part 180, as required by 2 CFR Part 2424.
- Copeland “Anti-Kickback” Act (18 U.S.C. §874) as supplemented by the Department of Labor regulations contained in 29 CFR Part 3.
- Minority and Women-Owned Business Enterprises 24 CFR Part 85.36(e) requires the Owner to take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
- Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) as amended, and implementing regulations at 24 CFR part 135. Section 3 requirements apply to all individual properties assisted with these funds, regardless of the actual amount spent on each individual unit/property.
- Displacement, Relocation, Acquisition and Replacement of Housing Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR Part 24) and
- Section 104(d) of the Housing and Community Project Act of 1974, as amended.

Chapter 19

Homeowner Rehabilitation and Reconstruction Program (HRRP)

- Recordkeeping requirements 24 C.F.R. 570.490 Project Activity Records, including supporting documentation such as Housing and Beneficiary Records and Labor Standards records (Section 3, CWHSSA, and Davis Bacon), shall be retained for at least five years from the closeout of the grant to the state. See also section “9.11 Recordkeeping” of this document.