

# Chapter 23.C

## Infrastructure Programs for Mitigation



STATE OF MISSOURI CDBG-MIT POLICY STATEMENT  
IN EFFECT FOR GRANT(S):  
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### 1.0 Introduction

Community Development Block Grant – Mitigation Funds (CDBG-MIT) funds have been allocated to the State of Missouri to implement mitigation activities that address impacts from disasters occurring in 2017 under DR-4317. CDBG-MIT funds represent a unique and significant opportunity for Subrecipients to use this assistance in areas impacted by the recent disaster to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses.

This MIT Infrastructure Addendum provides guidance and requirements for the State of Missouri's CDBG-MIT Infrastructure program, as authorized by 84 FR 45838. All CDBG-DR requirements, **as mentioned in CDBG-DR General Infrastructure policy**, apply, except in cases where MIT requirements are different. Those specific MIT requirements are detailed in all the following policy content.

In cases of MIT programming and activities, please review both the CDBG-DR General Infrastructure policy and this MIT-Addendum for a complete understanding of all applicable requirements.

### 1.1 DR-4317 Event

State of Missouri may use this MIT assistance in areas impacted by the 2017 disasters (Disaster Recovery [DR] 4317).

Between April 28 and May 11, 2017, the State of Missouri was struck by severe storms, tornadoes, straight-line winds, and flooding. During the weekend of April 29–30, a strong storm system brought multiple rounds of thunderstorms and heavy rain to the southern two-thirds of Missouri. Rainfall totals surpassed 9 inches in some locations, causing flash flooding and historic flooding along some of the tributaries of the Missouri and Mississippi rivers.

### 1.2 CDBG-MIT Allocation

The CDBG-MIT award to the State of Missouri totals \$41,592,000. The Appropriations Act provides CDBG-MIT funds as a supplemental appropriation to the CDBG program.

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### **2.0 Program Overview**

The Federal Register Notice (FRN) allocating the \$41,592,000 of CDBG-MIT funds requires that all programs or projects using CDBG-MIT funds meet the definition of mitigation, prioritize the protection of low- and moderate-income (LMI) individuals, and that no less than 50% (or \$20,796,000) of the funding be spent in the U.S. Department of Housing and Urban Development (HUD)-identified “Most Impacted and Distressed” (MID) areas.

### **Risk Based Needs Assessment**

To align with the requirements in the FRN (84 FR 45840), MO DED has developed a Risk-Based Mitigation Needs Assessment to identify and analyze all significant current and future disaster risks in order to provide a substantive basis for the activities proposed in Section 5, CDBG-MIT Program Design.

This Assessment:

1. Provides an overview of Missouri’s geographic landscape;
2. Summarizes climate trends and projections that may contribute to current and future risks;
3. Discusses historic damage patterns that have impacted the State of Missouri;
4. Identifies all considered resources, including the FEMA-approved State Hazard Mitigation Plan (SHMP) and local Hazard Mitigation Plans (HMPs);
5. Assesses current and future risk to critical service areas or community lifelines;
6. Assesses risk to vulnerable populations and LMI; and
7. Addresses unmet mitigation needs in response to identified current and future risks.

### **State’s Greatest Risk Profile**

The risks that have most historically impacted the State and pose significant potential future risks are the following:

1. Thunderstorms
2. Flooding (riverine and flash)
3. Tornadoes

Missouri has aligned the program design with the eligible activities and the highest three hazards identified as a result of the Risk-based Mitigation Needs Assessment for both the HUD identified MID’s and the Missouri-identified MID’s.

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### **HUD-identified MID areas:**

At least fifty percent (50%) of the funds allocated to the State of Missouri for the CDBG-MIT program must be spent in the HUD-identified “Most Impacted and Distressed Areas (MID). The HUD-identified MID areas include the zip code areas of: 63935, 63965, 64850, 65616, and 65775.

### **Missouri-identified MID areas:**

The other fifty percent (50%) may be spent in the Missouri-identified MID areas for mitigation activities that address identified risks within those areas. The Missouri-identified MID areas include:

<b>State MID Counties</b>	Barry, Barton, Bollinger, Boone, Butler, Camden, Cape Girardeau, Cedar, Christian, Cole, Crawford, Dade, Dallas, Dent, Dunklin, Franklin, Gasconade, Greene, Iron, Jasper, Jefferson, Lawrence, Madison, Maries, Miller, Mississippi, Morgan, New Madrid, Oregon, Osage, Ozark, Pemiscot, Perry, Phelps, Pike, Pulaski, Ralls, Scott, Shannon, St. Louis, Ste. Genevieve, Stone, Texas, Washington, Wayne, Webster, Wright
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### **3.0 Federal Register Notice 84 FR 45838**

The U.S. Department of Housing and Urban Development (HUD) published its Federal Register Notice (FRN) for allocation of \$41,592,000 in Community Development Block Grant Mitigation (CDBG-MIT) funds to the State of Missouri for qualifying 2017 disasters (Disaster Recovery [DR]-4317) on August 30, 2019 (84 FR 45838)

The FRN requires that 50% of CDBG-MIT funds be expended within 6 years of HUD's execution of the grant agreement and 100% of funds expended within 12 years of HUD's execution of the CDBG-MIT grant agreement with the State of Missouri.

### **3.1 Definition of Mitigation v Disaster Recovery**

For the purpose of the CDBG-MIT FRN, mitigation activities are defined as those activities that increase resilience to disasters and reduce or eliminate the long-

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term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by lessening the impact of future disasters.

CDBG-MIT funds are to be used for distinctly different purposes than CDBG-DR funds. CDBG-MIT funds must be used to mitigate against future disasters as described in the CDBG-MIT Federal Register Notice (84 FR 45838).

### **3.2 CDBG-DR Cross-Cutting and Category Compliance**

Activities implemented using CDBG-MIT funds are subject to the same cross-cutting and category compliance requirements as those utilizing CDBG-DR funds. Any notable exceptions can be found in this addendum.

#### **3.2.1 Adoption of another Agency's Environmental Review**

In accordance with the Appropriations Act, grant recipients of Federal funds that use such funds to supplement Federal assistance provided under sections 402, 403, 404, 406, 407, 408(c)(4) or 502 of the Stafford Act may adopt, without review or public comment, any environmental review, approval, or permit performed by a Federal agency, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit that is required by the Housing and Community Development Act (HCDA). The grant recipient must notify HUD in writing of its decision to adopt another agency's environmental review. The grant recipient must retain a copy of the review in the environmental records.

### **3.3 Applicable Waivers**

#### **3.3.1 Responsibility for Review and Handling of Non-compliance**

24 CFR 570.492 is waived and the following applies instead: The State shall make reviews and audits, including on-site reviews of any subrecipients, designated public agencies, and local governments, as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the HCDA, as amended, as modified by this notice. In the case of noncompliance with these requirements, the State shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The State shall establish remedies for noncompliance by any designated subrecipients, public agencies, or local governments.

The grantee and all subrecipients receiving CDBG-MIT funds shall attend fraud related training provided by HUD OIG to assist in the proper management of CDBG-MIT funds.

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### 3.3.2 Program Income

HUD has waived 24 CFR 570.207(b)(2) to the extent necessary to allow CDBG–MIT local government Subrecipients to use program income generated by CDBG–MIT funds for the repair, operation, and maintenance of publicly owned projects financed with CDBG–MIT funds. Through this waiver, the limited use of CDBG–MIT program income is allowed by CDBG–MIT Subrecipients who are units of local government, for the operation and maintenance of CDBG–MIT projects. This waiver shall apply only to program income generated by CDBG–MIT funds and shall not apply to the initial disbursement of CDBG–MIT funds or to any CDBG–DR or CDBG funded activities.

### 3.3.3 Permitting Certain Improvements on Private Lands

Section 105(a)(2) of the HCDA is expanded and the provisions of [24 CFR 570.201\(c\)](#) and [24 CFR 570.202\(a\)\(1\)](#) are waived to the extent necessary to permit CDBG-MIT Subrecipients to carry out activities that provide for improvements on private lands that can be demonstrated to have a measurable public mitigation benefit. This eligible activity includes the expenditure of CDBG-MIT funds for actions necessary to obtain mandatory environmental permits (if approved by the permitting agency). CDBG-MIT Subrecipients must demonstrate at a program level that such payments are necessary and reasonable and are required to secure the permits needed to implement its CDBG-MIT project.

## 4.0 Program Design

### 4.1 Planning

#### 4.1.1 Eligible Applicants

At least 50% of all funds shall be expended in the HUD MID ZIP codes and counties, and all activities must meet the definition of mitigation.

Eligible applicants are units of general local government (UGLGs), cities and counties only, within the 55 Presidentially Declared Disaster counties under DR-4317. The only exception to the city and county applicants falls under the category of Planning, where Regional Planning Commissions (RPCs) may apply directly to the CDBG-MIT program for planning funds.

Eligible Subrecipients: City and county governments may choose to partner with eligible quasi-governmental agencies or nonprofits.

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Priority Subrecipients: Priority consideration will be given to applications from cities and counties that partner with RPCs/Council of Governments(COGs) as subrecipients.

### 4.1.2 Eligible Activities

**1. Mitigation Planning and Capacity Building:** Promote planning to increase resiliency through updating local hazard mitigation plans, building codes, and land use regulations to encourage wind engineering measures and construction techniques and provide staffing for planning and management capacity to local governments to implement their mitigation activities. Given the success of the use of CDBG and CDBG-DR funds for planning purposes, the CDBG-MIT program will allow for planning costs to be included to further develop both pre- and post-disaster plans for the communities identified in the most impacted and distressed areas (five ZIP code areas), as well as the State's most impacted and distressed areas under DR-4317. The plans will be required to take into consideration and complement the existing local hazard mitigation plans, the THIRA (Threat and Hazard Identification and Risk Assessment), the emergency management plan and local land use, and comprehensive and strategic plans. CDBG-MIT funds will be used to develop and enforce building codes and standards, including codes for flood hazards and wildland urban interface. The American Society of Civil Engineers has established standards for flood-resistant design and construction (ASCE-24) and facility hardening (ASCE- 7), which should be referenced (when feasible) in updated building codes. Other mitigation planning should establish standards for vertical flood elevation protection which ensures that structures are elevated to at least 2 feet above base flood elevation, and revise land use and zoning policies to ensure that new structures are not built-in high-risk areas.

**2. General Infrastructure:** Increase resiliency and mitigate future flooding by designing and implementing updated roads, bridges, culverts, and so forth. CDBG- MIT funds will allow local communities to fund previously identified infrastructure mitigation needs and/or identify infrastructure mitigation needs that will reduce or eliminate damages and loss of life and property. Eligible projects will ensure that engineering designs include features that mitigate weaknesses that contributed to the previous infrastructure failure. Infrastructure mitigation projects are encouraged to include nature-based solutions and natural or green infrastructure, which is integration of natural processes or systems (such as wetlands or land barriers) or engineered systems that mimic



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natural systems and processes in investments in resilient infrastructure, including, for example, using permeable pavements and amended soils to improve infiltration and pollutant removal.

**3. Public Facility Hardening:** Increase resiliency and mitigation for future impacts from disasters for public facilities, public shelters, and all critical public facilities (e.g., potable water facilities, wastewater treatment facilities). CDBG-MIT funds will allow local communities to fund previously identified public facility mitigation needs and/or identify public facility mitigation needs that will harden the facility and reduce or eliminate damage and loss of life and property. Examples of specific projects include adding safe rooms to public buildings, increasing wind resistance to protect against tornadoes, and elevating a critical facility out of a flood zone. Eligible projects will ensure that engineering designs include features that mitigate against current and future disasters.

**4. Critical Facility Generators:** Increase resiliency for critical public facilities, such as fire and police stations, shelters, hospitals, and so forth. The CDBG-MIT funds will allow local communities to identify the critical facilities necessary to support community lifelines and install generators that will assist with reducing damage and loss of life. The generators will be permanent fixtures integrated into the broader systems to ensure continuity of services. Portable generators will not be eligible.

Community lifelines include:

- Safety and Security
- Health and Medical
- Communications
- Hazardous Materials
- Food, Water, Shelter
- Energy (Power and Fuel)
- Transportation

**5. Warning Systems:** Increase resiliency and safety from future severe weather by installing warning systems in vulnerable communities. The CDBG-MIT funds will allow local communities to identify areas of vulnerable populations and install the warning systems necessary to assist with reducing damage and loss of life. Warning systems can include text alerts and other means of reaching the community to notify residents about hazardous conditions.

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All CDBG-MIT activities must:

1. Meet the definition of mitigation activities
2. Address the current and future risks as identified in the Mitigation Needs Assessment of most impacted and distressed areas
3. Be CDBG-eligible activities under Title 1 of the Housing and Community Development Act of 1974 (HCDA), or otherwise eligible due to a waiver or alternative requirement
4. Meet a National Objective including additional criteria for mitigation activities and Covered Projects (as applicable). To meet a national objective, all CDBG-MIT activities must:
  - (i) Demonstrate the ability to operate for the useful life of the project. Each Subrecipient must plan for the funding and management of long-term operation and maintenance of infrastructure/public facility projects funded with CDBG-MIT funds. Funding options might include State or local resources, borrowing authority, or retargeting of existing financial resources.
  - (ii) Be consistent with other mitigation activities that the Subrecipient will carry out with CDBG-MIT funds, in that the activity must not increase the risk of loss of life or property in a way that undermines the benefits from other uses of CDBG-MIT funds in the MID area.

### 4.1.2.1 Limitation on Use of Funds for Eminent Domain

No CDBG-MIT funds may be used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For purposes of this paragraph, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or highway projects, as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfields as defined in the Small Business Liability Relief

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and Brownfields Revitalization Act ([Pub. L. 107-118](#)) shall be considered a public use for purposes of eminent domain.

### **4.1.3 Disaster Tieback Exception**

Unlike CDBG-DR funds where Grantees / Subrecipients must demonstrate that their disaster recovery activities “tie-back” to the specific disaster and address a specific unmet recovery need for which the CDBG-DR funds were appropriated, CDBG-MIT funds do not require a “tie-back” to a qualified disaster that served as the basis for the grantee’s allocation of CDBG-MIT funds.

### **4.1.4 Critical Actions**

Critical actions include hospitals, nursing homes, police stations, fire stations, and principal utility lines. Applicable State, local, and tribal codes and standards for floodplain management that exceed these requirements, including elevation, setbacks, and cumulative substantial damage requirements, must be followed.

### **4.1.5 Prohibiting Assistance to Private Utilities**

Funds made available under this notice may not be used to assist privately-owned utilities. A CDBG-MIT Subrecipient that prioritizes a mitigation project where assistance to a privately-owned utility is necessary, may request a waiver of this prohibition.

### **4.1.6 Prohibition on Emergency Response Services**

Per the Federal Register, CDBG-MIT funds shall not be used for programs and projects to provide emergency response services, such as those services that are carried out in the immediate response to a disaster or other emergency in order to limit the loss of life and damage to assets. CDBG-MIT funds may be used for mitigation activities to **enhance the resilience** of facilities used to provide emergency response services, provided that such assistance is not used for buildings for the general conduct of government.

### **4.1.7 National Objective**

#### **LMI**

The State makes prioritizing the protection of LMI individuals a priority that is reflected in the proposed programs and projects.

Per 84 FR 45840, HUD has waived the requirements at 42 U.S.C. 5301(c), 42 U.S.C. 5304(b)(3)(A), 24 CFR 570.484, and 570.200(a)(3), that 70 percent of funds be

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used for activities that benefit low- and moderate-income persons. Instead, 50 percent of CDBG– MIT funds must benefit low- and moderate-income persons. However, all grantees / Subrecipients must prioritize the protection of LMI individuals, and describe in the action plan how their proposed programs and projects will reflect that priority.

### **Vulnerable Lower-Income People and Communities**

CDBG-MIT funds have a statutory focus on benefiting vulnerable lower-income people and communities and targeting the “most impacted and distressed” areas.

### **Urgent Need/Urgent Need Mitigation**

The Appropriations Act directs the Department to allocate CDBG-MIT funds to grantees that received CDBG-DR funds to assist in recovery from major federally declared disasters occurring in 2015, 2016, and 2017. To reflect the direction of the Appropriations Act to allocate funds to grantees / Subrecipients recovering from recent disasters and to address the demonstrable need for significant mitigation improvements by those grantees / Subrecipients, the Department is waiving the criteria for the urgent need national objective as provided at 24 CFR 570.208(c) and 24 CFR 570.483(d), and is establishing an **alternative requirement** to include new urgent need national objective criteria for CDBG-MIT activities.

To meet the alternative criteria for the urgent need mitigation (UNM) national objective, each Subrecipient must document that the activity (1) addresses the current and future risks as identified in the grantee's Mitigation Needs Assessment of most impacted and distressed areas, and (2) will result in a measurable and verifiable reduction in the risk of loss of life and property.

The urgent need mitigation national objective will be used as described below and result in measurable and verifiable reduction of the risk of loss of life and property as follows:

- Infrastructure and public facility mitigation will keep roads and bridges operating in future disaster events of a similar nature as identified in the Risk Assessment, allowing emergency responders to reach area residents and save lives.
- Critical facility generators will keep critical public facilities (e.g., hospitals, shelters, police and fire departments) open and operating to provide services to residents throughout a community, allowing for the verifiable and measurable reduction of the risk of loss of life and property.

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- Warning systems will alert residents of impending hazardous conditions that will allow them to take safety precautions and secure property in advance of the hazardous conditions identified in the Risk Assessment, resulting in mitigating property damage and saving lives.

### **Slum and Blight**

Grantees / Subrecipients of CDBG-MIT should not rely on the national objective criteria for the elimination of slum and blighting conditions without prior approval from HUD because this national objective generally is not appropriate in the context of mitigation activities.

#### **4.1.8 Project Selection Process**

The State will exercise careful evaluation of applications as HUD strives to establish a nationwide standard that will help guide future investments of federal, state, and local funding to mitigation activities.

The State CDBG-MIT program will prioritize funding based on an evaluation using 100-point scoring criteria. Within the infrastructure scoring matrix is a criterion called “Priority LMI” that provides up to 10 points for projects with 51% or more LMI beneficiaries. For planning activities, up to 25 points will be given for prioritizing vulnerable populations.

Applicants who are considering green infrastructure projects or including those elements in their overall project will receive up to 10 points out of 100. Subrecipients are encouraged to incorporate multiple forms of green infrastructure, have extensive planning (such as a master plan) already completed, demonstrate community support, and show how the improvements will provide significant mitigation impacts, as well as cross-cutting benefits to the community or region.

Applicants must provide an operations and maintenance plan with their applications to assure long-term impact and maintenance of any mitigation activity.

#### **4.1.8.1 Infrastructure and Public Improvement Application Scoring**

<b>Mitigation Objective</b>	<b>Criteria</b>	<b>Score</b>
LMI Benefit	Prioritize LMI	0-10

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MID	Project Located in a HUD MID	5
Need Rating	Impact on Community Lifelines	0-10
Outcomes	Measurable Outcomes or Goals	0-10
Project Impact	Project Alignment with Definition of Mitigation	0-10
	Incorporation of Resilience Measures	0-10
	Green Building Standards	0-10
	Cost-Effectiveness	0-10
	Maintenance and Operations	0-10
Local Effort	Leveraging	0-5
	Partnership with RPCs/COGs as Subrecipients	0-10

### 4.1.8.2 Planning Scoring Criteria

Mitigation Objective	Criteria	Score
HUD MID	Planning Benefits HUD MID	10
Need Rating	Prioritize Vulnerable Population	0-25
	Mitigation-Aligned Enhancements to Existing Plans	0-15
	Capacity for Plan Development	0-25
	Capacity for Plan Implementation	0-25

### 4.1.9 Maximum Amount of Assistance

The table below shows the maximum amount to be awarded per project, based on the project activity:

Mitigation Activity	Maximum Award
Mitigation Planning	\$150,000

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Capacity Building	\$200,000
General Infrastructure	\$2,500,000
Public Facility Hardening	\$5,000,000
Generators for Critical Facilities	\$50,000 per generator
Warning Systems	\$50,000 per system

### 5.0 Design

#### 5.1 Construction Standards

##### 5.1.1 2020 Missouri Standard Specifications for Highway Construction

The standard specifications book and contains material, equipment, and construction requirements for items specified in the construction of Missouri's transportation infrastructure.

All CDBG-MIT-funded transportation infrastructure projects will, at a minimum, need to meet the State's requirements.

In addition, each infrastructure project will need to ensure that designs incorporate additional resiliency and mitigation objectives to meet HUD's definition of a mitigation infrastructure project.

MO DED is requiring that all subrecipients requesting CDBG-MIT funding for infrastructure projects must demonstrate through their application to the State how these features will be incorporated.

##### 5.1.2 Natural Infrastructure

Applicants for CDBG-MIT project awards will be encouraged to incorporate nature-based solutions and natural or green infrastructure. Consideration will be provided to projects who indicate alternatives considered and a cost-benefit analysis. Natural or green infrastructure is defined as the integration of natural processes or systems (such as wetlands or land barriers) or engineered systems that mimic natural systems and processed into investments in resilient infrastructure, including, for example, using permeable pavements and amended soils to improve filtration and pollutant removal.

##### 5.1.3 Requirements for Flood Control Structures

Grantees / Subrecipients that use CDBG-MIT funds to assist flood control structures are prohibited from using CDBG-MIT funds to enlarge a dam or levee beyond the original footprint of the structure that existed prior to the disaster

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event. If CDBG-MIT funds are used for levees and dams, Grantees / Subrecipients are required to:

1. Register and maintain entries regarding such structures with the U.S. Army Corps of Engineers National Levee Database or National Inventory of Dams;
2. Ensure that the structure is admitted in the U.S. Army Corps of Engineers Public Law 84-99 Rehabilitation Program (Rehabilitation Assistance for Non-Federal Flood Control Projects);
3. Ensure the structure is accredited under the FEMA National Flood Insurance Program;
4. Enter into the DRGR system the exact location of the structure and the area served and protected by the structure; and
5. Maintain file documentation demonstrating that the grantee / Subrecipient has conducted a risk assessment prior to funding the flood control structure and documentation that the investment includes risk reduction measures.

CDBG-MIT funds may be used on the construction or demolition of a dam, levee or other flood control structure provided that construction or demolition shall be demonstrated to be an eligible mitigation activity pursuant to the requirements of this notice.

### **6.0 Use of CDBG-MIT as Match**

HUD has purposely structured the CDBG-MIT program requirements to complement the Federal Emergency Management Agency Hazard Mitigation Program (HMGP) policies and processes where possible.

### **7.0 Recordkeeping**

All records of applications and grants must be kept at the Subrecipient's offices and be available during normal business hours. Any activity of the Subrecipient regarding the CDBG-MIT project, except for confidential matters related to housing and economic development programs, shall be open to examination by all citizens.